



GLO CONTRACT NO. 19-097-026-B644
MULTI-FAMILY RESIDENTIAL CONSTRUCTION REPAIR SERVICES GRANT AGREEMENT
DISASTER RECOVERY PROGRAM HOUSING PROJECTS
HURRICANE HARVEY FUNDING

The **GENERAL LAND OFFICE** (the “GLO”) and **HITCHCOCK HOUSING, LTD.**, Tax Identification Number **32036492612** (“Developer”), each a “Party” and collectively “the Parties,” enter into this grant agreement for residential construction repair services for disaster recovery (the “Contract”) pursuant to applicable sections of the Uniform Grant Management Standards (“UGMS”), in conjunction with the requirements located at 2 C.F.R. Part 200 and 24 C.F.R. Part 570.

I. DEFINITIONS/INTERPRETIVE PROVISIONS/PROJECT DESCRIPTION

1.01 DEFINITIONS

“[Administrative and Audit Regulations](#)” means the regulations included in Title 2, C.F.R., Part 200, Chapter 321 of the Texas Government Code; Subchapter F of Chapter 2155 of the Texas Government Code; and the requirements of Article VII herein. With regard to any federal funding, agencies with the necessary legal authority include: the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of Inspector General, and any of their authorized representatives. In addition, with regard to any state funding, state agencies with the necessary legal authority include: GLO, the GLO’s contracted examiners, the State Auditor’s Office, the Texas Attorney General’s Office, the Texas Comptroller of Public Accounts, and their authorized designees.

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

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

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

“[CDBG-DR](#)” means the U.S. Department of Housing and Urban Development’s (“HUD”) Disaster Recovery Program including residential repair, construction, or reconstruction projects or programs administered by HUD in cooperation with the Texas General Land Office.

“[C.F.R.](#)” means the United States Code of Federal Regulations.

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

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

“[Developer](#)”, also referred to as Provider, means a recipient of CDBG-DR funds under this Contract, which may be a private individual or whether a profit-making or a non-profit organization, for the purposes of completing New Construction, Reconstruction, or Rehabilitation of multi-family residential properties for which at least 51% of the units shall be dedicated to serve low- to moderate-income residents.

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

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

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

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

“[GASB](#)” means the Governmental Accounting Standards Board.

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

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

“[Green Building Standards](#)” means any of the following: (i) ENERGY STAR (Certified Homes or Multifamily High-Rise); (ii) Enterprise Green Communities; (iii) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development); or (iv) ICC-700 National Green Building Standard.

“[HUD](#)” means the United States Department of Housing and Urban Development.

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

“[Land Use Restriction Agreement](#)” or “[LURA](#)” means the CDBG-DR Land Use Restriction Agreement executed by and between the Texas General Land Office and Developer and setting forth certain occupancy and rental restrictions for the Project, as contained therein, as it may from time to time be amended.

“[Minimum Property Standards \(“MPS”\)](#)” means the Minimum Property Standards (MPS) established in HUD Handbook 4910.1, as amended or superseded. MPS, as read in the context of

this Contract, encompasses housing quality standards established by HUD to provide “decent, safe and sanitary” housing.

“[New Construction](#)” means a single-family housing unit or a multi-family residential complex constructed on property not formerly used for residential purposes.

“[Payment Benchmarks](#)” means the Tasks identified in **Attachment A** which define deliverables required for release of funding throughout the life of the Contract.

“[Performance Statement, Budget, and Rental Benchmarks](#)” means the statement of work identifying the project(s) relation to the disaster event, specific project details, budget, payment benchmarks, location(s), and beneficiaries contained in **Attachment A**.

“[Program](#)” means the U.S. Department of Housing and Urban Development’s (“HUD”) Community Development Block Grant Disaster Recovery Program including residential construction, reconstruction, and projects or programs administered by HUD in cooperation with the Texas General Land Office.

“[Program Guidelines](#)” means any and all GLO approved documents reflecting specific rules and regulations governing the implementation of the Program.

“[Project](#)” means the scope of work authorized by the GLO to be performed on a residential structure as facilitated by the Developer and more fully described in **Attachment A**.

“[Project Manager](#)” means a representative of the GLO designated to oversee the Project.

“[Prompt Pay Act](#)” means Chapter 2251 of the Texas Government Code.

“[Property Condition Assessment](#)” or “[PCA](#)” means the report outlining the baseline condition of the property upon which the Project shall be completed.

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

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

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

“[Revision](#)” means written approval by the GLO to allow changes to Task due dates and other Contract adjustments that may be approved outside the GLO’s formal Amendment process.

“[Task](#)” means a defined work or service eligible to be accomplished using CDBG-DR funds. Tasks are specified in the Performance Statement and Budget under the Payment Benchmarks in **Attachment A**.

“[Technical Guidance Letter \(TGL\)](#)” means an instruction, clarification, or interpretation of the requirements of the CDBG-DR Program, issued by the GLO to specified recipients, applicable to specific subject matter, to which the addressed Program participants shall be subject.

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

1.02 INTERPRETIVE PROVISIONS

- a) The meanings of defined terms apply to the singular and plural forms of the defined terms;

- b) The words “hereof,” “herein,” “hereunder,” and similar words refer to this Contract as a whole and not to any particular provision, section, attachment, or payment benchmark schedule of this Contract, unless otherwise specified;
- c) The term “including” is not limited, and means “including, without limitation” and, unless otherwise expressly provided in this Contract;
- d) References to contracts (including this Contract) and other contractual instruments shall be deemed to include all subsequent Amendments and other modifications thereto, but only to the extent that such Amendments and other modifications are not prohibited by the terms of this Contract;
- e) References to contracts include subsequent amendments and other modifications thereto, to the extent such amendments and modifications are not prohibited by the terms of this Contract, and a reference to a statute or regulation includes statutory or regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation;
- f) The captions and headings of this Contract are for convenience of reference only and shall not affect the interpretation of this Contract;
- g) All Attachments to this Contract, including those incorporated by reference, and any amendments are considered part of the terms of this Contract;
- h) This Contract may use several limitations, regulations, or policies to regulate the same or similar matters. Each such limitation, regulation, and policy are cumulative and shall be performed in accordance with its terms;
- i) Unless otherwise expressly provided, reference to any action of the GLO or by the GLO by way of consent, approval, or waiver shall be deemed modified by the phrase “in the sole discretion of the GLO.”

Notwithstanding the preceding sentence, any approval, consent, or waiver required by, or requested of, the GLO shall not be unreasonably withheld or delayed;
- j) 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;
- k) 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;
- l) Time is of the essence in this Contract; and
- m) In the event of conflicts or inconsistencies between this Contract and its attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order or priority: 1) **Attachment D**; 2) the Contract; 3) GLO-approved Program Guidelines; 4) **Attachment A**; 5) Property Condition Assessment; 6) **Attachment B**; 7) **Attachment C**; and 8) **Attachment E**.

1.03 PROJECT

Developer submitted a grant application under the CDBG-DR program. The GLO enters into this Contract based on Developer’s approved grant application. The purpose of this Contract is to set forth the terms and conditions of Developer’s participation in the CDBG-DR program. In strict

conformance with the terms and conditions of this Contract, Developer shall perform, or cause to be performed, multi-family residential rehabilitation, reconstruction, and/or new construction repair services for disaster recovery to assist the GLO in fulfilling State and Federal responsibilities related to recovery from Hurricane Harvey, as stated in **Attachment A** (the "Project").

Developer shall perform services in compliance with (i) HUD requirements, (ii) this Contract and all Attachments; (iii) any Amendments to this Contract; and (iv) and any Technical Guidance Letters or Revisions that may be issued by the GLO.

1.04 REPORTING REQUIREMENTS

Developer shall timely submit all reports and documentation as may be required by the GLO to the Project Manager, Jeff Crozier, at jeff.crozier.glo@recovery.texas.gov, in a format agreed between the Parties.

II. TERM

2.01 DURATION

This Contract shall be effective as of the date signed by the last Party ("Effective Date") and shall terminate upon the date of completion of all Payment Benchmarks listed in **Attachment A** and required closeout procedures, or on **May 18, 2021**, whichever date is earlier ("Contract Period").

Upon receipt of a written request and acceptable justification from Developer, the GLO may amend this Contract to extend the Contract Period. **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 BY WRITTEN AMENDMENT IN ACCORDANCE WITH SECTION 8.14 OF THIS CONTRACT.**

2.02 EARLY TERMINATION

The GLO may terminate this Contract by giving written notice specifying a termination date at least thirty (30) days after the date of the notice. Upon receipt of any such notice, Developer shall immediately 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.

2.03 ABANDONMENT OR DEFAULT

If Developer abandons work or defaults on the Contract, the GLO may terminate the Contract without notice. Following termination under this Section 2.03, Developer may be suspended or debarred from receiving future funding under the CDBG-DR Program. The period of suspension or debarment shall be based upon the extent of the abandonment or default as determined by the GLO, in its sole discretion, in accordance with State and federal regulations.

III. CONSIDERATION

3.01 CONTRACT LIMIT, FEES, AND EXPENSES

The GLO will grant CDBG-DR funding to Developer at a firm fixed price in the amount of **\$2,983,879.00**, in accordance with **Attachment A**.

To submit a draw request, Developer shall submit to the GLO Form 11.04, *Building Contractor's Request for Payment*, along with all required supporting documentation, upon completion of Payment Benchmarks in accordance with the terms outlined in **Attachment A**.

At a minimum, invoices must contain:

- a) Developer's GLO Contract Number;
- b) the current amount being billed;
- c) the cumulative amount billed previously;
- d) the balance remaining to be billed; and
- e) an itemized statement of services performed, including documentation required by the Contract, such as invoices, receipts, statements, stubs, tickets, time sheets, and other information that, in the judgment of the GLO, provides full substantiation of reimbursable costs incurred.

Invoices must:

- a) be submitted to DR.Billing@GLO.Texas.Gov; and
- b) be supported by documentation that, in the judgment of the GLO, fully substantiates costs incurred; and
- c) **prominently display "GLO Contract No. 19-097-026-B644."**

The Prompt Pay Act generally applies to payments to Developer. HOWEVER, THE PROMPT PAY ACT DOES NOT APPLY IF DEVELOPER DOES NOT SEND INVOICES THROUGH DR.Billing@GLO.Texas.Gov. If Developer does not submit invoices in strict accordance with the instructions in this section, payment of invoices may be significantly delayed. Developer agrees that the GLO shall not pay interest, fees, or other penalties for late payments resulting from Developer's failure to submit invoices in strict accordance with the instructions in this communication and any attached documents.

IV. DEVELOPER'S WARRANTY, AFFIRMATIONS, AND ASSURANCES

4.01 PERFORMANCE WARRANTY

- a) Developer warrants that it will perform, or cause to be performed, all applicable Tasks under this Contract consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

- b) Developer warrants that all applicable Payment Benchmarks and associated Tasks shall comply with the applicable building codes as stated in **Attachment A** and shall be fit for ordinary use, of good quality, and with no material defects.
- c) If Developer fails to timely complete or cause the timely completion of Payment Benchmarks or fails to perform satisfactorily under this Contract, the GLO shall require Developer, at its sole expense, to take the necessary steps complete the deliverable, meet the Payment Benchmark, or perform satisfactorily.

4.02 GENERAL AFFIRMATIONS

To the extent they apply, Developer certifies that it has reviewed the General Affirmations in **Attachment C** and that Developer is in compliance with each of the requirements reflected herein.

4.03 FEDERAL ASSURANCES AND CERTIFICATIONS

To the extent they apply, Developer certifies it has reviewed the Federal Assurances and Certifications in **Attachment B** and that Developer is in compliance with all requirements contained therein. **Developer certifies it is in compliance with all other applicable federal laws, rules, or regulations, pertaining to this Contract.**

V. FEDERAL AND STATE FUNDING, RECAPTURE OF FUNDS, AND OVERPAYMENT

5.01 FEDERAL FUNDING

- a) Funding for this Contract is appropriated under The Supplemental Appropriations for Disaster Relief Requirements, 2017 (Pub. L. 115-56), approved September 9, 2017, to facilitate disaster recovery, restoration, economic revitalization, and to affirmatively further fair housing in accordance with Executive Order 12892, related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas resulting from damage caused by Hurricane Harvey 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.). The fulfillment of this Contract is based on those funds being made available to the GLO as the lead administrative agency. All expenditures under this Contract must be made in accordance with this Contract, the rules and regulations promulgated under the CDBG-DR Program, and any other applicable laws. Further, Developer acknowledges that all funds are subject to recapture and repayment for non-compliance.
- b) **All CDBG-DR Program participants must have a data universal numbering system (DUNS) number and a Commercial and Government Entity (CAGE) Code.**

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- c) **Developer shall report its DUNS number and CAGE Code to the GLO for use in various grant reporting documents, and may be obtained by visiting the Central Contractor Registration website at:**

<https://www.sam.gov>

Assistance with this web site may be obtained by calling **866-606-8220**.

5.02 STATE FUNDING

- a) This Contract shall not be construed as creating any debt on behalf of the State of Texas and/or the GLO in violation of Article III, Section 49, of the Texas Constitution, Article VIII, Section 6 of the Texas Constitution, all obligations of the GLO hereunder are subject to the availability of state funds. If such funds are not appropriated or become unavailable, the GLO may terminate this Contract. In that event, the Parties shall be discharged from further obligations, subject to the equitable settlement of their respective interests, accrued up to the date of termination.
- b) Furthermore, any claim by Developer for damages under this Contract may not exceed the amount of funds appropriated for payment, but not yet paid to Developer, under the annual budget in effect at the time of the breach, except for damages that are a result of the gross negligence or willful misconduct of GLO. **NOTHING IN THIS CONTRACT SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.**
- c) Developer has freely and without reservation agreed to the terms of this Contract. Developer understands that receipt of funding from the GLO, in the form of CDBG-DR funds, is an essential part of the consideration of this Contract. Developer agrees to comply with all obligations in any document governing the acceptance and usage of grant funds awarded to Developer under this Contract.

5.03 RECAPTURE OF FUNDS

The discretionary right of the GLO to terminate for convenience under **SECTION 2.02** notwithstanding, the GLO may terminate the Contract and recapture and be reimbursed for any payments the GLO makes that (i) exceed the maximum allowable rates; (ii) are not allowed under applicable laws, rules, or regulations; or (iii) are otherwise inconsistent with this Contract, including any unapproved expenditures.

5.04 OVERPAYMENT

Developer shall be liable to the GLO for any costs disallowed pursuant to financial and/or compliance audit(s) of funds received under this Contract. Developer shall reimburse such disallowed costs from funds other than those Developer received under this Contract.

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VI. OWNERSHIP

6.01 OWNERSHIP AND INTELLECTUAL PROPERTY

- a) The GLO shall own, and Developer hereby irrevocably assigns to the GLO, all ownership right, title, and interest in and to all Intellectual Property acquired or developed by Developer pursuant to this Contract, including without limitation all Intellectual Property in and to reports, drafts of reports, data, drawings, computer programs and codes, and/or any other information or materials acquired or developed by Developer under this Contract. The GLO shall have the right to obtain and to hold in its name any and all patents, copyrights, trademarks, service marks, registrations, or such other protection as may be appropriate to the subject matter, including extensions and renewals thereof.
- b) Developer must give the GLO and the State of Texas, as well as any person designated by the GLO or the State of Texas, all assistance and execute such documents, as required to perfect the rights granted to the GLO herein without any charge or expense beyond the stated amount payable to Developer for the services authorized under this Contract.

6.02 COPYRIGHT

- a) Developer agrees and acknowledges that all expressive content subject to copyright protection, including without limitation all reports, drafts of reports, drawings, artwork, photographs, video, computer programs and codes, and/or any other expressive content acquired or developed by Developer pursuant to this Contract (individually, a “Work,” and collectively the “Works”), will be made the exclusive property of the GLO. Developer acknowledges that each Work is a “work made for hire” under the United States Copyright Act of 1976. All rights in and to each Work, including the copyright to the Work, shall be and remain the sole and exclusive property of the GLO.

If, for any reason, any Work or any portion of a Work is not a work made for hire, Developer hereby irrevocably assigns to the GLO ownership of all right, title and interest in and to the Works or such portion of any Work, including without limitation the entire and exclusive copyright in the Works and all rights associated with the copyright, including but not limited to reproduction rights, distribution rights, the right to prepare translations and other derivative works, and the right to display the Works in all formats and media now known or developed in the future.

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

6.03 THIRD-PARTY RELIANCE

To the extent allowed by law, the GLO shall not use, willingly allow, or cause Work to be used for any purpose other than performance of Developer’s obligations under this Contract without advising any receiving party that it relies upon or uses the Work entirely at its own risk and without liability to Developer.

VII. RECORDS, AUDIT, RETENTION, AND DISCLOSURE

7.01 BOOKS AND RETENTION

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

7.02 INSPECTION AND AUDIT

- a) All records related to this Contract, including records of Developer, its Contractors and Subcontractors, shall be subject to all the Administrative and Audit Regulations.
- b) The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract. Acceptance of funds directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. **The Office of the Comptroller General of the United States, the Government Accountability Office, the Office of Inspector General, or any authorized representative of the U.S. Government shall also have this right of inspection.** Developer shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Developer and the requirement to cooperate is included in any subcontract it awards.
- c) State agencies authorized to audit and inspect Developer, its records, subcontractors, and subcontractors' records include the GLO, the GLO's contracted examiners, the State Auditor's Office, the Texas Attorney General's Office, the Texas Comptroller of Public Accounts, and their authorized designees. With regard to any federal funding, federal agencies authorized to audit and inspect Developer, its records, subcontractors, and subcontractors' records include: the relevant federal agency(ies), the Office of the Comptroller General of the United States, the Government Accountability Office, the Office of Inspector General, and their authorized designees.

7.03 PERIOD OF RETENTION

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

7.04 CONFIDENTIALITY

To the extent permitted by law, Developer and the GLO shall keep all information confidential, in whatever form produced, prepared, observed, or received by Developer or the GLO to the extent that such information is: (a) confidential by law; (b) marked or designated “confidential” (or words to that effect) by Developer or the GLO; or (c) information that Developer or the GLO is otherwise required to keep confidential by this Contract. Developer will not advertise that it is doing business with the GLO, use this Contract as a marketing or sales tool, or make any press releases concerning work under this Contract without the prior written consent of the GLO.

The parties shall keep all personally identifiable information (“PII”) confidential in whatever form produced, prepared, observed, or received by Developer or the GLO.

7.05 PUBLIC RECORDS

The GLO may post this Contract and the solicitation response on its website. Information related to this Contract and its performance may be subject to the Public Information Act and will be withheld or disclosed in accordance therewith. Developer shall 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/the GLO. Developer shall make any information required under the Public Information Act available to the GLO in portable document file (“.pdf”) format or any other format agreed between the parties. By failing to mark as “confidential” or a “trade secret” any information Developer believes to be excepted from public disclosure, Developer waives all claims it may make against the GLO for releasing such information without prior notice to Developer. Developer shall notify the GLO’s Office of General Counsel within twenty-four hours of Developer’s receipt of any third party written requests for information and forward a copy of said written requests to PIALegal@glo.texas.gov.

VIII. MISCELLANEOUS PROVISIONS

8.01 INSURANCE

Developer shall acquire or guarantee the acquisition of, for the duration of the Project, insurance with financially sound and reputable insurers authorized to operate in the State of Texas, in amounts sufficient to meet industry standards for insurance coverage. Developer shall submit certificates of insurance establishing to the GLO’s satisfaction the nature and extent of coverage granted by each policy. Developer shall submit certificates of insurance and endorsements electronically, if requested and as directed by the GLO. If the GLO determines any insurance policy fails to comply with the terms of this Contract, Developer shall secure such additional policies or coverage as the GLO may reasonably request or that are required by law or regulation. Upon request by the GLO, Developer shall submit renewed certificates of insurance and endorsements, as evidence of insurance coverage throughout the term of this Contract. Developer may not perform any work under this Contract if Developer’s insurance coverage does not meet the requirements of this Contract. The GLO may terminate this Contract if Developer fails to submit required insurance documents upon request. Developer shall ensure that any contract it enters into

related to the completion of the Project contains a provision requiring coverage sufficient to meet industry standards.

8.02 TAXES/WORKER'S COMPENSATION/UNEMPLOYMENT INSURANCE

- a) Developer, its contractors, and any of its contractors' subcontractors shall be liable and responsible for payment of employment taxes of whatever kind, arising out of the execution or performance of the Project. Developer, its contractors, and any of its contractors' subcontractors shall comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and workers' compensation. The GLO and the State of Texas shall not be liable to Developer or its contractors, contractors' subcontractors, officers, agents, employees, representatives, assignees, designees, or others for the payment of taxes or the provision of unemployment insurance, workers' compensation, or any benefit available to a state employee or employee of another governmental entity.
- b) Developer, its contractors, and any of its contractors' subcontractors shall indemnify, defend, and hold harmless the State of Texas, the GLO, and/or their officers, agents, employees, representatives, contractors, assignees, and/or designees from and against any and all liability, actions, claims, demands, damages, proceedings, or suits, and all related costs, attorney fees, and expenses arising out of, connected with, or resulting from tax liability, unemployment insurance, or workers' compensation in the execution or performance of the Contract. Developer and the GLO shall furnish timely written notice to each other of any such claim. Developer shall be liable to pay all costs of defense including attorneys' fees. Developer shall coordinate its defense with the GLO and the Office of the Attorney General if the GLO or another Texas state agency is a named co-defendant with Developer in any suit. Developer may not agree to settle any such lawsuit or other claim without first obtaining the written consent of the GLO and, if applicable, the Office of the Attorney General.
- c) Developer shall ensure that any and all contracts executed by and between Developer and any contractor contain provisions capturing the requirements in paragraphs a) and b) of this Section 8.02.

8.03 LEGAL OBLIGATIONS

Developer shall ensure the procurement and maintenance of, for the duration of this Contract, any license, authorization, insurance, waiver, permit, qualification, or certification required by federal, state, county, or city statute, ordinance, law, or regulation to be held by Developer, its contractors, and any of its contractors' subcontractors to provide the goods or services required by this Contract. Developer, its contractors, or contractors' subcontractors shall pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Developer shall pay any such government obligations not paid by its contractors or contractors' subcontractors during performance of this Contract.

8.04 INDEMNITY

Developer shall indemnify, defend, and hold harmless the State of Texas, the GLO, and/or their officers, agents, employees, representatives, contractors, assignees, and/or designees from and

against any and all liability, actions, claims, demands, damages, proceedings, or suits, and all related costs, attorney fees, and expenses arising out of, connected with, or resulting from any acts or omissions of, or any contracts related to the completion of this Project by, Developer or its officers, agents, employees, representatives, suppliers, contractors, subcontractors, assignees, designees, order fulfillers, or suppliers of contractors or subcontractors in the execution or performance of the Contract, except those arising from the gross negligence or willful misconduct of such indemnified parties. Developer and the GLO shall furnish timely written notice to each other of any such claim. Developer shall be liable to pay all costs of defense including reasonable attorneys' fees. Developer shall coordinate its defense with the GLO and the Office of the Attorney General if the GLO or another Texas state agency is a named co-defendant with Developer in any suit. Developer may not agree to settle any such lawsuit or other claim without first obtaining the written consent of the GLO and, if applicable, the Office of the Attorney General.

8.05 INFRINGEMENT

- a) Developer shall indemnify, defend, and hold harmless the State of Texas, the GLO, and/or their officers, agents, employees, representatives, contractors, assignees, and/or designees from and against any and all liability, actions, claims, demands, damages, proceedings, or suits, and all related costs, attorney fees, and expenses arising out of, connected with, or resulting from infringement of any United States patent, copyright, trade or service mark, or any other intellectual or intangible property right that occurs in the execution or performance of the Contract, except those arising from the gross negligence or willful misconduct of such indemnified parties. Developer and the GLO shall furnish timely written notice to each other of any such claim. Developer shall be liable to pay all costs of defense including reasonable attorneys' fees. Developer shall coordinate its defense with the GLO and the Office of the Attorney General if the GLO or another Texas state agency is a named co-defendant with Developer in any suit. Developer may not agree to settle any such lawsuit or other claim without first obtaining the written consent of the GLO and, if applicable, the Office of the Attorney General.
- b) Developer shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without Developer's written approval, (iii) any modifications made to the product by the Developer pursuant to Customer's specific instructions, or (iv) any use of the product or service by Customer that is not in conformity with the terms of any applicable license agreement.
- c) If Developer becomes aware of an actual or potential claim, or the GLO provides Developer with notice of an actual or potential claim, Developer shall, at Developer's sole expense: (i) procure for the GLO the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with a functionally equivalent or superior product or service so that the GLO's use is non-infringing.

8.06 ASSIGNMENT AND SUBCONTRACTS

Developer shall not assign, transfer, or delegate any rights, obligations, or duties under this Contract without the prior written consent of the GLO. Notwithstanding this provision, it is mutually understood and agreed that Developer shall utilize contractors and contractors' subcontractors for some or all of the services to be performed. Developer shall ensure that any and all contracts executed by and between Developer and any contractor contain provisions capturing the requirements in this Section 8.06. Nothing in this Contract shall be construed to relieve Developer of the responsibility for ensuring that the goods delivered, and/or the services rendered by Developer and/or any of its contractors or contractors' subcontractors comply with all the terms and provisions of this Contract. Developer shall notify the GLO in writing of any such contractor or subcontractor performing fifteen percent (15%) or more of the work under this Contract, including the name and taxpayer identification number of the contractor or subcontractor, the Task(s) being performed, and the number of employees expected to work on the Task.

8.07 RELATIONSHIP OF THE PARTIES

Developer is associated with the GLO only for the purposes and to the extent specified in this Contract. Developer, as a beneficiary of the CDBG-DR Program, is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract creates a partnership or joint venture, employer-employee or principal-agent relationships, or any liability whatsoever with respect to the indebtedness, liabilities, or obligations of Developer or any other party. Developer, its contractors, and contractors' subcontractors shall be responsible for, and the GLO shall have no obligation with respect to: withholding of income taxes, FICA, or any other taxes or fees; industrial or workers' compensation insurance coverage; accumulation of vacation leave or sick leave; or unemployment compensation coverage provided by the State.

8.08 COMPLIANCE WITH OTHER LAWS

In its performance of this Contract, Developer, its contractors, and contractors' subcontractors shall comply with all applicable federal, state, county, and city laws, statutes, ordinances, and regulations. Developer shall be aware of and understand all applicable laws, statutes, ordinances, and regulations. Developer shall ensure that its contractors and contractors' subcontractors are in compliance with this Section 8.08.

8.09 NOTICES

Notices required under this Contract shall be deemed delivered when deposited either in the United States mail, postage paid, certified, return receipt requested or with a common carrier, overnight, signature required, to the address indicated below:

GLO

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

Developer

Hitchcock Housing, Ltd.
2900 N Government Way, #88
Coeur d'Alene, Idaho 83815
Attention: Brian Solsrud

Notice given in any other manner shall be deemed effective only if and when received by the party to be notified. Either party may change its address for notice by written notice to the other party as herein provided.

8.10 GOVERNING LAW AND VENUE

This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Texas, exclusive of conflicts of law provisions. Venue of any suit brought under this Contract shall be in a court of competent jurisdiction in Travis County, Texas. Developer irrevocably waives any objection, including any objection to personal jurisdiction or the laying of venue or based on the grounds of *forum non conveniens*, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Contract or any document related hereto.

NOTHING IN THIS CONTRACT SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.

8.11 SEVERABILITY

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

8.12 FORCE MAJEURE

Except with respect to the obligation of payments under this Contract, if either of the parties, after a good faith effort, is prevented from complying with any express or implied covenant of this Contract by reason of war; terrorism; rebellion; riots; strikes; acts of God; any valid order, rule, or regulation of governmental authority; or similar events that are beyond the control of the affected party (collectively referred to as a "Force Majeure"), then, while so prevented, the affected party's obligation to comply with such covenant shall be suspended, and the affected party shall not be liable for damages for failure to comply with such covenant. In any such event, the party claiming Force Majeure shall promptly notify the other party of the Force Majeure event in writing and, if possible, such notice shall set forth the extent and duration thereof. The party claiming Force Majeure shall exercise due diligence to prevent, eliminate, or overcome such Force Majeure event where it is possible to do so and shall resume performance at the earliest possible date. However, if non-performance continues for more than thirty (30) days, the GLO may terminate this Contract immediately upon written notification to Developer.

8.13 DISPUTE RESOLUTION

Developer shall use the dispute resolution process established in Chapter 2260 of the Texas Government Code and related rules to attempt to resolve any dispute under this Contract, including a claim for breach of Contract by the GLO, that the Parties cannot resolve in the

ordinary course of business. Neither the occurrence of an event giving rise to a breach of Contract claim nor the pendency of such a claim constitute grounds for Developer to suspend performance of this Contract. Notwithstanding this provision, the GLO reserves all legal and equitable rights and remedies available to it.

8.14 ENTIRE CONTRACT AND MODIFICATION

This Contract, its Attachment(s), and any Technical Guidance Letter or Revision issued under this Contract constitute the entire agreement of the parties and are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in any Attachment, Technical Guidance Letter, or Revision shall be harmonized with this Contract to the extent possible. Unless such Attachment, Technical Guidance Letter, or Revision specifically displays a mutual intent to amend this Contract, general conflicts in language shall be construed consistently with the terms of this Contract. Except as provided herein, this Contract and its Attachments may only be amended by a mutual, written agreement executed by authorized representatives of the Parties.

8.15 COUNTERPARTS

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

8.16 PROPER AUTHORITY

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

8.17 PREFERENCE FOR TEXAS PRODUCTS AND MATERIALS

Developer, in securing performance of the Tasks under this Contract, shall purchase or cause the purchase of products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside Texas.

8.18 SURVIVAL OF TERMS AND CONDITIONS

The terms and conditions of this Contract related to the following subjects shall survive the termination or expiration of this Contract: definitions; interpretive provisions; consideration; warranties; General Affirmations, Federal Assurances, Federal Certifications; state funding, prohibition on creation of debts, recapture of state funds, overpayment of state funds; limitation of amount of Developer claims for damages; ownership and intellectual property, copyright; records retention methods and time requirements; inspection and audit; confidentiality; public records; indemnification and liability; infringement of intellectual property rights; independent contractor relationship; compliance with laws; notices; choice of law and venue; severability;

dispute resolution according to Texas Government Code Chapter 2260; merger and integration. Terms and conditions that, explicitly or by their nature, evidence the Parties' intent that they should survive the termination or expiration of this Contract shall so survive.

8.19 STATEMENTS OR ENTRIES

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 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.

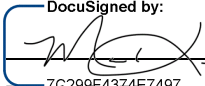
Under penalties of 18 U.S.C. § 1001, the undersigned Developer representative hereby declares that he/she has examined this Contract and Attachments, including without limitation, the Solicitation and Solicitation Response, and to the best of his/her knowledge and belief any statements, entries, or claims made by Developer are, correct, accurate and complete.

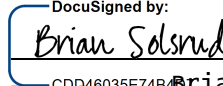
SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE FOR GLO CONTRACT NO. 19-097-026-B644
MULTI-FAMILY RESIDENTIAL CONSTRUCTION REPAIR SERVICES GRANT AGREEMENT

GENERAL LAND OFFICE

HITCHCOCK HOUSING, LTD.

DocuSigned by:

7C299F4374E7497...
Mark A. Havens, Chief Clerk/
Deputy Land Commissioner
Date of execution: 2/27/2019

DocuSigned by:

CDD46035E74B4...
Print Name: Brian Solrud
Title: Sole Member of General Partner Cascade GP Services
Date of execution: 2/27/2019

OGC 
DD 
SDD 
DGC 
GC 

ATTACHMENTS TO THIS CONTRACT:

- ATTACHMENT A: PERFORMANCE STATEMENT, BUDGET, AND PAYMENT BENCHMARKS;
UNDERWRITING REPORT**
- ATTACHMENT B: FEDERAL ASSURANCES AND CERTIFICATIONS**
- ATTACHMENT C: GENERAL AFFIRMATIONS**
- ATTACHMENT D: NONEXCLUSIVE LIST OF APPLICABLE LAWS, RULES, AND REGULATIONS**
- ATTACHMENT E: LAND USE RESTRICTION AGREEMENT**

INCORPORATED BY REFERENCE:

- PROPERTY CONDITION ASSESSMENT**
- PROGRAM GUIDELINES**

**MULTI-FAMILY RENTAL HOUSING
PERFORMANCE STATEMENT, BUDGET, AND PAYMENT BENCHMARKS**

A. Performance Statement

Developer will rehabilitate, reconstruct, or construct new, in accordance with the terms of the Contract and all attachments, applicable law, regulations, and guidance forty (40) multi-family housing units with forty (40) units being leased to low- and moderate-income tenants for eligible applicants at a firm fixed price of **TWO MILLION, NINE HUNDRED EIGHTY-THREE THOUSAND, EIGHT HUNDRED SEVENTY-NINE DOLLARS AND ZERO CENTS (\$2,983,879.00)** in CDBG-DR funding. Developer shall ensure that the amount of funds to be expended for each task does not exceed the amount specified for such task in the Project Budget. Units will be interspersed to ensure that there is no grouping of units for a particular income type. LMI units shall be scattered amongst and between Market Rate Units throughout the development.

The affordability of restrictions of each multi-family housing unit will be protected with a fifteen (15) year Land Use Restriction Agreement (LURA) approved by the GLO. Developer, as a condition to use of funds, agrees to comply with certain occupancy, rent, and other restrictions under the Federal Act, and the CDBG Regulations during the term of the LURA and with certain occupancy, rent, and other restrictions. The LURA shall be recorded, at Developer's expense, in the Real Property Records of the Galveston County Clerk's Office.

Rehabilitation

Developer will ensure that all rehabilitation activities meet all applicable local codes, rehabilitation standards, and ordinances. Compliance extends to, but is not limited to, zoning ordinances, building codes, local health and safety codes and standards, and Housing Quality Standards (HQS) at project completion.

Developer will ensure that all rehabilitated portions of the units meet all applicable local codes, rehabilitation standards, ordinances, including zoning ordinances and building codes and the entire rehabilitated project complies with local health and safety codes, standards, Minimum Property Standards (MPS), and Green Building Standards at project completion. Developer must ensure that for all new housing construction, compliance with ONE of the following Green Standards is met. The Green Standards are (i) ENERGY STAR (Certified Homes or Multifamily High-Rise); (ii) Enterprise Green Communities; (iii) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development); or (iv) ICC-700 National green Building Standard.

New Construction or Reconstruction

Newly constructed or reconstruction housing units must meet the Model Energy Code, the design and construction requirements of the Texas Administrative Code, Title 10, Chapter 60, Subchapter (B), Uniform Multifamily Rules, and the accessibility requirements noted in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973.

All multi-family dwellings, as defined at 24 CFR §100.201, as well as common use facilities in developments must meet the design and construction requirements at 24 CFR §100.205, which

implement the Fair Housing Act (42 USC 3601-4619). All reconstructed and newly constructed housing units must comply with the universal design features as established by §2306.514 of the Texas Government Code.

Newly constructed and reconstructed housing units meet the Model Energy Code (MEC), the design and construction requirements of the Texas Administrative Code (TAC), Title 10, Chapter 60, Subchapter (B) 10 TAC § 60.201-211 and the accessibility requirements noted in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973. Covered multifamily dwellings, as defined at 24 CFR §100.201, as well as common use facilities in developments must meet the design and construction requirements at 24 CFR §100.205, which implement the Fair Housing Act (42 U.S.C.3601-4619), and the ADA 2010 Standards with HUD exceptions. All reconstructed and newly constructed housing units must comply with the Construction Requirements for Single Family Affordable Housing, as established by §2306.514, Texas Government Code.

B. Budget

The overall Project Budget and individual budget categories are specified in the Underwriting Report beginning on Page 4 of this **Attachment A**.

PAYMENT BENCHMARKS

All Project activities shall be completed within eighteen (18) months of the effective date of the contract.

Phase 1 (33% of Budget): Within six (6) months following the Contract effective date and prior to the final Phase 1 draw, Developer shall complete, at a minimum the following Tasks:

- a. Demolition;
- b. Debris Removal;
- c. Foundation Completion including plumbing; and
- d. Satisfactory completion of any inspection required during Phase 1.

Phase 2 (66% of Budget): Within twelve (12) months following the Contract effective date and prior to the final Phase 2 draw, Developer shall complete, at a minimum the following Tasks:

- a. Mechanical;
- b. Plumbing;
- c. Electrical;
- d. Sheetrock, tape, and float;
- e. Insulation;
- f. Tile Work or Resilient Flooring;
- g. HVAC; and
- h. Satisfactory completion of any inspection required during Phase 2.

Phase 3 (90% of Budget): Prior to the final Phase 3 draw, Developer shall complete, at a minimum the following Tasks:

- a. Finish Carpentry – Trim and Lockout;
- b. Finish Carpentry – Hardware;
- c. Paint and Caulk;

- d. Obtain Certificate of Occupancy; and
- e. File LURA with county clerk's office.

Phase 4 (10% of Budget): After receipt of Certificate of Occupancy and prior to release of the final 10% of the Project Budget, Developer shall complete, at a minimum the following Tasks:

- a. Repair or resolve any Punch List Items and
- b. Completion of any and all Close-Out Documents required by the GLO.

For each Phase, Developer may invoice on no more than a monthly basis until the percentage of funds associated with that phase are fully disbursed. Upon exhaustion of funds related to each phase, a full review may be conducted by the GLO to determine the legitimacy of those draws before permitting disbursement of funds related to the next phase.

The GLO reserves the right, at any time, to conduct inspections to ensure general compliance with the foregoing Payment Benchmark schedule before the approval of a reimbursement request is issued. The GLO may allow Payment Benchmark extensions for good cause, at the GLO's sole discretion, upon written request from the Developer.

INSPECTIONS

Developer shall be responsible for ensuring all required inspections are conducted and satisfactorily passed. Developer shall maintain physical proof that municipal codes and/or third-party inspections have been passed and accepted by any inspecting authority with jurisdiction over the Project site, which may include local or county governments, the State of Texas, HUD, or the GLO. Developer shall maintain all Project documentation in good order and marked to record all changes made during performance of the work. Developer shall give the GLO or its representatives and agents access to all Project documentation, regardless of medium or format, at all times and shall submit copies of any Project documentation at the request of the GLO.

DRGR REPORTING

Activity Type: Affordable Rental Housing

National Objective: Benefit LMI Persons

Beneficiary: LMI Renters

BUDGET

Activity No	HUD Activity Type	Grant Award	Other Funds	Total
19-097-026_Multi-LMI_Mesquite Woods	Affordable Rental Housing	\$2,983,879.00	\$0.00	\$2,983,879.00

Texas General Land Office

Hurricane Harvey

Affordable Rental Housing Program

Development Underwriting Review

for

Mesquite Woods

Prepared:

1/23/2019

Mesquite Woods
Underwriting Review
1/23/2019

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Project Summary

The Mesquite Woods development is a 40 unit development located within Galveston County at 5809 Delany in Hitchcock, TX. The multi-family development will undergo rehabilitation due to damages suffered from Hurricane Harvey in 2017. The proposed development aims to house low-income households earning 80% of Area Median Income (AMI) or below by allocating 40 of the units to serve this population. These units represent 100% of the total number of units within the Mesquite Woods development.

Hitchcock Housing, Ltd. is the project applicant and maintains site control on the property. The housing developer is Megan Advisors, LLC who has extensive experience in constructing and managing multi-family developments.

Proposed Unit Mix

<i>Bed Rooms</i>	<i>Bath Rooms</i>	<i># units</i>	<i>Sq. Ft</i>	<i>Total Sq. Ft.</i>	<i>AMI</i>
1	1	12	688	8,256	<80%
2	1	28	856	23,968	<80%

DEVELOPMENT TEAM	
Applicant:	Hitchcock Housing, Ltd.
Contact:	Gary Maddock
Email:	gary@maddock.biz
Phone:	(913)-685-9000
DUNS:	613751360
General Partner/Managing Member:	Cascade GP Services, LLC
Limited Partner:	Affordable Housing Partnerships #2 & #9
Developer:	Megan Advisors, LLC
General Contractor:	Olympia Construction, Inc.
Management Company:	Megan Property Management, Inc.
Syndicator:	N/A
Architect:	Cameron Alread, Architect Inc.

Related Parties: Hitchcock Housing, Ltd. (Applicant) and Megan Advisors, LLC (Developer) are related parties. This structure may be typical with this size and scale of multi-family housing development. The contractor, Olympia Construction, Inc., is not a related party with respect to the developer or applicant.

Mesquite Woods
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Development Summary



Building Configuration: The development consists of five two story apartment structures in Galveston County.

Elevation: An elevation certificate was not provided by the applicant.

General Information:

Size	2 acres
Flood Zone:	Zone B/Zone X Shaded
Zoning:	High Density Residential
Density:	18 units/acre

Scattered Site	No
Within 100yr Floodplain:	No
Re-zoning Required:	No
Utilities on Site:	Yes

Surrounding Uses:

North:	Vacant
South:	Residential
East:	Residential
West:	Residential

Property Condition: The site is zoned "HR" High Density Residential District. Based on the City of Hitchcock's code of ordinances, the maximum density is 18 units per acre. The applicant will need to confirm with the City that the development is permissible considering they are proposing 20 units per acre. As the development is not classified as new construction, it may be grandfathered under a previous code of ordinances or have received a past variance.

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Development Budget and Finance

CohnReznick reviewed available sources and uses, development and construction budgets, regulatory requirements in consideration of the development budget and cost reasonableness of the project.

Sources and Uses

Construction Sources				
Funding Source	Description	Amount	Rate	LTC
Bonneville Multifamily Capital	Rehabilitation	\$3,900,000	5.75%	100%
Equity/DDF	Rehabilitation	\$25,700	0%	100%
Total		\$3,925,700		

Permanent Sources				
Debt Source	Proposed			
	Amount	Rate	Amort	Term
CDBG-DR	\$2,625,700	0%	N/A	15 Yrs.
Bonneville Multifamily Capital	\$1,000,000	5.75%	40 Yrs.	40 Yrs.
Total	\$3,625,700			

Uses	Total	Per Unit
Acquisition	\$759,619	\$18,990.48
Direct Construction Costs	\$1,458,744	\$36,469.60
Site Work	\$215,220	\$5,380.50
Contractor Fee	\$241,913	\$6,047.83
Contingency	\$0.00	\$0.00
Soft Costs	\$306,850	\$7,671.25
Developer Fee	\$307,000	\$7,675.00
Financing Costs	\$282,354	\$7,058.85
Replacement Reserves	\$0.00	\$0.00
Operating Reserves	\$0.00	\$0.00
Total Development Costs	\$3,625,700	\$90,642.50

The reasonable threshold for hard construction costs is a minimum of \$25,000 per unit according to the Affordable Housing Investors Council. The hard cost per unit for the Mesquite Woods development is \$49,246.93 per unit which meets the reasonable minimum requirement to provide adequate rehabilitation.

The total building cost per square foot is \$45.27 compared to an estimated \$66.94 per square foot based on information from RSMeans Data for a full rehabilitation of a development of this size and design. Based on information in the Capital Needs Assessment (CNA), prepared by GIBCO Environmental, LLC and dated July 10, 2018, a full rehabilitation is not required and projected costs fall within 13% of the CNA estimate.

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Insurance Status: The applicant indicates that no insurance claim was filed on the property. The property was owned by a party other than the applicant during the time of Hurricane Harvey, therefore the applicant, Hitchcock Housing Ltd., does not anticipate insurance proceeds.

Debt & Financing: The application indicates that rehabilitation will be partially funded with financing from Bonneville Multifamily Capital. The anticipated annual debt service will be \$98,450. Based on a pro-forma analysis using this annual payment, the project will generate a debt coverage ratio of 2.48 which is above the standard threshold for this development of 1.15. This indicates that there may be enough cash flow to service additional debt to fund a portion of rehabilitation and reduce the amount of CDBG-DR funds needed.

Projected Construction Cash Needs: Using an 18-month construction completion period, we modeled the development progress and identified an average for the first six months of \$284,230 required monthly to fund the construction in this application. The applicant has incorporated a construction loan for the construction costs incurred prior to CDBG-DR disbursement.

Operating Review

Rent Analysis

Proposed Rents							
Bedroom Size	Number of Units	Set Aside %	High HOME Rent Limit	Base Rent	Utility Allowance	TTP	Annual Gross Potential Rents
1	2	<30%	\$871	\$356	\$65	\$421	\$8,544
1	10	<80%	\$871	\$806	\$65	\$871	\$96,720
2	2	<30%	\$1,066	\$429	\$77	\$506	\$10,296
2	26	<80%	\$1,066	\$989	\$77	\$1,066	\$308,568

It appears that two of the one-bedroom units and two of the two-bedroom units will serve the 30% AMI income level. The applicant has indicated that the rent charged on these units is well below the High HOME rent limit. All other unit rents are in line with the High HOME rent limit.

Development Expense Analysis

Operating Expense	Projected Expense	Proposed % of Operations	2016 Texas Gross Median Operating Expense Distribution	Variance
Administrative	\$ 9,900.00	6.62%	12.4%	5.78%
Management Fee	\$ 34,000.00	22.73%	8.2%	14.53%
Payroll	\$ 48,700.00	32.56%	24.1%	8.46%
Repairs & Maint.	\$ 16,300.00	10.90%	18.9%	8.00%
Utilities	\$ 19,607.00	13.11%	14.7%	1.59%
Property Insurance	\$ 15,560.00	10.40%	7.1%	3.30%
Property Tax	\$ 5,525.00	3.69%	11.3%	7.61%
Average Variance				7.04%

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The table above depicts the proportion of operating expense that each category represents as established by the 2016 Texas Gross Median Operating Expense Distribution published by CohnReznick based on an assessment of multifamily affordable housing properties across Texas. The total average operating expense variance of the proposed development from this established standard is approximately seven percent which indicates that the operating expenses are appropriately estimated.

As indicated above the following variances are noted:

1. Management fee is more than 14% higher than the Median Expense Distribution;
2. Payroll is almost 9% higher than the Median Expense Distribution; and
3. Administrative costs, Repairs & Maintenance costs, and Property Taxes are estimated to be lower than the Median Expense Distribution.

Proforma Analysis

<i>Pro-Forma and Projected Debt Service</i>	
NOI	\$243,677.15
Debt Service	\$98,450
Net Cash Flow	\$145,227.15
DSCR	2.48
Expense Ratio	2.42
Vacancy Provision	7.5%

The Mesquite Woods development project as proposed will generate sufficient cash flow to fund operations for the 15-year compliance period.

Income: The maximum rent that may be generated for each of the units will be capped by the HUD fair market rents. This is the maximum amount allowed to be collected on a property from the tenant in combination with a rental subsidy. The CDBG-DR program further restricts the Total Tenant Rent Payment for Low- and Moderate-Income (LMI) residents to the High HOME Rent limits. The income limits and HOME rent restrictions are calculated by HUD and published on an annual basis.

Expense: The operating expenses for this development are \$4,039.80 per unit. According to TDHCA operating expense data, typical expenses for Region 6, which includes Gulf Coast area, for projects 76 units and below are approximately \$4,690 per unit. Expenses for this project are in line with industry averages.

Feasibility and Conclusion: The project forecasts an average expense coverage ratio of 2.42 for the initial five years of operation which is significantly above the industry minimum of 1.10 expense coverage. The application reflects a replacement reserve to be funded annually in the amount of \$300 per unit. No provision for an operating reserve was included in the application. The project as proposed will generate enough cash flow to sustain operations. However, since there is enough cash flow to set up an operating reserve, doing so could ensure proper management of the property to help maintain the long-term viability of the project.

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Affirmative Fair Housing

Hitchcock Housing, Ltd. has not provided a Federally approved Affirmative Fair Housing Marketing Plan (AFHMP) for the Mesquite Woods development. Hitchcock Housing, Ltd. has not identified the demographic groups least likely to apply to the Mesquite Woods development. Hitchcock Housing, Ltd. has not identified procedures to target populations least likely to apply through marketing activities.

Demographic Indicators	Value	State Average	Percentile in State	EPA Region Average	Percentile in EPA Region	USA Average	Percentile in USA
Demographic Index	47%	47%	52	44%	57	36%	70
Minority Population	55%	57%	48	51%	56	38%	70
Low Income Population	38%	37%	55	38%	53	34%	62
Linguistically Isolated Population	6%	8%	56	6%	66	4%	74
Population with Less Than High School Education	14%	18%	51	17%	52	13%	64
Population under Age 5	8%	7%	61	7%	64	6%	72
Population over Age 64	15%	11%	74	13%	68	14%	60
<i>Source: US EPA Environmental Justice EJ Screen</i>							

Other Federal Matters:

Meets Threshold Criteria:

The applicant proposes to meet the threshold criteria through 1) Extremely Low Income Targeting, 2) Exceeding the LMI Requirement, and 3) Leveraging of Public and Private Financing.

Meets National Objective:

The Mesquite Woods development project as proposed does meet the Low-Moderate Income National Objective.

The Mesquite Woods development project will meet the Low-Moderate Income Housing Activity Criteria as an eligible activity carried out for the purpose of providing or improving permanent residential structures which will be occupied by low and moderate-income households.

The proposed Mesquite Woods development will provide 40 out of 40 total units to households with incomes of 80% of Area Median Income or below. These restricted units represent 100% of the total units within the development.

Meets CDBG-DR Eligible Activity:

The proposed activities meet the eligibility test as follows:

- ☒ Section 105(a)(1) – Acquisition
- ☒ Section 105(a)(4) – Clearance, Rehabilitation, Reconstruction, Construction
- ☐ Section 105(a)(5) – Architectural Barrier Removal

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1/23/2019☐ Section 105(a)(11) – Relocation***SAM Eligible:***

Hitchcock Housing, Ltd. is not showing registered with the System for Award Management. We cannot confirm at this time that they are not debarred, suspended, or ineligible to participate in the proposed project.

Megan Advisors, LLC is not showing registered with the System for Award Management. We cannot confirm at this time that they are not debarred, suspended, or ineligible to participate in the proposed project.

The contractor, Olympia Construction, Inc., is showing registered with the System for Award Management. The company is not debarred, suspended, or ineligible to participate in the proposed project.

Floodplain Review:

The Mesquite Woods development is not located within the 100-year floodplain or High Hazard Area. The proposed activities will take place in Zone B. The proposed project is not a critical action. This does not immediately trigger the environmental requirement to maintain flood insurance for the CDBG assisted property.

Uniform Relocation Act (URA):

Section 414 of the Stafford Disaster Relief and Emergency Assistance Act ensures no one is denied URA eligibility based upon their ability to meet the occupancy requirements stated by the Act. This has the effect of waiving the ninety-day occupancy requirement that is a standard requirement under normal URA conditions. The Grantee has applied for and was granted a disaster waiver to Section 414 of the Stafford Act. This waiver of Section 414 effectively re-institutes the ninety-day occupancy requirement rule that is standard for URA, for projects that commence more than one year after the disaster, provided the project was not planned, approved, or otherwise underway prior to the disaster.

A General Information Notice should be sent to any active residents as soon as is feasible at the time of submission of the initial application for CDBG funds. Notices of Eligibility/Ineligibility should be sent to all residents at the Initiation of Negotiations. For this project, this would be triggered when the CDBG-DR agreement is signed between the GLO and the Developer.

Accessibility Review:

Hitchcock Housing, Ltd. and Megan Advisors, LLC have not provided plans for review.

Hitchcock Housing, Ltd. and Megan Advisors, LLC have provided ADA/Section 504 Compliance Certifications.

For all new construction or if the proposed alterations consist of 15 or more units and the cost of alterations is 75% or more of the replacement cost of the completed facility the applicant will need to:

- 1) Provide a minimum of five-percent (5%) of the units, or minimum of one, to be accessible; and

Mesquite Woods
Underwriting Review
1/23/2019

- 2) Two-percent (2%) of the units, or a minimum of one, to be accessible for persons with hearing or vision impairments.

Labor Standards Review:

Hitchcock Housing, Ltd., Megan Advisors, LLC, and Contractor have not provided acknowledgement certifications of current Davis Bacon wage rates specific to this project. The Mesquite Woods development project triggers Davis Bacon Requirements. The contractor is required to be compliant with Contract work hours and Safety Standards Act. This requirement should be listed within the construction contract. The contractor is required to be compliant with Section 3 opportunities. Efforts made to solicit Section 3 subcontractors should be documented by the contractor and maintained by the developer and applicant.

Summary

The Mesquite Woods development will provide 40 reconstructed units in a multi-family site in Galveston County of the Gulf Coast area. The intended use of CDBG-DR funds in this application was reviewed and the following observations were made:

1. No insurance claim was filed on the property. The applicant did not provide evidence of SBA loan acceptance or denial. No FEMA public assistance for this property was found within the data available to us.
2. Not all entities within this application who will be receiving CDBG-DR funds are registered within the System for Award Management. All entities receiving CDBG-DR are required to be registered.
3. The annual management fee is considerably higher than industry average.
4. The high debt coverage ratio and significant annual cash flow suggest that additional debt can be supported by the project to limit the amount of CDBG-DR necessary to subsidize rehabilitation.
5. Administrative expenses, repairs and maintenance costs, and property taxes are estimated to be lower than industry average and could be incorrectly inflating net operating income.

The information presented in this review is for the benefit of and to assist the Texas General Land Office in evaluating potential multi-family projects for CDBG-DR funding. The information provided in this report does not constitute a recommendation or assessment of risk by CohnReznick to the Texas General Land Office in connection with funding for the application presented in this review. The review is solely based upon information that was provided in the application by the applicant as provided by the Texas General Land Office.

ASSURANCES - CONSTRUCTION PROGRAMS

OMB Approval No. 4040-0009
Expiration Date: 01/31/2019

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.

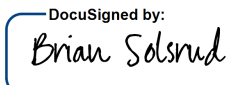
As the duly authorized representative of the applicant, I certify that the applicant:

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, through any authorized representative, access to and 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 interest in the title of real property in accordance with 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 progress 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 for 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 non-discrimination 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	
		Sole Member of General Partner Cascade GP Services,	
APPLICANT ORGANIZATION		DATE SUBMITTED	
Hitchcock Housing, Ltd.		2/27/2019	

THIS FORM MUST BE EXECUTED

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

**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

Hitchcock Housing, Ltd.

AWARD NUMBER AND/OR PROJECT NAME

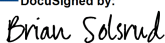
19-097-026-B644

PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

Brian Solrud

Sole Member of General Partner Cascade GP Services, LLC

SIGNATURE

DocuSigned by:

CDD46035E74B4D7...

DATE

2/27/2019

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

Approved by OMB
4040-0013

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 For material change only: Year _____ quarter _____ Date of last report _____
4. Name and Address of Reporting Entity: _____ Prime _____ Subawardee Tier _____, if Known: Congressional District, if known:		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known:
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 (if individual, last name, first name, MI):		b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):
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: _____ Print Name: _____ 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.

1. 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.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup 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 last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
9. 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 for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

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 (4040-0013), Washington, DC 20503.

General Affirmations

To the extent they apply, Provider affirms and agrees to the following, without exception:

1. Provider represents and warrants that, in accordance with Section 2155.005 of the Texas Government Code, neither Provider nor the firm, corporation, partnership, or institution represented by Provider, or anyone acting for such a firm, corporation, partnership, or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business and Commerce Code, or the federal antitrust laws, or (2) communicated directly or indirectly the contents of this Contract or any solicitation response upon which this Contract is based to any competitor or any other person engaged in the same line of business as Provider.
2. If the Contract is for services, Provider shall comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.
3. Under Section 231.006 of the Family Code, the vendor or applicant [Provider] certifies that the individual or business entity named in this Contract, bid or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.
4. A bid or an application for a contract, grant, or loan paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application. Provider certifies it has submitted this information to the GLO.
5. If the Contract is for the purchase or lease of computer equipment, as defined by Texas Health and Safety Code Section 361.952(2), Provider certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code, related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in Title 30 Texas Administrative Code Chapter 328.
6. Pursuant to Section 2155.003 of the Texas Government Code, Provider represents and warrants that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract.
7. Payments due under the Contract shall be directly applied towards eliminating any debt or delinquency Provider owes to the State of Texas including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support.
8. Upon request of the GLO, Provider shall provide copies of its most recent business continuity and disaster recovery plans.

9. Provider must use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve any dispute arising under the Contract.
10. Provider represents and warrants that, pursuant to Section 2270.002 of the Texas Government Code, Provider does not boycott Israel and will not boycott Israel during the term of the Contract.
11. This Contract is contingent upon the continued availability of lawful appropriations by the Texas Legislature. Provider understands that all obligations of the GLO under this Contract are subject to the availability of state 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.
12. Provider certifies that it is not listed on the federal government's terrorism watch list as described in Executive Order 13224.
13. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Provider certifies that it is not (1) the executive head of the GLO, (2) a person who at any time during the four years before the effective date of the Contract was the executive head of the GLO, or (3) a person who employs a current or former executive head of the GLO.
14. Provider represents and warrants that all statements and information prepared and submitted in connection with this Contract are current, complete, true, and accurate. Submitting a false statement or making a material misrepresentation during the performance of this Contract is a material breach of contract and may void the Contract or be grounds for its termination.
15. Pursuant to Section 2155.004(a) of the Texas Government Code, Provider certifies that neither Provider nor any person or entity represented by Provider has received compensation from the GLO to participate in the preparation of the specifications or solicitation on which this Contract is based. Under Section 2155.004(b) of the Texas Government Code, Provider certifies that the individual or business entity named in this Contract is not ineligible to receive the specified contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate. This Section does not prohibit Provider from providing free technical assistance.
16. Provider represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.
17. 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 the GLO.

18. PROVIDER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND THE GLO, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF PROVIDER OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY PROVIDER WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND PROVIDER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. PROVIDER AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.
19. PROVIDER SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE GLO AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF PROVIDER PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR (3) THE GLO'S AND/OR PROVIDER'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO THE GLO BY PROVIDER OR OTHERWISE TO WHICH THE GLO HAS ACCESS AS A RESULT OF PROVIDER'S PERFORMANCE UNDER THE CONTRACT. PROVIDER AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. PROVIDER SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY PROVIDER WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL (OAG) WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND PROVIDER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG. IN ADDITION, PROVIDER WILL REIMBURSE THE GLO AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE GLO DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF PROVIDER OR IF THE GLO IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, THE GLO

WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND PROVIDER WILL PAY ALL REASONABLE COSTS OF THE GLO'S COUNSEL.

20. Provider has disclosed in writing to the GLO all existing or potential conflicts of interest relative to the performance of the Contract.
21. Sections 2155.006 and 2261.053 of the Texas Government Code, prohibit state agencies from accepting a solicitation response or awarding a contract that includes proposed financial participation by a person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Texas Government Code, occurring after September 24, 2005. Under Sections 2155.006 and 2261.053 of the Texas Government Code, Provider certifies that the individual or business entity named in this Contract is not ineligible to receive the specified contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
22. Provider understands that the GLO 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 related to this Contract may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Provider shall make any information created or exchanged with the State/GLO 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 or the GLO.
23. The person executing this Contract certifies that he/she is duly authorized to execute this Contract on his/her own behalf or on behalf of Provider and legally empowered to contractually bind Provider to the terms and conditions of the Contract and related documents.
24. 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. Provider shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through the Contract and the requirement to cooperate is included in any subcontract it awards. The GLO may unilaterally amend the Contract to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code.

25. Provider certifies that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from participation in the Contract by any state or federal agency.
26. Provider expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, Provider represents and warrants to the GLO that any technology provided to the GLO for purchase pursuant to this Contract is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of: providing equivalent access for effective use by both visual and non-visual means; presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this Section, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans With Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance.
27. If the Contract is for the purchase or lease of covered television equipment, as defined by Section 361.971(3) of the Texas Health and Safety Code, Provider certifies its compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code, related to the Television Equipment Recycling Program.
28. In accordance with Texas Government Code Chapter 2252, Subchapter F, any iron or steel product Provider uses in its performance of the Contract that is produced through a manufacturing process, as defined in Section 2252.201(2) of the Texas Government Code, must be produced in the United States.

NONEXCLUSIVE LIST OF APPLICABLE LAWS, RULES, AND REGULATIONS

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

Provider 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;

Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act (Public Law No. 114-223);

Consolidated Appropriations Act, 2017 (Public Law No. 115-31);

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

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

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

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

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

Disaster Recovery Implementation Manual; and

Guidance Documents: The State of Texas Plan for Disaster Recovery: Hurricane Harvey, Amendment No. 2, dated August 28, 2018, as amended.

CIVIL RIGHTS

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

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

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

Executive Order 11063, as amended by Executive Order 12259, and 24 C.F.R. Part 107, "Nondiscrimination and Equal Opportunity in Housing under Executive Order 11063"; The failure or refusal of Provider 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, Provider 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 Nonconstruction 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. §§ 135.3(a)(2) and (a)(3);

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)); and

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).

THE TEXAS GENERAL LAND OFFICE**HURRICANE HARVEY AFFORDABLE RENTAL PROGRAM**

Hurricane Harvey Funding Under the Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Public Law 115-56) enacted on September 8, 2017.

**LAND USE RESTRICTION AGREEMENT FOR HURRICANE HARVEY 2018 MULTIFAMILY
RENTAL HOUSING PROGRAM**

THE STATE OF TEXAS §

§

COUNTY OF GALVESTON §

THIS LAND USE RESTRICTION AGREEMENT (“Agreement” or LURA”), dated this 11th day of February 2019 (the “Effective Date”) is between Hitchcock Housing, Ltd. (“Developer”) and the Texas General Land Office (“GLO”).

RECITALS

Whereas, Developer is the Owner of certain improvements (“Improvements”) known as the Mesquite Woods Apartments, buying through the Hurricane Harvey Affordable Rental Program situated on real property (“Project”) located in the City of Hitchcock, County of Galveston, State of Texas, more particularly described in **Exhibit A – Legal Description**, attached hereto and incorporated herein by reference. The Land and Improvements are hereinafter collectively referred to as the “Property”; and

Whereas, the Texas General Land Office was designated by Texas Governor Rick Perry, on June 17, 2011, as the state agency responsible for the administration of the Community Development Block Grant – Disaster Recovery Program; and

Whereas, the Owner/Developer entered in GLO Contract No. 19-097-026-B644 (“Subrecipient Grant Agreement”) with the Developer to provide certain funds (“Grant”) to the Developer as made available to the GLO under the Federal Act (hereinafter defined); and

Whereas, GLO and Developer desire to confer rights and benefits upon the GLO as described herein; and

Whereas, in accordance with the Contract executed by and between the GLO and the Owner/Developer, the Grant funds shall be used by the Owner/Developer for the rehabilitation or construction of the Project; and

Whereas, pursuant to the Federal Act, the State Act, and CDBG Regulations, the Owner/Developer, as condition to the use of Funds, must agree to comply with certain occupancy, rent, and other restrictions under the Federal Act, and the CDBG Regulations during the Term (hereinafter defined) and with certain occupancy, rent, and other restrictions described hereunder, and the parties have entered into this Agreement to evidence Owner/Developer’s agreement to comply with such restrictions during the Term,

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

I. DEFINITIONS

2.1 GENERAL

Capitalized terms used in this Agreement shall have, unless the context clearly requires otherwise, the meanings specified in Article I. Certain additional terms may be defined elsewhere in this Agreement.

“Agreement” or “LURA” means this CDBG Land Use Restriction Agreement for the Mesquite Woods, a 40-unit multifamily rental housing development, executed by and between the Texas General Land Office and Developer, and setting forth certain occupancy and rental restrictions for the Project, as contained herein, as it may from time to time be amended.

“Action Plan” means any State of Texas action plans, partial, final, or otherwise, for disaster recovery to use CDBG funding to assist with the recovery of distressed areas pursuant to the CDBG Disaster Recovery Program.

“Annual Income” means ‘annual income’ as defined in 24 C.F.R. §92.203.

“Area Median Income” means the median income, adjusted for family size, for the area where the Property is located, as such median income is established by HUD at least annually in accordance with the Federal Act, or as otherwise established by the General Land Office.

“CDBG Disaster Recovery Program” means the federal disaster relief emergency funding housing program funded by CDBG as authorized and established under The Supplemental Appropriations for Disaster Relief Requirements, 2017 (Public Law 115-56), enacted on September 8, 2017 for the purpose of assisting recovery activities related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization in areas affected by Hurricane Harvey and outlined in the *State of Texas Plan for Disaster Recovery: Hurricane Harvey* dated January 18, 2018 and approved by HUD on May 1, 2018.

“CDBG Multifamily Rental Housing Guidelines” means the State of Texas CDBG implementation manual and guidelines, as amended or superseded from time to time, which serves as a comprehensive guidebook to those entities that have been provided funds through the GLO pursuant to the CDBG Disaster Recovery Program, together with any and all other manuals and guidelines developed by the GLO in connection with implementation and operation of the CDBG Disaster Recovery Program.

“CDBG Regulations” means the regulations promulgated pursuant to Federal Act by HUD or any respective successor, as finalized and amended from time to time, which regulations govern the CDBG Disaster Recovery Program. The CDBG Regulations are set forth in in Title 24, Part 570 of the Code of Federal Regulations.

“Compliance Monitoring Procedures” means procedures and requirements adopted or imposed by the GLO or HUD for the purpose of monitoring and auditing the Property and the books and records of the Developer for compliance with this Agreement, the Federal Act, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-1) and its implementing regulations (24 C.F.R. Part 1), the Age Discrimination Act of 1975 (42 U.S.C. 6101), The Fair Housing Act (42 U.S.C. 3601), 24 C.F.R. Part 5 subpart A, Equal Employment Opportunity, Executive Order 11246 and its implementing regulations (41 C.F.R. Part 60), Equal Opportunity in Housing, Executive Order 11246 and its implementing regulations (41 C.F.R. Part 107), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulations (24 C.F.R. Part 8), Architectural Barriers Act (42 U.S.C. 4151-4157, 10 TAC Chapter 60, the CDBG Regulations (24 C.F.R. 570), the CDBG Single Family Rental Housing Guidelines, those inspections and examinations allowed pursuant to Section 2306.231 of the State Act and any and all other Governmental Requirements (as defined below), as may be amended from time to time.

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

“Extremely Low-Income Families” means families and individuals whose Annual Incomes do not exceed thirty percent (30%) of the Area Median Income in which the Property is located.

“Federal Act” means Title 1 of the Housing and Community Development Act of 1974 as set forth in Public Law 93-383, 42 U.S.C. §5301, *et seq.*, or any corresponding provision or provisions of succeeding law as it or they may be amended from time to time.

“Government Authority” means the United States of America, the State of Texas, the County of Galveston, Texas, and the City of Hitchcock, Texas, and any political subdivision of any of the foregoing, and any other political subdivision, agency, or instrumentality exercising jurisdiction over Owner or the Property.

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

“Hazardous Substance” or “Hazardous Material” means any substance defined as a hazardous substance, hazardous material, hazardous waste, toxic substance or toxic waste in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. 9601, *et seq.*; The Hazardous Materials Transportation Act, as amended, 39 U.S.C. 1801, *et seq.*; the Resource Conservation and Recovery Act, as amended 42 U.S.C. 6901, *et seq.*; or any similar applicable federal, state, or local law; or in any regulation adopted or publication promulgated pursuant to said law, either existing or promulgated from time to time.

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

“Low-Moderate-Income Households” means families and individuals whose annual incomes do not exceed eighty percent (80%) of the median family income, or such other income limits as determined by HUD. This definition includes Very Low, Low, and Moderate-income households.

“Project” means the 40-unit multifamily rental housing project to be located at 5809 Delany, Hitchcock, TX 77563 more particularly described in **Attachment A**, including Owner's activities concerning the acquisition, ownership, rehabilitation, reconstruction and operation of the Property.

“Project Documents” means all tenants lists, applications, (whether accepted or rejected), leases, lease addenda, tenant and owner certifications, advertising records, waiting lists, rental calculations and rent records, utility allowance documentation, income examinations and re-examinations relating to the Project and other documents otherwise required under the law or by the GLO.

“Term” means the fifteen (15) year period, commencing on the date of substantial construction completion on rehabilitated or reconstructed multi-family rental projects with eight (8) or more units, for which 51% of the total units in each property are to be used for affordable rental housing for low- and moderate-income persons or households earning 80% or less of the Area Median Family Income.

“Unit” means a residential accommodation constituting a part of the Property and containing separate and complete living facilities.

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

Contextual Note: Unless the context clearly indicates otherwise, where appropriate the singular shall include the plural and the masculine shall include the feminine or neuter and vice versa, to the extent

necessary to give the terms defined in this Article I and/or terms otherwise used in this Agreement their proper meanings.

II. RESTRICTIVE COVENANT - USE AND OCCUPANCY OF PROPERTY

3.1 USE OF PROPERTY

During the Term, Developer will maintain the Property as affordable rental housing and will rent or hold available for rental each Unit on a continuous basis in order to meet the occupancy requirements of this Agreement.

3.2 COMMON AREAS

During the Term, Developer agrees that all common areas, if any, including, without limitation, any laundry or community facilities on the Property shall be for the exclusive use of the tenants and their guests and shall not be available for general public use.

3.3 OCCUPANCY REQUIREMENTS

(a) Long Term Occupancy Requirements

Notwithstanding anything herein to the contrary, at the time of occupancy of the Property or the time funds are invested pursuant to CDBG Program in connection with the Property, whichever is later, Developer must make, at a minimum, 51% of the total number of units must be used for affordable rental housing for low- and moderate-income persons or households earning 80% or less of the Area Median Family Income.

(b) Accessibility

At least two (2) Units or five percent (5%) of all Units, whichever is greater, shall be designed to be made accessible for an individual with disabilities with mobility impairments exceeding the accessibility requirements under Section 504 of the Rehabilitation Act of 1973 by an additional ten percent (10%), and at least one (1) Unit(s) or two percent (2%) of all Units, whichever is greater, shall be designed and built to be accessible for persons with hearing or vision impairments in accordance with the accessibility requirements under Section 504 of the Rehabilitation Act of 1973.

(c) New Construction of Single Family Units

If the Project includes the new construction of single family units (1 to 3 units per building) the Developer shall construct every unit to meet or exceed the accessibility requirements of Section 2306.514 of the Texas Government Code, as amended from time to time.

3.4 NEEDS ASSESSMENT

The determination of whether the Annual Income of a family or individual occupying or seeking to occupy a Qualifying Unit complies with the requirements for Extremely Low Income Households or Low-Moderate-Income Households shall be made by the applicable Housing Authority in the program area prior to admission of such family or individual to occupancy of a Qualifying Unit (or to designation of a Unit occupied by such family or individual as a Qualifying Unit).

III. RESTRICTIVE COVENANT – RENT

4.1 RENT LIMITATIONS

The maximum monthly rent (which includes the tenant paid portion of the rent, the Utility Allowance, and rental assistance payment) charged by Owner for the forty (40) Qualifying Units, specified in Sections 2.3(a)(2), occupied by Low-Moderate-Income Households, other than Extremely Low-Income Households, must be set at levels that are affordable to Low-Moderate-Income Households and shall not exceed the higher of (i) High Home Investment Partnership (“HOME”) Rents as defined under Title 24, Section 92.252 of the Code of Federal Regulations as may be amended or modified from time to time and determined by the GLO and published on an annual basis with adjustment for family size; or (ii) exception rents allowed by HUD on project-based Section 8 properties pursuant to Title 24, Section 252(b)(2) of the Code of Federal Regulations as may be amended or modified from time to time.

4.2 GROSS RENT PROVISIONS

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

IV. ADMINISTRATION

5.1 CERTIFICATION BY DEVELOPER

During the Term, Developer shall, at least annually, or as GLO may otherwise approve, submit to GLO in a form prescribed by GLO, a certificate of continuing compliance with all occupancy standards, terms, and provisions of this Agreement. The certification will also include statistical data relating to special needs individuals’ race, ethnicity, income, fair housing opportunities, and other information requested by GLO or the GLO. This certification shall also include statistical data relating to special needs individuals’ race, ethnicity, income, and fair housing opportunities and other information requested, including reports required by 10 TAC Chapter 60.

5.2 MAINTENANCE OF DOCUMENTS

All Project documents and any other report of records which Developer is required to prepare and/or provide to GLO pursuant to this Agreement and Regulations must be retained for the periods set out in the CDBG Regulations, or if no specific period is set out, for three (3) years after the end of the Term, or as otherwise specified by law or required by the GLO. All project documents shall at all times be kept separate and identifiable from any other business of Developer which is unrelated to the Property, and shall be maintained in compliance with the CDBG Regulations and any other requirements of the State of Texas, in a reasonable condition for proper audit and subject to examination and photocopying during business hours by representatives of the GLO, HUD, or the United States Comptroller General.

Developer agrees and acknowledges that any and all Project Documents are confidential in nature. Developer agrees not to disclose the Project Documents or any of the terms, provisions, or conditions thereof, or any information that is deemed confidential under federal law or state law related to tenants’ or applicants’ income, social security number, employment status, disability, or other related matters to any party outside of Owner’s organization, except as otherwise expressly required in this Agreement or by the CDBG Regulations or CDBG Single Family Rental Housing Guidelines, or to auditors as required by third party financing, or to a professional management agent for the Project. Developer further agrees that, within

its organization, the Project Documents and their confidential information will be disclosed and exhibited only to those persons within Developer's organization whose position and responsibilities make such disclosure necessary.

5.3 COMPLIANCE REVIEW

During the Term, Developer agrees to permit the GLO, HUD, and/or a designated representative of the GLO or HUD, to access the Property for the purpose of performing Compliance Monitoring Procedures. The GLO or HUD will periodically monitor and audit Developer's compliance with the requirements of this Agreement, the CDBG Regulations, the CDBG Single Family Rental Housing Guidelines, and any and all other Governmental Requirements, in accordance with GLO Compliance Monitoring Procedures during the term. In conducting its Compliance Review, the GLO and HUD will rely primarily on information obtained from Developer's records and reports, findings from on-site monitoring, and audit reports. The GLO and HUD may also consider other relevant information gained from other sources, including litigation and citizen complaints.

5.4 HAZARDOUS MATERIALS: INDEMNIFICATION

a. Developer agrees to the following:

- (i) Developer shall not receive, store, dispose, or release any Hazardous Materials on or to the Property or transport any Hazardous Materials to or from the Property or permit the existence of any Hazardous Materials contamination;
- (ii) Developer shall give written notice to GLO immediately upon Developer's acquiring knowledge of the presence of any Hazardous Material on the Property or the transport of any Hazardous Materials to or from the Property or of the existence of any Hazardous Materials contamination, with full description thereof;
- (iii) Developer will, promptly, at Developer's sole cost and expense, comply with any Governmental Requirements regarding the removal, treatment, or disposal of such Hazardous Materials or Hazardous Materials contamination and provide GLO with satisfactory evidence of such compliance;
- (iv) Developer shall provide GLO, within thirty (30) days of demand by the GLO, financial assurance evidencing to GLO that the necessary funds are available to pay for the cost of removing, treating, and disposing of such Hazardous Materials or Hazardous Materials contamination and discharging any assessments which may be established on the Property as a result thereof; and
- (v) Developer shall insure that all leases, licenses, and agreements of any kind now or hereafter executed which permit any party to occupy, possess, or use in any way the Property or any part thereof, whether written or oral, include an express prohibition on the disposal or discharge of any Hazardous Materials at or affecting the Property, and a provision that failure to comply with such prohibition shall expressly constitute a default under any such agreement.
- (vi) Developer shall not cause or suffer any liens to be recorded against the Property as a consequence of, or in any way related to, the presence, remediation, or disposal of Hazardous Materials in or about the Property, including any so-called state, federal, or local "Superfund" lien relating to such matters.

b. DEVELOPER SHALL, AT ALL TIMES, RETAIN ANY AND ALL LIABILITIES ARISING FROM THE PRESENCE, HANDLING, TREATMENT, STORAGE, TRANSPORTATION, REMOVAL, OR DISPOSAL OF HAZARDOUS MATERIALS ON THE PROPERTY. REGARDLESS OF WHETHER ANY EVENT OF DEFAULT SHALL HAVE OCCURRED AND BE CONTINUING OR ANY REMEDIES IN RESPECT OF THE PROPERTY ARE

EXERCISED BY GLO, DEVELOPER SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS GLO AND THE GLO, ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ALL LIABILITIES, SUITS, ACTIONS, CLAIMS, DEMANDS, PENALTIES, DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, CONSEQUENTIAL DAMAGES, INTEREST, PENALTIES, FINES AND MONETARY SANCTIONS) LOSSES, COSTS, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEY'S FEES AND COSTS) WHICH MAY NOW OR IN THE FUTURE (WHETHER BEFORE OR AFTER THE CULMINATION OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT) BE INCURRED OR SUFFERED BY GLO OR THE GLO BY REASON OF, RESULTING FROM, IN CONNECTION WITH, OR ARISING IN ANY MANNER WHATSOEVER OUT OF THE BREACH OF ANY WARRANTY OR COVENANT OR THE INACCURACY OF ANY REPRESENTATION OF DEVELOPER CONTAINED OR REFERRED TO IN THIS SECTION OR WHICH MAY BE ASSERTED AS A DIRECT OR INDIRECT RESULT OF THE PRESENCE ON OR UNDER, OR ESCAPE, SEEPAGE, LEAKAGE, SPILLAGE, DISCHARGE, EMISSION OR RELEASE FROM THE PROPERTY OF ANY HAZARDOUS MATERIALS OR ANY HAZARDOUS MATERIALS CONTAMINATION OR ARISE OUT OF OR RESULT FROM THE ENVIRONMENTAL CONDITION OF THE PROPERTY OR THE APPLICABILITY OF ANY GOVERNMENTAL REQUIREMENTS RELATING TO HAZARDOUS MATERIALS REGARDLESS OF WHETHER OR NOT CAUSED BY OR WITHIN THE CONTROL OF DEVELOPER, GLO, OR THE GLO.

SUCH LIABILITIES SHALL INCLUDE, WITHOUT LIMITATION: (1) INJURY OR DEATH TO ANY PERSON; (2) DAMAGE TO OR LOSS OF THE USE OF ANY PROPERTY; (3) THE COST OF ANY DEMOLITION AND REBUILDING OF ANY IMPROVEMENTS NOW OR HEREAFTER SITUATED ON THE PROPERTY OR ELSEWHERE, AND THE COST OF REPAIR OR REMEDIATION OF ANY SUCH IMPROVEMENTS; (4) THE COST OF ANY ACTIVITY REQUIRED BY ANY GOVERNMENTAL AUTHORITY; (5) ANY LAWSUIT BROUGHT OR THREATENED, GOOD FAITH SETTLEMENT REACHED, OR GOVERNMENTAL ORDER RELATING TO THE PRESENCE, DISPOSAL, RELEASE OR THREATENED RELEASE OF ANY HAZARDOUS MATERIAL, ON, FROM, OR UNDER THE PROPERTY; (6) THE IMPOSITION OF ANY LIENS ON THE PROPERTY ARISING FROM THE ACTIVITY OF THE DEVELOPER OR DEVELOPER'S PREDECESSORS IN INTEREST ON THE PROPERTY OR FROM THE EXISTENCE OF HAZARDOUS MATERIALS UPON THE PROPERTY OR HAZARDOUS MATERIAL CONTAMINATION.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THE FOREGOING INDEMNITY SHALL NOT APPLY TO MATTERS RESULTING FROM GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE DEVELOPER, OR ANY EMPLOYEE, AGENT, OR INVITEE OF GLO TAKEN AFTER GLO OR ANY THIRD PARTY HAS TAKEN TITLE TO, OR EXCLUSIVE POSSESSION OF, THE MORTGAGED PROPERTY.

The covenants and agreements contained in this section shall survive the consummation of the transactions contemplated by this Agreement.

5.5 AFFIRMATIVE MARKETING

Developer shall maintain and abide by an affirmative marketing plan which shall be designed to attract tenants from all racial, ethnic/national origin, sex, religion, familial status, and special needs groups and shall require all press releases and written materials, advertising or promoting of the Project to, when feasible, include the equal housing opportunity logo or slogan. Developer further agrees to maintain

documents and records evidencing its compliance with said plan and the affirmative marketing requirements imposed by Title 24, Section 570.487(b) of the CDBG Regulations.

5.6 FEDERAL AND STATE REQUIREMENTS

Developer shall comply with Subpart I of the CDBG Regulations excepting requirements waived by HUD and CDBG Single Family Rental Housing Guidelines and each and every Governmental Requirement as the same may be amended.

5.7 ACCESS AND INSPECTION

Developer will permit GLO, its agents, employees, and representatives, the GLO, its agents, employees, and representatives, HUD, the Inspector General, the General Accounting Office, the Department, the State Auditor's Office, and any other interested Governmental Authority at any and all reasonable times during business hours, to enter upon and inspect the Project and all materials to be used in the rehabilitation thereof. Developer will allow the examination and copying of all of Developer's books, records, contracts, and bills pertaining to the Project. Developer will also cooperate and cause all Contractors to cooperate with GLO, its agents, employees, and representatives during such inspections; provided, however, nothing herein shall be deemed to impose upon GLO or the GLO any duty or obligation to undertake such inspections or any liability for the failure to detect or failure to act with respect to any defect which was or might have been disclosed by such inspections.

5.8 PROPERTY STANDARDS

Developer agrees that each Unit shall be rehabilitated or constructed, as applicable, and maintained in accordance with the requirements set forth in the CDBG Regulations, Texas Minimum Construction Standards, Uniform Physical Condition Standards, and the Multifamily Housing Guidelines.

5.9 REPORTS

Developer shall deliver to GLO:

- a. Within fifteen (15) days after the last day of each quarter in each fiscal year of the Developer, or as requested by GLO, a Unit Status Report. GLO may require electronic submission of the Unit Status Report.
- b. From time to time and promptly upon request, such data, certificates, reports, statements, documents, or further information regarding the assets or the business, liabilities, financial position, projections, results of operations, or business prospects of Developer or such other matters concerning Developer's compliance with the CDBG Regulations and the terms of this document Multifamily Housing Guidelines as the GLO may reasonably request during the Term or as necessary to assist the GLO in meeting its recordkeeping and reporting requirements under the CDBG Regulations during the Term, including, without limitation, the following:
 - i. Records that demonstrate that the Project meets the Property Standards set out herein;
 - ii. Records required under Title 24 §570.490 of the Code of Federal Regulations for the Term;
 - iii. Other federal requirements records including, without limitation, the following:
 1. Equal opportunity and fair housing records containing:
 - a. Data on racial, ethnic, and gender characteristics of persons who have applied for, participated in, or benefited from, any program or activity funded in whole or in part with CDBG funds.

- b. Documentation of actions undertaken to meet the requirements of Title 24 §92.350 of the Code of Federal Regulations, which implements Section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701u).
 - c. Documentation and data on the steps taken to continuously market to Homeless persons who have previously been homeless or are at risk of being homeless.
 - d. Documentation of the actions the Developer has taken to affirmatively further fair housing as required under 24 C.F.R. Part 570.
2. Records indicating the affirmative marketing procedures and requirements under Title 24 § 570.487(b) of the Code of Federal Regulations.
3. Records that demonstrate compliance with environmental review requirements in Title 24 § 570.604 of the Code of Federal Regulations (and part 58 of this title) in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*)
4. Records which demonstrate compliance with the requirements in Title 24 §570.606 and Title 24 part 42 of the Code of Federal Regulations regarding displacement, relocation, and real property acquisition as applicable.
5. Records demonstrating compliance with labor requirements in Title 24 § 570.487 of the Code of Federal Regulations, including contract provisions and payroll records as applicable.
6. Records concerning lead-based paint under Title 24 § 570.608 of the Code of Federal Regulations in accordance with the Lead Based Paint Poisoning Prevention Act (42 U.S.C. 4821, *et seq.*), Residential Lead Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856) and implementing regulations (24 CFR part 58).
7. Records of Certifications concerning debarment and suspension required by Title 24 § 570.609 and Title 24 Part 5 of the Code of Federal Regulations.
8. Records demonstrating compliance with flood insurance requirements under Title 24 §570.605 of the Code of Federal Regulations.
9. Records demonstrating intergovernmental review, as required by Title 24 §570.493 of the Code of Federal Regulations.

5.10 INFORMATION AND REPORS REGARDING THE PROJECT

Owner shall deliver to GLO, at any time within thirty (30) days after notice and demand by GLO, but not more frequently than once per quarter, (a) a statement in such reasonable detail as GLO may request, certified by the Developer, of the leases relating to the project, and (b) a statement in such reasonable detail as GLO may request, certified by a certified public accountant or, at the option of GLO, by the Developer, of the income from and expenses of any one or more of the following: (i) the conduct of any business on the Project, (ii) the operation of the project, or (iii) the leasing of the project, or any part thereof, for the last twelve (12) month calendar period prior to the giving of such notice, and, on demand, Developer shall furnish to GLO the executed counterparts of any such tenant leases and any other contracts and agreements pertaining to facilities located on the Property or which otherwise generate ancillary income for the Project, for the audit and verification of any such statement.

5.11 OTHER INFORMATION

Owner shall deliver to GLO, at any time within thirty (30) days after notice and demand by GLO, any information or reports required by the laws of the State of Texas or as otherwise reasonably required by GLO, the GLO, or HUD.

5.12 DISPLACED PERSONS

In the event there are any Displaced Persons as a result of any of the Units being acquired, rehabilitated, or reconstructed with CDBG funds, Owner/Developer shall comply with the requirements and provisions of a valid Relocation Plan under the law.

V. REPRESENTATIONS AND WARRANTIES OF DEVELOPER

6.1 REPRESENTATIONS AND WARRANTIES

Developer represents and warrants to GLO that:

- a. Valid Execution. Developer has validly executed this Agreement and the same constitutes the binding obligation of Developer. Developer has full power, authority, and capacity to (i) enter into this Agreement, (ii) to carry out Developer's obligations as described in this Agreement, and (iii) to assume responsibility for compliance with all applicable Governmental Regulations, including, without limitation, those in the CDBG Regulations and the Multifamily Rental Housing Guidelines.
- b. No Conflict or Contractual Violation. To the best of Developer's knowledge, the making of this Agreement and Developers obligations hereunder:
 - (i) Will not violate any contractual covenants or restrictions (a) between Developer or any third party or (b) affecting the Property; and
 - (ii) If Developer is other than an individual, this agreement will not conflict with any of the instruments that create or establish Developer's authority; and
 - (iii) Will not conflict with any applicable public or private restrictions; and
 - (iv) Do not require any consent or approval of any public or private authority which has not already been obtained; and
 - (v) Are not threatened with invalidity or unenforceability by any action, proceeding or investigation pending or threatened, by or against (a) Developer, without regard to capacity, (b) any person with whom Developer may be jointly or severally liable, or (c) the Property or any part thereof.
- c. No Litigation. No action, litigation, investigation, or proceeding is now pending or, to the best of the Developer's knowledge, threatened against Developer which, if adversely determined, could individually or in the aggregate have an adverse effect on title to or the use and enjoyment or value of the Property, or any portion thereof, or which could in any way interfere with the consummation or enforceability of this Agreement.
- d. No Bankruptcy. There is not pending or, to the Developer's best knowledge, threatened against Developer any case or proceeding or other action in bankruptcy, whether voluntary or otherwise, any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief for Developer under any federal, state, or other stature, law, regulation relating to bankruptcy, insolvency, or relief for debtors.
- e. Prior Warranties, Representations, and Certifications. All warranties, representations, and certifications made, and all information and materials submitted or caused to be submitted to GLO or the GLO in connection with the Project are true and correct, and there have been no material changes in or conditions affecting any of such warranties, representations, certifications, materials, or other information prior to the effective date thereof.

- f. Conflicting Agreements. Developer has not and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions thereof, and that in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.
- g. Consideration. Developer has freely and without reservation placed itself under the obligations of this Agreement and that the receipt of funding from GLO, in the form of Community Development Block Grant funds for Disaster Recovery is an essential part of the consideration for this Agreement.
- h. Conflicts of Interest. No member, employee, officer, agent, consultant, or official of the Developer, nor any member of their immediate family, during their tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in this Agreement or any proceeds or benefits arising therefrom, except as allowed by Title 25 §570.611 of the Code of Federal Regulations, as amended from time to time.
- i. Debarment and Suspension. Neither Developer nor any of its principals are presently debarred, suspended, proposed for debarment, suspension, declared ineligible, or voluntarily excluded from participation in this transaction of the CDBG Disaster Recovery Program by any federal department or agency.
- j. Flood Insurance. In the event that any of the Property is located in an area identified by the Federal Emergency Management Agency ("FEMA") as having special flood hazards Developer warrants and represents to GLO and the GLO that:
 - (i) Such area is participating in the National Flood Insurance Program or less than one (1) year has passed since FEMA notification regarding such hazards; and
 - (ii) Developer will obtain flood insurance, in an amount and form satisfactory to GLO, in accordance with GLO or HUD guidelines, for the Property that is located in the special flood hazard area and those areas must have all finished ground floor elevations at least one foot above the flood plain and parking and drive areas not be any lower than six inches below the floodplain. Developer warrants that it will maintain the flood insurance for the term of the Grant.

6.2 MISREPRESENTATION AND OMISSION

Acts constituting fraud, false filings, misrepresentation, or omission may subject the alleged offender to criminal prosecution and may also result in the alleged offender being barred from further participation in the GLO's programs.

6.3 INDEMNIFICATION

EXCEPT FOR DAMAGES DIRECTLY OR PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE GLO OR THE GLO, DEVELOPER SHALL INDEMNIFY AND HOLD HARMLESS GLO, GLO'S OFFICERS, REPRESENTATIVES, AGENTS, AND EMPLOYEES, THE GLO, AND THE GLO'S OFFICERS, REPRESENTATIVES, AGENTS, AND EMPLOYEES TO THE FULL EXTENT PERMITTED UNDER THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, FROM ANY LOSSES, CLAIMS, SUITS, ACTIONS, DAMAGES, OR LIABILITY (INCLUDING ALL COSTS AND EXPENSES OF DEFENDING AGAINST ALL OF THE AFOREMENTIONED) ARISING IN CONNECTION WITH:

- (i) **THE CONTRACT;**
- (ii) **ANY NEGLIGENCE, ACT, OMISSION, OR MISCONDUCT IN THE PERFORMANCE OF THE SERVICES REFERENCED HEREIN;**
- (iii) **ANY CLAIMS OR AMOUNTS ARISING FROM DAMAGE TO ADJACENT PROPERTY, INCLUDING, BUT NOT LIMITED TO, CLAIMS BASED ON THE SUBMERSION OF DRY LAND DUE TO INCREASED EROSION; AND**

(iv) ANY CLAIMS OR AMOUNTS ARISING OR RECOVERABLE UNDER FEDERAL OR STATE WORKERS' COMPENSATION LAWS, THE TEXAS TORT CLAIMS ACT, OR ANY OTHER SUCH LAWS.

THE DEVELOPER SHALL BE RESPONSIBLE FOR THE SAFETY AND WELL BEING OF ITS EMPLOYEES, CUSTOMERS, AND INVITEES. THESE REQUIREMENTS SHALL SURVIVE THE TERM OF THIS AGREEMENT UNTIL ALL CLAIMS HAVE BEEN SETTLED OR RESOLVED AND SUITABLE EVIDENCE TO THAT EFFECT HAS BEEN FURNISHED TO THE GLO.

VI. DEFAULT, ENFORCEMENT, AND REMEDIES

7.1 DETERMINATION OF DEVELOPER DEFAULT

Occurrence of one or more of the following events will, at the discretion of GLO, constitute an event of default ("Event of Default") under this Agreement:

- a. Developer shall default in the performance of any of its obligations under this Agreement or breaches any covenant, agreement, restriction, representation, or warranty set forth herein, and such default or breach remains uncured for a period of thirty (30) days after notice thereof shall have been given by GLO (or for an extended period approved by the GLO if the default or breach stated in such notice can be corrected, but not within such 30-day period, unless Developer does not commence such correction or commences such correction within such 30-day period but thereafter does not diligently pursue the same to completion within such extended period);
- b. Developer shall be adjudged bankrupt or insolvent, or a petition or proceeding for bankruptcy or for reorganization shall be filed against it and it shall admit the material allegations thereof, or an order, judgement, or decree shall be entered approving such petition and such order, judgement or decree shall not be vacated or stayed within sixty (60) days of its entry or a receiver or trustee shall be appointed for the Developer or the Property, Land, or any part thereof and remain in possession thereof for thirty (30) days;
- c. Developer shall sell or otherwise transfer the Property, in whole or in part (except leases to low- and moderate-income tenants), without the prior written consent of and notification to GLO.

7.2 ENFORCEMENT OF REMEDIES BY GLO

Upon an occurrence of an Event of Default, the GLO or HUD may, (i) apply to any court having jurisdiction of the subject matter for specific performance of this Agreement, and/or for an injunction against any violation of this Agreement, for the appointment of a receiver to take over and operate the Property in accordance with the terms of this Agreement, or (ii) take any and all action at law, in equity, or otherwise for such relief as may be appropriate, including recapturing federal funds expended for the Project provided, however, that the amount to be recaptured shall be decreased by one-fifteenth (1/15) of the total amount expended for the Project, under the Developer Contract, for each year that Developer complies with this Agreement. It is acknowledged that the beneficiaries of Developer's obligations cannot be adequately compensated by monetary damages in the event of Developer default. The GLO shall be entitled to its reasonable attorney's fees in any such judicial action in which the GLO shall prevail. The GLO or HUD shall also be compensated for fees associated with additional compliance monitoring during corrective periods of non-compliance upon a default by Owner/Developer hereunder.

7.3 CUMULATIVE AND CONCURRENT REMEDIES

Each right, power, and remedy of GLO or the GLO provided for in this Agreement now and hereafter existing law or in equity or by statute of otherwise shall be cumulative and concurrent and shall be in

addition to every other right, power, or remedy, provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise of beginning of the exercise by the GLO of any one or more of the rights, powers, or remedies, provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the GLO of any or all of such other rights, powers, or remedies as permitted by law.

7.4 ENFORCEMENT AND REMEDIES OF PARTIES OTHER THAN THE GLO

The occupancy and maximum rent requirements set forth in Articles II and III hereof, respectively, also shall inure to the benefit of, and may be judicially enforced against Developer by, affecting Low-Moderate Income Households or Extremely Low-Income Households. Any of the persons or entities described above shall be entitled to judicially enforce this Agreement in the same manner in which the GLO may seek judicial enforcement and shall be entitled to reasonable attorney's fees. Further, any deed, lease, conveyance, or contract made in violation of this Agreement shall be void and may be set aside on petition of one or more of the parties to the Agreement, and all successors in interest, heirs, executors, administrators, or assigns shall be deemed parties to this Agreement to the same effect as the original signer; and when any such conveyance or other instrument is set aside by decree of a court of competent jurisdiction, all costs and all expenses of such proceedings shall be taxed against the offending party or parties, and shall be declared by the court to constitute a lien against the real estate so wrongfully deeded, sold, leased, or conveyed, until paid, and such lien may be enforced in such a manner as the court may order.

7.5 SOVEREIGN IMMUNITY

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

VII. COVENANTS

8.1 COVENANTS RUNNING WITH THE LAND

During the Term, this Agreement and the covenants, reservations, and restrictions contained herein shall be deemed covenants running with the land for the benefit of the Developer and its successors and for the benefit of the GLO and/or HUD, and its successors, and shall pass to and be binding on Developer's heirs, assigns, and successors in title to the Property, or if the Property shall not include title to land, but shall include a leasehold interest in the land, this Agreement and the covenants, reservations, and restrictions shall bind the leasehold interest as well as the Property and shall pass to and be binding upon all heirs, assigns, and successors to such interests; provided, however, that upon expiration of the Term in accordance with the terms hereof said covenants, reservations, and restrictions shall expire. During the Term, each and every contract, deed, or other instrument hereafter executed covering or conveying the Property or any portion thereof shall conclusively be held to be executed, delivered, and accepted subject to such covenants, reservations, and restrictions, regardless of whether such covenants, reservations, and restrictions are set forth in such contract, deed, or other instrument. If a portion of the Property is conveyed during the Term, all of such covenants, reservations, or restrictions shall run to each portion of the Property. Developer, at its own cost and expense, shall cause this Agreement to be duly recorded or filed and re-recorded or re-filed in the Real Property Records of the county in which the Property is located, and shall pay or cause to be paid all recording, filing, or other taxes, fees and charges, and shall comply with all such statutes and regulations as may be required by law in order to establish, preserve, and protect the ability of GLO or HUD to enforce this Agreement.

VIII. MISCELLANEOUS**9.1 AMENDMENTS**

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

9.2 NOTICES

All notices required or permitted to be given under this Agreement must be in writing. Notice will be deemed effective upon deposit in the United States mail, postage prepaid, by certified mail, return receipt requested, and properly addressed to the party to be notified. Notice given in any other manner shall be deemed effective only if and when received by the party to be notified. For the purposes of this notice, the address of the parties shall, until changed as hereinafter provided, be as follows:

If to the Owner/Developer:

Hitchcock Housing, Ltd
2900 N Government Way, #88,
Coeur d'Alene, ID 83815

GLO:

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

With a Copy to the GLO:

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

Notice given in any other manner shall be deemed in effective. Any party may change its address for notice purposes by giving notice to the other parties in the accordance with this Section 9.2.

9.3 ENTIRE AGREEMENT

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

9.4 COOPERATION

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

9.5 CHOICE OF LAW

In the event the enforceability or validity of any provision of this Agreement is challenged or questioned, such provision shall be governed by, and shall be construed in accordance with, the laws of the State of Texas or the federal laws, whichever may be applicable.

9.6 SEVERABILITY

This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinance, rules, and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

9.7 COUNTERPARTS

This Agreement and any Amendments hereto may be executed in several counterparts, each of which shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

9.8 SECTION TITLE

Section titles and the table of contents are for descriptive purposes only and shall not control or limit the meaning of this Agreement as set forth in the text.

9.9 CHANGE IN NEIGHBORHOOD

A substantial or radical change in the character of the neighborhood surrounding the Property will not extinguish the restrictive covenants of this Agreement. The restrictive covenants shall survive any and all changed circumstances, including, but not limited to, the following: housing pattern changes, zoning amendments, the issuance of variances affecting the immediate or surrounding area; increased traffic or road conditions; enhancement of the value of the Land or Property; growing industrial activity; encroachment of business areas; development of natural resources; financial downturn of the Developer; or commercialization of the neighborhood in question.

9.10 VENUE

Venue of any suit brought under this Agreement shall be in a court of competent jurisdiction in Travis County, Texas. Developer irrevocably waives any objection, including any objection based on personal jurisdiction or the laying of venue or based on the ground of *forum non conveniens*, which may now or hereafter have by the bringing of any action or proceeding in such jurisdiction with respect to the Contract or any document related hereto.

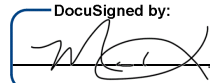
NOTHING IN THIS SECTION SHALL BE CONSTRUED AS WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.

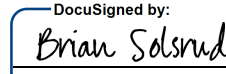
SIGNATURE PAGES FOLLOW





**SIGNATURE PAGE FOR ATTACHMENT E TO GLO CONTRACT NO. 19-097-026-B644
MULTI-FAMILY RESIDENTIAL CONSTRUCTION REPAIR SERVICES GRANT AGREEMENT**

GENERAL LAND OFFICE

HITCHCOCK HOUSING, LTD

DocuSigned by:

7C299F4374E7497...
Mark A. Havens, Chief Clerk/
Deputy Land Commissioner
Date of execution: 2/27/2019

DocuSigned by:

CDD46035E74B407...
Print Name: Brian Solrud
Title: Sole Member of General Partner Cascade GP Servi
Date of execution: 2/27/2019

OGC 
DD 
SDD 
DGC 
GC 

EXHIBITS TO THIS LAND USE RESTRICTION AGREEMENT:

EXHIBIT A: LEGAL DESCRIPTION OF PROPERTY

EXECUTED

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me to be the _____ of _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of said limited liability company, and that he executed the same as the act of such limited liability company for the purposes and consideration therein expressed and in the capacity herein stated.

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

Notary Public, State of Texas

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

EXHIBIT A - LEGAL DESCRIPTION

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**AMENDMENT NO. 1 TO
GLO CONTRACT NO. 19-097-026-B644**

THE GENERAL LAND OFFICE (the “GLO”) and **HITCHCOCK HOUSING, LTD.**, (“Developer”), each a “Party” and collectively “the Parties” to GLO Contract No. 19-097-026-B644 (the “Contract”), desire to amend the Contract. Therefore, the Parties agree as follows:

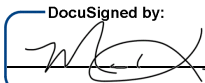
1. Developer’s Tax Identification Number **32036492612** is deleted from the Contract and replaced with the Texas Identification Number (TIN) **17601369501**.
2. **SECTION 3.01** of the Contract is amended by reducing funding in the amount of **\$358,179.00** for a total amount of **\$2,625,700.00** for the duration of this Contract.
3. **ATTACHMENT A** to the Contract, **Performance Statement, Budget, And Payment Benchmarks; Underwriting Report**, is deleted in its entirety and replaced with the **Revised Performance Statement, Budget, And Payment Benchmarks; Underwriting Report**, attached hereto and incorporated herein in its entirety for all purposes as **ATTACHMENT A-1**.
4. This Amendment shall be effective as of **February 27, 2019**.
5. The terms and conditions of the Contract not amended herein shall remain in force and effect.

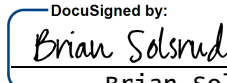
SIGNATURE PAGE FOLLOWS





**SIGNATURE PAGE FOR AMENDMENT NO. 1 TO
GLO CONTRACT No. 19-097-026-B644**

GENERAL LAND OFFICE

HITCHCOCK HOUSING, LTD.

DocuSigned by:

7029954314E7497
Mark A. Havens, Chief Clerk/
Deputy Land Commissioner
Date of execution: 10/23/2019

DocuSigned by:

CDD46033E748D72
Name: Brian Solrud
Title: Sole Member of General Partner
Date of execution: 10/22/2019

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ATTACHED TO THIS AMENDMENT:

**ATTACHMENT A-1 – Revised Performance Statement, Budget, And Payment Benchmarks;
Underwriting Report**

**MULTI-FAMILY RENTAL HOUSING
PERFORMANCE STATEMENT, BUDGET, AND PAYMENT BENCHMARKS**

A. Performance Statement

At a firm fixed price of **TWO MILLION, SIX HUNDRED TWENTY-FIVE THOUSAND, SEVEN HUNDRED DOLLARS AND ZERO CENTS (\$2,625,700.00)** in CDBG-DR funding, Developer will rehabilitate, reconstruct, or construct—in accordance with the terms of the Contract and all attachments, applicable laws, regulations, and guidance—forty (40) multi-family housing units, with forty (40) units being leased to eligible low- and moderate-income (LMI) applicants. Developer shall ensure that the amount of funds to be expended for each task does not exceed the amount specified for such task in the Project Budget. Units will be interspersed to ensure that there is no grouping of units for a particular income type. LMI units shall be scattered amongst and between Market Rate Units throughout the development.

The affordability of each multi-family housing unit will be protected with a fifteen (15) year Land Use Restriction Agreement (LURA) approved by the GLO. Developer, as a condition to use of funds, agrees to comply with certain occupancy, rent, and other restrictions under the Federal Act, and the CDBG Regulations during the term of the LURA. The LURA shall be recorded, at Developer's expense, in the Real Property Records of the Galveston County Clerk's Office.

Rehabilitation

Developer will ensure that all rehabilitation activities meet all applicable local codes, rehabilitation standards, and ordinances. Compliance extends to, but is not limited to, zoning ordinances, building codes, local health and safety codes and standards, and Housing Quality Standards (HQS) at project completion.

Developer will ensure that all rehabilitated portions of the units meet all applicable local codes; rehabilitation standards; ordinances, including zoning ordinances; and building codes and that the entire rehabilitated project complies with local health and safety codes, standards, Minimum Property Standards (MPS), and Green Building Standards at project completion. Developer must ensure that for all new housing construction, compliance with ONE of the following Green Standards is met. The Green Standards are (i) ENERGY STAR (Certified Homes or Multifamily High-Rise); (ii) Enterprise Green Communities; (iii) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development); or (iv) ICC-700 National Green Building Standard.

New Construction or Reconstruction

Newly constructed or reconstructed housing units must meet the Model Energy Code; the compliance-monitoring requirements of the Texas Administrative Code, Title 10, Chapter 10, Subchapter (F); Uniform Multifamily Rules; and the accessibility requirements noted in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973.

All multi-family dwellings, as defined at 24 CFR §100.201, as well as common use facilities in developments must meet the universal visitability standards at 24 CFR §100.205, which implement the Fair Housing Act (42 USC 3601-4619). All reconstructed and newly constructed housing units must comply with the universal visitability standards as established by §2306.514 of the Texas Government Code.

Newly constructed and reconstructed housing units must meet the Model Energy Code (MEC); the compliance-monitoring requirements of the Texas Administrative Code (TAC), Title 10, Chapter 10, Subchapter (F); and the accessibility requirements noted in 24 CFR Part 8, which implements Section 504 of the Rehabilitation Act of 1973. Covered multifamily dwellings, as defined at 24 CFR §100.201, as well as common use facilities in developments must meet the universal visitability standards at 24 CFR §100.205, which implement the Fair Housing Act (42 USC 3601-4619), and the ADA 2010 Standards with HUD exceptions. All reconstructed and newly constructed housing units must comply with the Construction Requirements for Single Family Affordable Housing, as established by §2306.514, Texas Government Code.

B. Budget

The overall Project Budget and individual budget categories are specified in the Underwriting Report beginning on Page 5 of this **Attachment A-1**.

PAYMENT BENCHMARKS

All Project activities shall be completed within eighteen (18) months of the effective date of the Contract.

Phase 1 (33% of Budget): Within six (6) months following the Contract effective date and prior to the final Phase 1 draw, Developer shall satisfactorily (in the GLO's sole determination) complete, at a minimum, the following Tasks:

- a. Demolition;
- b. Debris Removal;
- c. Foundation construction including plumbing; and
- d. Any inspection required during Phase 1.

Phase 2 (66% of Budget): Within twelve (12) months following the Contract effective date and prior to the final Phase 2 draw, Developer shall satisfactorily (in the GLO's sole determination) complete, at a minimum, the following Tasks:

- a. Mechanical;
- b. Plumbing;
- c. Electrical;
- d. Sheetrock, tape, and float;
- e. Insulation;
- f. Tile Work or Resilient Flooring;
- g. HVAC; and
- h. Any inspection required during Phase 2.

Phase 3 (90% of Budget): Prior to the final Phase 3 draw, Developer shall complete, at a minimum, the following Tasks:

- a. Finish Carpentry – Trim and Lockout;
- b. Finish Carpentry – Hardware;
- c. Paint and Caulk;
- d. Filing for and receiving a Certificate of Occupancy; and
- e. Filing the LURA with county clerk's office.

Phase 4 (100% of Budget): After receipt of Certificate of Occupancy and prior to release of the final 10% of the Project Budget, Developer shall complete, at a minimum, the following Tasks:

- a. Repair or resolution of any Punch List Items and
- b. Any and all Close-Out Documents required by the GLO.

For each Phase, Developer may invoice on no more than a monthly basis until the percentage of funds associated with that phase is fully disbursed. Upon exhaustion of funds related to each phase, a full review may be conducted by the GLO to determine the legitimacy of those draws before permitting disbursement of funds related to the next phase.

The GLO reserves the right, at any time, to conduct inspections to ensure general compliance with the foregoing Payment Benchmark schedule before the approval of a reimbursement request is issued. The GLO may allow Payment Benchmark extensions for good cause, at the GLO's sole discretion, upon written request from the Developer.

INSPECTIONS

Developer shall be responsible for ensuring all required inspections are conducted and satisfactorily passed. Developer shall maintain physical proof that municipal codes and/or third-party inspections have been passed and accepted by any inspecting authority with jurisdiction over the Project site, which may include local or county governments, the State of Texas, HUD, or the GLO. Developer shall maintain all Project documentation in good order and mark it to record all changes made during performance of the work. Developer shall give the GLO or its representatives and agents access to all Project documentation, regardless of medium or format, at all times and shall submit copies of any Project documentation at the request of the GLO.

DRGR REPORTING

Activity Type: Affordable Rental Housing

National Objective: Benefit LMI Persons

Beneficiary: LMI Renters

Funding: \$5 Billion Allocation

BUDGET

HUD Activity Type	Grant Award	Other Funds	Total
Affordable Rental Housing	\$2,625,700.00	\$0.00	\$2,625,700.00

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Texas General Land Office

Hurricane Harvey

Affordable Rental Housing Program

Development Underwriting Review

for

Mesquite Woods

Prepared:

1/23/2019

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Project Summary

The Mesquite Woods development is a 40 unit development located within Galveston County at 5809 Delany in Hitchcock, TX. The multi-family development will undergo rehabilitation due to damages suffered from Hurricane Harvey in 2017. The proposed development aims to house low-income households earning 80% of Area Median Income (AMI) or below by allocating 40 of the units to serve this population. These units represent 100% of the total number of units within the Mesquite Woods development.

Hitchcock Housing, Ltd. is the project applicant and maintains site control on the property. The housing developer is Megan Advisors, LLC who has extensive experience in constructing and managing multi-family developments.

Proposed Unit Mix

<i>Bed Rooms</i>	<i>Bath Rooms</i>	<i># units</i>	<i>Sq. Ft</i>	<i>Total Sq. Ft.</i>	<i>AMI</i>
1	1	12	688	8,256	<80%
2	1	28	856	23,968	<80%

DEVELOPMENT TEAM	
Applicant:	Hitchcock Housing, Ltd.
Contact:	Gary Maddock
Email:	gary@maddock.biz
Phone:	(913)-685-9000
DUNS:	613751360
General Partner/Managing Member:	Cascade GP Services, LLC
Limited Partner:	Affordable Housing Partnerships #2 & #9
Developer:	Megan Advisors, LLC
General Contractor:	Olympia Construction, Inc.
Management Company:	Megan Property Management, Inc.
Syndicator:	N/A
Architect:	Cameron Alread, Architect Inc.

Related Parties: Hitchcock Housing, Ltd. (Applicant) and Megan Advisors, LLC (Developer) are related parties. This structure may be typical with this size and scale of multi-family housing development. The contractor, Olympia Construction, Inc., is not a related party with respect to the developer or applicant.

Development Summary



Building Configuration: The development consists of five two story apartment structures in Galveston County.

Elevation: An elevation certificate was not provided by the applicant.

General Information:

Size	2 acres
Flood Zone:	Zone B/Zone X Shaded
Zoning:	High Density Residential
Density:	18 units/acre

Scattered Site	No
Within 100yr Floodplain:	No
Re-zoning Required:	No
Utilities on Site:	Yes

Surrounding Uses:

North:	Vacant
South:	Residential
East:	Residential
West:	Residential

Property Condition: The site is zoned “HR” High Density Residential District. Based on the City of Hitchcock’s code of ordinances, the maximum density is 18 units per acre. The applicant will need to confirm with the City that the development is permissible considering they are proposing 20 units per acre. As the development is not classified as new construction, it may be grandfathered under a previous code of ordinances or have received a past variance.

Development Budget and Finance

CohnReznick reviewed available sources and uses, development and construction budgets, regulatory requirements in consideration of the development budget and cost reasonableness of the project.

Sources and Uses

Construction Sources				
Funding Source	Description	Amount	Rate	LTC
Bonneville Multifamily Capital	Rehabilitation	\$3,900,000	5.75%	100%
Equity/DDF	Rehabilitation	\$25,700	0%	100%
Total		\$3,925,700		

Permanent Sources				
Debt Source	Proposed			
	Amount	Rate	Amort	Term
CDBG-DR	\$2,625,700	0%	N/A	15 Yrs.
Bonneville Multifamily Capital	\$1,000,000	5.75%	40 Yrs.	40 Yrs.
Total	\$3,625,700			

Uses	Total	Per Unit
Acquisition	\$759,619	\$18,990.48
Direct Construction Costs	\$1,458,744	\$36,469.60
Site Work	\$215,220	\$5,380.50
Contractor Fee	\$241,913	\$6,047.83
Contingency	\$0.00	\$0.00
Soft Costs	\$306,850	\$7,671.25
Developer Fee	\$307,000	\$7,675.00
Financing Costs	\$282,354	\$7,058.85
Replacement Reserves	\$0.00	\$0.00
Operating Reserves	\$0.00	\$0.00
Total Development Costs	\$3,625,700	\$90,642.50

The reasonable threshold for hard construction costs is a minimum of \$25,000 per unit according to the Affordable Housing Investors Council. The hard cost per unit for the Mesquite Woods development is \$49,246.93 per unit which meets the reasonable minimum requirement to provide adequate rehabilitation.

The total building cost per square foot is \$45.27 compared to an estimated \$66.94 per square foot based on information from RSMeans Data for a full rehabilitation of a development of this size and design. Based on information in the Capital Needs Assessment (CNA), prepared by GIBCO Environmental, LLC and dated July 10, 2018, a full rehabilitation is not required and projected costs fall within 13% of the CNA estimate.

Insurance Status: The applicant indicates that no insurance claim was filed on the property. The property was owned by a party other than the applicant during the time of Hurricane Harvey, therefore the applicant, Hitchcock Housing Ltd., does not anticipate insurance proceeds.

Debt & Financing: The application indicates that rehabilitation will be partially funded with financing from Bonneville Multifamily Capital. The anticipated annual debt service will be \$98,450. Based on a pro-forma analysis using this annual payment, the project will generate a debt coverage ratio of 2.48 which is above the standard threshold for this development of 1.15. This indicates that there may be enough cash flow to service additional debt to fund a portion of rehabilitation and reduce the amount of CDBG-DR funds needed.

Projected Construction Cash Needs: Using an 18-month construction completion period, we modeled the development progress and identified an average for the first six months of \$284,230 required monthly to fund the construction in this application. The applicant has incorporated a construction loan for the construction costs incurred prior to CDBG-DR disbursement.

Operating Review

Rent Analysis

Proposed Rents							
Bedroom Size	Number of Units	Set Aside %	High HOME Rent Limit	Base Rent	Utility Allowance	TTP	Annual Gross Potential Rents
1	2	<30%	\$871	\$356	\$65	\$421	\$8,544
1	10	<80%	\$871	\$806	\$65	\$871	\$96,720
2	2	<30%	\$1,066	\$429	\$77	\$506	\$10,296
2	26	<80%	\$1,066	\$989	\$77	\$1,066	\$308,568

It appears that two of the one-bedroom units and two of the two-bedroom units will serve the 30% AMI income level. The applicant has indicated that the rent charged on these units is well below the High HOME rent limit. All other unit rents are in line with the High HOME rent limit.

Development Expense Analysis

Operating Expense	Projected Expense	Proposed % of Operations	2016 Texas Gross Median Operating Expense Distribution	Variance
Administrative	\$ 9,900.00	6.62%	12.4%	5.78%
Management Fee	\$ 34,000.00	22.73%	8.2%	14.53%
Payroll	\$ 48,700.00	32.56%	24.1%	8.46%
Repairs & Maint.	\$ 16,300.00	10.90%	18.9%	8.00%
Utilities	\$ 19,607.00	13.11%	14.7%	1.59%
Property Insurance	\$ 15,560.00	10.40%	7.1%	3.30%
Property Tax	\$ 5,525.00	3.69%	11.3%	7.61%
Average Variance				7.04%

The table above depicts the proportion of operating expense that each category represents as established by the 2016 Texas Gross Median Operating Expense Distribution published by CohnReznick based on an assessment of multifamily affordable housing properties across Texas. The total average operating expense variance of the proposed development from this established standard is approximately seven percent which indicates that the operating expenses are appropriately estimated.

As indicated above the following variances are noted:

1. Management fee is more than 14% higher than the Median Expense Distribution;
2. Payroll is almost 9% higher than the Median Expense Distribution; and
3. Administrative costs, Repairs & Maintenance costs, and Property Taxes are estimated to be lower than the Median Expense Distribution.

Proforma Analysis

<i>Pro-Forma and Projected Debt Service</i>	
NOI	\$243,677.15
Debt Service	\$98,450
Net Cash Flow	\$145,227.15
DSCR	2.48
Expense Ratio	2.42
Vacancy Provision	7.5%

The Mesquite Woods development project as proposed will generate sufficient cash flow to fund operations for the 15-year compliance period.

Income: The maximum rent that may be generated for each of the units will be capped by the HUD fair market rents. This is the maximum amount allowed to be collected on a property from the tenant in combination with a rental subsidy. The CDBG-DR program further restricts the Total Tenant Rent Payment for Low- and Moderate-Income (LMI) residents to the High HOME Rent limits. The income limits and HOME rent restrictions are calculated by HUD and published on an annual basis.

Expense: The operating expenses for this development are \$4,039.80 per unit. According to TDHCA operating expense data, typical expenses for Region 6, which includes Gulf Coast area, for projects 76 units and below are approximately \$4,690 per unit. Expenses for this project are in line with industry averages.

Feasibility and Conclusion: The project forecasts an average expense coverage ratio of 2.42 for the initial five years of operation which is significantly above the industry minimum of 1.10 expense coverage. The application reflects a replacement reserve to be funded annually in the amount of \$300 per unit. No provision for an operating reserve was included in the application. The project as proposed will generate enough cash flow to sustain operations. However, since there is enough cash flow to set up an operating reserve, doing so could ensure proper management of the property to help maintain the long-term viability of the project.

Affirmative Fair Housing

Hitchcock Housing, Ltd. has not provided a Federally approved Affirmative Fair Housing Marketing Plan (AFHMP) for the Mesquite Woods development. Hitchcock Housing, Ltd. has not identified the demographic groups least likely to apply to the Mesquite Woods development. Hitchcock Housing, Ltd. has not identified procedures to target populations least likely to apply through marketing activities.

Demographic Indicators	Value	State Average	Percentile in State	EPA Region Average	Percentile in EPA Region	USA Average	Percentile in USA
Demographic Index	47%	47%	52	44%	57	36%	70
Minority Population	55%	57%	48	51%	56	38%	70
Low Income Population	38%	37%	55	38%	53	34%	62
Linguistically Isolated Population	6%	8%	56	6%	66	4%	74
Population with Less Than High School Education	14%	18%	51	17%	52	13%	64
Population under Age 5	8%	7%	61	7%	64	6%	72
Population over Age 64	15%	11%	74	13%	68	14%	60
<i>Source: US EPA Environmental Justice EJ Screen</i>							

Other Federal Matters:

Meets Threshold Criteria:

The applicant proposes to meet the threshold criteria through 1) Extremely Low Income Targeting, 2) Exceeding the LMI Requirement, and 3) Leveraging of Public and Private Financing.

Meets National Objective:

The Mesquite Woods development project as proposed does meet the Low-Moderate Income National Objective.

The Mesquite Woods development project will meet the Low-Moderate Income Housing Activity Criteria as an eligible activity carried out for the purpose of providing or improving permanent residential structures which will be occupied by low and moderate-income households.

The proposed Mesquite Woods development will provide 40 out of 40 total units to households with incomes of 80% of Area Median Income or below. These restricted units represent 100% of the total units within the development.

Meets CDBG-DR Eligible Activity:

The proposed activities meet the eligibility test as follows:

- ☒ Section 105(a)(1) – Acquisition
- ☒ Section 105(a)(4) – Clearance, Rehabilitation, Reconstruction, Construction
- ☐ Section 105(a)(5) – Architectural Barrier Removal

☐ Section 105(a)(11) – Relocation***SAM Eligible:***

Hitchcock Housing, Ltd. is not showing registered with the System for Award Management. We cannot confirm at this time that they are not debarred, suspended, or ineligible to participate in the proposed project.

Megan Advisors, LLC is not showing registered with the System for Award Management. We cannot confirm at this time that they are not debarred, suspended, or ineligible to participate in the proposed project.

The contractor, Olympia Construction, Inc., is showing registered with the System for Award Management. The company is not debarred, suspended, or ineligible to participate in the proposed project.

Floodplain Review:

The Mesquite Woods development is not located within the 100-year floodplain or High Hazard Area. The proposed activities will take place in Zone B. The proposed project is not a critical action. This does not immediately trigger the environmental requirement to maintain flood insurance for the CDBG assisted property.

Uniform Relocation Act (URA):

Section 414 of the Stafford Disaster Relief and Emergency Assistance Act ensures no one is denied URA eligibility based upon their ability to meet the occupancy requirements stated by the Act. This has the effect of waiving the ninety-day occupancy requirement that is a standard requirement under normal URA conditions. The Grantee has applied for and was granted a disaster waiver to Section 414 of the Stafford Act. This waiver of Section 414 effectively re-institutes the ninety-day occupancy requirement rule that is standard for URA, for projects that commence more than one year after the disaster, provided the project was not planned, approved, or otherwise underway prior to the disaster.

A General Information Notice should be sent to any active residents as soon as is feasible at the time of submission of the initial application for CDBG funds. Notices of Eligibility/Ineligibility should be sent to all residents at the Initiation of Negotiations. For this project, this would be triggered when the CDBG-DR agreement is signed between the GLO and the Developer.

Accessibility Review:

Hitchcock Housing, Ltd. and Megan Advisors, LLC have not provided plans for review.

Hitchcock Housing, Ltd. and Megan Advisors, LLC have provided ADA/Section 504 Compliance Certifications.

For all new construction or if the proposed alterations consist of 15 or more units and the cost of alterations is 75% or more of the replacement cost of the completed facility the applicant will need to:

- 1) Provide a minimum of five-percent (5%) of the units, or minimum of one, to be accessible; and

- 2) Two-percent (2%) of the units, or a minimum of one, to be accessible for persons with hearing or vision impairments.

Labor Standards Review:

Hitchcock Housing, Ltd., Megan Advisors, LLC, and Contractor have not provided acknowledgement certifications of current Davis Bacon wage rates specific to this project. The Mesquite Woods development project triggers Davis Bacon Requirements. The contractor is required to be compliant with Contract work hours and Safety Standards Act. This requirement should be listed within the construction contract. The contractor is required to be compliant with Section 3 opportunities. Efforts made to solicit Section 3 subcontractors should be documented by the contractor and maintained by the developer and applicant.

Summary

The Mesquite Woods development will provide 40 reconstructed units in a multi-family site in Galveston County of the Gulf Coast area. The intended use of CDBG-DR funds in this application was reviewed and the following observations were made:

1. No insurance claim was filed on the property. The applicant did not provide evidence of SBA loan acceptance or denial. No FEMA public assistance for this property was found within the data available to us.
2. Not all entities within this application who will be receiving CDBG-DR funds are registered within the System for Award Management. All entities receiving CDBG-DR are required to be registered.
3. The annual management fee is considerably higher than industry average.
4. The high debt coverage ratio and significant annual cash flow suggest that additional debt can be supported by the project to limit the amount of CDBG-DR necessary to subsidize rehabilitation.
5. Administrative expenses, repairs and maintenance costs, and property taxes are estimated to be lower than industry average and could be incorrectly inflating net operating income.

The information presented in this review is for the benefit of and to assist the Texas General Land Office in evaluating potential multi-family projects for CDBG-DR funding. The information provided in this report does not constitute a recommendation or assessment of risk by CohnReznick to the Texas General Land Office in connection with funding for the application presented in this review. The review is solely based upon information that was provided in the application by the applicant as provided by the Texas General Land Office.



**AMENDMENT No. 2 TO
GLO CONTRACT No. 19-097-026-B644**

THE GENERAL LAND OFFICE (the “GLO”) and **HITCHCOCK HOUSING, LTD.** (“Developer”), each a “Party” and collectively “the Parties” to GLO Contract No. 19-097-026-B644 (the “Contract”), desire to amend the Contract.

WHEREAS, the Parties desire to delete and replace the Performance Statement, Budget, and Payment Benchmarks; Underwriting Report; and

WHEREAS, these revisions will result in no additional encumbrance of Contract funds;

NOW, THEREFORE, the Parties hereby agree as follows:

1. **ATTACHMENT A-1** to the Contract, **Revised Performance Statement, Budget, and Payment Benchmarks; Underwriting Report**, is deleted in its entirety and replaced with the **Revised Performance Statement, Budget, and Payment Benchmarks; Underwriting Report**, attached hereto and incorporated herein in its entirety for all purposes as **ATTACHMENT A-2**.
2. **ATTACHMENT C** to the Contract, **General Affirmations**, is deleted in its entirety and replaced with the **Revised General Affirmations**, attached hereto and incorporated herein in its entirety for all purposes as **ATTACHMENT C-1**.
3. **ATTACHMENT D** to the Contract, **Nonexclusive List of Applicable Laws, Rules, and Regulations**, is deleted in its entirety and replaced with the **Revised Nonexclusive List of Applicable Laws, Rules, and Regulations**, attached hereto and incorporated herein in its entirety for all purposes as **ATTACHMENT D-1**.
4. The **GLO Information Security Appendix**, attached hereto and incorporated herein in its entirety for all purposes as **ATTACHMENT F**, is added to the Contract.
5. **SECTION 1.01** of the Contract is amended to add the following definitions:

“**HSP**” means HUB subcontracting plan, as described in Chapter 2161 of the Texas Government Code.

“**HUB**” means historically underutilized business, as defined by Chapter 2161 of the Texas Government Code.

“**Mentor Protégé**” means the leadership program of the Comptroller of Public Accounts, which can be found at <https://comptroller.texas.gov/purchasing/vendor/hub/mentor.php>.

“**Request for Payment Form(s)**” means the GLO-specified form(s) required under **Section 3.01** of this Contract to facilitate the timely processing of a properly submitted draw request.

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

6. **SUBSECTION (m)** under **SECTION 1.02** of the Contract is deleted in its entirety and replaced with the following:

“(m) If this Contract and its Attachments conflict, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of precedence: **Attachment D-1**, the Contract, GLO-approved Program Guidelines, **Attachment A-2**, Property Condition Assessment, **Attachment B**, **Attachment C-1**, **Attachment F**, and **Attachment E**.”

7. **ARTICLE III** of the Contract is deleted in its entirety and replaced with the following:

“III. CONSIDERATION

3.01 CONTRACT LIMIT, FEES, AND EXPENSES

The GLO will grant CDBG-DR funding to Developer at a firm fixed price in the amount of **\$2,625,700.00**, in accordance with **Attachment A-2**.

To submit a draw request, Developer shall submit Request for Payment Form(s), along with all required supporting documentation regarding Payment Benchmarks in accordance with the terms outlined in **Attachment A-2**.

At a minimum, invoices must:

- (a) **be submitted to the GLO’s system of record, the Texas Integrated Grant Reporting (TIGR) system, by Developer utilizing written instructions timely provided by the Project Manager;**
- (b) **prominently display “GLO Contract No. 19-097-026-B644”;**
- (c) list the current amount being billed;
- (d) list the cumulative amount billed previously;
- (e) list the balance remaining to be billed; and
- (f) include an itemized statement of services performed (including documentation such as invoices, receipts, statements, stubs, tickets, time sheets, and other

information) that, in the judgment of the GLO, provides full substantiation of reimbursable costs incurred.

The Prompt Pay Act generally applies to payments to Developer. However, the Prompt Pay Act does not apply if Developer does not send invoices through TIGR. If Developer does not submit invoices in strict accordance with the instructions in this section, payment of invoices may be significantly delayed. Developer agrees that the GLO shall not pay interest, fees, or other penalties for late payments resulting from Developer's failure to submit invoices in strict accordance with the instructions in this communication and any attached documents.

3.02 TRAVEL EXPENSES

- (a) The GLO will not reimburse Developer for travel expenses of any kind without prior written GLO approval. The GLO will only reimburse travel expenses directly attributable to Developer's performance of this Contract at the rates established or adopted by the Comptroller of the State of Texas, as outlined in the Travel Regulations.
 - (b) Subject to the maximum Contract amount authorized herein and upon specific, prior, written approval by the GLO, lodging, travel, and other incidental direct¹ expenses may be reimbursed under this Contract for professional or technical personnel who are working away from the cities in which they are permanently assigned and conducting business specifically authorized in the scope of services in **Attachment A-2**.
 - (c) The limits for reimbursements are the rates established or adopted by the Comptroller, as outlined in the Travel Regulations. **Developer understands and acknowledges that any travel-expense reimbursement by the GLO is not a per diem. The GLO will only reimburse actual, allowable expenses in accordance with the Travel Regulations. Developer must submit itemized receipts to support any request for travel-expense reimbursement."**
8. **SECTION 8.19** of the Contract is deleted in its entirety and replaced with the following:

"8.19 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; makes any materially false, fictitious, or fraudulent statement or representation; or 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 18 U.S.C. § 1001.

¹ Upon specific written approval by the GLO, certain other incidental direct expenses (including, but not limited to, copying, telephone, data, and express mail services) may be reimbursed at rates determined by the GLO.

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

9. The following **SECTION 8.20** is hereby added in its entirety to the Contract:

“8.20 HISTORICALLY UNDERUTILIZED BUSINESSES (HUBS) / MENTOR PROTÉGÉ PROGRAM

If required under the terms of Chapter 2161 of the Texas Government Code, Developer shall submit a HUB Subcontracting Plan (“HSP”) to the GLO for approval. Once the GLO approves Developer’s HSP, Developer shall supply the GLO with pertinent details of any HUB Subcontractor performing services in performance of the Project. The GLO encourages the parties it contracts with to partner with certified HUBs that participate in the Comptroller’s Mentor Protégé Program. Developer will submit monthly compliance reports (Prime Contractor Progress Assessment Report) to HUB@glo.texas.gov, specifying the use of HUB Subcontractors (including expenditures to HUB Subcontractors) if applicable. Developer must submit any HSP modifications to the GLO for prior approval through an HSP Change Order. If Developer modifies its HSP without the GLO’s prior approval, the GLO may initiate remedial action as provided in Chapter 2161 of the Texas Government Code.”

10. The following **SECTION 8.21** is hereby added in its entirety to the Contract:

“8.21 EQUAL OPPORTUNITY AND NONDISCRIMINATION

During the performance of this Contract, Developer (for the purposes of this section, the “contractor”) agrees and shall verify that any Subcontractors agree as follows:

- (a) 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.
- (b) 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.

- (c) 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 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.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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 federal government contracts for federal 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, 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.
- (h) The contractor will include the portion of the sentence immediately preceding subsection (a) and the provisions of subsections (a) through (h) of this Section 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 the 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.”

11. The following **SECTION 8.22** is hereby added in its entirety to the Contract:

“8.22 HUD ACT OF 1968 – SECTION THREE COMPLIANCE

To the extent section 3 of the Housing and Urban Development Act of 1968 applies to this Contract, Developer, its contractors, and its contractors’ Subcontractors (all referred to as the “contractor” for the purposes of this section) and the GLO agree to comply with the following, as applicable:

- (a) The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (b) The parties to this contract agree to comply with HUD’s regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- (c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers’ representative of the contractor’s commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- (d) The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the Subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any Subcontractor where the contractor has notice or knowledge that the Subcontractor has been found in violation of the regulations in 24 CFR part 135.

- (e) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- (f) Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- (g) With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and sub contracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b)."

12. The following **SECTION 8.23** is hereby added in its entirety to the Contract:

"8.23 INFORMATION AND DATA SECURITY STANDARDS

Developer, its contractors, and its contractors' Subcontractors shall comply with all terms specified in the **GLO Information Security Appendix**, incorporated herein for all purposes as **Attachment F**."

13. This Amendment shall be effective upon the date of the last signature.


14. The terms and conditions of the Contract not amended herein shall remain in force and effect.

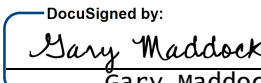
SIGNATURE PAGE FOLLOWS






**SIGNATURE PAGE FOR AMENDMENT NO. 2 TO
GLO CONTRACT No. 19-097-026-B644**

GENERAL LAND OFFICE

HITCHCOCK HOUSING, LTD.

DocuSigned by:

74299F4372F7497
Mark A. Havens, Chief Clerk/
Deputy Land Commissioner
Date of execution: 10/2/2020

DocuSigned by:

CDD46035E7484D7...
Name: Gary Maddock
Title: Duly Authorized Representative
Date of execution: 10/2/2020

OGC 
PM 
SDD 
DGC 
GC 

ATTACHED TO THIS AMENDMENT:

ATTACHMENT A-2	Revised Performance Statement, Budget, and Payment Benchmarks; Underwriting Report
ATTACHMENT C-1	Revised General Affirmations
ATTACHMENT D-1	Revised Nonexclusive List of Applicable Laws, Rules, and Regulations
ATTACHMENT F	GLO Information Security Appendix

**MULTI-FAMILY AFFORDABLE RENTAL HOUSING
PERFORMANCE STATEMENT, BUDGET, PAYMENT BENCHMARKS, AND UNDERWRITING REPORT**

A. Performance Statement

At a firm fixed price of **TWO MILLION, SIX HUNDRED TWENTY-FIVE THOUSAND, SEVEN HUNDRED DOLLARS AND ZERO CENTS (\$2,625,700.00)** in CDBG-DR funding, Developer will rehabilitate, reconstruct, or construct—in accordance with the terms of the Contract and all attachments, applicable laws, regulations, and guidance—forty multi-family housing units, with forty units being leased to eligible low- and moderate-income (LMI) applicants. Developer shall ensure that the amount of funds to be expended for each Task does not exceed the amount specified for such Task in the Project Budget. Units will be interspersed to ensure that there is no grouping of units for a particular income type. LMI units shall be scattered amongst and between market-rate units throughout the development.

The affordability of each multi-family housing unit will be protected with a fifteen-year (15-year) Land Use Restriction Agreement (LURA) approved by the GLO. Developer, as a condition to use of funds, agrees to comply with certain occupancy, rent, and other restrictions under Title 1 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) and with the CDBG regulations during the term of the LURA. The LURA shall be recorded, at Developer's expense, in the Real Property Records of the Galveston County Clerk's Office.

REHABILITATION

Developer will ensure that all Rehabilitation activities meet all applicable local codes, Rehabilitation standards, and ordinances. Compliance extends to, but is not limited to, zoning ordinances, building codes, local health and safety codes and standards, and Minimum Property Standards (MPS) at project completion.

Developer will ensure that all rehabilitated portions of the units meet all applicable local codes; Rehabilitation standards; ordinances, including zoning ordinances; and building codes. Developer will ensure that the entire rehabilitated project complies with local health and safety codes, standards, Minimum Property Standards (MPS), and Green Building Standards at project completion. Developer must ensure that, for all new housing construction, compliance with ONE of the following Green Standards is met: (i) ENERGY STAR (Certified Homes or Multifamily High-Rise); (ii) Enterprise Green Communities; (iii) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development); or (iv) ICC-700 National Green Building Standard.

NEW CONSTRUCTION OR RECONSTRUCTION

Newly constructed or reconstructed housing units must meet the Model Energy Code; the compliance-monitoring requirements of the Texas Administrative Code, Title 10, Chapter 10, Subchapter (F); Uniform Multifamily Rules; and the accessibility requirements noted in 24 C.F.R. Part 8, which implements Section 504 of the Rehabilitation Act of 1973.

All multi-family dwellings, as defined at 24 C.F.R. § 100.201, and common-use facilities in developments must meet the universal visitability standards at 24 C.F.R. § 100.205, which implement the Fair Housing Act (42 U.S.C. §§ 3601–4619). All reconstructed and newly constructed housing units must comply with the universal visitability standards as established by the Texas Government Code, § 2306.514.

Newly constructed and reconstructed housing units must meet the Model Energy Code (MEC); the compliance-monitoring requirements of the Texas Administrative Code (TAC), Title 10, Chapter 10, Subchapter (F); and the accessibility requirements noted in 24 C.F.R. Part 8, which implements Section 504 of the Rehabilitation Act of 1973. Covered multi-family dwellings, as defined at 24 C.F.R. § 100.201, and common-use facilities in developments must meet the universal visitability standards at 24 C.F.R. § 100.205, which implement the Fair Housing Act (42 U.S.C. §§ 3601–4619), and the ADA 2010 Standards with HUD exceptions. All reconstructed and newly constructed housing units must comply with the Construction Requirements for Single Family Affordable Housing as established by the Texas Government Code, § 2306.514.

B. Budget

The overall Project Budget and individual Budget categories are specified in the Underwriting Report at the end of this Attachment.

PAYMENT BENCHMARKS

All Project activities shall be completed within eighteen (18) months of the effective date of the Contract.

Phase 1 (Up to 35% of the Budget): Phase 1 of the development should be completed within six (6) months following the Contract's effective date. Developer shall satisfactorily (in the GLO's sole determination) complete, at a minimum, the following Tasks:

- a. Acquisition along with closing costs;
- b. Demolition;
- c. Site work;
- d. Soft costs for architecture, engineering, legal, etc.;
- e. Foundations;
- f. Framing; and
- g. Any inspection required during Phase 1.

Phase 2 (Up to 63% of the Budget): Phase 2 of the development should be completed within twelve (12) months following the Contract's effective date. Developer shall satisfactorily (in the GLO's sole determination) complete, at a minimum, all the Tasks in Phase 1 plus the following Tasks:

- a. Interior finish, including interior walls, ceilings, doors, and windows;
- b. Major system rough-in, including all plumbing, electrical, and HVAC systems; and
- c. Any inspection required during Phase 2.

Phase 3 (Up to 80% of the Budget): Phase 3 of the development should be completed within sixteen (16) months following the Contract's effective date. Developer shall satisfactorily (in the GLO's sole determination) complete, at a minimum, all the Tasks in Phases 1 and 2 plus the following Tasks:

- a. Insulation;
- b. Paint;
- c. Drywall;
- d. Interior trim and doors;

- e. Lighting;
- f. Cabinetry;
- g. Appliances and plumbing fixtures;
- h. Filing for and receiving a certificate of occupancy; and
- i. Filing the LURA with the county clerk's office.

Phase 4 (Up to 90% of the Budget): Phase 4 of the development should be completed within eighteen (18) months following the Contract's effective date. Developer shall satisfactorily (in the GLO's sole determination) complete, at a minimum, all the Tasks in Phases 1, 2, and 3 plus the following Tasks:

- a. Landscaping;
- b. Outdoor structures;
- c. Driveways;
- d. General clean-up;
- e. Any inspection required during Phase 4; and
- f. Repair or resolution of any punch-list items.

Phase 5 (100% of the Budget): After receipt of a certificate of occupancy and prior to release of the final 10% of the Project Budget, Developer shall complete, at a minimum, the following Task:

- a. Any and all closeout documents required by the GLO.

For each Phase, Developer may invoice on no more than a monthly basis until the percentage of funds associated with that Phase is fully disbursed. Invoicing for a Phase may be submitted independent of or concurrent with invoicing for other Phases, as necessary. Upon exhaustion of funds related to each Phase, the GLO may conduct a full review to determine the legitimacy of those draws before permitting disbursement of funds related to any other Phase.

The GLO reserves the right to conduct inspections at any time to ensure general compliance with the foregoing Payment Benchmark schedule before issuing the approval of a reimbursement request. The GLO may allow Payment Benchmark extensions for good cause, at the GLO's sole discretion, upon written request from the Developer.

INSPECTIONS

Developer shall be responsible for ensuring all required inspections are conducted and satisfactorily passed. Developer shall maintain physical proof that municipal codes and/or third-party inspections have been passed and accepted by any inspecting authority with jurisdiction over the Project site—which may include local or county governments, the State of Texas, HUD, or the GLO. Developer shall maintain all Project documentation in good order and mark it to record all changes made during performance of the work. Developer shall give the GLO or its representatives and agents access to all Project documentation, regardless of medium or format, at all times and shall submit copies of any Project documentation at the request of the GLO.

BUDGET

HUD Activity Type	Grant Award	Other Funds	Total
Affordable Rental Program	\$2,625,700.00	\$0.00	\$2,625,700.00

Texas General Land Office

Hurricane Harvey

Affordable Rental Housing Program

Development Underwriting Review

for

Mesquite Woods

Prepared:

7/31/2019

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Project Summary

The Mesquite Woods development is a 40 unit development located within Galveston County at 5809 Delany in Hitchcock, TX. The multi-family development will undergo rehabilitation due to damages suffered from Hurricane Harvey in 2017. The proposed development aims to house low-income households earning 80% of Area Median Income (AMI) or below by allocating 40 of the units to serve this population. These units represent 100% of the total number of units within the Mesquite Woods development.

Hitchcock Housing, Ltd. is the project applicant and maintains site control on the property. The housing developer is Megan Advisors, LLC who has extensive experience in constructing and managing multi-family developments.

Proposed Unit Mix

<i>Bed Rooms</i>	<i>Bath Rooms</i>	<i># units</i>	<i>Sq. Ft</i>	<i>Total Sq. Ft.</i>	<i>AMI</i>
1	1	12	688	8,256	<80%
2	1	28	856	23,968	<80%

DEVELOPMENT TEAM	
Applicant:	Hitchcock Housing, Ltd.
Contact:	Gary Maddock
Email:	gary@maddock.biz
Phone:	(913)-685-9000
DUNS:	613751360
General Partner/Managing Member:	Cascade GP Services, LLC
Limited Partner:	Affordable Housing Partnerships #2 & #9
Developer:	Megan Advisors, LLC
General Contractor:	Olympia Construction, Inc.
Management Company:	Megan Property Management, Inc.
Syndicator:	N/A
Architect:	Cameron Alread, Architect Inc.

Related Parties: Hitchcock Housing, Ltd. (Applicant) and Megan Advisors, LLC (Developer) are related parties. This structure may be typical with this size and scale of multi-family housing development. The contractor, Olympia Construction, Inc., is not a related party with respect to the developer or applicant.

Development Summary



Building Configuration: The development consists of five two story apartment structures in Galveston County.

Elevation: An elevation certificate was not provided by the applicant.

General Information:

Size	2 acres
Flood Zone:	Zone B/Zone X Shaded
Zoning:	High Density Residential
Density:	18 units/acre

Scattered Site	No
Within 100yr Floodplain:	No
Re-zoning Required:	No
Utilities on Site:	Yes

Surrounding Uses:

North:	Vacant
South:	Residential
East:	Residential
West:	Residential

Property Condition: The site is zoned "HR" High Density Residential District. Based on the City of Hitchcock's code of ordinances, the maximum density is 18 units per acre. The applicant will need to confirm with the City that the development is permissible considering they are proposing 20 units per acre. As the development is not classified as new construction, it may be grandfathered under a previous code of ordinances or have received a past variance.

Development Budget and Finance

CohnReznick reviewed available sources and uses, development and construction budgets, regulatory requirements in consideration of the development budget and cost reasonableness of the project.

Sources and Uses

Construction Sources				
Funding Source	Description	Amount	Rate	LTC
Bonneville Multifamily Capital	Rehabilitation	\$3,900,000	5.75%	100%
Equity/DDF	Rehabilitation	\$25,700	0%	100%
Total		\$3,925,700		

Permanent Sources				
Debt Source	Proposed			
	Amount	Rate	Amort	Term
CDBG-DR	\$2,625,700	0%	N/A	15 Yrs.
Bonneville Multifamily Capital	\$1,000,000	5.75%	40 Yrs.	40 Yrs.
Total	\$3,625,700			

Uses	Total	Per Unit
Acquisition	\$759,619	\$18,990.48
Direct Construction Costs	\$1,512,744	\$37,818.60
Site Work	\$215,220	\$5,380.50
Contractor Fee	\$241,913	\$6,047.83
Contingency	\$0.00	\$0.00
Soft Costs	\$306,850	\$7,671.25
Developer Fee	\$307,000	\$7,675.00
Financing Costs	\$282,354	\$7,058.85
Replacement Reserves	\$0.00	\$0.00
Operating Reserves	\$0.00	\$0.00
Total Development Costs	\$3,625,700	\$90,642.50

The reasonable threshold for hard construction costs is a minimum of \$25,000 per unit according to the Affordable Housing Investors Council. The hard cost per unit for the Mesquite Woods development is \$49,246.93 per unit which meets the reasonable minimum requirement to provide adequate rehabilitation.

The total building cost per square foot is \$45.27 compared an estimated \$66.94 per square foot based on information from RSMeans Data for a full rehabilitation of a development of this size and design. Based on information in the Capital Needs Assessment (CNA), prepared by GIBCO Environmental, LLC and dated July 10, 2018, a full rehabilitation is not required and projected costs fall within 13% of the CNA estimate.

Insurance Status: The applicant indicates that no insurance claim was filed on the property. The property was owned by a party other than the applicant during the time of Hurricane Harvey, therefore the applicant, Hitchcock Housing Ltd., does not anticipate insurance proceeds.

Debt & Financing: The application indicates that rehabilitation will be partially funded with financing from Bonneville Multifamily Capital. The anticipated annual debt service will be \$98,450. Based on a pro-forma analysis using this annual payment, the project will generate a debt coverage ratio of 2.48 which is above the standard threshold for this development of 1.15. This indicates that there may be enough cash flow to service additional debt to fund a portion of rehabilitation and reduce the amount of CDBG-DR funds needed.

Projected Construction Cash Needs: Using an 18-month construction completion period, we modeled the development progress and identified an average for the first six months of \$284,230 required monthly to fund the construction in this application. The applicant has incorporated a construction loan for the construction costs incurred prior to CDBG-DR disbursement.

Operating Review

Rent Analysis

Proposed Rents							
Bedroom Size	Number of Units	Set Aside %	High HOME Rent Limit	Base Rent	Utility Allowance	TTP	Annual Gross Potential Rents
1	2	<30%	\$871	\$356	\$65	\$421	\$8,544
1	10	<80%	\$871	\$806	\$65	\$871	\$96,720
2	2	<30%	\$1,066	\$429	\$77	\$506	\$10,296
2	26	<80%	\$1,066	\$989	\$77	\$1,066	\$308,568

It appears that two of the one-bedroom units and two of the two-bedroom units will serve the 30% AMI income level. The applicant has indicated that the rent charged on these units is well below the High HOME rent limit. All other unit rents are in line with the High HOME rent limit.

Development Expense Analysis

Operating Expense	Projected Expense	Proposed % of Operations	2016 Texas Gross Median Operating Expense Distribution	Variance
Administrative	\$ 9,900.00	6.62%	12.4%	5.78%
Management Fee	\$ 34,000.00	22.73%	8.2%	14.53%
Payroll	\$ 48,700.00	32.56%	24.1%	8.46%
Repairs & Maint.	\$ 16,300.00	10.90%	18.9%	8.00%
Utilities	\$ 19,607.00	13.11%	14.7%	1.59%
Property Insurance	\$ 15,560.00	10.40%	7.1%	3.30%
Property Tax	\$ 5,525.00	3.69%	11.3%	7.61%
Average Variance				7.04%

The table above depicts the proportion of operating expense that each category represents as established by the 2016 Texas Gross Median Operating Expense Distribution published by CohnReznick based on an assessment of multifamily affordable housing properties across Texas. The total average operating expense variance of the proposed development from this established standard is approximately seven percent which indicates that the operating expenses are appropriately estimated.

As indicated above the following variances are noted:

1. Management fee is more than 14% higher than the Median Expense Distribution;
2. Payroll is almost 9% higher than the Median Expense Distribution; and
3. Administrative costs, Repairs & Maintenance costs, and Property Taxes are estimated to be lower than the Median Expense Distribution.

Proforma Analysis

<i>Pro-Forma and Projected Debt Service</i>	
NOI	\$243,677.15
Debt Service	\$98,450
Net Cash Flow	\$145,227.15
DSCR	2.48
Expense Ratio	2.42
Vacancy Provision	7.5%

The Mesquite Woods development project as proposed will generate sufficient cash flow to fund operations for the 15-year compliance period.

Income: The maximum rent that may be generated for each of the units will be capped by the HUD fair market rents. This is the maximum amount allowed to be collected on a property from the tenant in combination with a rental subsidy. The CDBG-DR program further restricts the Total Tenant Rent Payment for Low- and Moderate-Income (LMI) residents to the High HOME Rent limits. The income limits and HOME rent restrictions are calculated by HUD and published on an annual basis.

Expense: The operating expenses for this development are \$4,039.80 per unit. According to TDHCA operating expense data, typical expenses for Region 6, which includes Gulf Coast area, for projects 76 units and below are approximately \$4,690 per unit. Expenses for this project are in line with industry averages.

Feasibility and Conclusion: The project forecasts an average expense coverage ratio of 2.42 for the initial five years of operation which is significantly above the industry minimum of 1.10 expense coverage. The application reflects a replacement reserve to be funded annually in the amount of \$300 per unit. No provision for an operating reserve was included in the application. The project as proposed will generate enough cash flow to sustain operations. However, since there is enough cash flow to set up an operating reserve, doing so could ensure proper management of the property to help maintain the long-term viability of the project.

Affirmative Fair Housing

Hitchcock Housing, Ltd. has not provided a Federally approved Affirmative Fair Housing Marketing Plan (AFHMP) for the Mesquite Woods development. Hitchcock Housing, Ltd. has not identified the demographic groups least likely to apply to the Mesquite Woods development. Hitchcock Housing, Ltd. has not identified procedures to target populations least likely to apply through marketing activities.

Demographic Indicators	Value	State Average	Percentile in State	EPA Region Average	Percentile in EPA Region	USA Average	Percentile in USA
Demographic Index	47%	47%	52	44%	57	36%	70
Minority Population	55%	57%	48	51%	56	38%	70
Low Income Population	38%	37%	55	38%	53	34%	62
Linguistically Isolated Population	6%	8%	56	6%	66	4%	74
Population with Less Than High School Education	14%	18%	51	17%	52	13%	64
Population under Age 5	8%	7%	61	7%	64	6%	72
Population over Age 64	15%	11%	74	13%	68	14%	60
<i>Source: US EPA Environmental Justice EJ Screen</i>							

Other Federal Matters:

Meets Threshold Criteria:

The applicant proposes to meet the threshold criteria through 1) Extremely Low Income Targeting, 2) Exceeding the LMI Requirement, and 3) Leveraging of Public and Private Financing.

Meets National Objective:

The Mesquite Woods development project as proposed does meet the Low-Moderate Income National Objective.

The Mesquite Woods development project will meet the Low-Moderate Income Housing Activity Criteria as an eligible activity carried out for the purpose of providing or improving permanent residential structures which will be occupied by low and moderate-income households.

The proposed Mesquite Woods development will provide 40 out of 40 total units to households with incomes of 80% of Area Median Income or below. These restricted units represent 100% of the total units within the development.

Meets CDBG-DR Eligible Activity:

The proposed activities meet the eligibility test as follows:

- ☒ Section 105(a)(1) – Acquisition
- ☒ Section 105(a)(4) – Clearance, Rehabilitation, Reconstruction, Construction
- ☐ Section 105(a)(5) – Architectural Barrier Removal

☐ Section 105(a)(11) – Relocation

SAM Eligible:

Hitchcock Housing, Ltd. is not showing registered with the System for Award Management. We cannot confirm at this time that they are not debarred, suspended, or ineligible to participate in the proposed project.

Megan Advisors, LLC is not showing registered with the System for Award Management. We cannot confirm at this time that they are not debarred, suspended, or ineligible to participate in the proposed project.

The contractor, Olympia Construction, Inc., is showing registered with the System for Award Management. The company is not debarred, suspended, or ineligible to participate in the proposed project.

Floodplain Review:

The Mesquite Woods development is not located within the 100-year floodplain or High Hazard Area. The proposed activities will take place in Zone B. The proposed project is not a critical action. This does not immediately trigger the environmental requirement to maintain flood insurance for the CDBG assisted property.

Uniform Relocation Act (URA):

Section 414 of the Stafford Disaster Relief and Emergency Assistance Act ensures no one is denied URA eligibility based upon their ability to meet the occupancy requirements stated by the Act. This has the effect of waiving the ninety-day occupancy requirement that is a standard requirement under normal URA conditions. The Grantee has applied for and was granted a disaster waiver to Section 414 of the Stafford Act. This waiver of Section 414 effectively re-institutes the ninety-day occupancy requirement rule that is standard for URA, for projects that commence more than one year after the disaster, provided the project was not planned, approved, or otherwise underway prior to the disaster.

A General Information Notice should be sent to any active residents as soon as is feasible at the time of submission of the initial application for CDBG funds. Notices of Eligibility/Ineligibility should be sent to all residents at the Initiation of Negotiations. For this project, this would be triggered when the CDBG-DR agreement is signed between the GLO and the Developer.

Accessibility Review:

Hitchcock Housing, Ltd. and Megan Advisors, LLC have not provided plans for review.

Hitchcock Housing, Ltd. and Megan Advisors, LLC have provided ADA/Section 504 Compliance Certifications.

For all new construction or if the proposed alterations consist of 15 or more units and the cost of alterations is 75% or more of the replacement cost of the completed facility the applicant will need to:

- 1) Provide a minimum of five-percent (5%) of the units, or minimum of one, to be accessible; and

- 2) Two-percent (2%) of the units, or a minimum of one, to be accessible for persons with hearing or vision impairments.

Labor Standards Review:

Hitchcock Housing, Ltd., Megan Advisors, LLC, and Contractor have not provided acknowledgement certifications of current Davis Bacon wage rates specific to this project. The Mesquite Woods development project triggers Davis Bacon Requirements. The contractor is required to be compliant with Contract work hours and Safety Standards Act. This requirement should be listed within the construction contract. The contractor is required to be compliant with Section 3 opportunities. Efforts made to solicit Section 3 subcontractors should be documented by the contractor and maintained by the developer and applicant.

Summary

The Mesquite Woods development will provide 40 reconstructed units in a multi-family site in Galveston County of the Gulf Coast area. The intended use of CDBG-DR funds in this application was reviewed and the following observations were made:

1. No insurance claim was filed on the property. The applicant did not provide evidence of SBA loan acceptance or denial. No FEMA public assistance for this property was found within the data available to us.
2. Not all entities within this application who will be receiving CDBG-DR funds are registered within the System for Award Management. All entities receiving CDBG-DR are required to be registered.
3. The annual management fee is considerably higher than industry average.
4. The high debt coverage ratio and significant annual cash flow suggest that additional debt can be supported by the project to limit the amount of CDBG-DR necessary to subsidize rehabilitation.
5. Administrative expenses, repairs and maintenance costs, and property taxes are estimated to be lower than industry average and could be incorrectly inflating net operating income.

The information presented in this review is for the benefit of and to assist the Texas General Land Office in evaluating potential multi-family projects for CDBG-DR funding. The information provided in this report does not constitute a recommendation or assessment of risk by CohnReznick to the Texas General Land Office in connection with funding for the application presented in this review. The review is solely based upon information that was provided in the application by the applicant as provided by the Texas General Land Office.

General Affirmations

To the extent they apply, Provider affirms and agrees to the following, without exception:

1. Provider represents and warrants that, in accordance with Section 2155.005 of the Texas Government Code, neither Provider nor the firm, corporation, partnership, or institution represented by Provider, or anyone acting for such a firm, corporation, partnership, or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business and Commerce Code, or the federal antitrust laws, or (2) communicated directly or indirectly the contents of this Contract or any solicitation response upon which this Contract is based to any competitor or any other person engaged in the same line of business as Provider.
2. If the Contract is for services, Provider shall comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.
3. Under Section 231.006 of the Family Code, the vendor or applicant [Provider] certifies that the individual or business entity named in this Contract, bid or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.
4. A bid or an application for a contract, grant, or loan paid from state funds must include the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity submitting the bid or application. Provider certifies it has submitted this information to the GLO.
5. If the Contract is for the purchase or lease of computer equipment, as defined by Texas Health and Safety Code Section 361.952(2), Provider certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code, related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in Title 30 Texas Administrative Code Chapter 328.
6. Pursuant to Section 2155.003 of the Texas Government Code, Provider represents and warrants that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract.
7. Payments due under the Contract shall be directly applied towards eliminating any debt or delinquency Provider owes to the State of Texas including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support, regardless of when the debt or delinquency arises.

8. Upon request of the GLO, Provider shall provide copies of its most recent business continuity and disaster recovery plans.
9. If the Contract is not for architecture, engineering, or construction services, except as otherwise provided by statute, rule, or regulation, Provider must use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve any dispute arising under the Contract. **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.**
10. If Chapter 2271 of the Texas Government Code applies to this Contract, Provider verifies that it does not boycott Israel and will not boycott Israel during the term of the Contract.
11. This Contract is contingent upon the continued availability of lawful appropriations by the Texas Legislature. Provider understands that all obligations of the GLO under this Contract are subject to the availability of state 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.
12. Provider certifies that it is not listed on the federal government's terrorism watch list as described in Executive Order 13224.
13. In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Provider certifies that it is not (1) the executive head of the GLO, (2) a person who at any time during the four years before the effective date of the Contract was the executive head of the GLO, or (3) a person who employs a current or former executive head of the GLO.
14. Provider represents and warrants that all statements and information prepared and submitted in connection with this Contract are current, complete, true, and accurate. Submitting a false statement or making a material misrepresentation during the performance of this Contract is a material breach of contract and may void the Contract or be grounds for its termination.
15. Pursuant to Section 2155.004(a) of the Texas Government Code, Provider certifies that neither Provider nor any person or entity represented by Provider has received compensation from the GLO to participate in the preparation of the specifications or solicitation on which this Contract is based. Under Section 2155.004(b) of the Texas Government Code, Provider certifies that the individual or business entity named in this Contract is not ineligible to receive the specified contract and acknowledges that the Contract may be terminated and payment withheld if this certification is inaccurate. This Section does not prohibit Provider from providing free technical assistance.

16. Provider represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.
17. 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 the GLO.
18. PROVIDER SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND THE GLO, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF PROVIDER OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY PROVIDER WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND PROVIDER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. PROVIDER AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.
19. PROVIDER SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE GLO AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF PROVIDER PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR (3) THE GLO'S AND/OR PROVIDER'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO THE GLO BY PROVIDER OR OTHERWISE TO WHICH THE GLO HAS ACCESS AS A RESULT OF PROVIDER'S PERFORMANCE UNDER THE CONTRACT. PROVIDER AND THE GLO SHALL FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. PROVIDER SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY PROVIDER WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL (OAG) WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND PROVIDER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST

OBTAINING THE CONCURRENCE FROM OAG. IN ADDITION, PROVIDER WILL REIMBURSE THE GLO AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE GLO DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF PROVIDER OR IF THE GLO IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, THE GLO WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND PROVIDER WILL PAY ALL REASONABLE COSTS OF THE GLO'S COUNSEL.

20. Provider has disclosed in writing to the GLO all existing or potential conflicts of interest relative to the performance of the Contract.
21. Sections 2155.006 and 2261.053 of the Texas Government Code, prohibit state agencies from accepting a solicitation response or awarding a contract that includes proposed financial participation by a person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Texas Government Code, occurring after September 24, 2005. Under Sections 2155.006 and 2261.053 of the Texas Government Code, Provider certifies that the individual or business entity named in this Contract is not ineligible to receive the specified contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.
22. Provider understands that the GLO 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 related to this Contract may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Provider shall make any information created or exchanged with the State/GLO 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 or the GLO.
23. The person executing this Contract certifies that he/she is duly authorized to execute this Contract on his/her own behalf or on behalf of Provider and legally empowered to contractually bind Provider to the terms and conditions of the Contract and related documents.
24. 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. Provider shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through the Contract and the requirement to cooperate is included in any subcontract it awards. The GLO may unilaterally amend the Contract to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154 of the Texas Government Code.

25. Provider certifies that neither it nor its principals are debarred, suspended, proposed for debarment, declared ineligible, or otherwise excluded from participation in the Contract by any state or federal agency.
26. Provider expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, Provider represents and warrants to the GLO that any technology provided to the GLO for purchase pursuant to this Contract is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of: providing equivalent access for effective use by both visual and non-visual means; presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this Section, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans With Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance.
27. If the Contract is for the purchase or lease of covered television equipment, as defined by Section 361.971(3) of the Texas Health and Safety Code, Provider certifies its compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code, related to the Television Equipment Recycling Program.
28. In accordance with Texas Government Code Chapter 2252, Subchapter F, any iron or steel product Provider uses in its performance of the Contract that is produced through a manufacturing process, as defined in Section 2252.201(2) of the Texas Government Code, must be produced in the United States.
29. The GLO does not tolerate any type of fraud. GLO policy promotes consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Provider shall report any

possible fraud, waste, or abuse that occurs in connection with the Contract to the GLO's Fraud Reporting hotline at (877) 888-0002.

30. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and Provider agrees that the Contract can be terminated if Provider knowingly or intentionally fails to comply with a requirement of that subchapter.
31. If Provider, in its performance of the Contract, has access to a state computer system or database, Provider must complete a cybersecurity training program certified under Texas Government Code Section 2054.519, as selected by the GLO. Provider must complete the cybersecurity training program during the initial term of the Contract and during any renewal period. Provider must verify in writing to the GLO its completion of the cybersecurity training program.
32. Under Section 2155.0061, Texas Government Code, Provider certifies that the entity named in this contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

NONEXCLUSIVE LIST OF APPLICABLE LAWS, RULES, AND REGULATIONS

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

Provider 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;

Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Public Law 115-56);

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

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

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

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

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

Disaster Recovery Implementation Manual; and

State of Texas Plan for Disaster Recovery: Hurricane Harvey – Round 1, dated April 6, 2018, as amended.

CIVIL RIGHTS

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

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

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

Executive Order 11063, as amended by Executive Order 12259, and 24 C.F.R. Part 107, "Nondiscrimination and Equal Opportunity in Housing under Executive Order 11063"; The failure or refusal of Provider 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, Provider

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. §§ 135.3(a)(2) and (a)(3);

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).

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GLO Information Security Appendix for Vendors

“[Breach of Security](#)” or “[Breach](#)” means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of Sensitive Personal Information including data that is encrypted if the person accessing the data has the key required to decrypt the data.

“[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 individuals, that Provider 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 the Provider through other sources.

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

“[Sensitive Personal Information](#)” or “[SPI](#)” includes information that is not available elsewhere or may harm an individual by being made available as categorized in Tex. Bus. & Com. Code § 521.002(a)(2). SPI does not include publicly available information that is lawfully made available to the public from the federal government or a state or local government.

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

1. Security and Privacy Compliance

- 1.1. Provider shall keep all GLO Data received under the Contract and any documents related thereto strictly confidential.
- 1.2. Provider shall comply with all applicable federal and state privacy and data protection laws, as well as all other applicable regulations and directives.
- 1.3. Provider 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.
- 1.4. Provider will legally bind any Subcontractors to the same requirements stated herein and obligations stipulated in the Contract and documents related thereto. Provider shall ensure that the requirements stated herein are imposed on any Subcontractor of Provider’s Subcontractor(s).

- 1.5. Provider will not share PII or SPI Data with any third parties, except as necessary for Provider's performance under the Contract.
- 1.6. Provider will ensure that initial privacy and security training, and annual training thereafter, is completed by its employees or Subcontractors that have access to GLO Data or who create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise personally handle PII and/or SPI on behalf of the agency. Provider agrees to maintain and, upon request, provide documentation of training completion.
- 1.7. Any GLO Data maintained or stored by Provider or any 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. Data Ownership and Return of Data

- 2.1. The GLO shall retain full ownership of all GLO data, which includes PII and/or SPI, disclosed to Provider or to which the Provider otherwise gains access by operation of the Contract or any agreement related thereto.
- 2.2. 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 Provider ceases to be necessary for Provider's performance under the Contract, Provider 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 Provider's possession or control and certify to the GLO that such tasks have been completed. If such return is infeasible, as mutually determined by the GLO and Provider, the obligations set forth in this Attachment, with respect to GLO Data, shall survive termination of the Contract and Provider shall limit any further use and disclosure of GLO Data.

3. Data Mining

- 3.1. Provider agrees not to 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 or any document related thereto.
- 3.2. Provider agrees to take all reasonably feasible physical, technical, administrative, and procedural measures to ensure that no unauthorized use of GLO Data occurs.

4. Breach of Security

- 4.1. Provider agrees to provide the GLO with the name and contact information for an employee of the Provider which shall serve as the GLO's primary security contact.
- 4.2. Upon discovery of a Breach of Security or suspected Breach of Security by the Provider, the Provider agrees to notify the GLO as soon as possible upon discovery of the Breach of Security or suspected Breach of Security, but in no event shall

notification occur later than 24 hours after discovery. Within 72 hours, the Provider agrees to provide, 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.

- 4.3. The initial notification and preliminary report shall be submitted to the GLO Information Security Officer at informationsecurity@glo.texas.gov.
- 4.4. Provider agrees to take all reasonable steps to immediately remedy a Breach of Security and prevent any further Breach of Security.
- 4.5. Provider agrees that it shall not inform any third party of any Breach of Security or suspected Breach of Security without obtaining GLO's prior written consent.
- 4.6. If the Breach of Security includes SPI, including Social Security Numbers, payment card information, or health information, the Provider agrees to provide affected individuals complimentary access for one (1) year of credit monitoring services.

5. Right to Audit

- 5.1. Upon the GLO's request and to confirm Provider's compliance with this Attachment, Provider grants the GLO, or a GLO-contracted vendor, permission to perform an assessment, audit, examination, investigation, or review of all controls in the Provider's, or Provider's Subcontractor's, physical and/or technical environment in relation to GLO Data. Provider agrees to 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, Provider may supply, upon GLO approval, the following reports: SSAE16, ISO/ICE 27001 Certification, FedRAMP Certification, and PCI Compliance Report. Provider shall ensure that this clause concerning the GLO's authority to assess, audit, examine, investigate, or review is included in any subcontract it awards.
- 5.2. At the GLO's request, Provider agrees to promptly and accurately complete a written information security questionnaire provided by the GLO regarding Provider's business practices and information technology environment in relation to GLO Data.



**AMENDMENT NO. 3 TO
GLO CONTRACT NO. 19-097-026-B644**

THE GENERAL LAND OFFICE (the “GLO”) and **HITCHCOCK HOUSING, LTD.** (“Developer”), each a “Party” and collectively “the Parties” to GLO Contract No. 19-097-026-B644 (the “Contract”), desire to amend the Contract. Therefore, the Parties agree as follows:

WHEREAS, the Parties desire to delete and replace the Performance Statement Budget, and Payment Benchmarks; Underwriting Report; and

WHEREAS, the Parties desire to delete and replace the Land Use Restriction Agreement; and

WHEREAS, these revisions will result in no additional encumbrance of Contract funds;

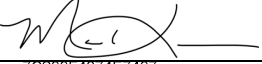
NOW, THEREFORE, the Parties hereby agree as follows:

1. **ATTACHMENT A-2** to the Contract, **Revised Performance Statement Budget, and Payment Benchmarks; Underwriting Report**, is deleted in its entirety and replaced with the **Revised Performance Statement Budget, and Payment Benchmarks; Underwriting Report**, attached hereto and incorporated herein in its entirety for all purposes as **ATTACHMENT A-3**.
2. **ATTACHMENT E** to the Contract, **Land Use Restriction Agreement**, is deleted in its entirety and replaced with the **Revised Land Use Restriction Agreement**, attached hereto and incorporated herein in its entirety for all purposes as **ATTACHMENT E-1**.
3. This Amendment shall be effective upon the date of the last signature.
4. The terms and conditions of the Contract not amended herein shall remain in force and effect.

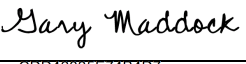
SIGNATURE PAGE FOLLOWS






**SIGNATURE PAGE FOR AMENDMENT NO. 3 TO
GLO CONTRACT NO. 19-097-026-B644**

GENERAL LAND OFFICE

DocuSigned by:

7C299F4374E7497...
Mark A. Havens, Chief Clerk/
Deputy Land Commissioner
Date of execution: 4/22/2021

HITCHCOCK HOUSING, LTD.

DocuSigned by:

CDD46035E74B40Y...
Name: Gary Maddock
Title: Duly Authorized Agent
Date of execution: 4/21/2021

OGC 
PM 
SDD 
DGC 
GC 

ATTACHED TO THIS AMENDMENT:

ATTACHMENT A-3 Revised Performance Statement Budget, and Payment
Benchmarks; Underwriting Report

ATTACHMENT E-1 Revised Land Use Restriction Agreement

**MULTI-FAMILY AFFORDABLE RENTAL HOUSING
PERFORMANCE STATEMENT, BUDGET, PAYMENT BENCHMARKS, AND UNDERWRITING REPORT**

A. Performance Statement

At a firm fixed price of **TWO MILLION, SIX HUNDRED TWENTY-FIVE THOUSAND, SEVEN HUNDRED DOLLARS AND ZERO CENTS (\$2,625,700.00)** in CDBG-DR funding, Developer will rehabilitate, reconstruct, or construct—in accordance with the terms of the Contract and all attachments, applicable laws, regulations, and guidance—forty multi-family housing units, with twenty-eight units being leased to eligible low- and moderate-income (LMI) applicants. Developer shall ensure that the amount of funds to be expended for each Task does not exceed the amount specified for such Task in the Project Budget. Units will be interspersed to ensure that there is no grouping of units for a particular income type. LMI units shall be scattered amongst and between market- rate units throughout the development.

The affordability of each multi-family housing unit will be protected with a fifteen-year (15-year) Land Use Restriction Agreement (LURA) approved by the GLO. Developer, as a condition to use of funds, agrees to comply with certain occupancy, rent, and other restrictions under Title 1 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) and with the CDBG regulations during the term of the LURA. The LURA shall be recorded, at Developer's expense, in the Real Property Records of the Galveston County Clerk's Office.

REHABILITATION

Developer will ensure that all Rehabilitation activities meet all applicable local codes, Rehabilitation standards, and ordinances. Compliance extends to, but is not limited to, zoning ordinances, building codes, local health and safety codes and standards, and Minimum Property Standards (MPS) at project completion.

Developer will ensure that all rehabilitated portions of the units meet all applicable local codes; Rehabilitation standards; ordinances, including zoning ordinances; and building codes. Developer will ensure that the entire rehabilitated project complies with local health and safety codes, standards, Minimum Property Standards (MPS), and Green Building Standards at project completion. Developer must ensure that, for all new housing construction, compliance with ONE of the following Green Standards is met: (i) ENERGY STAR (Certified Homes or Multifamily High-Rise); (ii) Enterprise Green Communities; (iii) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development); or (iv) ICC-700 National Green Building Standard.

NEW CONSTRUCTION OR RECONSTRUCTION

Newly constructed or reconstructed housing units must meet the Model Energy Code; the compliance-monitoring requirements of the Texas Administrative Code, Title 10, Chapter 10, Subchapter (F); Uniform Multifamily Rules; and the accessibility requirements noted in 24 C.F.R. Part 8, which implements Section 504 of the Rehabilitation Act of 1973.

All multi-family dwellings, as defined at 24 C.F.R. § 100.201, and common-use facilities in developments must meet the universal visitability standards at 24 C.F.R. § 100.205, which implement the Fair Housing Act (42 U.S.C. §§ 3601–4619). All reconstructed and newly constructed housing units must comply with the universal visitability standards as established by the Texas Government Code, § 2306.514.

Newly constructed and reconstructed housing units must meet the Model Energy Code (MEC); the compliance-monitoring requirements of the Texas Administrative Code (TAC), Title 10, Chapter 10, Subchapter (F); and the accessibility requirements noted in 24 C.F.R. Part 8, which implements Section 504 of the Rehabilitation Act of 1973. Covered multi-family dwellings, as defined at 24 C.F.R. § 100.201, and common-use facilities in developments must meet the universal visitability standards at 24 C.F.R. § 100.205, which implement the Fair Housing Act (42 U.S.C. §§ 3601–4619), and the ADA 2010 Standards with HUD exceptions. All reconstructed and newly constructed housing units must comply with the Construction Requirements for Single Family Affordable Housing as established by the Texas Government Code, § 2306.514.

B. Budget

The overall Project Budget and individual Budget categories are specified in the Underwriting Report at the end of this Attachment.

PAYMENT BENCHMARKS

All Project activities shall be completed within eighteen (18) months of the effective date of the Contract.

Phase 1 (Up to 35% of the Budget): Phase 1 of the development should be completed within six (6) months following the Contract's effective date. Developer shall satisfactorily (in the GLO's sole determination) complete, at a minimum, the following Tasks:

- a. Acquisition along with closing costs;
- b. Demolition;
- c. Site work;
- d. Soft costs for architecture, engineering, legal, etc.;
- e. Foundations;
- f. Framing; and
- g. Any inspection required during Phase 1.

Phase 2 (Up to 63% of the Budget): Phase 2 of the development should be completed within twelve (12) months following the Contract's effective date. Developer shall satisfactorily (in the GLO's sole determination) complete, at a minimum, all the Tasks in Phase 1 plus the following Tasks:

- a. Interior finish, including interior walls, ceilings, doors, and windows;
- b. Major system rough-in, including all plumbing, electrical, and HVAC systems; and
- c. Any inspection required during Phase 2.

Phase 3 (Up to 80% of the Budget): Phase 3 of the development should be completed within sixteen (16) months following the Contract's effective date. Developer shall satisfactorily (in the GLO's sole determination) complete, at a minimum, all the Tasks in Phases 1 and 2 plus the following Tasks:

- a. Insulation;
- b. Paint;
- c. Drywall;
- d. Interior trim and doors;

- e. Lighting;
- f. Cabinetry;
- g. Appliances and plumbing fixtures;
- h. Filing for and receiving a certificate of occupancy; and
- i. Filing the LURA with the county clerk's office.

Phase 4 (Up to 90% of the Budget): Phase 4 of the development should be completed within eighteen (18) months following the Contract's effective date. Developer shall satisfactorily (in the GLO's sole determination) complete, at a minimum, all the Tasks in Phases 1, 2, and 3 plus the following Tasks:

- a. Landscaping;
- b. Outdoor structures;
- c. Driveways;
- d. General clean-up;
- e. Any inspection required during Phase 4; and
- f. Repair or resolution of any punch-list items.

Phase 5 (100% of the Budget): After receipt of a certificate of occupancy and prior to release of the final 10% of the Project Budget, Developer shall complete, at a minimum, the following Task:

- a. Any and all closeout documents required by the GLO.

For each Phase, Developer may invoice on no more than a monthly basis until the percentage of funds associated with that Phase is fully disbursed. Invoicing for a Phase may be submitted independent of or concurrent with invoicing for other Phases, as necessary. Upon exhaustion of funds related to each Phase, the GLO may conduct a full review to determine the legitimacy of those draws before permitting disbursement of funds related to any other Phase.

The GLO reserves the right to conduct inspections at any time to ensure general compliance with the foregoing Payment Benchmark schedule before issuing the approval of a reimbursement request. The GLO may allow Payment Benchmark extensions for good cause, at the GLO's sole discretion, upon written request from the Developer.

INSPECTIONS

Developer shall be responsible for ensuring all required inspections are conducted and satisfactorily passed. Developer shall maintain physical proof that municipal codes and/or third-party inspections have been passed and accepted by any inspecting authority with jurisdiction over the Project site—which may include local or county governments, the State of Texas, HUD, or the GLO. Developer shall maintain all Project documentation in good order and mark it to record all changes made during performance of the work. Developer shall give the GLO or its representatives and agents access to all Project documentation, regardless of medium or format, at all times and shall submit copies of any Project documentation at the request of the GLO.

BUDGET

HUD Activity Type	Grant Award	Other Funds	Total
Affordable Rental Program	\$2,625,700.00	\$0.00	\$2,625,700.00

Texas General Land Office

Hurricane Harvey

Affordable Rental Housing Program

Development Underwriting Review

for

Mesquite Woods

Prepared:

7/31/2019

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Project Summary

The Mesquite Woods development is a 40 unit development located within Galveston County at 5809 Delany in Hitchcock, TX. The multi-family development will undergo rehabilitation due to damages suffered from Hurricane Harvey in 2017. The proposed development aims to house low-income households earning 80% of Area Median Income (AMI) or below by allocating 40 of the units to serve this population. These units represent 100% of the total number of units within the Mesquite Woods development.

Hitchcock Housing, Ltd. is the project applicant and maintains site control on the property. The housing developer is Megan Advisors, LLC who has extensive experience in constructing and managing multi-family developments.

Proposed Unit Mix

<i>Bed Rooms</i>	<i>Bath Rooms</i>	<i># units</i>	<i>Sq. Ft</i>	<i>Total Sq. Ft.</i>	<i>AMI</i>
1	1	12	688	8,256	<80%
2	1	28	856	23,968	<80%

DEVELOPMENT TEAM	
Applicant:	Hitchcock Housing, Ltd.
Contact:	Gary Maddock
Email:	gary@maddock.biz
Phone:	(913)-685-9000
DUNS:	613751360
General Partner/Managing Member:	Cascade GP Services, LLC
Limited Partner:	Affordable Housing Partnerships #2 & #9
Developer:	Megan Advisors, LLC
General Contractor:	Olympia Construction, Inc.
Management Company:	Megan Property Management, Inc.
Syndicator:	N/A
Architect:	Cameron Alread, Architect Inc.

Related Parties: Hitchcock Housing, Ltd. (Applicant) and Megan Advisors, LLC (Developer) are related parties. This structure may be typical with this size and scale of multi-family housing development. The contractor, Olympia Construction, Inc., is not a related party with respect to the developer or applicant.

Development Summary



Building Configuration: The development consists of five two story apartment structures in Galveston County.

Elevation: An elevation certificate was not provided by the applicant.

General Information:

Size	2 acres
Flood Zone:	Zone B/Zone X Shaded
Zoning:	High Density Residential
Density:	18 units/acre

Scattered Site	No
Within 100yr Floodplain:	No
Re-zoning Required:	No
Utilities on Site:	Yes

Surrounding Uses:

North:	Vacant
South:	Residential
East:	Residential
West:	Residential

Property Condition: The site is zoned “HR” High Density Residential District. Based on the City of Hitchcock’s code of ordinances, the maximum density is 18 units per acre. The applicant will need to confirm with the City that the development is permissible considering they are proposing 20 units per acre. As the development is not classified as new construction, it may be grandfathered under a previous code of ordinances or have received a past variance.

Development Budget and Finance

CohnReznick reviewed available sources and uses, development and construction budgets, regulatory requirements in consideration of the development budget and cost reasonableness of the project.

Sources and Uses

Construction Sources				
Funding Source	Description	Amount	Rate	LTC
Bonneville Multifamily Capital	Rehabilitation	\$3,900,000	5.75%	100%
Equity/DDF	Rehabilitation	\$25,700	0%	100%
Total		\$3,925,700		

Permanent Sources				
Debt Source	Proposed			
	Amount	Rate	Amort	Term
CDBG-DR	\$2,625,700	0%	N/A	15 Yrs.
Bonneville Multifamily Capital	\$1,000,000	5.75%	40 Yrs.	40 Yrs.
Total	\$3,625,700			

Uses	Total	Per Unit
Acquisition	\$759,619	\$18,990.48
Direct Construction Costs	\$1,512,744	\$37,818.60
Site Work	\$215,220	\$5,380.50
Contractor Fee	\$241,913	\$6,047.83
Contingency	\$0.00	\$0.00
Soft Costs	\$306,850	\$7,671.25
Developer Fee	\$307,000	\$7,675.00
Financing Costs	\$282,354	\$7,058.85
Replacement Reserves	\$0.00	\$0.00
Operating Reserves	\$0.00	\$0.00
Total Development Costs	\$3,625,700	\$90,642.50

The reasonable threshold for hard construction costs is a minimum of \$25,000 per unit according to the Affordable Housing Investors Council. The hard cost per unit for the Mesquite Woods development is \$49,246.93 per unit which meets the reasonable minimum requirement to provide adequate rehabilitation.

The total building cost per square foot is \$45.27 compared an estimated \$66.94 per square foot based on information from RSMeans Data for a full rehabilitation of a development of this size and design. Based on information in the Capital Needs Assessment (CNA), prepared by GIBCO Environmental, LLC and dated July 10, 2018, a full rehabilitation is not required and projected costs fall within 13% of the CNA estimate.

Insurance Status: The applicant indicates that no insurance claim was filed on the property. The property was owned by a party other than the applicant during the time of Hurricane Harvey, therefore the applicant, Hitchcock Housing Ltd., does not anticipate insurance proceeds.

Debt & Financing: The application indicates that rehabilitation will be partially funded with financing from Bonneville Multifamily Capital. The anticipated annual debt service will be \$98,450. Based on a pro-forma analysis using this annual payment, the project will generate a debt coverage ratio of 2.48 which is above the standard threshold for this development of 1.15. This indicates that there may be enough cash flow to service additional debt to fund a portion of rehabilitation and reduce the amount of CDBG-DR funds needed.

Projected Construction Cash Needs: Using an 18-month construction completion period, we modeled the development progress and identified an average for the first six months of \$284,230 required monthly to fund the construction in this application. The applicant has incorporated a construction loan for the construction costs incurred prior to CDBG-DR disbursement.

Operating Review

Rent Analysis

Proposed Rents							
Bedroom Size	Number of Units	Set Aside %	High HOME Rent Limit	Base Rent	Utility Allowance	TTP	Annual Gross Potential Rents
1	2	<30%	\$871	\$356	\$65	\$421	\$8,544
1	10	<80%	\$871	\$806	\$65	\$871	\$96,720
2	2	<30%	\$1,066	\$429	\$77	\$506	\$10,296
2	26	<80%	\$1,066	\$989	\$77	\$1,066	\$308,568

It appears that two of the one-bedroom units and two of the two-bedroom units will serve the 30% AMI income level. The applicant has indicated that the rent charged on these units is well below the High HOME rent limit. All other unit rents are in line with the High HOME rent limit.

Development Expense Analysis

Operating Expense	Projected Expense	Proposed % of Operations	2016 Texas Gross Median Operating Expense Distribution	Variance
Administrative	\$ 9,900.00	6.62%	12.4%	5.78%
Management Fee	\$ 34,000.00	22.73%	8.2%	14.53%
Payroll	\$ 48,700.00	32.56%	24.1%	8.46%
Repairs & Maint.	\$ 16,300.00	10.90%	18.9%	8.00%
Utilities	\$ 19,607.00	13.11%	14.7%	1.59%
Property Insurance	\$ 15,560.00	10.40%	7.1%	3.30%
Property Tax	\$ 5,525.00	3.69%	11.3%	7.61%
Average Variance				7.04%

The table above depicts the proportion of operating expense that each category represents as established by the 2016 Texas Gross Median Operating Expense Distribution published by CohnReznick based on an assessment of multifamily affordable housing properties across Texas. The total average operating expense variance of the proposed development from this established standard is approximately seven percent which indicates that the operating expenses are appropriately estimated.

As indicated above the following variances are noted:

1. Management fee is more than 14% higher than the Median Expense Distribution;
2. Payroll is almost 9% higher than the Median Expense Distribution; and
3. Administrative costs, Repairs & Maintenance costs, and Property Taxes are estimated to be lower than the Median Expense Distribution.

Proforma Analysis

<i>Pro-Forma and Projected Debt Service</i>	
NOI	\$243,677.15
Debt Service	\$98,450
Net Cash Flow	\$145,227.15
DSCR	2.48
Expense Ratio	2.42
Vacancy Provision	7.5%

The Mesquite Woods development project as proposed will generate sufficient cash flow to fund operations for the 15-year compliance period.

Income: The maximum rent that may be generated for each of the units will be capped by the HUD fair market rents. This is the maximum amount allowed to be collected on a property from the tenant in combination with a rental subsidy. The CDBG-DR program further restricts the Total Tenant Rent Payment for Low- and Moderate-Income (LMI) residents to the High HOME Rent limits. The income limits and HOME rent restrictions are calculated by HUD and published on an annual basis.

Expense: The operating expenses for this development are \$4,039.80 per unit. According to TDHCA operating expense data, typical expenses for Region 6, which includes Gulf Coast area, for projects 76 units and below are approximately \$4,690 per unit. Expenses for this project are in line with industry averages.

Feasibility and Conclusion: The project forecasts an average expense coverage ratio of 2.42 for the initial five years of operation which is significantly above the industry minimum of 1.10 expense coverage. The application reflects a replacement reserve to be funded annually in the amount of \$300 per unit. No provision for an operating reserve was included in the application. The project as proposed will generate enough cash flow to sustain operations. However, since there is enough cash flow to set up an operating reserve, doing so could ensure proper management of the property to help maintain the long-term viability of the project.

Affirmative Fair Housing

Hitchcock Housing, Ltd. has not provided a Federally approved Affirmative Fair Housing Marketing Plan (AFHMP) for the Mesquite Woods development. Hitchcock Housing, Ltd. has not identified the demographic groups least likely to apply to the Mesquite Woods development. Hitchcock Housing, Ltd. has not identified procedures to target populations least likely to apply through marketing activities.

Demographic Indicators	Value	State Average	Percentile in State	EPA Region Average	Percentile in EPA Region	USA Average	Percentile in USA
Demographic Index	47%	47%	52	44%	57	36%	70
Minority Population	55%	57%	48	51%	56	38%	70
Low Income Population	38%	37%	55	38%	53	34%	62
Linguistically Isolated Population	6%	8%	56	6%	66	4%	74
Population with Less Than High School Education	14%	18%	51	17%	52	13%	64
Population under Age 5	8%	7%	61	7%	64	6%	72
Population over Age 64	15%	11%	74	13%	68	14%	60
Source: US EPA Environmental Justice EJ Screen							

Other Federal Matters:

Meets Threshold Criteria:

The applicant proposes to meet the threshold criteria through 1) Extremely Low Income Targeting, 2) Exceeding the LMI Requirement, and 3) Leveraging of Public and Private Financing.

Meets National Objective:

The Mesquite Woods development project as proposed does meet the Low-Moderate Income National Objective.

The Mesquite Woods development project will meet the Low-Moderate Income Housing Activity Criteria as an eligible activity carried out for the purpose of providing or improving permanent residential structures which will be occupied by low and moderate-income households.

The proposed Mesquite Woods development will provide 40 out of 40 total units to households with incomes of 80% of Area Median Income or below. These restricted units represent 100% of the total units within the development.

Meets CDBG-DR Eligible Activity:

The proposed activities meet the eligibility test as follows:

- ☒ Section 105(a)(1) – Acquisition
- ☒ Section 105(a)(4) – Clearance, Rehabilitation, Reconstruction, Construction
- ☐ Section 105(a)(5) – Architectural Barrier Removal

☐ Section 105(a)(11) – Relocation

SAM Eligible:

Hitchcock Housing, Ltd. is not showing registered with the System for Award Management. We cannot confirm at this time that they are not debarred, suspended, or ineligible to participate in the proposed project.

Megan Advisors, LLC is not showing registered with the System for Award Management. We cannot confirm at this time that they are not debarred, suspended, or ineligible to participate in the proposed project.

The contractor, Olympia Construction, Inc., is showing registered with the System for Award Management. The company is not debarred, suspended, or ineligible to participate in the proposed project.

Floodplain Review:

The Mesquite Woods development is not located within the 100-year floodplain or High Hazard Area. The proposed activities will take place in Zone B. The proposed project is not a critical action. This does not immediately trigger the environmental requirement to maintain flood insurance for the CDBG assisted property.

Uniform Relocation Act (URA):

Section 414 of the Stafford Disaster Relief and Emergency Assistance Act ensures no one is denied URA eligibility based upon their ability to meet the occupancy requirements stated by the Act. This has the effect of waiving the ninety-day occupancy requirement that is a standard requirement under normal URA conditions. The Grantee has applied for and was granted a disaster waiver to Section 414 of the Stafford Act. This waiver of Section 414 effectively re-institutes the ninety-day occupancy requirement rule that is standard for URA, for projects that commence more than one year after the disaster, provided the project was not planned, approved, or otherwise underway prior to the disaster.

A General Information Notice should be sent to any active residents as soon as is feasible at the time of submission of the initial application for CDBG funds. Notices of Eligibility/Ineligibility should be sent to all residents at the Initiation of Negotiations. For this project, this would be triggered when the CDBG-DR agreement is signed between the GLO and the Developer.

Accessibility Review:

Hitchcock Housing, Ltd. and Megan Advisors, LLC have not provided plans for review.

Hitchcock Housing, Ltd. and Megan Advisors, LLC have provided ADA/Section 504 Compliance Certifications.

For all new construction or if the proposed alterations consist of 15 or more units and the cost of alterations is 75% or more of the replacement cost of the completed facility the applicant will need to:

- 1) Provide a minimum of five-percent (5%) of the units, or minimum of one, to be accessible;and

- 2) Two-percent (2%) of the units, or a minimum of one, to be accessible for persons with hearing or vision impairments.

Labor Standards Review:

Hitchcock Housing, Ltd., Megan Advisors, LLC, and Contractor have not provided acknowledgement certifications of current Davis Bacon wage rates specific to this project. The Mesquite Woods development project triggers Davis Bacon Requirements. The contractor is required to be compliant with Contract work hours and Safety Standards Act. This requirement should be listed within the construction contract. The contractor is required to be compliant with Section 3 opportunities. Efforts made to solicit Section 3 subcontractors should be documented by the contractor and maintained by the developer and applicant.

Summary

The Mesquite Woods development will provide 40 reconstructed units in a multi-family site in Galveston County of the Gulf Coast area. The intended use of CDBG-DR funds in this application was reviewed and the following observations were made:

1. No insurance claim was filed on the property. The applicant did not provide evidence of SBA loan acceptance or denial. No FEMA public assistance for this property was found within the data available to us.
2. Not all entities within this application who will be receiving CDBG-DR funds are registered within the System for Award Management. All entities receiving CDBG-DR are required to be registered.
3. The annual management fee is considerably higher than industry average.
4. The high debt coverage ratio and significant annual cash flow suggest that additional debt can be supported by the project to limit the amount of CDBG-DR necessary to subsidize rehabilitation.
5. Administrative expenses, repairs and maintenance costs, and property taxes are estimated to be lower than industry average and could be incorrectly inflating net operating income.

The information presented in this review is for the benefit of and to assist the Texas General Land Office in evaluating potential multi-family projects for CDBG-DR funding. The information provided in this report does not constitute a recommendation or assessment of risk by CohnReznick to the Texas General Land Office in connection with funding for the application presented in this review. The review is solely based upon information that was provided in the application by the applicant as provided by the Texas General Land Office.

THE TEXAS GENERAL LAND OFFICE

HURRICANE HARVEY AFFORDABLE RENTAL PROGRAM

Hurricane Harvey Funding Under the Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Public Law 115-56) enacted on September 8, 2017.

LAND USE RESTRICTION AGREEMENT FOR HURRICANE HARVEY 2018 MULTIFAMILY RENTAL HOUSING PROGRAM

THE STATE OF TEXAS §

§

COUNTY OF GALVESTON §

THIS LAND USE RESTRICTION AGREEMENT (“Agreement” or LURA”), dated this 11th day of February 2019 (the “Effective Date”) is between Hitchcock Housing, Ltd. (“Developer”) and the Texas General Land Office (“GLO”).

RECITALS

Whereas, Developer is the Owner of certain improvements (“Improvements”) known as the Mesquite Woods Apartments, buying through the Hurricane Harvey Affordable Rental Program situated on real property (“Project”) located in the City of Hitchcock, County of Galveston, State of Texas, more particularly described in **Exhibit A – Legal Description**, attached hereto and incorporated herein by reference. The Land and Improvements are hereinafter collectively referred to as the “Property”; and

Whereas, the Texas General Land Office was designated by Texas Governor Rick Perry, on June 17, 2011, as the state agency responsible for the administration of the Community Development Block Grant – Disaster Recovery Program; and

Whereas, the Owner/Developer entered in GLO Contract No. 19-097-026-B644 (“Subrecipient Grant Agreement”) with the Developer to provide certain funds (“Grant”) to the Developer as made available to the GLO under the Federal Act (hereinafter defined); and

Whereas, GLO and Developer desire to confer rights and benefits upon the GLO as described herein; and

Whereas, in accordance with the Contract executed by and between the GLO and the Owner/Developer, the Grant funds shall be used by the Owner/Developer for the rehabilitation or construction of the Project; and

Whereas, pursuant to the Federal Act, the State Act, and CDBG Regulations, the Owner/Developer, as condition to the use of Funds, must agree to comply with certain occupancy, rent, and other restrictions under the Federal Act, and the CDBG Regulations during the Term (hereinafter defined) and with certain occupancy, rent, and other restrictions described hereunder, and the parties have entered into this Agreement to evidence Owner/Developer’s agreement to comply with such restrictions during the Term,

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

I. DEFINITIONS

2.1 GENERAL

Capitalized terms used in this Agreement shall have, unless the context clearly requires otherwise, the meanings specified in Article I. Certain additional terms may be defined elsewhere in this Agreement.

“Agreement” or “LURA” means this CDBG Land Use Restriction Agreement for the Mesquite Woods, a 40-unit multifamily rental housing development, executed by and between the Texas General Land Office and Developer, and setting forth certain occupancy and rental restrictions for the Project, as contained herein, as it may from time to time be amended.

“Action Plan” means any State of Texas action plans, partial, final, or otherwise, for disaster recovery to use CDBG funding to assist with the recovery of distressed areas pursuant to the CDBG Disaster Recovery Program.

“Annual Income” means ‘annual income’ as defined in 24 C.F.R. §92.203.

“Area Median Income” means the median income, adjusted for family size, for the area where the Property is located, as such median income is established by HUD at least annually in accordance with the Federal Act, or as otherwise established by the General Land Office.

“CDBG Disaster Recovery Program” means the federal disaster relief emergency funding housing program funded by CDBG as authorized and established under The Supplemental Appropriations for Disaster Relief Requirements, 2017 (Public Law 115-56), enacted on September 8, 2017 for the purpose of assisting recovery activities related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization in areas affected by Hurricane Harvey and outlined in the *State of Texas Plan for Disaster Recovery: Hurricane Harvey* dated January 18, 2018 and approved by HUD on May 1, 2018.

“CDBG Multifamily Rental Housing Guidelines” means the State of Texas CDBG implementation manual and guidelines, as amended or superseded from time to time, which serves as a comprehensive guidebook to those entities that have been provided funds through the GLO pursuant to the CDBG Disaster Recovery Program, together with any and all other manuals and guidelines developed by the GLO in connection with implementation and operation of the CDBG Disaster Recovery Program.

“CDBG Regulations” means the regulations promulgated pursuant to Federal Act by HUD or any respective successor, as finalized and amended from time to time, which regulations govern the CDBG Disaster Recovery Program. The CDBG Regulations are set forth in in Title 24, Part 570 of the Code of Federal Regulations.

“Compliance Monitoring Procedures” means procedures and requirements adopted or imposed by the GLO or HUD for the purpose of monitoring and auditing the Property and the books and records of the Developer for compliance with this Agreement, the Federal Act, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-1) and its implementing regulations (24 C.F.R. Part 1), the Age Discrimination Act of 1975 (42 U.S.C. 6101), The Fair Housing Act (42 U.S.C. 3601), 24 C.F.R. Part 5 subpart A, Equal Employment Opportunity, Executive Order 11246 and its implementing regulations (41 C.F.R. Part 60), Equal Opportunity in Housing, Executive Order 11246 and its implementing regulations (41 C.F.R. Part 107), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulations (24 C.F.R. Part 8), Architectural Barriers Act (42 U.S.C. 4151-4157. 10 TAC Chapter 60, the CDBG Regulations (24 C.F.R. 570), the CDBG Single Family Rental Housing Guidelines, those inspections and examinations allowed pursuant to Section 2306.231 of the State Act and any and all other Governmental Requirements (as defined below), as may be amended from time to time.

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

“Extremely Low-Income Families” means families and individuals whose Annual Incomes do not exceed thirty percent (30%) of the Area Median Income in which the Property is located.

“Federal Act” means Title 1 of the Housing and Community Development Act of 1974 as set forth in Public Law 93-383, 42 U.S.C. §5301, *et seq.*, or any corresponding provision or provisions of succeeding law as it or they may be amended from time to time.

“Government Authority” means the United States of America, the State of Texas, the County of Galveston, Texas, and the City of Hitchcock, Texas, and any political subdivision of any of the foregoing, and any other political subdivision, agency, or instrumentality exercising jurisdiction over Owner or the Property.

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

“Hazardous Substance” or “Hazardous Material” means any substance defined as a hazardous substance, hazardous material, hazardous waste, toxic substance or toxic waste in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. 9601, *et seq.*; The Hazardous Materials Transportation Act, as amended, 39 U.S.C. 1801, *et seq.*; the Resource Conservation and Recovery Act, as amended 42 U.S.C. 6901, *et seq.*; or any similar applicable federal, state, or local law; or in any regulation adopted or publication promulgated pursuant to said law, either existing or promulgated from time to time.

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

“Low-Moderate-Income Households” means families and individuals whose annual incomes do not exceed eighty percent (80%) of the median family income, or such other income limits as determined by HUD. This definition includes Very Low, Low, and Moderate-income households.

“Project” means the 40-unit multifamily rental housing project to be located at 5809 Delany, Hitchcock, TX 77563 more particularly described in **Attachment A**, including Owner's activities concerning the acquisition, ownership, rehabilitation, reconstruction and operation of the Property.

“Project Documents” means all tenants lists, applications, (whether accepted or rejected), leases, lease addenda, tenant and owner certifications, advertising records, waiting lists, rental calculations and rent records, utility allowance documentation, income examinations and re-examinations relating to the Project and other documents otherwise required under the law or by the GLO.

“Term” means the fifteen (15) year period, commencing on the date of substantial construction completion on rehabilitated or reconstructed multi-family rental projects with eight (8) or more units, for which 51% of the total units in each property are to be used for affordable rental housing for low- and moderate-income persons or households earning 80% or less of the Area Median Family Income.

“Unit” means a residential accommodation constituting a part of the Property and containing separate and complete living facilities.

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

Contextual Note: Unless the context clearly indicates otherwise, where appropriate the singular shall include the plural and the masculine shall include the feminine or neuter and vice versa, to the extent necessary to give the terms defined in this Article I and/or terms otherwise used in this Agreement their proper meanings.

II. RESTRICTIVE COVENANT - USE AND OCCUPANCY OF PROPERTY

3.1 USE OF PROPERTY

During the Term, Developer will maintain the Property as affordable rental housing and will rent or hold available for rental each Unit on a continuous basis in order to meet the occupancy requirements of this Agreement.

3.2 COMMON AREAS

During the Term, Developer agrees that all common areas, if any, including, without limitation, any laundry or community facilities on the Property shall be for the exclusive use of the tenants and their guests and shall not be available for general public use.

3.3 OCCUPANCY REQUIREMENTS

(a) Long Term Occupancy Requirements

Notwithstanding anything herein to the contrary, at the time of occupancy of the Property or the time funds are invested pursuant to CDBG Program in connection with the Property, whichever is later, Developer must make, at a minimum, 51% of the total number of units must be used for affordable rental housing for low- and moderate-income persons or households earning 80% or less of the Area Median Family Income.

(b) Accessibility

At least two (2) Units or five percent (5%) of all Units, whichever is greater, shall be designed to be made accessible for an individual with disabilities with mobility impairments in accordance with the requirements under Section 504 of the Rehabilitation Act of 1973, and at least one (1) Unit(s) or two percent (2%) of all Units, whichever is greater, shall be designed and built to be accessible for persons with hearing or vision impairments in accordance with the accessibility requirements under Section 504 of the Rehabilitation Act of 1973.

(c) New Construction of Single Family Units

If the Project includes the new construction of single family units (1 to 3 units per building) the Developer shall construct every unit to meet or exceed the accessibility requirements of Section 2306.514 of the Texas Government Code, as amended from time to time.

3.4 NEEDS ASSESSMENT

The determination of whether the Annual Income of a family or individual occupying or seeking to occupy a Qualifying Unit complies with the requirements for Extremely Low Income Households or Low-Moderate-Income Households shall be made by the applicable Housing Authority in the program area prior to admission of such family or individual to occupancy of a Qualifying Unit (or to designation of a Unit occupied by such family or individual as a Qualifying Unit).

III. RESTRICTIVE COVENANT – RENT

4.1 RENT LIMITATIONS

The maximum monthly rent (which includes the tenant paid portion of the rent, the Utility Allowance, and rental assistance payment) charged by Owner for the twenty- eight (28) Qualifying Units, specified in Sections 2.3(a)(2), occupied by Low-Moderate-Income Households, other than Extremely Low-Income Households, must be set at levels that are affordable to Low-Moderate-Income Households and shall not exceed the higher of (i) High Home Investment Partnership (“HOME”) Rents as defined under Title 24, Section 92.252 of the Code of Federal Regulations as may be amended or modified from time to time and determined by the GLO and published on an annual basis with adjustment for family size; or (ii) exception rents allowed by HUD on project-based Section 8 properties pursuant to Title 24, Section 252(b)(2) of the Code of Federal Regulations as may be amended or modified from time to time.

4.2 GROSS RENT PROVISIONS

The maximum monthly rent (which includes the tenant paid portion of the rent, the Utility Allowance, and rental assistance payment) charged by Owner for four (4) Qualifying Units occupied by Extremely Low Income Households must be set at levels that are affordable to Low-Moderate-Income Households and shall not exceed the thirty percent (30%) maximum rent limits determined by HUD and published on an annual basis with adjustment for family size.

IV. ADMINISTRATION

5.1 CERTIFICATION BY DEVELOPER

During the Term, Developer shall, at least annually, or as GLO may otherwise approve, submit to GLO in a form prescribed by GLO, a certificate of continuing compliance with all occupancy standards, terms, and provisions of this Agreement. The certification will also include statistical data relating to special needs individuals’ race, ethnicity, income, fair housing opportunities, and other information requested by GLO or the GLO. This certification shall also include statistical data relating to special needs individuals’ race, ethnicity, income, and fair housing opportunities and other information requested, including reports required by 10 TAC Chapter 60.

5.2 MAINTENANCE OF DOCUMENTS

All Project documents and any other report of records which Developer is required to prepare and/or provide to GLO pursuant to this Agreement and Regulations must be retained for the periods set out in the CDBG Regulations, or if no specific period is set out, for three (3) years after the end of the Term, or as otherwise specified by law or required by the GLO. All project documents shall at all times be kept separate and identifiable from any other business of Developer which is unrelated to the Property, and shall be maintained in compliance with the CDBG Regulations and any other requirements of the State of Texas, in a reasonable condition for proper audit and subject to examination and photocopying during business hours by representatives of the GLO, HUD, or the United States Comptroller General.

Developer agrees and acknowledges that any and all Project Documents are confidential in nature. Developer agrees not to disclose the Project Documents or any of the terms, provisions, or conditions thereof, or any information that is deemed confidential under federal law or state law related to tenants’ or applicants’ income, social security number, employment status, disability, or other related matters to any party outside of Owner’s organization, except as otherwise expressly required in this Agreement or by the CDBG Regulations or CDBG Single Family Rental Housing Guidelines, or to auditors as required by third

party financing, or to a professional management agent for the Project. Developer further agrees that, within its organization, the Project Documents and their confidential information will be disclosed and exhibited only to those persons within Developer's organization whose position and responsibilities make such disclosure necessary.

5.3 COMPLIANCE REVIEW

During the Term, Developer agrees to permit the GLO, HUD, and/or a designated representative of the GLO or HUD, to access the Property for the purpose of performing Compliance Monitoring Procedures. The GLO or HUD will periodically monitor and audit Developer's compliance with the requirements of this Agreement, the CDBG Regulations, the CDBG Single Family Rental Housing Guidelines, and any and all other Governmental Requirements, in accordance with GLO Compliance Monitoring Procedures during the term. In conducting its Compliance Review, the GLO and HUD will rely primarily on information obtained from Developer's records and reports, findings from on-site monitoring, and audit reports. The GLO and HUD may also consider other relevant information gained from other sources, including litigation and citizen complaints.

5.4 HAZARDOUS MATERIALS: INDEMNIFICATION

a. Developer agrees to the following:

- (i) Developer shall not receive, store, dispose, or release any Hazardous Materials on or to the Property or transport any Hazardous Materials to or from the Property or permit the existence of any Hazardous Materials contamination;
- (ii) Developer shall give written notice to GLO immediately upon Developer's acquiring knowledge of the presence of any Hazardous Material on the Property or the transport of any Hazardous Materials to or from the Property or of the existence of any Hazardous Materials contamination, with full description thereof;
- (iii) Developer will, promptly, at Developer's sole cost and expense, comply with any Governmental Requirements regarding the removal, treatment, or disposal of such Hazardous Materials or Hazardous Materials contamination and provide GLO with satisfactory evidence of such compliance;
- (iv) Developer shall provide GLO, within thirty (30) days of demand by the GLO, financial assurance evidencing to GLO that the necessary funds are available to pay for the cost of removing, treating, and disposing of such Hazardous Materials or Hazardous Materials contamination and discharging any assessments which may be established on the Property as a result thereof; and
- (v) Developer shall insure that all leases, licenses, and agreements of any kind now or hereafter executed which permit any party to occupy, possess, or use in any way the Property or any part thereof, whether written or oral, include an express prohibition on the disposal or discharge of any Hazardous Materials at or affecting the Property, and a provision that failure to comply with such prohibition shall expressly constitute a default under any such agreement.
- (vi) Developer shall not cause or suffer any liens to be recorded against the Property as a consequence of, or in any way related to, the presence, remediation, or disposal of Hazardous Materials in or about the Property, including any so-called state, federal, or local "Superfund" lien relating to such matters.

b. DEVELOPER SHALL, AT ALL TIMES, RETAIN ANY AND ALL LIABILITIES ARISING FROM THE PRESENCE, HANDLING, TREATMENT, STORAGE, TRANSPORTATION, REMOVAL, OR DISPOSAL OF HAZARDOUS MATERIALS ON THE PROPERTY.

REGARDLESS OF WHETHER ANY EVENT OF DEFAULT SHALL HAVE OCCURRED AND BE CONTINUING OR ANY REMEDIES IN RESPECT OF THE PROPERTY ARE EXERCISED BY GLO, DEVELOPER SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS GLO AND THE GLO, ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ALL LIABILITIES, SUITS, ACTIONS, CLAIMS, DEMANDS, PENALTIES, DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, CONSEQUENTIAL DAMAGES, INTEREST, PENALTIES, FINES AND MONETARY SANCTIONS) LOSSES, COSTS, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEY'S FEES AND COSTS) WHICH MAY NOW OR IN THE FUTURE (WHETHER BEFORE OR AFTER THE CULMINATION OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT) BE INCURRED OR SUFFERED BY GLO OR THE GLO BY REASON OF, RESULTING FROM, IN CONNECTION WITH, OR ARISING IN ANY MANNER WHATSOEVER OUT OF THE BREACH OF ANY WARRANTY OR COVENANT OR THE INACCURACY OF ANY REPRESENTATION OF DEVELOPER CONTAINED OR REFERRED TO IN THIS SECTION OR WHICH MAY BE ASSERTED AS A DIRECT OR INDIRECT RESULT OF THE PRESENCE ON OR UNDER, OR ESCAPE, SEEPAGE, LEAKAGE, SPILLAGE, DISCHARGE, EMISSION OR RELEASE FROM THE PROPERTY OF ANY HAZARDOUS MATERIALS OR ANY HAZARDOUS MATERIALS CONTAMINATION OR ARISE OUT OF OR RESULT FROM THE ENVIRONMENTAL CONDITION OF THE PROPERTY OR THE APPLICABILITY OF ANY GOVERNMENTAL REQUIREMENTS RELATING TO HAZARDOUS MATERIALS REGARDLESS OF WHETHER OR NOT CAUSED BY OR WITHIN THE CONTROL OF DEVELOPER, GLO, OR THE GLO.

SUCH LIABILITIES SHALL INCLUDE, WITHOUT LIMITATION: (1) INJURY OR DEATH TO ANY PERSON; (2) DAMAGE TO OR LOSS OF THE USE OF ANY PROPERTY; (3) THE COST OF ANY DEMOLITION AND REBUILDING OF ANY IMPROVEMENTS NOW OR HEREAFTER SITUATED ON THE PROPERTY OR ELSEWHERE, AND THE COST OF REPAIR OR REMEDIATION OF ANY SUCH IMPROVEMENTS; (4) THE COST OF ANY ACTIVITY REQUIRED BY ANY GOVERNMENTAL AUTHORITY; (5) ANY LAWSUIT BROUGHT OR THREATENED, GOOD FAITH SETTLEMENT REACHED, OR GOVERNMENTAL ORDER RELATING TO THE PRESENCE, DISPOSAL, RELEASE OR THREATENED RELEASE OF ANY HAZARDOUS MATERIAL, ON, FROM, OR UNDER THE PROPERTY; (6) THE IMPOSITION OF ANY LIENS ON THE PROPERTY ARISING FROM THE ACTIVITY OF THE DEVELOPER OR DEVELOPER'S PREDECESSORS IN INTEREST ON THE PROPERTY OR FROM THE EXISTENCE OF HAZARDOUS MATERIALS UPON THE PROPERTY OR HAZARDOUS MATERIAL CONTAMINATION.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THE FOREGOING INDEMNITY SHALL NOT APPLY TO MATTERS RESULTING FROM GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE DEVELOPER, OR ANY EMPLOYEE, AGENT, OR INVITEE OF GLO TAKEN AFTER GLO OR ANY THIRD PARTY HAS TAKEN TITLE TO, OR EXCLUSIVE POSSESSION OF, THE MORTGAGED PROPERTY.

The covenants and agreements contained in this section shall survive the consummation of the transactions contemplated by this Agreement.

5.5 AFFIRMATIVE MARKETING

Developer shall maintain and abide by an affirmative marketing plan which shall be designed to attract tenants from all racial, ethnic/national origin, sex, religion, familial status, and special needs groups and

shall require all press releases and written materials, advertising or promoting of the Project to, when feasible, include the equal housing opportunity logo or slogan. Developer further agrees to maintain documents and records evidencing its compliance with said plan and the affirmative marketing requirements imposed by Title 24, Section 570.487(b) of the CDBG Regulations.

5.6 FEDERAL AND STATE REQUIREMENTS

Developer shall comply with Subpart I of the CDBG Regulations excepting requirements waived by HUD and CDBG Single Family Rental Housing Guidelines and each and every Governmental Requirement as the same may be amended.

5.7 ACCESS AND INSPECTION

Developer will permit GLO, its agents, employees, and representatives, the GLO, its agents, employees, and representatives, HUD, the Inspector General, the General Accounting Office, the Department, the State Auditor's Office, and any other interested Governmental Authority at any and all reasonable times during business hours, to enter upon and inspect the Project and all materials to be used in the rehabilitation thereof. Developer will allow the examination and copying of all of Developer's books, records, contracts, and bills pertaining to the Project. Developer will also cooperate and cause all Contractors to cooperate with GLO, its agents, employees, and representatives during such inspections; provided, however, nothing herein shall be deemed to impose upon GLO or the GLO any duty or obligation to undertake such inspections or any liability for the failure to detect or failure to act with respect to any defect which was or might have been disclosed by such inspections.

5.8 PROPERTY STANDARDS

Developer agrees that each Unit shall be rehabilitated or constructed, as applicable, and maintained in accordance with the requirements set forth in the CDBG Regulations, Texas Minimum Construction Standards, Uniform Physical Condition Standards, and the Multifamily Housing Guidelines.

5.9 REPORTS

Developer shall deliver to GLO:

- a. Within fifteen (15) days after the last day of each quarter in each fiscal year of the Developer, or as requested by GLO, a Unit Status Report. GLO may require electronic submission of the Unit Status Report.
- b. From time to time and promptly upon request, such data, certificates, reports, statements, documents, or further information regarding the assets or the business, liabilities, financial position, projections, results of operations, or business prospects of Developer or such other matters concerning Developer's compliance with the CDBG Regulations and the terms of this document Multifamily Housing Guidelines as the GLO may reasonably request during the Term or as necessary to assist the GLO in meeting its recordkeeping and reporting requirements under the CDBG Regulations during the Term, including, without limitation, the following:
 - i. Records that demonstrate that the Project meets the Property Standards set out herein;
 - ii. Records required under Title 24 §570.490 of the Code of Federal Regulations for the Term;
 - iii. Other federal requirements records including, without limitation, the following:
 1. Equal opportunity and fair housing records containing:

- a. Data on racial, ethnic, and gender characteristics of persons who have applied for, participated in, or benefited from, any program or activity funded in whole or in part with CDBG funds.
 - b. Documentation of actions undertaken to meet the requirements of Title 24 §92.350 of the Code of Federal Regulations, which implements Section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701u).
 - c. Documentation and data on the steps taken to continuously market to Homeless persons who have previously been homeless or are at risk of being homeless.
 - d. Documentation of the actions the Developer has taken to affirmatively further fair housing as required under 24 C.F.R. Part 570.
2. Records indicating the affirmative marketing procedures and requirements under Title 24 § 570.487(b) of the Code of Federal Regulations.
 3. Records that demonstrate compliance with environmental review requirements in Title 24 § 570.604 of the Code of Federal Regulations (and part 58 of this title) in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*)
 4. Records which demonstrate compliance with the requirements in Title 24 §570.606 and Title 24 part 42 of the Code of Federal Regulations regarding displacement, relocation, and real property acquisition as applicable.
 5. Records demonstrating compliance with labor requirements in Title 24 § 570.487 of the Code of Federal Regulations, including contract provisions and payroll records as applicable.
 6. Records concerning lead-based paint under Title 24 § 570.608 of the Code of Federal Regulations in accordance with the Lead Based Paint Poisoning Prevention Act (42 U.S.C. 4821, *et seq.*), Residential Lead Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856) and implementing regulations (24 CFR part 58).
 7. Records of Certifications concerning debarment and suspension required by Title 24 § 570.609 and Title 24 Part 5 of the Code of Federal Regulations.
 8. Records demonstrating compliance with flood insurance requirements under Title 24 §570.605 of the Code of Federal Regulations.
 9. Records demonstrating intergovernmental review, as required by Title 24 §570.493 of the Code of Federal Regulations.

5.10 INFORMATION AND REPORS REGARDING THE PROJECT

Owner shall deliver to GLO, at any time within thirty (30) days after notice and demand by GLO, but not more frequently than once per quarter, (a) a statement in such reasonable detail as GLO may request, certified by the Developer, of the leases relating to the project, and (b) a statement in such reasonable detail as GLO may request, certified by a certified public accountant or, at the option of GLO, by the Developer, of the income from and expenses of any one or more of the following: (i) the conduct of any business on the Project, (ii) the operation of the project, or (iii) the leasing of the project, or any part thereof, for the last twelve (12) month calendar period prior to the giving of such notice, and, on demand, Developer shall furnish to GLO the executed counterparts of any such tenant leases and any other contracts and agreements pertaining to facilities located on the Property or which otherwise generate ancillary income for the Project, for the audit and verification of any such statement.

5.11 OTHER INFORMATION

Owner shall deliver to GLO, at any time within thirty (30) days after notice and demand by GLO, any information or reports required by the laws of the State of Texas or as otherwise reasonably required by GLO, the GLO, or HUD.

5.12 DISPLACED PERSONS

In the event there are any Displaced Persons as a result of any of the Units being acquired, rehabilitated, or reconstructed with CDBG funds, Owner/Developer shall comply with the requirements and provisions of a valid Relocation Plan under the law.

V. REPRESENTATIONS AND WARRANTIES OF DEVELOPER

6.1 REPRESENTATIONS AND WARRANTIES

Developer represents and warrants to GLO that:

- a. Valid Execution. Developer has validly executed this Agreement and the same constitutes the binding obligation of Developer. Developer has full power, authority, and capacity to (i) enter into this Agreement, (ii) to carry out Developer's obligations as described in this Agreement, and (iii) to assume responsibility for compliance with all applicable Governmental Regulations, including, without limitation, those in the CDBG Regulations and the Multifamily Rental Housing Guidelines.
- b. No Conflict or Contractual Violation. To the best of Developer's knowledge, the making of this Agreement and Developers obligations hereunder:
 - (i) Will not violate any contractual covenants or restrictions (a) between Developer or any third party or (b) affecting the Property; and
 - (ii) If Developer is other than an individual, this agreement will not conflict with any of the instruments that create or establish Developer's authority; and
 - (iii) Will not conflict with any applicable public or private restrictions; and
 - (iv) Do not require any consent or approval of any public or private authority which has not already been obtained; and
 - (v) Are not threatened with invalidity or unenforceability by any action, proceeding or investigation pending or threatened, by or against (a) Developer, without regard to capacity, (b) any person with whom Developer may be jointly or severally liable, or (c) the Property or any part thereof.
- c. No Litigation. No action, litigation, investigation, or proceeding is now pending or, to the best of the Developer's knowledge, threatened against Developer which, if adversely determined, could individually or in the aggregate have an adverse effect on title to or the use and enjoyment or value of the Property, or any portion thereof, or which could in any way interfere with the consummation or enforceability of this Agreement.
- d. No Bankruptcy. There is not pending or, to the Developer's best knowledge, threatened against Developer any case or proceeding or other action in bankruptcy, whether voluntary or otherwise, any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief for Developer under any federal, state, or other statute, law, regulation relating to bankruptcy, insolvency, or relief for debtors.

- e. Prior Warranties, Representations, and Certifications. All warranties, representations, and certifications made, and all information and materials submitted or caused to be submitted to GLO or the GLO in connection with the Project are true and correct, and there have been no material changes in or conditions affecting any of such warranties, representations, certifications, materials, or other information prior to the effective date thereof.
- f. Conflicting Agreements. Developer has not and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions thereof, and that in any event, the requirements of this Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.
- g. Consideration. Developer has freely and without reservation placed itself under the obligations of this Agreement and that the receipt of funding from GLO, in the form of Community Development Block Grant funds for Disaster Recovery is an essential part of the consideration for this Agreement.
- h. Conflicts of Interest. No member, employee, officer, agent, consultant, or official of the Developer, nor any member of their immediate family, during their tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in this Agreement or any proceeds or benefits arising therefrom, except as allowed by Title 25 §570.611 of the Code of Federal Regulations, as amended from time to time.
- i. Debarment and Suspension. Neither Developer nor any of its principals are presently debarred, suspended, proposed for debarment, suspension, declared ineligible, or voluntarily excluded from participation in this transaction of the CDBG Disaster Recovery Program by any federal department or agency.
- j. Flood Insurance. In the event that any of the Property is located in an area identified by the Federal Emergency Management Agency ("FEMA") as having special flood hazards Developer warrants and represents to GLO and the GLO that:
 - (i) Such area is participating in the National Flood Insurance Program or less than one (1) year has passed since FEMA notification regarding such hazards; and
 - (ii) Developer will obtain flood insurance, in an amount and form satisfactory to GLO, in accordance with GLO or HUD guidelines, for the Property that is located in the special flood hazard area and those areas must have all finished ground floor elevations at least one foot above the flood plain and parking and drive areas not be any lower than six inches below the floodplain. Developer warrants that it will maintain the flood insurance for the term of the Grant.

6.2 MISREPRESENTATION AND OMISSION

Acts constituting fraud, false filings, misrepresentation, or omission may subject the alleged offender to criminal prosecution and may also result in the alleged offender being barred from further participation in the GLO's programs.

6.3 INDEMNIFICATION

EXCEPT FOR DAMAGES DIRECTLY OR PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE OF GLO OR THE GLO, DEVELOPER SHALL INDEMNIFY AND HOLD HARMLESS GLO, GLO'S OFFICERS, REPRESENTATIVES, AGENTS, AND EMPLOYEES, THE GLO, AND THE GLO'S OFFICERS, REPRESENTATIVES, AGENTS, AND EMPLOYEES TO THE FULL EXTENT PERMITTED UNDER THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, FROM ANY LOSSES, CLAIMS, SUITS, ACTIONS, DAMAGES, OR LIABILITY (INCLUDING ALL COSTS AND EXPENSES OF DEFENDING AGAINST ALL OF THE AFOREMENTIONED) ARISING IN CONNECTION WITH:

- (i) **THE CONTRACT;**

- (ii) ANY NEGLIGENCE, ACT, OMISSION, OR MISCONDUCT IN THE PERFORMANCE OF THE SERVICES REFERENCED HEREIN;
- (iii) ANY CLAIMS OR AMOUNTS ARISING FROM DAMAGE TO ADJACENT PROPERTY, INCLUDING, BUT NOT LIMITED TO, CLAIMS BASED ON THE SUBMERSION OF DRY LAND DUE TO INCREASED EROSION; AND
- (iv) ANY CLAIMS OR AMOUNTS ARISING OR RECOVERABLE UNDER FEDERAL OR STATE WORKERS' COMPENSATION LAWS, THE TEXAS TORT CLAIMS ACT, OR ANY OTHER SUCH LAWS.

THE DEVELOPER SHALL BE RESPONSIBLE FOR THE SAFETY AND WELL BEING OF ITS EMPLOYEES, CUSTOMERS, AND INVITEES. THESE REQUIREMENTS SHALL SURVIVE THE TERM OF THIS AGREEMENT UNTIL ALL CLAIMS HAVE BEEN SETTLED OR RESOLVED AND SUITABLE EVIDENCE TO THAT EFFECT HAS BEEN FURNISHED TO THE GLO.

VI. DEFAULT, ENFORCEMENT, AND REMEDIES

7.1 DETERMINATION OF DEVELOPER DEFAULT

Occurrence of one or more of the following events will, at the discretion of GLO, constitute an event of default ("Event of Default") under this Agreement:

- a. Developer shall default in the performance of any of its obligations under this Agreement or breaches any covenant, agreement, restriction, representation, or warranty set forth herein, and such default or breach remains uncured for a period of thirty (30) days after notice thereof shall have been given by GLO (or for an extended period approved by the GLO if the default or breach stated in such notice can be corrected, but not within such 30-day period, unless Developer does not commence such correction or commences such correction within such 30-day period but thereafter does not diligently pursue the same to completion within such extended period);
- b. Developer shall be adjudged bankrupt or insolvent, or a petition or proceeding for bankruptcy or for reorganization shall be filed against it and it shall admit the material allegations thereof, or an order, judgement, or decree shall be entered approving such petition and such order, judgement or decree shall not be vacated or stayed within sixty (60) days of its entry or a receiver or trustee shall be appointed for the Developer or the Property, Land, or any part thereof and remain in possession thereof for thirty (30) days;
- c. Developer shall sell or otherwise transfer the Property, in whole or in part (except leases to low- and moderate-income tenants), without the prior written consent of and notification to GLO.

7.2 ENFORCEMENT OF REMEDIES BY GLO

Upon an occurrence of an Event of Default, the GLO or HUD may, (i) apply to any court having jurisdiction of the subject matter for specific performance of this Agreement, and/or for an injunction against any violation of this Agreement, for the appointment of a receiver to take over and operate the Property in accordance with the terms of this Agreement, or (ii) take any and all action at law, in equity, or otherwise for such relief as may be appropriate, including recapturing federal funds expended for the Project provided, however, that the amount to be recaptured shall be decreased by one-fifteenth (1/15) of the total amount expended for the Project, under the Developer Contract, for each year that Developer complies with this Agreement. It is acknowledged that the beneficiaries of Developer's obligations cannot be adequately compensated by monetary damages in the event of Developer default. The GLO shall be entitled to its reasonable attorney's fees in any such judicial action in which the GLO shall prevail. The GLO or HUD

shall also be compensated for fees associated with additional compliance monitoring during corrective periods of non-compliance upon a default by Owner/Developer hereunder.

7.3 CUMULATIVE AND CONCURRENT REMEDIES

Each right, power, and remedy of GLO or the GLO provided for in this Agreement now and hereafter existing law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy, provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise of beginning of the exercise by the GLO of any one or more of the rights, powers, or remedies, provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by the GLO of any or all of such other rights, powers, or remedies as permitted by law.

7.4 ENFORCEMENT AND REMEDIES OF PARTIES OTHER THAN THE GLO

The occupancy and maximum rent requirements set forth in Articles II and III hereof, respectively, also shall inure to the benefit of, and may be judicially enforced against Developer by, affecting Low-Moderate Income Households or Extremely Low-Income Households. Any of the persons or entities described above shall be entitled to judicially enforce this Agreement in the same manner in which the GLO may seek judicial enforcement and shall be entitled to reasonable attorney's fees. Further, any deed, lease, conveyance, or contract made in violation of this Agreement shall be void and may be set aside on petition of one or more of the parties to the Agreement, and all successors in interest, heirs, executors, administrators, or assigns shall be deemed parties to this Agreement to the same effect as the original signer; and when any such conveyance or other instrument is set aside by decree of a court of competent jurisdiction, all costs and all expenses of such proceedings shall be taxed against the offending party or parties, and shall be declared by the court to constitute a lien against the real estate so wrongfully deeded, sold, leased, or conveyed, until paid, and such lien may be enforced in such a manner as the court may order.

7.5 SOVEREIGN IMMUNITY

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

VII. COVENANTS

8.1 COVENANTS RUNNING WITH THE LAND

During the Term, this Agreement and the covenants, reservations, and restrictions contained herein shall be deemed covenants running with the land for the benefit of the Developer and its successors and for the benefit of the GLO and/or HUD, and its successors, and shall pass to and be binding on Developer's heirs, assigns, and successors in title to the Property, or if the Property shall not include title to land, but shall include a leasehold interest in the land, this Agreement and the covenants, reservations, and restrictions shall bind the leasehold interest as well as the Property and shall pass to and be binding upon all heirs, assigns, and successors to such interests; provided, however, that upon expiration of the Term in accordance with the terms hereof said covenants, reservations, and restrictions shall expire. During the Term, each and every contract, deed, or other instrument hereafter executed covering or conveying the Property or any portion thereof shall conclusively be held to be executed, delivered, and accepted subject to such covenants, reservations, and restrictions, regardless of whether such covenants, reservations, and restrictions are set

forth in such contract, deed, or other instrument. If a portion of the Property is conveyed during the Term, all of such covenants, reservations, or restrictions shall run to each portion of the Property. Developer, at its own cost and expense, shall cause this Agreement to be duly recorded or filed and re-recorded or re-filed in the Real Property Records of the county in which the Property is located, and shall pay or cause to be paid all recording, filing, or other taxes, fees and charges, and shall comply with all such statutes and regulations as may be required by law in order to establish, preserve, and protect the ability of GLO or HUD to enforce this Agreement.

VIII. MISCELLANEOUS

9.1 AMENDMENTS

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

9.2 NOTICES

All notices required or permitted to be given under this Agreement must be in writing. Notice will be deemed effective upon deposit in the United States mail, postage prepaid, by certified mail, return receipt requested, and properly addressed to the party to be notified. Notice given in any other manner shall be deemed effective only if and when received by the party to be notified. For the purposes of this notice, the address of the parties shall, until changed as hereinafter provided, be as follows:

If to the Owner/Developer:

Hitchcock Housing, Ltd
2900 N Government Way, #88,
Coeur d'Alene, ID 83815

GLO:

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

With a Copy to the GLO:

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

Notice given in any other manner shall be deemed in effective. Any party may change its address for notice purposes by giving notice to the other parties in the accordance with this Section 9.2.

9.3 ENTIRE AGREEMENT

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

9.4 COOPERATION

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

CHOICE OF LAW

In the event the enforceability or validity of any provision of this Agreement is challenged or questioned, such provision shall be governed by, and shall be construed in accordance with, the laws of the State of Texas or the federal laws, whichever may be applicable.

9.5 SEVERABILITY

This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinance, rules, and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

9.6 COUNTERPARTS

This Agreement and any Amendments hereto may be executed in several counterparts, each of which shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

9.7 SECTION TITLE

Section titles and the table of contents are for descriptive purposes only and shall not control or limit the meaning of this Agreement as set forth in the text.

9.8 CHANGE IN NEIGHBORHOOD

A substantial or radical change in the character of the neighborhood surrounding the Property will not extinguish the restrictive covenants of this Agreement. The restrictive covenants shall survive any and all changed circumstances, including, but not limited to, the following: housing pattern changes, zoning amendments, the issuance of variances affecting the immediate or surrounding area; increased traffic or road conditions; enhancement of the value of the Land or Property; growing industrial activity; encroachment of business areas; development of natural resources; financial downturn of the Developer; or commercialization of the neighborhood in question.

9.9 VENUE

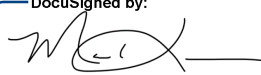
Venue of any suit brought under this Agreement shall be in a court of competent jurisdiction in Travis County, Texas. Developer irrevocably waives any objection, including any objection based on personal jurisdiction or the laying of venue or based on the ground of *forum non conveniens*, which may now or hereafter have by the bringing of any action or proceeding in such jurisdiction with respect to the Contract or any document related hereto.

NOTHING IN THIS SECTION SHALL BE CONSTRUED AS WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.

SIGNATURE PAGES FOLLOW

**SIGNATURE PAGE FOR ATTACHMENT E TO GLO CONTRACT NO. 19-097-026-B644
MULTI-FAMILY RESIDENTIAL CONSTRUCTION REPAIR SERVICES GRANT AGREEMENT**

GENERAL LAND OFFICE

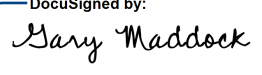
DocuSigned by:

7C299F4374E7497...

Mark A. Havens, Chief Clerk/

Deputy Land Commissioner

Date of execution: 4/22/2021






HITCHCOCK HOUSING, LTD

DocuSigned by:

CDD46035E74B4D7...

Print Name: Gary Maddock

Title: Duly Authorized Agent

Date of execution: 4/21/2021

OGC 
DD 
SDD 
DGC 
GC 

EXHIBITS TO THIS LAND USE RESTRICTION AGREEMENT:

EXHIBIT A: LEGAL DESCRIPTION OF PROPERTY

EXECUTED

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me to be the _____ of _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of said limited liability company, and that he executed the same as the act of such limited liability company for the purposes and consideration therein expressed and in the capacity herein stated.

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

Notary Public, State of Texas

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

EXHIBIT A - LEGAL DESCRIPTION

ABST 2 PAGE 8 S F AUSTIN SUR TR 144 2.000 ACRS

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TEXAS GENERAL LAND OFFICE
GEORGE P. BUSH, COMMISSIONER

Community Development and Revitalization
PO Box 12873 / Austin, TX 78711-2873
844-893-8937

October 1, 2021

BY ELECTRONIC MAIL TO: gary@maddock.biz

ATTENTION: Gary Maddock

ADMINISTRATIVE CLOSEOUT NOTIFICATION
GLO Contract No. 19-097-026-B644
Mesquite Woods

Dear Mr. Maddock:

The Texas General Land Office ("GLO") has reviewed your project's closeout reports submitted for the referenced GLO grant. We congratulate your organization on the completion of this milestone in the recovery process and appreciate your hard work and dedication.

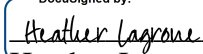
Our records indicate the full amount of \$2,625,700 was expended for your community's projects and a total of 40 households were served. The final Performance Statement, Budget, Payment Benchmarks, and Underwriting Report (Attachment A-4) is attached.

Please note that the GLO and the U.S. Department of Housing and Urban Development ("HUD") may conduct a future review, audit, or other type of evaluation of the contract documentation. As a reminder, HUD regulations generally require your organization to retain all its award-related documentation for three years from the date HUD closes its related disaster grant to the State of Texas. As the state grant remains open, the GLO will notify your office once it has closed.

This notification closes Hitchcock Housing Limited – Mesquite Woods' award. Your organization has 30 days from the date of this letter to notify the GLO of any objections. Failure to do so will be interpreted as acceptance of this notification.

If you have any questions, please contact Jeff Crozier, Multifamily Housing Manager, at 512-475-5067 or jeff.crozier.glo@recovery.texas.gov

SIGNED ON BEHALF OF THE TEXAS GENERAL LAND OFFICE:

DocuSigned by:

Heather Lagrone
Senior Deputy Director
Community Development and Revitalization

cc: GLO Contract Management Division (draftingrequests@glo.texas.gov)



**MULTI-FAMILY AFFORDABLE RENTAL HOUSING
PERFORMANCE STATEMENT, BUDGET, PAYMENT BENCHMARKS, AND UNDERWRITING REPORT**

A. Performance Statement

At a firm fixed price of **TWO MILLION, SIX HUNDRED TWENTY-FIVE THOUSAND, SEVEN HUNDRED DOLLARS AND ZERO CENTS (\$2,625,700.00)** in CDBG-DR funding, Developer will rehabilitate, reconstruct, or construct—in accordance with the terms of the Contract and all attachments, applicable laws, regulations, and guidance—forty multi-family housing units, with twenty-eight units being leased to eligible low- and moderate-income (LMI) applicants. Developer shall ensure that the amount of funds to be expended for each Task does not exceed the amount specified for such Task in the Project Budget. Units will be interspersed to ensure that there is no grouping of units for a particular income type. LMI units shall be scattered amongst and between market- rate units throughout the development.

The affordability of each multi-family housing unit will be protected with a fifteen-year (15-year) Land Use Restriction Agreement (LURA) approved by the GLO. Developer, as a condition to use of funds, agrees to comply with certain occupancy, rent, and other restrictions under Title 1 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) and with the CDBG regulations during the term of the LURA. The LURA shall be recorded, at Developer's expense, in the Real Property Records of the Galveston County Clerk's Office.

REHABILITATION

Developer will ensure that all Rehabilitation activities meet all applicable local codes, Rehabilitation standards, and ordinances. Compliance extends to, but is not limited to, zoning ordinances, building codes, local health and safety codes and standards, and Minimum Property Standards (MPS) at project completion.

Developer will ensure that all rehabilitated portions of the units meet all applicable local codes; Rehabilitation standards; ordinances, including zoning ordinances; and building codes. Developer will ensure that the entire rehabilitated project complies with local health and safety codes, standards, Minimum Property Standards (MPS), and Green Building Standards at project completion. Developer must ensure that, for all new housing construction, compliance with ONE of the following Green Standards is met: (i) ENERGY STAR (Certified Homes or Multifamily High-Rise); (ii) Enterprise Green Communities; (iii) LEED (New Construction, Homes, Midrise, Existing Buildings Operations and Maintenance, or Neighborhood Development); or (iv) ICC-700 National Green Building Standard.

NEW CONSTRUCTION OR RECONSTRUCTION

Newly constructed or reconstructed housing units must meet the Model Energy Code; the compliance-monitoring requirements of the Texas Administrative Code, Title 10, Chapter 10, Subchapter (F); Uniform Multifamily Rules; and the accessibility requirements noted in 24 C.F.R. Part 8, which implements Section 504 of the Rehabilitation Act of 1973.

All multi-family dwellings, as defined at 24 C.F.R. § 100.201, and common-use facilities in developments must meet the universal visitability standards at 24 C.F.R. § 100.205, which implement the Fair Housing Act (42 U.S.C. §§ 3601–4619). All reconstructed and newly constructed housing units must comply with the universal visitability standards as established by the Texas Government Code, § 2306.514.

Newly constructed and reconstructed housing units must meet the Model Energy Code (MEC); the compliance-monitoring requirements of the Texas Administrative Code (TAC), Title 10, Chapter 10, Subchapter (F); and the accessibility requirements noted in 24 C.F.R. Part 8, which implements Section 504 of the Rehabilitation Act of 1973. Covered multi-family dwellings, as defined at 24 C.F.R. § 100.201, and common-use facilities in developments must meet the universal visitability standards at 24 C.F.R. § 100.205, which implement the Fair Housing Act (42 U.S.C. §§ 3601–4619), and the ADA 2010 Standards with HUD exceptions. All reconstructed and newly constructed housing units must comply with the Construction Requirements for Single Family Affordable Housing as established by the Texas Government Code, § 2306.514.

B. Budget

The overall Project Budget and individual Budget categories are specified in the Underwriting Report at the end of this Attachment.

PAYMENT BENCHMARKS

All Project activities shall be completed within eighteen (18) months of the effective date of the Contract.

Phase 1 (Up to 35% of the Budget): Phase 1 of the development should be completed within six (6) months following the Contract's effective date. Developer shall satisfactorily (in the GLO's sole determination) complete, at a minimum, the following Tasks:

- a. Acquisition along with closing costs;
- b. Demolition;
- c. Site work;
- d. Soft costs for architecture, engineering, legal, etc.;
- e. Foundations;
- f. Framing; and
- g. Any inspection required during Phase 1.

Phase 2 (Up to 63% of the Budget): Phase 2 of the development should be completed within twelve (12) months following the Contract's effective date. Developer shall satisfactorily (in the GLO's sole determination) complete, at a minimum, all the Tasks in Phase 1 plus the following Tasks:

- a. Interior finish, including interior walls, ceilings, doors, and windows;
- b. Major system rough-in, including all plumbing, electrical, and HVAC systems; and
- c. Any inspection required during Phase 2.

Phase 3 (Up to 80% of the Budget): Phase 3 of the development should be completed within sixteen (16) months following the Contract's effective date. Developer shall satisfactorily (in the GLO's sole determination) complete, at a minimum, all the Tasks in Phases 1 and 2 plus the following Tasks:

- a. Insulation;
- b. Paint;
- c. Drywall;
- d. Interior trim and doors;

- e. Lighting;
- f. Cabinetry;
- g. Appliances and plumbing fixtures;
- h. Filing for and receiving a certificate of occupancy; and
- i. Filing the LURA with the county clerk's office.

Phase 4 (Up to 90% of the Budget): Phase 4 of the development should be completed within eighteen (18) months following the Contract's effective date. Developer shall satisfactorily (in the GLO's sole determination) complete, at a minimum, all the Tasks in Phases 1, 2, and 3 plus the following Tasks:

- a. Landscaping;
- b. Outdoor structures;
- c. Driveways;
- d. General clean-up;
- e. Any inspection required during Phase 4; and
- f. Repair or resolution of any punch-list items.

Phase 5 (100% of the Budget): After receipt of a certificate of occupancy and prior to release of the final 10% of the Project Budget, Developer shall complete, at a minimum, the following Task:

- a. Any and all closeout documents required by the GLO.

For each Phase, Developer may invoice on no more than a monthly basis until the percentage of funds associated with that Phase is fully disbursed. Invoicing for a Phase may be submitted independent of or concurrent with invoicing for other Phases, as necessary. Upon exhaustion of funds related to each Phase, the GLO may conduct a full review to determine the legitimacy of those draws before permitting disbursement of funds related to any other Phase.

The GLO reserves the right to conduct inspections at any time to ensure general compliance with the foregoing Payment Benchmark schedule before issuing the approval of a reimbursement request. The GLO may allow Payment Benchmark extensions for good cause, at the GLO's sole discretion, upon written request from the Developer.

INSPECTIONS

Developer shall be responsible for ensuring all required inspections are conducted and satisfactorily passed. Developer shall maintain physical proof that municipal codes and/or third-party inspections have been passed and accepted by any inspecting authority with jurisdiction over the Project site—which may include local or county governments, the State of Texas, HUD, or the GLO. Developer shall maintain all Project documentation in good order and mark it to record all changes made during performance of the work. Developer shall give the GLO or its representatives and agents access to all Project documentation, regardless of medium or format, at all times and shall submit copies of any Project documentation at the request of the GLO.

BUDGET

HUD Activity Type	Grant Award	Other Funds	Total
Affordable Rental Program	\$2,625,700.00	\$0.00	\$2,625,700.00

Texas General Land Office

Hurricane Harvey

Affordable Rental Housing Program

Development Underwriting Review

for

Mesquite Woods

Prepared:

7/31/2019

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Project Summary

The Mesquite Woods development is a 40 unit development located within Galveston County at 5809 Delany in Hitchcock, TX. The multi-family development will undergo rehabilitation due to damages suffered from Hurricane Harvey in 2017. The proposed development aims to house low-income households earning 80% of Area Median Income (AMI) or below by allocating 40 of the units to serve this population. These units represent 100% of the total number of units within the Mesquite Woods development.

Hitchcock Housing, Ltd. is the project applicant and maintains site control on the property. The housing developer is Megan Advisors, LLC who has extensive experience in constructing and managing multi-family developments.

Proposed Unit Mix

<i>Bed Rooms</i>	<i>Bath Rooms</i>	<i># units</i>	<i>Sq. Ft</i>	<i>Total Sq. Ft.</i>	<i>AMI</i>
1	1	12	688	8,256	<80%
2	1	28	856	23,968	<80%

DEVELOPMENT TEAM	
Applicant:	Hitchcock Housing, Ltd.
Contact:	Gary Maddock
Email:	gary@maddock.biz
Phone:	(913)-685-9000
DUNS:	613751360
General Partner/Managing Member:	Cascade GP Services, LLC
Limited Partner:	Affordable Housing Partnerships #2 & #9
Developer:	Megan Advisors, LLC
General Contractor:	Olympia Construction, Inc.
Management Company:	Megan Property Management, Inc.
Syndicator:	N/A
Architect:	Cameron Alread, Architect Inc.

Related Parties: Hitchcock Housing, Ltd. (Applicant) and Megan Advisors, LLC (Developer) are related parties. This structure may be typical with this size and scale of multi-family housing development. The contractor, Olympia Construction, Inc., is not a related party with respect to the developer or applicant.

Development Summary



Building Configuration: The development consists of five two story apartment structures in Galveston County.

Elevation: An elevation certificate was not provided by the applicant.

General Information:

Size	2 acres
Flood Zone:	Zone B/Zone X Shaded
Zoning:	High Density Residential
Density:	18 units/acre

Scattered Site	No
Within 100yr Floodplain:	No
Re-zoning Required:	No
Utilities on Site:	Yes

Surrounding Uses:

North:	Vacant
South:	Residential
East:	Residential
West:	Residential

Property Condition: The site is zoned “HR” High Density Residential District. Based on the City of Hitchcock’s code of ordinances, the maximum density is 18 units per acre. The applicant will need to confirm with the City that the development is permissible considering they are proposing 20 units per acre. As the development is not classified as new construction, it may be grandfathered under a previous code of ordinances or have received a past variance.

Development Budget and Finance

CohnReznick reviewed available sources and uses, development and construction budgets, regulatory requirements in consideration of the development budget and cost reasonableness of the project.

Sources and Uses

Construction Sources				
Funding Source	Description	Amount	Rate	LTC
Bonneville Multifamily Capital	Rehabilitation	\$3,900,000	5.75%	100%
Equity/DDF	Rehabilitation	\$25,700	0%	100%
Total		\$3,925,700		

Permanent Sources				
Debt Source	Proposed			
	Amount	Rate	Amort	Term
CDBG-DR	\$2,625,700	0%	N/A	15 Yrs.
Bonneville Multifamily Capital	\$1,000,000	5.75%	40 Yrs.	40 Yrs.
Total	\$3,625,700			

Uses	Total	Per Unit
Acquisition	\$759,619	\$18,990.48
Direct Construction Costs	\$1,512,744	\$37,818.60
Site Work	\$215,220	\$5,380.50
Contractor Fee	\$241,913	\$6,047.83
Contingency	\$0.00	\$0.00
Soft Costs	\$306,850	\$7,671.25
Developer Fee	\$307,000	\$7,675.00
Financing Costs	\$282,354	\$7,058.85
Replacement Reserves	\$0.00	\$0.00
Operating Reserves	\$0.00	\$0.00
Total Development Costs	\$3,625,700	\$90,642.50

The reasonable threshold for hard construction costs is a minimum of \$25,000 per unit according to the Affordable Housing Investors Council. The hard cost per unit for the Mesquite Woods development is \$49,246.93 per unit which meets the reasonable minimum requirement to provide adequate rehabilitation.

The total building cost per square foot is \$45.27 compared an estimated \$66.94 per square foot based on information from RSMeans Data for a full rehabilitation of a development of this size and design. Based on information in the Capital Needs Assessment (CNA), prepared by GIBCO Environmental, LLC and dated July 10, 2018, a full rehabilitation is not required and projected costs fall within 13% of the CNA estimate.

Insurance Status: The applicant indicates that no insurance claim was filed on the property. The property was owned by a party other than the applicant during the time of Hurricane Harvey, therefore the applicant, Hitchcock Housing Ltd., does not anticipate insurance proceeds.

Debt & Financing: The application indicates that rehabilitation will be partially funded with financing from Bonneville Multifamily Capital. The anticipated annual debt service will be \$98,450. Based on a pro-forma analysis using this annual payment, the project will generate a debt coverage ratio of 2.48 which is above the standard threshold for this development of 1.15. This indicates that there may be enough cash flow to service additional debt to fund a portion of rehabilitation and reduce the amount of CDBG-DR funds needed.

Projected Construction Cash Needs: Using an 18-month construction completion period, we modeled the development progress and identified an average for the first six months of \$284,230 required monthly to fund the construction in this application. The applicant has incorporated a construction loan for the construction costs incurred prior to CDBG-DR disbursement.

Operating Review

Rent Analysis

Proposed Rents							
Bedroom Size	Number of Units	Set Aside %	High HOME Rent Limit	Base Rent	Utility Allowance	TTP	Annual Gross Potential Rents
1	2	<30%	\$871	\$356	\$65	\$421	\$8,544
1	10	<80%	\$871	\$806	\$65	\$871	\$96,720
2	2	<30%	\$1,066	\$429	\$77	\$506	\$10,296
2	26	<80%	\$1,066	\$989	\$77	\$1,066	\$308,568

It appears that two of the one-bedroom units and two of the two-bedroom units will serve the 30% AMI income level. The applicant has indicated that the rent charged on these units is well below the High HOME rent limit. All other unit rents are in line with the High HOME rent limit.

Development Expense Analysis

Operating Expense	Projected Expense	Proposed % of Operations	2016 Texas Gross Median Operating Expense Distribution	Variance
Administrative	\$ 9,900.00	6.62%	12.4%	5.78%
Management Fee	\$ 34,000.00	22.73%	8.2%	14.53%
Payroll	\$ 48,700.00	32.56%	24.1%	8.46%
Repairs & Maint.	\$ 16,300.00	10.90%	18.9%	8.00%
Utilities	\$ 19,607.00	13.11%	14.7%	1.59%
Property Insurance	\$ 15,560.00	10.40%	7.1%	3.30%
Property Tax	\$ 5,525.00	3.69%	11.3%	7.61%
Average Variance				7.04%

The table above depicts the proportion of operating expense that each category represents as established by the 2016 Texas Gross Median Operating Expense Distribution published by CohnReznick based on an assessment of multifamily affordable housing properties across Texas. The total average operating expense variance of the proposed development from this established standard is approximately seven percent which indicates that the operating expenses are appropriately estimated.

As indicated above the following variances are noted:

1. Management fee is more than 14% higher than the Median Expense Distribution;
2. Payroll is almost 9% higher than the Median Expense Distribution; and
3. Administrative costs, Repairs & Maintenance costs, and Property Taxes are estimated to be lower than the Median Expense Distribution.

Proforma Analysis

<i>Pro-Forma and Projected Debt Service</i>	
NOI	\$243,677.15
Debt Service	\$98,450
Net Cash Flow	\$145,227.15
DSCR	2.48
Expense Ratio	2.42
Vacancy Provision	7.5%

The Mesquite Woods development project as proposed will generate sufficient cash flow to fund operations for the 15-year compliance period.

Income: The maximum rent that may be generated for each of the units will be capped by the HUD fair market rents. This is the maximum amount allowed to be collected on a property from the tenant in combination with a rental subsidy. The CDBG-DR program further restricts the Total Tenant Rent Payment for Low- and Moderate-Income (LMI) residents to the High HOME Rent limits. The income limits and HOME rent restrictions are calculated by HUD and published on an annual basis.

Expense: The operating expenses for this development are \$4,039.80 per unit. According to TDHCA operating expense data, typical expenses for Region 6, which includes Gulf Coast area, for projects 76 units and below are approximately \$4,690 per unit. Expenses for this project are in line with industry averages.

Feasibility and Conclusion: The project forecasts an average expense coverage ratio of 2.42 for the initial five years of operation which is significantly above the industry minimum of 1.10 expense coverage. The application reflects a replacement reserve to be funded annually in the amount of \$300 per unit. No provision for an operating reserve was included in the application. The project as proposed will generate enough cash flow to sustain operations. However, since there is enough cash flow to set up an operating reserve, doing so could ensure proper management of the property to help maintain the long-term viability of the project.

Affirmative Fair Housing

Hitchcock Housing, Ltd. has not provided a Federally approved Affirmative Fair Housing Marketing Plan (AFHMP) for the Mesquite Woods development. Hitchcock Housing, Ltd. has not identified the demographic groups least likely to apply to the Mesquite Woods development. Hitchcock Housing, Ltd. has not identified procedures to target populations least likely to apply through marketing activities.

Demographic Indicators	Value	State Average	Percentile in State	EPA Region Average	Percentile in EPA Region	USA Average	Percentile in USA
Demographic Index	47%	47%	52	44%	57	36%	70
Minority Population	55%	57%	48	51%	56	38%	70
Low Income Population	38%	37%	55	38%	53	34%	62
Linguistically Isolated Population	6%	8%	56	6%	66	4%	74
Population with Less Than High School Education	14%	18%	51	17%	52	13%	64
Population under Age 5	8%	7%	61	7%	64	6%	72
Population over Age 64	15%	11%	74	13%	68	14%	60

Source: US EPA Environmental Justice EJ Screen

Other Federal Matters:

Meets Threshold Criteria:

The applicant proposes to meet the threshold criteria through 1) Extremely Low Income Targeting, 2) Exceeding the LMI Requirement, and 3) Leveraging of Public and Private Financing.

Meets National Objective:

The Mesquite Woods development project as proposed does meet the Low-Moderate Income National Objective.

The Mesquite Woods development project will meet the Low-Moderate Income Housing Activity Criteria as an eligible activity carried out for the purpose of providing or improving permanent residential structures which will be occupied by low and moderate-income households.

The proposed Mesquite Woods development will provide 40 out of 40 total units to households with incomes of 80% of Area Median Income or below. These restricted units represent 100% of the total units within the development.

Meets CDBG-DR Eligible Activity:

The proposed activities meet the eligibility test as follows:

☒ IZI Section 105(a)(1) – Acquisition

☒ IZI Section 105(a)(4) – Clearance, Rehabilitation, Reconstruction, Construction

☐ Section 105(a)(5) – Architectural Barrier Removal

☐ Section 105(a)(11) – Relocation

SAM Eligible:

Hitchcock Housing, Ltd. is not showing registered with the System for Award Management. We cannot confirm at this time that they are not debarred, suspended, or ineligible to participate in the proposed project.

Megan Advisors, LLC is not showing registered with the System for Award Management. We cannot confirm at this time that they are not debarred, suspended, or ineligible to participate in the proposed project.

The contractor, Olympia Construction, Inc., is showing registered with the System for Award Management. The company is not debarred, suspended, or ineligible to participate in the proposed project.

Floodplain Review:

The Mesquite Woods development is not located within the 100-year floodplain or High Hazard Area. The proposed activities will take place in Zone B. The proposed project is not a critical action. This does not immediately trigger the environmental requirement to maintain flood insurance for the CDBG assisted property.

Uniform Relocation Act (URA):

Section 414 of the Stafford Disaster Relief and Emergency Assistance Act ensures no one is denied URA eligibility based upon their ability to meet the occupancy requirements stated by the Act. This has the effect of waiving the ninety-day occupancy requirement that is a standard requirement under normal URA conditions. The Grantee has applied for and was granted a disaster waiver to Section 414 of the Stafford Act. This waiver of Section 414 effectively re-institutes the ninety-day occupancy requirement rule that is standard for URA, for projects that commence more than one year after the disaster, provided the project was not planned, approved, or otherwise underway prior to the disaster.

A General Information Notice should be sent to any active residents as soon as is feasible at the time of submission of the initial application for CDBG funds. Notices of Eligibility/Ineligibility should be sent to all residents at the Initiation of Negotiations. For this project, this would be triggered when the CDBG-DR agreement is signed between the GLO and the Developer.

Accessibility Review:

Hitchcock Housing, Ltd. and Megan Advisors, LLC have not provided plans for review.

Hitchcock Housing, Ltd. and Megan Advisors, LLC have provided ADA/Section 504 Compliance Certifications.

For all new construction or if the proposed alterations consist of 15 or more units and the cost of alterations is 75% or more of the replacement cost of the completed facility the applicant will need to:

- 1) Provide a minimum of five-percent (5%) of the units, or minimum of one, to be accessible;and

- 2) Two-percent (2%) of the units, or a minimum of one, to be accessible for persons with hearing or vision impairments.

Labor Standards Review:

Hitchcock Housing, Ltd., Megan Advisors, LLC, and Contractor have not provided acknowledgement certifications of current Davis Bacon wage rates specific to this project. The Mesquite Woods development project triggers Davis Bacon Requirements. The contractor is required to be compliant with Contract work hours and Safety Standards Act. This requirement should be listed within the construction contract. The contractor is required to be compliant with Section 3 opportunities. Efforts made to solicit Section 3 subcontractors should be documented by the contractor and maintained by the developer and applicant.

Summary

The Mesquite Woods development will provide 40 reconstructed units in a multi-family site in Galveston County of the Gulf Coast area. The intended use of CDBG-DR funds in this application was reviewed and the following observations were made:

1. No insurance claim was filed on the property. The applicant did not provide evidence of SBA loan acceptance or denial. No FEMA public assistance for this property was found within the data available to us.
2. Not all entities within this application who will be receiving CDBG-DR funds are registered within the System for Award Management. All entities receiving CDBG-DR are required to be registered.
3. The annual management fee is considerably higher than industry average.
4. The high debt coverage ratio and significant annual cash flow suggest that additional debt can be supported by the project to limit the amount of CDBG-DR necessary to subsidize rehabilitation.
5. Administrative expenses, repairs and maintenance costs, and property taxes are estimated to be lower than industry average and could be incorrectly inflating net operating income.

The information presented in this review is for the benefit of and to assist the Texas General Land Office in evaluating potential multi-family projects for CDBG-DR funding. The information provided in this report does not constitute a recommendation or assessment of risk by CohnReznick to the Texas General Land Office in connection with funding for the application presented in this review. The review is solely based upon information that was provided in the application by the applicant as provided by the Texas General Land Office.



**AMENDMENT No. 5 TO
GLO CONTRACT No. 19-097-026-B644**

THE GENERAL LAND OFFICE (the “GLO”) and **HITCHCOCK HOUSING, LTD.** (“Developer”), each a “Party” and collectively “the Parties” to GLO Contract No. 19-097-026-B644 (the “Contract”), desire to amend the Contract.

WHEREAS, the Parties have been informed the County Clerk for the county in which the Project is located does not accept digital signatures for filing purposes; and

WHEREAS, the Parties desire to delete and replace the Revised Land Use Restriction Agreement with a physically signed version that has been properly recorded in the real property records of the applicable county; and

WHEREAS, these revisions will result in no additional encumbrance of Contract funds;

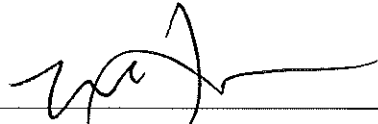
NOW, THEREFORE, the Parties hereby agree as follows:

1. **ATTACHMENT E-1** to the Contract, **Revised Land Use Restriction Agreement**, is deleted in its entirety and replaced with the **Revised Land Use Restriction Agreement**, attached hereto and incorporated herein in its entirety for all purposes as **ATTACHMENT E-2**.
2. This Amendment shall be effective as of May 18, 2021.
3. The terms and conditions of the Contract not amended herein shall remain in force and effect.

SIGNATURE PAGE FOLLOWS

**SIGNATURE PAGE FOR AMENDMENT NO. 5 TO
GLO CONTRACT NO. 19-097-026-B644**

GENERAL LAND OFFICE



Mark A. Havens, Chief Clerk/

Deputy Land Commissioner

Date of execution: 3/8/2022

HITCHCOCK HOUSING, LTD.


Cascade GP Services, LLC - Series
Mesquite - General Partner




Name: Gary L. Maddock


Title: Duly Authorized Representative


Date of execution: 3-11-2022

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ATTACHED TO THIS AMENDMENT:

ATTACHMENT E-2 Revised Land Use Restriction Agreement

**SIGNATURE PAGE FOR AMENDMENT NO. 5 TO
GLO CONTRACT NO. 19-097-026-B644**

GENERAL LAND OFFICE

HITCHCOCK HOUSING, LTD.

Mark A. Havens, Chief Clerk/


Deputy Land Commissioner


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Name: _____


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
Date of execution: _____

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ATTACHED TO THIS AMENDMENT:

ATTACHMENT E-2 Revised Land Use Restriction Agreement

THE TEXAS GENERAL LAND OFFICE

HURRICANE HARVEY AFFORDABLE RENTAL PROGRAM

Hurricane Harvey Funding Under the Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Public Law 115-56) enacted on September 8, 2017.

**LAND USE RESTRICTION AGREEMENT FOR HURRICANE HARVEY 2018 MULTIFAMILY
RENTAL HOUSING PROGRAM**

THE STATE OF TEXAS §

§

COUNTY OF GALVESTON §

THIS LAND USE RESTRICTION AGREEMENT (“Agreement” or LURA”), dated this 11th day of February 2019 (the “Effective Date”) is between Hitchcock Housing, Ltd. (“Developer”) and the Texas General Land Office (“GLO”).

RECITALS

Whereas, Developer is the Owner of certain improvements (“Improvements”) known as the Mesquite Woods Apartments, buying through the Hurricane Harvey Affordable Rental Program situated on real property (“Project”) located in the City of Hitchcock, County of Galveston, State of Texas, more particularly described in **Exhibit A – Legal Description**, attached hereto and incorporated herein by reference. The Land and Improvements are hereinafter collectively referred to as the “Property”; and

Whereas, the Texas General Land Office was designated by Texas Governor Rick Perry, on June 17, 2011, as the state agency responsible for the administration of the Community Development Block Grant – Disaster Recovery Program; and

Whereas, the Owner/Developer entered in GLO Contract No. 19-097-026-B644 (“Subrecipient Grant Agreement”) with the Developer to provide certain funds (“Grant”) to the Developer as made available to the GLO under the Federal Act (hereinafter defined); and

Whereas, GLO and Developer desire to confer rights and benefits upon the GLO as described herein; and

Whereas, in accordance with the Contract executed by and between the GLO and the Owner/Developer, the Grant funds shall be used by the Owner/Developer for the rehabilitation or construction of the Project; and

Whereas, pursuant to the Federal Act, the State Act, and CDBG Regulations, the Owner/Developer, as condition to the use of Funds, must agree to comply with certain occupancy, rent, and other restrictions under the Federal Act, and the CDBG Regulations during the Term (hereinafter defined) and with certain occupancy, rent, and other restrictions described hereunder, and the parties have entered into this Agreement to evidence Owner/Developer’s agreement to comply with such restrictions during the Term,

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

I. DEFINITIONS

2.1 GENERAL

Capitalized terms used in this Agreement shall have, unless the context clearly requires otherwise, the meanings specified in Article I. Certain additional terms may be defined elsewhere in this Agreement.

“Agreement” or “LURA” means this CDBG Land Use Restriction Agreement for the Mesquite Woods, a 40-unit multifamily rental housing development, executed by and between the Texas General Land Office and Developer, and setting forth certain occupancy and rental restrictions for the Project, as contained herein, as it may from time to time be amended.

“Action Plan” means any State of Texas action plans, partial, final, or otherwise, for disaster recovery to use CDBG funding to assist with the recovery of distressed areas pursuant to the CDBG Disaster Recovery Program.

“Annual Income” means ‘annual income’ as defined in 24 C.F.R. §92.203.

“Area Median Income” means the median income, adjusted for family size, for the area where the Property is located, as such median income is established by HUD at least annually in accordance with the Federal Act, or as otherwise established by the General Land Office.

“CDBG Disaster Recovery Program” means the federal disaster relief emergency funding housing program funded by CDBG as authorized and established under The Supplemental Appropriations for Disaster Relief Requirements, 2017 (Public Law 115-56), enacted on September 8, 2017 for the purpose of assisting recovery activities related to disaster relief, long-term recovery, and restoration of infrastructure, housing, and economic revitalization in areas affected by Hurricane Harvey and outlined in the *State of Texas Plan for Disaster Recovery: Hurricane Harvey* dated January 18, 2018 and approved by HUD on May 1, 2018.

“CDBG Multifamily Rental Housing Guidelines” means the State of Texas CDBG implementation manual and guidelines, as amended or superseded from time to time, which serves as a comprehensive guidebook to those entities that have been provided funds through the GLO pursuant to the CDBG Disaster Recovery Program, together with any and all other manuals and guidelines developed by the GLO in connection with implementation and operation of the CDBG Disaster Recovery Program.

“CDBG Regulations” means the regulations promulgated pursuant to Federal Act by HUD or any respective successor, as finalized and amended from time to time, which regulations govern the CDBG Disaster Recovery Program. The CDBG Regulations are set forth in in Title 24, Part 570 of the Code of Federal Regulations.

“Compliance Monitoring Procedures” means procedures and requirements adopted or imposed by the GLO or HUD for the purpose of monitoring and auditing the Property and the books and records of the Developer for compliance with this Agreement, the Federal Act, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-1) and its implementing regulations (24 C.F.R. Part 1), the Age Discrimination Act of 1975 (42 U.S.C. 6101), The Fair Housing Act (42 U.S.C. 3601), 24 C.F.R. Part 5 subpart A, Equal Employment Opportunity, Executive Order 11246 and its implementing regulations (41 C.F.R. Part 60), Equal Opportunity in Housing, Executive Order 11246 and its implementing regulations (41 C.F.R. Part 107), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and its implementing regulations (24 C.F.R. Part 8), Architectural Barriers Act (42 U.S.C. 4151-4157. 10 TAC Chapter 60, the CDBG Regulations (24 C.F.R. 570), the CDBG Single Family Rental Housing Guidelines, those inspections and examinations allowed pursuant to Section 2306.231 of the State Act and any and all other Governmental Requirements (as defined below), as may be amended from time to time.

“Displaced Persons” means families, individuals, businesses, nonprofit organizations, and farms that move from the Project or that move property from the Project, permanently, as a direct result of acquisition,

reconstruction, rehabilitation, or demolition of the Project or as otherwise provided in Sections 570.488 and 570.606 of the CDBG Regulations, except as waived by HUD.

“Extremely Low-Income Families” means families and individuals whose Annual Incomes do not exceed thirty percent (30%) of the Area Median Income in which the Property is located.

“Federal Act” means Title 1 of the Housing and Community Development Act of 1974 as set forth in Public Law 93-383, 42 U.S.C. §5301, *et seq.*, or any corresponding provision or provisions of succeeding law as it or they may be amended from time to time.

“Government Authority” means the United States of America, the State of Texas, the County of Galveston, Texas, and the City of Hitchcock, Texas, and any political subdivision of any of the foregoing, and any other political subdivision, agency, or instrumentality exercising jurisdiction over Owner or the Property.

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

“Hazardous Substance” or “Hazardous Material” means any substance defined as a hazardous substance, hazardous material, hazardous waste, toxic substance or toxic waste in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. 9601, *et seq.*; The Hazardous Materials Transportation Act, as amended, 39 U.S.C. 1801, *et seq.*; the Resource Conservation and Recovery Act, as amended 42 U.S.C. 6901, *et seq.*; or any similar applicable federal, state, or local law; or in any regulation adopted or publication promulgated pursuant to said law, either existing or promulgated from time to time.

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

“Low-Moderate-Income Households” means families and individuals whose annual incomes do not exceed eighty percent (80%) of the median family income, or such other income limits as determined by HUD. This definition includes Very Low, Low, and Moderate-income households.

“Project” means the 40-unit multifamily rental housing project to be located at 5809 Delany, Hitchcock, TX 77563 more particularly described in **Attachment A**, including Owner's activities concerning the acquisition, ownership, rehabilitation, reconstruction and operation of the Property.

“Project Documents” means all tenants lists, applications, (whether accepted or rejected), leases, lease addenda, tenant and owner certifications, advertising records, waiting lists, rental calculations and rent records, utility allowance documentation, income examinations and re-examinations relating to the Project and other documents otherwise required under the law or by the GLO.

“Term” means the fifteen (15) year period, commencing on the date of substantial construction completion on rehabilitated or reconstructed multi-family rental projects with eight (8) or more units, for which 51% of the total units in each property are to be used for affordable rental housing for low- and moderate-income persons or households earning 80% or less of the Area Median Family Income.

“Unit” means a residential accommodation constituting a part of the Property and containing separate and complete living facilities.

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

Contextual Note: Unless the context clearly indicates otherwise, where appropriate the singular shall include the plural and the masculine shall include the feminine or neuter and vice versa, to the extent necessary to give the terms defined in this Article I and/or terms otherwise used in this Agreement their proper meanings.

II. RESTRICTIVE COVENANT - USE AND OCCUPANCY OF PROPERTY

3.1 USE OF PROPERTY

During the Term, Developer will maintain the Property as affordable rental housing and will rent or hold available for rental each Unit on a continuous basis in order to meet the occupancy requirements of this Agreement.

3.2 COMMON AREAS

During the Term, Developer agrees that all common areas, if any, including, without limitation, any laundry or community facilities on the Property shall be for the exclusive use of the tenants and their guests and shall not be available for general public use.

3.3 OCCUPANCY REQUIREMENTS

(a) Long Term Occupancy Requirements

Notwithstanding anything herein to the contrary, at the time of occupancy of the Property or the time funds are invested pursuant to CDBG Program in connection with the Property, whichever is later, Developer must make, at a minimum, 51% of the total number of units must be used for affordable rental housing for low- and moderate-income persons or households earning 80% or less of the Area Median Family Income.

(b) Accessibility

At least two (2) Units or five percent (5%) of all Units, whichever is greater, shall be designed to be made accessible for an individual with disabilities with mobility impairments in accordance with the requirements under Section 504 of the Rehabilitation Act of 1973 , and at least one (1) Unit(s) or two percent (2%) of all Units, whichever is greater, shall be designed and built to be accessible for persons with hearing or vision impairments in accordance with the accessibility requirements under Section 504 of the Rehabilitation Act of 1973.

(c) New Construction of Single Family Units

If the Project includes the new construction of single family units (1 to 3 units per building) the Developer shall construct every unit to meet or exceed the accessibility requirements of Section 2306.514 of the Texas Government Code, as amended from time to time.

3.4 NEEDS ASSESSMENT

The determination of whether the Annual Income of a family or individual occupying or seeking to occupy a Qualifying Unit complies with the requirements for Extremely Low Income Households or Low-Moderate-Income Households shall be made by the applicable Housing Authority in the program area prior to admission of such family or individual to occupancy of a Qualifying Unit (or to designation of a Unit occupied by such family or individual as a Qualifying Unit).

III. RESTRICTIVE COVENANT – RENT

4.1 RENT LIMITATIONS

The maximum monthly rent (which includes the tenant paid portion of the rent, the Utility Allowance, and rental assistance payment) charged by Owner for the twenty- eight (28) Qualifying Units, specified in Sections 2.3(a)(2), occupied by Low-Moderate-Income Households, other than Extremely Low-Income Households, must be set at levels that are affordable to Low-Moderate-Income Households and shall not exceed the higher of (i) High Home Investment Partnership (“HOME”) Rents as defined under Title 24, Section 92.252 of the Code of Federal Regulations as may be amended or modified from time to time and determined by the GLO and published on an annual basis with adjustment for family size; or (ii) exception rents allowed by HUD on project-based Section 8 properties pursuant to Title 24, Section 252(b)(2) of the Code of Federal Regulations as may be amended or modified from time to time.

4.2 GROSS RENT PROVISIONS

The maximum monthly rent (which includes the tenant paid portion of the rent, the Utility Allowance, and rental assistance payment) charged by Owner for four (4) Qualifying Units occupied by Extremely Low Income Households must be set at levels that are affordable to Low-Moderate-Income Households and shall not exceed the thirty percent (30%) maximum rent limits determined by HUD and published on an annual basis with adjustment for family size.

IV. ADMINISTRATION

5.1 CERTIFICATION BY DEVELOPER

During the Term, Developer shall, at least annually, or as GLO may otherwise approve, submit to GLO in a form prescribed by GLO, a certificate of continuing compliance with all occupancy standards, terms, and provisions of this Agreement. The certification will also include statistical data relating to special needs individuals’ race, ethnicity, income, fair housing opportunities, and other information requested by GLO or the GLO. This certification shall also include statistical data relating to special needs individuals’ race, ethnicity, income, and fair housing opportunities and other information requested, including reports required by 10 TAC Chapter 60.

5.2 MAINTENANCE OF DOCUMENTS

All Project documents and any other report of records which Developer is required to prepare and/or provide to GLO pursuant to this Agreement and Regulations must be retained for the periods set out in the CDBG Regulations, or if no specific period is set out, for three (3) years after the end of the Term, or as otherwise specified by law or required by the GLO. All project documents shall at all times be kept separate and identifiable from any other business of Developer which is unrelated to the Property, and shall be maintained in compliance with the CDBG Regulations and any other requirements of the State of Texas, in a reasonable condition for proper audit and subject to examination and photocopying during business hours by representatives of the GLO, HUD, or the United States Comptroller General.

Developer agrees and acknowledges that any and all Project Documents are confidential in nature. Developer agrees not to disclose the Project Documents or any of the terms, provisions, or conditions thereof, or any information that is deemed confidential under federal law or state law related to tenants’ or applicants’ income, social security number, employment status, disability, or other related matters to any party outside of Owner’s organization, except as otherwise expressly required in this Agreement or by the CDBG Regulations or CDBG Single Family Rental Housing Guidelines, or to auditors as required by third party financing, or to a professional management agent for the Project. Developer further agrees that, within

its organization, the Project Documents and their confidential information will be disclosed and exhibited only to those persons within Developer's organization whose position and responsibilities make such disclosure necessary.

5.3 COMPLIANCE REVIEW

During the Term, Developer agrees to permit the GLO, HUD, and/or a designated representative of the GLO or HUD, to access the Property for the purpose of performing Compliance Monitoring Procedures. The GLO or HUD will periodically monitor and audit Developer's compliance with the requirements of this Agreement, the CDBG Regulations, the CDBG Single Family Rental Housing Guidelines, and any and all other Governmental Requirements, in accordance with GLO Compliance Monitoring Procedures during the term. In conducting its Compliance Review, the GLO and HUD will rely primarily on information obtained from Developer's records and reports, findings from on-site monitoring, and audit reports. The GLO and HUD may also consider other relevant information gained from other sources, including litigation and citizen complaints.

5.4 HAZARDOUS MATERIALS: INDEMNIFICATION

a. Developer agrees to the following:

- (i) Developer shall not receive, store, dispose, or release any Hazardous Materials on or to the Property or transport any Hazardous Materials to or from the Property or permit the existence of any Hazardous Materials contamination;
- (ii) Developer shall give written notice to GLO immediately upon Developer's acquiring knowledge of the presence of any Hazardous Material on the Property or the transport of any Hazardous Materials to or from the Property or of the existence of any Hazardous Materials contamination, with full description thereof;
- (iii) Developer will, promptly, at Developer's sole cost and expense, comply with any Governmental Requirements regarding the removal, treatment, or disposal of such Hazardous Materials or Hazardous Materials contamination and provide GLO with satisfactory evidence of such compliance;
- (iv) Developer shall provide GLO, within thirty (30) days of demand by the GLO, financial assurance evidencing to GLO that the necessary funds are available to pay for the cost of removing, treating, and disposing of such Hazardous Materials or Hazardous Materials contamination and discharging any assessments which may be established on the Property as a result thereof; and
- (v) Developer shall insure that all leases, licenses, and agreements of any kind now or hereafter executed which permit any party to occupy, possess, or use in any way the Property or any part thereof, whether written or oral, include an express prohibition on the disposal or discharge of any Hazardous Materials at or affecting the Property, and a provision that failure to comply with such prohibition shall expressly constitute a default under any such agreement.
- (vi) Developer shall not cause or suffer any liens to be recorded against the Property as a consequence of, or in any way related to, the presence, remediation, or disposal of Hazardous Materials in or about the Property, including any so-called state, federal, or local "Superfund" lien relating to such matters.

b. DEVELOPER SHALL, AT ALL TIMES, RETAIN ANY AND ALL LIABILITIES ARISING FROM THE PRESENCE, HANDLING, TREATMENT, STORAGE, TRANSPORTATION, REMOVAL, OR DISPOSAL OF HAZARDOUS MATERIALS ON THE PROPERTY. REGARDLESS OF WHETHER ANY EVENT OF DEFAULT SHALL HAVE OCCURRED AND BE CONTINUING OR ANY REMEDIES IN RESPECT OF THE PROPERTY ARE

EXERCISED BY GLO, DEVELOPER SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS GLO AND THE GLO, ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST AND ALL LIABILITIES, SUITS, ACTIONS, CLAIMS, DEMANDS, PENALTIES, DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, CONSEQUENTIAL DAMAGES, INTEREST, PENALTIES, FINES AND MONETARY SANCTIONS) LOSSES, COSTS, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEY'S FEES AND COSTS) WHICH MAY NOW OR IN THE FUTURE (WHETHER BEFORE OR AFTER THE CULMINATION OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT) BE INCURRED OR SUFFERED BY GLO OR THE GLO BY REASON OF, RESULTING FROM, IN CONNECTION WITH, OR ARISING IN ANY MANNER WHATSOEVER OUT OF THE BREACH OF ANY WARRANTY OR COVENANT OR THE INACCURACY OF ANY REPRESENTATION OF DEVELOPER CONTAINED OR REFERRED TO IN THIS SECTION OR WHICH MAY BE ASSERTED AS A DIRECT OR INDIRECT RESULT OF THE PRESENCE ON OR UNDER, OR ESCAPE, SEEPAGE, LEAKAGE, SPILLAGE, DISCHARGE, EMISSION OR RELEASE FROM THE PROPERTY OF ANY HAZARDOUS MATERIALS OR ANY HAZARDOUS MATERIALS CONTAMINATION OR ARISE OUT OF OR RESULT FROM THE ENVIRONMENTAL CONDITION OF THE PROPERTY OR THE APPLICABILITY OF ANY GOVERNMENTAL REQUIREMENTS RELATING TO HAZARDOUS MATERIALS REGARDLESS OF WHETHER OR NOT CAUSED BY OR WITHIN THE CONTROL OF DEVELOPER, GLO, OR THE GLO.

SUCH LIABILITIES SHALL INCLUDE, WITHOUT LIMITATION: (1) INJURY OR DEATH TO ANY PERSON; (2) DAMAGE TO OR LOSS OF THE USE OF ANY PROPERTY; (3) THE COST OF ANY DEMOLITION AND REBUILDING OF ANY IMPROVEMENTS NOW OR HEREAFTER SITUATED ON THE PROPERTY OR ELSEWHERE, AND THE COST OF REPAIR OR REMEDIATION OF ANY SUCH IMPROVEMENTS; (4) THE COST OF ANY ACTIVITY REQUIRED BY ANY GOVERNMENTAL AUTHORITY; (5) ANY LAWSUIT BROUGHT OR THREATENED, GOOD FAITH SETTLEMENT REACHED, OR GOVERNMENTAL ORDER RELATING TO THE PRESENCE, DISPOSAL, RELEASE OR THREATENED RELEASE OF ANY HAZARDOUS MATERIAL, ON, FROM, OR UNDER THE PROPERTY; (6) THE IMPOSITION OF ANY LIENS ON THE PROPERTY ARISING FROM THE ACTIVITY OF THE DEVELOPER OR DEVELOPER'S PREDECESSORS IN INTEREST ON THE PROPERTY OR FROM THE EXISTENCE OF HAZARDOUS MATERIALS UPON THE PROPERTY OR HAZARDOUS MATERIAL CONTAMINATION.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THE FOREGOING INDEMNITY SHALL NOT APPLY TO MATTERS RESULTING FROM GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE DEVELOPER, OR ANY EMPLOYEE, AGENT, OR INVITEE OF GLO TAKEN AFTER GLO OR ANY THIRD PARTY HAS TAKEN TITLE TO, OR EXCLUSIVE POSSESSION OF, THE MORTGAGED PROPERTY.

The covenants and agreements contained in this section shall survive the consummation of the transactions contemplated by this Agreement.

5.5 AFFIRMATIVE MARKETING

Developer shall maintain and abide by an affirmative marketing plan which shall be designed to attract tenants from all racial, ethnic/national origin, sex, religion, familial status, and special needs groups and shall require all press releases and written materials, advertising or promoting of the Project to, when feasible, include the equal housing opportunity logo or slogan. Developer further agrees to maintain

documents and records evidencing its compliance with said plan and the affirmative marketing requirements imposed by Title 24, Section 570.487(b) of the CDBG Regulations.

5.6 FEDERAL AND STATE REQUIREMENTS

Developer shall comply with Subpart I of the CDBG Regulations excepting requirements waived by HUD and CDBG Single Family Rental Housing Guidelines and each and every Governmental Requirement as the same may be amended.

5.7 ACCESS AND INSPECTION

Developer will permit GLO, its agents, employees, and representatives, the GLO, its agents, employees, and representatives, HUD, the Inspector General, the General Accounting Office, the Department, the State Auditor's Office, and any other interested Governmental Authority at any and all reasonable times during business hours, to enter upon and inspect the Project and all materials to be used in the rehabilitation thereof. Developer will allow the examination and copying of all of Developer's books, records, contracts, and bills pertaining to the Project. Developer will also cooperate and cause all Contractors to cooperate with GLO, its agents, employees, and representatives during such inspections; provided, however, nothing herein shall be deemed to impose upon GLO or the GLO any duty or obligation to undertake such inspections or any liability for the failure to detect or failure to act with respect to any defect which was or might have been disclosed by such inspections.

5.8 PROPERTY STANDARDS

Developer agrees that each Unit shall be rehabilitated or constructed, as applicable, and maintained in accordance with the requirements set forth in the CDBG Regulations, Texas Minimum Construction Standards, Uniform Physical Condition Standards, and the Multifamily Housing Guidelines.

5.9 REPORTS

Developer shall deliver to GLO:

- a. Within fifteen (15) days after the last day of each quarter in each fiscal year of the Developer, or as requested by GLO, a Unit Status Report. GLO may require electronic submission of the Unit Status Report.
- b. From time to time and promptly upon request, such data, certificates, reports, statements, documents, or further information regarding the assets or the business, liabilities, financial position, projections, results of operations, or business prospects of Developer or such other matters concerning Developer's compliance with the CDBG Regulations and the terms of this document Multifamily Housing Guidelines as the GLO may reasonably request during the Term or as necessary to assist the GLO in meeting its recordkeeping and reporting requirements under the CDBG Regulations during the Term, including, without limitation, the following:
 - i. Records that demonstrate that the Project meets the Property Standards set out herein;
 - ii. Records required under Title 24 §570.490 of the Code of Federal Regulations for the Term;
 - iii. Other federal requirements records including, without limitation, the following:
 1. Equal opportunity and fair housing records containing:
 - a. Data on racial, ethnic, and gender characteristics of persons who have applied for, participated in, or benefited from, any program or activity funded in whole or in part with CDBG funds.

- b. Documentation of actions undertaken to meet the requirements of Title 24 §92.350 of the Code of Federal Regulations, which implements Section 3 of the Housing Development Act of 1968, as amended (12 U.S.C. 1701u).
 - c. Documentation and data on the steps taken to continuously market to Homeless persons who have previously been homeless or are at risk of being homeless.
 - d. Documentation of the actions the Developer has taken to affirmatively further fair housing as required under 24 C.F.R. Part 570.
2. Records indicating the affirmative marketing procedures and requirements under Title 24 § 570.487(b) of the Code of Federal Regulations.
3. Records that demonstrate compliance with environmental review requirements in Title 24 § 570.604 of the Code of Federal Regulations (and part 58 of this title) in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*)
4. Records which demonstrate compliance with the requirements in Title 24 §570.606 and Title 24 part 42 of the Code of Federal Regulations regarding displacement, relocation, and real property acquisition as applicable.
5. Records demonstrating compliance with labor requirements in Title 24 § 570.487 of the Code of Federal Regulations, including contract provisions and payroll records as applicable.
6. Records concerning lead-based paint under Title 24 § 570.608 of the Code of Federal Regulations in accordance with the Lead Based Paint Poisoning Prevention Act (42 U.S.C. 4821, *et seq.*), Residential Lead Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856) and implementing regulations (24 CFR part 58).
7. Records of Certifications concerning debarment and suspension required by Title 24 § 570.609 and Title 24 Part 5 of the Code of Federal Regulations.
8. Records demonstrating compliance with flood insurance requirements under Title 24 §570.605 of the Code of Federal Regulations.
9. Records demonstrating intergovernmental review, as required by Title 24 §570.493 of the Code of Federal Regulations.

5.10 INFORMATION AND REPORTS REGARDING THE PROJECT

Owner shall deliver to GLO, at any time within thirty (30) days after notice and demand by GLO, but not more frequently than once per quarter, (a) a statement in such reasonable detail as GLO may request, certified by the Developer, of the leases relating to the project, and (b) a statement in such reasonable detail as GLO may request, certified by a certified public accountant or, at the option of GLO, by the Developer, of the income from and expenses of any one or more of the following: (i) the conduct of any business on the Project, (ii) the operation of the project, or (iii) the leasing of the project, or any part thereof, for the last twelve (12) month calendar period prior to the giving of such notice, and, on demand, Developer shall furnish to GLO the executed counterparts of any such tenant leases and any other contracts and agreements pertaining to facilities located on the Property or which otherwise generate ancillary income for the Project, for the audit and verification of any such statement.

5.11 OTHER INFORMATION

Owner shall deliver to GLO, at any time within thirty (30) days after notice and demand by GLO, any information or reports required by the laws of the State of Texas or as otherwise reasonably required by GLO, the GLO, or HUD.

5.12 DISPLACED PERSONS

In the event there are any Displaced Persons as a result of any of the Units being acquired, rehabilitated, or reconstructed with CDBG funds, Owner/Developer shall comply with the requirements and provisions of a valid Relocation Plan under the law.

V. REPRESENTATIONS AND WARRANTIES OF DEVELOPER

6.1 REPRESENTATIONS AND WARRANTIES

Developer represents and warrants to GLO that:

- a. Valid Execution. Developer has validly executed this Agreement and the same constitutes the binding obligation of Developer. Developer has full power, authority, and capacity to (i) enter into this Agreement, (ii) to carry out Developer's obligations as described in this Agreement, and (iii) to assume responsibility for compliance with all applicable Governmental Regulations, including, without limitation, those in the CDBG Regulations and the Multifamily Rental Housing Guidelines.
- b. No Conflict or Contractual Violation. To the best of Developer's knowledge, the making of this Agreement and Developers obligations hereunder:
 - (i) Will not violate any contractual covenants or restrictions (a) between Developer or any third party or (b) affecting the Property; and
 - (ii) If Developer is other than an individual, this agreement will not conflict with any of the instruments that create or establish Developer's authority; and
 - (iii) Will not conflict with any applicable public or private restrictions; and
 - (iv) Do not require any consent or approval of any public or private authority which has not already been obtained; and
 - (v) Are not threatened with invalidity or unenforceability by any action, proceeding or investigation pending or threatened, by or against (a) Developer, without regard to capacity, (b) any person with whom Developer may be jointly or severally liable, or (c) the Property or any part thereof.
- c. No Litigation. No action, litigation, investigation, or proceeding is now pending or, to the best of the Developer's knowledge, threatened against Developer which, if adversely determined, could individually or in the aggregate have an adverse effect on title to or the use and enjoyment or value of the Property, or any portion thereof, or which could in any way interfere with the consummation or enforceability of this Agreement.
- d. No Bankruptcy. There is not pending or, to the Developer's best knowledge, threatened against Developer any case or proceeding or other action in bankruptcy, whether voluntary or otherwise, any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief for Developer under any federal, state, or other stature, law, regulation relating to bankruptcy, insolvency, or relief for debtors.
- e. Prior Warranties, Representations, and Certifications. All warranties, representations, and certifications made, and all information and materials submitted or caused to be submitted to GLO or the GLO in connection with the Project are true and correct, and there have been no material changes in or conditions affecting any of such warranties, representations, certifications, materials, or other information prior to the effective date thereof.
- f. Conflicting Agreements. Developer has not and will not execute any other agreement with provisions contradictory to, or in opposition to, the provisions thereof, and that in any event, the requirements of

this Agreement are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith.

- g. Consideration. Developer has freely and without reservation placed itself under the obligations of this Agreement and that the receipt of funding from GLO, in the form of Community Development Block Grant funds for Disaster Recovery is an essential part of the consideration for this Agreement.
- h. Conflicts of Interest. No member, employee, officer, agent, consultant, or official of the Developer, nor any member of their immediate family, during their tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in this Agreement or any proceeds or benefits arising therefrom, except as allowed by Title 25 §570.611 of the Code of Federal Regulations, as amended from time to time.
- i. Debarment and Suspension. Neither Developer nor any of its principals are presently debarred, suspended, proposed for debarment, suspension, declared ineligible, or voluntarily excluded from participation in this transaction of the CDBG Disaster Recovery Program by any federal department or agency.
- j. Flood Insurance. In the event that any of the Property is located in an area identified by the Federal Emergency Management Agency ("FEMA") as having special flood hazards Developer warrants and represents to GLO and the GLO that:
 - (i) Such area is participating in the National Flood Insurance Program or less than one (1) year has passed since FEMA notification regarding such hazards; and
 - (ii) Developer will obtain flood insurance, in an amount and form satisfactory to GLO, in accordance with GLO or HUD guidelines, for the Property that is located in the special flood hazard area and those areas must have all finished ground floor elevations at least one foot above the flood plain and parking and drive areas not be any lower than six inches below the floodplain. Developer warrants that it will maintain the flood insurance for the term of the Grant.

6.2 MISREPRESENTATION AND OMISSION

Acts constituting fraud, false filings, misrepresentation, or omission may subject the alleged offender to criminal prosecution and may also result in the alleged offender being barred from further participation in the GLO's programs.

6.3 INDEMNIFICATION

EXCEPT FOR DAMAGES DIRECTLY OR PROXIMATELY CAUSED BY THE GROSS NEGLIGENCE GLO OR THE GLO, DEVELOPER SHALL INDEMNIFY AND HOLD HARMLESS GLO, GLO'S OFFICERS, REPRESENTATIVES, AGENTS, AND EMPLOYEES, THE GLO, AND THE GLO'S OFFICERS, REPRESENTATIVES, AGENTS, AND EMPLOYEES TO THE FULL EXTENT PERMITTED UNDER THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, FROM ANY LOSSES, CLAIMS, SUITS, ACTIONS, DAMAGES, OR LIABILITY (INCLUDING ALL COSTS AND EXPENSES OF DEFENDING AGAINST ALL OF THE AFOREMENTIONED) ARISING IN CONNECTION WITH:

- (i) **THE CONTRACT;**
- (ii) **ANY NEGLIGENCE, ACT, OMISSION, OR MISCONDUCT IN THE PERFORMANCE OF THE SERVICES REFERENCED HEREIN;**
- (iii) **ANY CLAIMS OR AMOUNTS ARISING FROM DAMAGE TO ADJACENT PROPERTY, INCLUDING, BUT NOT LIMITED TO, CLAIMS BASED ON THE SUBMERSION OF DRY LAND DUE TO INCREASED EROSION; AND**
- (iv) **ANY CLAIMS OR AMOUNTS ARISING OR RECOVERABLE UNDER FEDERAL OR STATE WORKERS' COMPENSATION LAWS, THE TEXAS TORT CLAIMS ACT, OR ANY OTHER SUCH LAWS.**

THE DEVELOPER SHALL BE RESPONSIBLE FOR THE SAFETY AND WELL BEING OF ITS EMPLOYEES, CUSTOMERS, AND INVITEES. THESE REQUIREMENTS SHALL SURVIVE THE TERM OF THIS AGREEMENT UNTIL ALL CLAIMS HAVE BEEN SETTLED OR RESOLVED AND SUITABLE EVIDENCE TO THAT EFFECT HAS BEEN FURNISHED TO THE GLO.

VI. DEFAULT, ENFORCEMENT, AND REMEDIES

7.1 DETERMINATION OF DEVELOPER DEFAULT

Occurrence of one or more of the following events will, at the discretion of GLO, constitute an event of default ("Event of Default") under this Agreement:

- a. Developer shall default in the performance of any of its obligations under this Agreement or breaches any covenant, agreement, restriction, representation, or warranty set forth herein, and such default or breach remains uncured for a period of thirty (30) days after notice thereof shall have been given by GLO (or for an extended period approved by the GLO if the default or breach stated in such notice can be corrected, but not within such 30-day period, unless Developer does not commence such correction or commences such correction within such 30-day period but thereafter does not diligently pursue the same to completion within such extended period);
- b. Developer shall be adjudged bankrupt or insolvent, or a petition or proceeding for bankruptcy or for reorganization shall be filed against it and it shall admit the material allegations thereof, or an order, judgement, or decree shall be entered approving such petition and such order, judgement or decree shall not be vacated or stayed within sixty (60) days of its entry or a receiver or trustee shall be appointed for the Developer or the Property, Land, or any part thereof and remain in possession thereof for thirty (30) days;
- c. Developer shall sell or otherwise transfer the Property, in whole or in part (except leases to low- and moderate-income tenants), without the prior written consent of and notification to GLO.

7.2 ENFORCEMENT OF REMEDIES BY GLO

Upon an occurrence of an Event of Default, the GLO or HUD may, (i) apply to any court having jurisdiction of the subject matter for specific performance of this Agreement, and/or for an injunction against any violation of this Agreement, for the appointment of a receiver to take over and operate the Property in accordance with the terms of this Agreement, or (ii) take any and all action at law, in equity, or otherwise for such relief as may be appropriate, including recapturing federal funds expended for the Project provided, however, that the amount to be recaptured shall be decreased by one-fifteenth (1/15) of the total amount expended for the Project, under the Developer Contract, for each year that Developer complies with this Agreement. It is acknowledged that the beneficiaries of Developer's obligations cannot be adequately compensated by monetary damages in the event of Developer default. The GLO shall be entitled to its reasonable attorney's fees in any such judicial action in which the GLO shall prevail. The GLO or HUD shall also be compensated for fees associated with additional compliance monitoring during corrective periods of non-compliance upon a default by Owner/Developer hereunder.

7.3 CUMULATIVE AND CONCURRENT REMEDIES

Each right, power, and remedy of GLO or the GLO provided for in this Agreement now and hereafter existing law or in equity or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power, or remedy, provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise of beginning of the exercise by the GLO of any one or more of the rights, powers, or remedies, provided for in this Agreement or now or hereafter

existing at law or in equity or by statute or otherwise shall not preclude the simultaneous of later exercise by the GLO of any or all of such other rights, powers, or remedies as permitted by law.

7.4 ENFORCEMENT AND REMEDIES OF PARTIES OTHER THAN THE GLO

The occupancy and maximum rent requirements set forth in Articles II and III hereof, respectively, also shall inure to the benefit of, and may be judicially enforced against Developer by, affecting Low-Moderate Income Households or Extremely Low-Income Households. Any of the persons or entities described above shall be entitled to judicially enforce this Agreement in the same manner in which the GLO may seek judicial enforcement and shall be entitled to reasonable attorney's fees. Further, any deed, lease, conveyance, or contract made in violation of this Agreement shall be void and may be set aside on petition of one or more of the parties to the Agreement, and all successors in interest, heirs, executors, administrators, or assigns shall be deemed parties to this Agreement to the same effect as the original signer; and when any such conveyance or other instrument is set aside by decree of a court of competent jurisdiction, all costs and all expenses of such proceedings shall be taxed against the offending party or parties, and shall be declared by the court to constitute a lien against the real estate so wrongfully deeded, sold, leased, or conveyed, until paid, and such lien may be enforced in such a manner as the court may order.

7.5 SOVEREIGN IMMUNITY

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

VII. COVENANTS

8.1 COVENANTS RUNNING WITH THE LAND

During the Term, this Agreement and the covenants, reservations, and restrictions contained herein shall be deemed covenants running with the land for the benefit of the Developer and its successors and for the benefit of the GLO and/or HUD, and its successors, and shall pass to and be binding on Developer's heirs, assigns, and successors in title to the Property, or if the Property shall not include title to land, but shall include a leasehold interest in the land, this Agreement and the covenants, reservations, and restrictions shall bind the leasehold interest as well as the Property and shall pass to and be binding upon all heirs, assigns, and successors to such interests; provided, however, that upon expiration of the Term in accordance with the terms hereof said covenants, reservations, and restrictions shall expire. During the Term, each and every contract, deed, or other instrument hereafter executed covering of conveying the Property or any portion thereof shall conclusively be held to be executed, delivered, and accepted subject to such covenants, reservations, and restrictions, regardless of whether such covenants, reservations, and restrictions are set forth in such contract, deed, or other instrument. If a portion of the Property is conveyed during the Term, all of such covenants, reservations, or restrictions shall run to each portion of the Property. Developer, at its own cost and expense, shall cause this Agreement to be duly recorded or filed and re-recorded or re-filed in the Real Property Records of the county in which the Property is located, and shall pay or cause to be paid all recording, filing, or other taxes, fees and charges, and shall comply with all such statutes and regulations as may be required by law in order to establish, preserve, and protect the ability of GLO or HUD to enforce this Agreement.

VIII. MISCELLANEOUS

9.1 AMENDMENTS

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

9.2 NOTICES

All notices required or permitted to be given under this Agreement must be in writing. Notice will be deemed effective upon deposit in the United States mail, postage prepaid, by certified mail, return receipt requested, and properly addressed to the party to be notified. Notice given in any other manner shall be deemed effective only if and when received by the party to be notified. For the purposes of this notice, the address of the parties shall, until changed as hereinafter provided, be as follows:

If to the Owner/Developer:

Hitchcock Housing, Ltd
2900 N Government Way, #88,
Coeur d'Alene, ID 83815

GLO:

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

With a Copy to the GLO:

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

Notice given in any other manner shall be deemed in effective. Any party may change its address for notice purposes by giving notice to the other parties in the accordance with this Section 9.2.

9.3 ENTIRE AGREEMENT

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

9.4 COOPERATION

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

9.5 CHOICE OF LAW

In the event the enforceability or validity of any provision of this Agreement is challenged or questioned, such provision shall be governed by, and shall be construed in accordance with, the laws of the State of Texas or the federal laws, whichever may be applicable.

9.6 SEVERABILITY

This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinance, rules, and regulations. If any provision of this Agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

9.7 COUNTERPARTS

This Agreement and any Amendments hereto may be executed in several counterparts, each of which shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

9.8 SECTION TITLE

Section titles and the table of contents are for descriptive purposes only and shall not control or limit the meaning of this Agreement as set forth in the text.

9.9 CHANGE IN NEIGHBORHOOD

A substantial or radical change in the character of the neighborhood surrounding the Property will not extinguish the restrictive covenants of this Agreement. The restrictive covenants shall survive any and all changed circumstances, including, but not limited to, the following: housing pattern changes, zoning amendments, the issuance of variances affecting the immediate or surrounding area; increased traffic or road conditions; enhancement of the value of the Land or Property; growing industrial activity; encroachment of business areas; development of natural resources; financial downturn of the Developer; or commercialization of the neighborhood in question.

9.10 VENUE

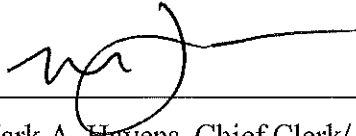
Venue of any suit brought under this Agreement shall be in a court of competent jurisdiction in Travis County, Texas. Developer irrevocably waives any objection, including any objection based on personal jurisdiction or the laying of venue or based on the ground of *forum non conveniens*, which may now or hereafter have by the bringing of any action or proceeding in such jurisdiction with respect to the Contract or any document related hereto.

NOTHING IN THIS SECTION SHALL BE CONSTRUED AS WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.

SIGNATURE PAGES FOLLOW

**SIGNATURE PAGE FOR ATTACHMENT E-2 TO AMENDMENT NO. 5
TO GLO CONTRACT NO. 19-097-026-B644
MULTI-FAMILY RESIDENTIAL CONSTRUCTION REPAIR SERVICES GRANT AGREEMENT**

GENERAL LAND OFFICE



Mark A. Havens, Chief Clerk/
Deputy Land Commissioner

Date of execution: 3/8/2022

HITCHCOCK HOUSING, LTD






Cascade GP Services, LLC - Series
Mesquite - General Partner



Print Name: Gary L. Maddock

Title: Duly Authorized Representative

Date of execution: 3-11-2022

OGC 
PM 
SDD 
DGC 
GC 

EXHIBITS TO THIS LAND USE RESTRICTION AGREEMENT:

EXHIBIT A: LEGAL DESCRIPTION OF PROPERTY

**SIGNATURE PAGE FOR ATTACHMENT E-2 TO AMENDMENT NO. 5
TO GLO CONTRACT NO. 19-097-026-B644
MULTI-FAMILY RESIDENTIAL CONSTRUCTION REPAIR SERVICES GRANT AGREEMENT**

GENERAL LAND OFFICE

HITCHCOCK HOUSING, LTD

Mark A. Havens, Chief Clerk/

Deputy Land Commissioner

Date of execution: _____

Print Name: _____

Title: _____

Date of execution: _____

OGC _____
PM _____
SDD _____
DGC _____
GC _____

EXHIBITS TO THIS LAND USE RESTRICTION AGREEMENT:

EXHIBIT A: LEGAL DESCRIPTION OF PROPERTY

EXECUTED

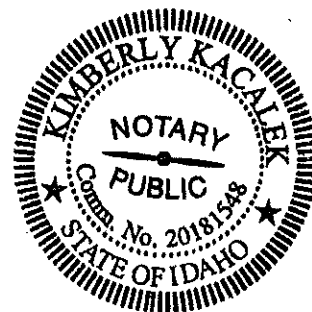
THE STATE OF ~~TEXAS~~ IDAHO §
 COUNTY OF KOOTENAI §

BEFORE ME, the undersigned, a Notary Public in and for the State of ~~Texas~~ Idaho on this day personally appeared Gary L. Maddock, ~~known to me to be the~~ xx ~~known to me to be the~~ xx, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of said limited liability company, and that he executed the same as the act of such limited liability company for the purposes and consideration therein expressed and in the capacity herein stated.

GIVEN UNDER MY HAND AND SEAL OF THIS OFFICE this 11th day of March, 2022.

Kimberly Kacalek
 Notary Public, State of ~~Texas~~ Idaho

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



EXECUTED

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

BEFORE ME, the undersigned, a Notary Public in and for the State of Texas, on this day personally appeared _____, known to me to be the _____ of _____, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act of said limited liability company, and that he executed the same as the act of such limited liability company for the purposes and consideration therein expressed and in the capacity herein stated.

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

Notary Public, State of Texas

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

EXHIBIT A - LEGAL DESCRIPTION

ABST 2 PAGE 8 S F AUSTIN SUR TR 144 2.000 ACRS

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