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| Contractor Information |
| Funding Source: Choose an item. | Federal Award Number: Choose an item. |
| Building Contractor “Contractor”:  | Contractor Address:  |
| Applicant Information |
| **This Construction Agreement takes effect on the date listed below. If the Construction Agreement is amended, the previous versions are no longer valid.** |
| Applicant Name:  | Co-Applicant Name:  |
| Applicant Address “Property”:  | Applicant City/State/ZIP: |
| All homeowners named above shall be collectively referred to in this Agreement as “Homeowner”.  |

**Article 1**

**Section 1.1 Definitions**

The terms used in this agreement shall have, unless the context clearly indicates otherwise, the meanings specified within this Article:

1. **“Construction Agreement”** means an agreement between Contractor, as primary Builder of the property, and the homeowner as the beneficiary of the grant funds.
2. **“Contractor”** means the primary contracted builder of the property.
3. **“Construction Term”** means the length of time between the Notice to Proceed and 120 days unless extended through mutual agreement by both parties to this Agreement.
4. **“GLO’s Authorized Designee”** means a Subrecipient or a Vendor performing work under the GLO’s Grant with HUD.
5. **“Homeowner”** means, collectively, the Applicant and any Co-Applicants, who upon receipt of funds from Lender, agrees to the repayment of those funds in accordance with the terms outlined in this Note.
6. **“Notice to Proceed”** means the date the GLO notifies the builder that work can commence.
7. **“Scope of Work” (SOW)** means the detailed construction document that outlines all work to be performed on the property due to damages sustained from a Presidentially-declared disaster.

**Article 2**

**Section 2.1 Purpose of Agreement**

The purpose of this agreement is to authorize Contractor to perform repair, reconstruction, or replacement of the house owned by Homeowner, located at the address above (the “Property”). The Work to be performed by Contractor is for damages sustained to the Property due to a Presidentially-declared disaster, and for any other items identified in the Scope of Work which are included to meet requirements of the Program as defined in 2.2 of this Agreement (collectively, the “Project”).

**Section 2.2 Source of Funding for the Project**

All funding for the Project is being provided by the United States Department of Housing and Urban Development pursuant to the Community Development Block Grant Disaster Recovery program (“the “Program”), which is administered by the Texas General Land Office (the “GLO”). Homeowner is not required to pay fees or provide any type of payment to Contractor or other third parties in order to participate in this program.

**Section 2.3 Acceptance of Plans and Consent to Perform the Project**

Homeowner hereby acknowledges that the GLO or the GLO’s authorized designee has presented the Scope of Work (“SOW”) to Homeowner. Homeowner has fully reviewed the SOW, and Homeowner accepts and consents to the SOW, which specifies the construction and other activities, such as environmental mitigation, to be conducted by Contractor on the Property. Homeowner acknowledges and agrees that only the GLO or GLO’s authorized designee may add tasks to the SOW, and only the GLO or authorized designee can authorize Contractor to perform any additional tasks. Contractor also acknowledges that Contractor has been presented the SOW and has fully reviewed the SOW. Contractor accepts and consents to the SOW which specifies the construction and other activities, such as environmental mitigation, to be conducted by Contractor on the Property. Contractor acknowledges and agrees that only the GLO or authorized designee may add tasks to the SOW and only the GLO or authorized designee has the authority to authorize Contractor to perform the additional tasks.

The Contractor will complete the SOW within one hundred twenty (120) days of the Notice to Proceed date. The Contractor’s failure to perform in accordance with these terms will be penalized as defined in their Contract with the GLO.

**Section 2.4 Responsibility of Homeowner**

1. **Access to Property and Homeowner Agreement to Cooperate.** Homeowner grants full access to the Property to the GLO and its authorized designees including, but not limited to, Contractor, Contractor’s workforce and subcontractors, the GLO’s designated onsite representative, the Subrecipient and designated representative (if applicable) and any authorized inspectors, whether for the GLO or other governmental entity with appropriate legal authority, as may be required to make inspections and to complete the Project. Homeowner agrees to cooperate with all such parties and their designees and Homeowner agrees not to unreasonably interfere with work on the Project or inspections of the Property. In the event that Homeowner unreasonably interferes with the work or inspection in any manner, Contractor shall deliver a written notice to Homeowner and the GLO or GLO’s authorized designee. If Homeowner does not cease the activities specified in the notice within three (3) calendar days, Homeowner may be prohibited from participating in the Program and may be required to reimburse GLO for work completed on the Property by Contractor. Homeowner will cooperate with Contractor to ensure that all utilities, including water, sewer, and electrical service, are available and supplied to the Property for the duration of the Project.
2. **Site Ready.** Upon execution of this Agreement by the Parties, Homeowner agrees to remove all personal items and valuables from the Property and disconnect utilities, if instructed to do so, within fifteen (15) days. Neither the GLO nor any of its designees, including Contractor, shall bear responsibility or liability for the loss, misplacement, or damage to any such items not removed timely by Homeowner or for utility costs if utilities are not disconnected. Notwithstanding the preceding, if Homeowner’s items are damaged or lost solely through negligence of Contractor, Contractor will reimburse Homeowner for such damage, loss or utility expenses within fifteen (15) days’ written request by Homeowner to Contractor, with a copy to the GLO or GLO’s authorized designee.
3. **Duty to Inform.** Homeowner shall inform Contractor of any known onsite hazards at the Property including, but not limited to, buried lines, tanks, septic systems, water wells, the presence of natural hazards, venomous insects or snakes, and propane tanks.
4. **Notice to Homeowner and Any Occupants of the Property.** Homeowner confirms that all occupants of the Property and all persons who may claim an interest in the Property have been notified about the terms of this Agreement. Homeowner certifies by executing this agreement that he/she/they have the authority to act on behalf of all occupants of the Property and all other persons who claim any interest in the Property.
5. **Acknowledgment of Receipt of Documents.** As part of the application process under the Program, Homeowner executed all required documents, and hereby reaffirms all information provided by those documents, and agrees to all provisions as set forth thereunder.
6. **Lead and Asbestos.** If applicable, Homeowner acknowledges receipt of, and has reviewed and acknowledges, disclosures pertaining to lead-based paint and asbestos-containing building materials. Homeowners understand that the following is required for the Property:

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| --- | --- |
| Lead | Choose an item. |
| Asbestos | Choose an item. |

**Section 2.5 Responsibility of Contractor**

1. **Rental Assistance in the Event of Delayed Construction.** Contractor is responsible for providing rental assistance to the Homeowner if the Project is not completed within one-hundred twenty (120) days of the Notice to Proceed, regardless of the cause of the delay, in an amount not to exceed two thousand dollars ($2,000.00) of rental assistance per month.
2. **Warranty Issues and Follow-Up.** Contractor will provide a set of limited warranties and building and performance standards which include a one (1) year workmanship and materials warranty, and a ten (10) year third party structural warranty. Contractor shall furnish Homeowner with all manufacturers’ and suppliers’ written guarantees and warranties covering materials and equipment furnished under the SOW. Contractor shall, within ten (10) working days’ notice from the GLO or GLO’s authorized designee and at Contractor’s sole expense, correct or make good any defects that arise from defective or improper materials or workmanship appearing within twelve (12) months from final acceptance of the Project. Contractor’s warranty shall not include normal wear and tear. Homeowner is responsible for all operation, costs, and maintenance of the Property subsequent to the completion and acceptance of the Project. Homeowner will contact the Contractor concerning all warranty items related to the Project. Contractor shall remain liable for defects in the Project as provided under Texas law. None of the offices, agencies, or employees of the federal government or the State of Texas warranty any of the materials, goods or services provided under this Agreement.
3. **Conditions of the Premises.** Contractor agrees to keep the Property orderly, and to remove all debris as needed during the course of the Project in order to maintain safe working conditions. Homeowner agrees that Contractor may prohibit entry to the Property due to safety concerns for a reasonable period needed to provide a safe environment for entry, after which the Property visit may occur.

**Section 2.6 Additional Provisions**

1. **Final Approval of the Project.** The GLO’s authorized inspectors, and any local inspectors as required, shall perform all required inspections of the Project, after which the GLO or GLO’s authorized designee will review and approve the completed Project. In the event that Homeowner protests the results of the final inspection, Homeowner must notify the Contractor and the GLO or GLO’s authorized designee in writing within five (5) days of the final inspection. If the GLO or its authorized designee concurs with the Homeowner, the GLO or authorized designee will request that the original contractor perform any work deemed to be required. If the GLO or GLO’s authorized designee in its sole discretion determines that the original contractor has not completed the work adequately, a second contractor may be selected to perform additional services to be set forth on a separate SOW, and Homeowner agrees to continue to provide access and cooperation concerning the Project, in accordance with Section 2.4 of this Agreement. If the Homeowner still does not agree after the GLO or GLO’s authorized designee determines that the work has been satisfactorily completed, the GLO or its authorized designee after seven (7) days may accept the work on behalf of the Homeowner to close out the Project.
2. **Liens.** Neither Homeowner nor Contractor will suffer or permit any mechanics’ or materialman’s’ lien claims, whether statutory or constitutional, to be filed or otherwise asserted against the Property or against any funds due to Contractor and will promptly seek discharge of any such lien claims filed. Contractor, subcontractors, suppliers, vendors, tradesmen and any other persons or entities performing work on the Property are strictly prohibited from placing liens on said Property. Contractor is solely responsible for informing all persons or entities of such strict prohibition. Contractor is solely responsible for the removal, and any associated expense involved therewith, or any lien placed on the Property by any subcontractor, supplier, vendor, trade or other person or entity performing work for the Contractor, irrespective of the fault of cause of such attachment.
3. **Additional Work.** Homeowner and Contractor agree that any repairs or improvements made to the Property not included in this Agreement and the Project hereunder as authorized by the GLO or GLO’s authorized designee, will be by a separate agreement between Homeowner and Contractor. Homeowner and Contractor agree that Program funds are solely for the exact Project authorized by the GLO or GLO’s authorized designee and shall not be used for other purposes or improvements on the Property that are not part of the Project. Absent express permission from the GLO or GLO’s authorized designee, additional work agreed upon by the Homeowner and Contractor cannot be initiated until after all work identified by the SOW has been completed and passed final inspection, and Contractor has received the Program’s thirty (30) day retainage payment.
4. **Force Majeure.** No Party will be liable for any failure to delay in performing its obligations under this Agreement if such failure or delay is due to any cause beyond the reasonable control of such Party including, but not limited to, unusually severe weather, strikes, natural disasters, severe fire, civil disturbance, epidemic, war, acts or threatened acts of terrorism, court order or acts of God. The existence of such causes of delay or failure will extend the period of performance in the exercise of reasonable diligence until after the causes of delay or failure have been removed. Each Party must inform the other in writing and provide a copy to the GLO or GLO’s authorized designee, with proof of receipt, within five (5) business days of the existence of a Force Majeure event or shall otherwise waive this right as a defense to any claims that may arise from the delay or failure to performance. A claim of delay or failure due to a Force Majeure event shall be subject to review by the GLO or GLO’s authorized designee who shall have the final say as to whether the period of performance is extended and the length of said extension.
5. **Assignment.** Contractor enters this Agreement pursuant to an assignment issued by the GLO or GLO’s authorized designee. The GLO or GLO’s authorized designee may in its sole discretion terminate that assignment and assign another contactor to perform the SOW. In the event that a new contractor is assigned to perform the SOW, the new contractor must accept the terms of this Agreement. If a new contractor is assigned to perform the SOW, Homeowner agrees that all rights and obligations created by this Agreement will survive the assignment, with the new contractor succeeding to those of Contractor.
6. **Headings.** The headings or captions in this Agreement are for convenience and reference only and shall not be construed or interpreted as expanding, limiting, defining, or otherwise construing the terms and provisions of this Agreement as set forth herein.
7. **Counterparts.** This Agreement may be executed in counterparts by facsimile transmission or by electronic mail as a portable document format (.pdf) file. Each counterpart shall be considered an original and all counterparts shall, together, constitute but one and the same document.
8. **Third-Party Beneficiary.** The Parties agree that the Texas General Land Office, as administrator of the Community Development Block Grant for Disaster Recovery program, is a third-party beneficiary to this Construction Agreement and that the GLO shall have the right to enforce any provision of this agreement. Provided, however, that the GLO shall enforce a provision of the Construction Agreement after notifying Contractor and Homeowner, in writing, of potential breach or default of the Construction Agreement and allow sixty (60) days to cure the breach or default. Venue of any suit under this section shall be in a court of competent jurisdiction in Travis County, Texas. Parties irrevocably waive 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 Construction Agreement or any document related hereto. **NOTHING IN THIS SECTION SHALL BE CONSTRUED AS A WAIVER OF SOVEREIGN IMMUNITY BY THE GLO.**

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| Signatures |
| Applicant Name:  |
| Applicant Signature:  | Date:  |
| Co-Applicant Name:  |
| Co-Applicant Signature:  | Date:  |
| Contractor Name:  |
| Contractor Signature: | Date:  |