



**CAMERON COUNTY  
PROGRAM DEVELOPMENT & MANAGEMENT DEPARTMENT**

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**Notice of RFP for Housing Loan Legal Services  
Q & A Session**

**To:** Interested Real-Estate Attorneys

**From:** Mark A. Yates, Director

**Date:** May 30, 2018

**Subject: Q&A Session on the Request for Proposals (RFP) for Housing Loan Closing Legal Services**

Attached is a Request for Proposal (RFP) newspaper advertisement and the RFP application package for legal services in relation to the reconstruction of approximately 23 housing units that each require 25 closing documents connected to a housing forgivable loan and a grant from the Texas Community Development Block Grant Program. The Q&A session is scheduled for Tuesday, June 5, 2018, at 9:00 a.m., in the County Commissioners Courtroom, on the Second Floor of the Cameron County Courthouse (Dancy Building), 1100 E. Monroe, Brownsville, Texas.

We have sent this notice to you because your name or legal organization was provided to us as having experienced in the real estate closing. If the notice does not apply to you or your organization, please feel free to pass it along to anyone that might be interested. Also, if you do not wish to be on our mailing list, please advise.

If you have any questions, please call me, at (956) 544-0828.

Attachments

**CAMERON COUNTY, TEXAS  
TDHCA Contract 7217003  
RFP INVITATION # 180503**

The County of Cameron is seeking professional legal services of one or more Texas of State registered attorneys to assist in the preparation and proper filing of approximately twenty three (23) housing reconstruction loan documents as required by the Texas Department of Housing and Community Affairs (TDHCA) pursuant to the Colonia Self-Help Center Program. There are twenty five (25) documents to be prepared and filed for each of twenty three (23) housing reconstructions. The average cost for each reconstruction is approximately seventy-eight thousand dollars (\$78,000). The cost to the reconstruction is paid on behalf of the home owner by two sources of funds. Up to \$50,000 is financed by a forgivable loan from the Texas Department of Housing and Community Affairs (TDHCA) pursuant to the Colonia Self-Help Center Program. The remainder of the cost is leveraged from another type of loan or grant. It is expected that the preparation and filing of reconstruction legal documents be timely in a fashion to draw the grant funds expeditiously from the TDHCA to pay the construction contractor and quickly moving the family into their reconstructed home.

RFPs must be received in the Cameron County Purchasing Department no later than June 19, 2018 at 11:00 a.m. (as per Purchasing Department time clock). RFPs must be addressed and sent to the Cameron County Purchasing Department at the Cameron County Courthouse, 1100 East Monroe Street, Suite 345, Brownsville, Texas 78520. RFPs will be opened in the Purchasing Department, 3rd Floor County Courthouse, Suite 345, at 11:01 a.m. on the deadline date.

RFP submissions must include one (1) original and seven (7) copies of the proposal. RFPs must be titled / referenced " Attn: Purchasing Dept. Sealed RFP # 180503 "Cameron and Willacy Counties Colonia Self-Help Center Legal Service Provider".

A complete copy of the RFP may be obtained from Beverly Findley at (956) 544-0871 of the County Purchasing Department or the County website at <http://www.purchasing.co.cameron.tx.us>. A pre-RFP round table orientation will be held in the Planning Department's Conference Room on Tuesday, June 5, 2018 at 9:00 a.m. Questions regarding the RFP proposed project and funding should be submitted in writing to Mark A. Yates via email at [Mark.Yates@co.cameron.tx.us](mailto:Mark.Yates@co.cameron.tx.us) or delivered in person. Questions regarding the RFP County's procurement requirements may be directed to the County's Purchasing Department. All contractors/subcontractors, that are debarred, suspended or otherwise excluded from or ineligible for participation on federal assistance programs may not undertake any activity in part or in full under this project.

Cameron County is an Equal Opportunity Employer and expressly reserves the right to negotiate with any respondent, extend the proposal deadline, reject any or all proposals, and waive any informalities.

**Newspaper Ad dates: Sunday, June 3, 2018 & Sunday, June 10, 2018**

Raul Garcia:

AD FOR 06/03/2018 & 06/10/2018  
PLEASE REVIEW AD FOR APPROVAL

SIZE: 5 x 6

PRICE: \$1291.60

ANDY CARRIZALES

[legals@brownsvilleherald.com](mailto:legals@brownsvilleherald.com)

(956)982-6635

## Please check proof for accuracy!

This proof is provided  
for the purpose of  
clarification on copy,  
spelling, artwork  
layout, logos,  
trademarks and  
illustrations.

\*\*\* The Brownsville Herald  
will not be liable for any  
errors found in  
advertisement after it has  
been approved by the client.  
**Client will be allowed  
up to 2 proofs for  
corrections.**

Final approval must be made  
no later than 12 Noon the  
day prior to publication.

**For Saturday, Sunday  
& Monday no later  
than 12 Noon Friday.**

☐ NEED CORRECTIONS

☐ OK W/CORRECTIONS

☐ OK AS IS

Advertisement

approved by:

\_\_\_\_\_  
Sign on above line and  
fax back to  
**(956) 982-4201**

**CAMERON COUNTY  
REQUEST FOR PROPOSALS (RFP)  
FOR LOAN CLOSING LEGAL SERVICES  
2017-2021 CAMERON AND WILLACY COUNTIES COLONIA SELF-SELP CENTER  
PROGRAM  
TDHCA Contract 7217003**

**TIMELINE\***

<b><u>ACTIVITY</u></b>	<b><u>DATE</u></b>
CC Authorizes RFPs	May 29, 2018
RFPs Released by Direct Mail (5 venders)	May 30, 2018
1 <sup>st</sup> Newspaper Publication	June 3, 2018
Pre-RFP Submission Q&A Session	June 5, 2018
2 <sup>nd</sup> Newspaper Publication	June 10, 2018
RFPs Opened	June 19, 2018
RFP's sent to Review Committee	June 19, 2018
Review Committee Evaluate Proposals	June 19-22, 2018
CC Selects Provider(s)	July 10, 2018
Notice of Award Issued	July 11, 2018
CC Approvals Professional Service Agreement	July 24, 2018
Joint Meeting of County, CDCB, and Attorney	July 27, 2018

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\*Timeline is subject to change.

**Request for Proposals (RFP)  
Community Development Block Grant (CDBG)  
Housing Reconstruction Loan Closing  
Legal Counsel Professional Services**

**PROPOSALS ARE DUE ON OR BEFORE**

**June 19, 2018  
BY 11:00 A.M.**

**Any proposal received after the date and time above will be returned and will not be considered.**

**Send Responses to:**

**Cameron County Purchasing Department  
Cameron County Courthouse  
1100 East Monroe Street, Suite 345  
Brownsville, Texas 78520**

**ADDITIONAL INFORMATION:**

**For additional information regarding this Request for Proposals feel free to contact:**

**MARK A. YATES  
1100 EAST MONROE ST. Rm 105  
CAMERON COUNTY COURTHOUSE/ DANCY BUILDING  
BROWNSVILLE, TX 78520  
(956) 544-0858  
[Mark.yates@co.cameron.tx.us](mailto:Mark.yates@co.cameron.tx.us)**

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I. Cameron County Procurement Required Documents and Conditions



**CAMERON COUNTY  
PURCHASING DEPARTMENT**

**INVITATION TO RFP**

**RFP NUMBER # 180503**

**RFP TITLE: REAL ESTATE COUNSEL**

**DATE DUE: June 19, 2018  
A.M.**

**DUE NO LATER THAN 11:00**

RFP's will be opened at the Cameron County Courthouse, 1100 East Monroe Street, Brownsville, Texas in the Purchasing Department - 3<sup>rd</sup> Floor - Room # 345 at 11:01 a.m. (as per Purchasing Dept. time clock) on deadline due date.

RFP's received later than the date and time above will not be considered.

Please return RFP **ORIGINAL AND SEVEN (7) COPIES** in sealed envelope. Be sure that return envelope shows the RFP Number, Description and is marked "SEALED RFP".

**RETURN RFP TO:**

by U.S. mail or delivered to the office of Purchasing Dept., County Courthouse (Dancy Bldg.)

**1100 E. Monroe St, 3<sup>rd</sup> Floor, Room 345, Brownsville, Texas 78520**

For additional information or to request addendum contact: Mike Forbes or Beverly Findley at (956) 544-0871, E-mail: mforbes@co.cameron.tx.us or purchasing@cameroncounty.com.

**You must sign below in INK; failure to sign WILL disqualify the offer. All prices must be typewritten or written in ink.**

**Company Name:** \_\_\_\_\_

**Company Address:** \_\_\_\_\_

**City, State, Zip Code:** \_\_\_\_\_

**Historically Underutilized Business (State of Texas) Certification VID Number:** \_\_\_\_\_

Telephone No. \_\_\_\_\_ Fax No. \_\_\_\_\_ e-mail \_\_\_\_\_

Print

Name: \_\_\_\_\_ Signature: \_\_\_\_\_

How did you find out about this RFP? \_\_\_\_\_ (ex: Newspaper, Web, Mail)

**Is Proposer's principal place of Business within Cameron County? Yes - No**

(Your signature attests to your offer to provide the goods and/or services in this RFP according to the published provision of this RFP. When an award letter is issued, this RFP becomes the contract. If a RFP required specific Contract is to be utilized in addition to this RFP, this signed RFP will become part of that contract. When an additional Contract is required a RFP award does not constitute a contract award and RFP / Contract is not valid until contract is awarded by Commissioners Court (when applicable) signed by County Judge) and Purchase Order is issued.

## **CHECK LIST**

the Offerors are asked to review the package to be sure that all applicable parts are included. If any portion of the package is missing, notify the Purchasing Department immediately. It is the Offeror's responsibility to be familiar with all the Requirements and Specifications. Be sure you understand the following before you return your RFP packet.

☒ **Cover Sheet**

Your company name, address and your signature (IN INK) should appear on this page.

☒ **Instructions to Proposers**

You should be familiar with all of the Instructions to Proposers.

☒ **Special Requirements**

This section provides information you must know in order to make an offer properly.

☒ **Specifications / Scope of Work**

This section contains the detailed description of the product/service sought by the County.

### **Attachments**

☒ **Attachments A, B, C, D, E, F, G, H, I**

Be sure to complete these forms and return with packet.

### **Other - Final Reminders To double check before submitting RFP**

☐ Is your RFP sealed with RFP #, title, Proposer Name, & return address, on outside?

☐ Did you complete, sign and submit page 1?

☐ Did you provide the number of copies as required on the cover page?

☐ Did you visit our website for any addendums?

[http://www.co.cameron.tx.us/administration/purchasing\\_department/bids\\_rfp\(q\)\\_and\\_addms\\_and\\_tabs.php](http://www.co.cameron.tx.us/administration/purchasing_department/bids_rfp(q)_and_addms_and_tabs.php)

If not interested in responding please let us know why e-mail to: [Purchasing@co.cameron.tx.us](mailto:Purchasing@co.cameron.tx.us)



## INSTRUCTIONS FOR SUBMITTING RFPs

These General Instructions apply to all offers made to Cameron County, Texas (herein after referred to as "County") by all prospective vendors (herein after referred to as "Proposers") on behalf of Solicitations including, but not limited to, Invitations to RFP.

Carefully read all instructions, requirements and specifications. Fill out all forms properly and completely. Submit your RFP with all appropriate supplements and/or samples. Prior to returning your sealed RFP response / submittal, all Addendums - if issued - should be reviewed and downloaded by entering the County Purchasing web

[http://www.co.cameron.tx.us/administration/purchasing\\_department/bids\\_rfp\(q\)\\_and\\_addms\\_and\\_tabs.ph](http://www.co.cameron.tx.us/administration/purchasing_department/bids_rfp(q)_and_addms_and_tabs.php)

p Addendums Column (updated Addendums). These Addendums must be signed and returned with your RFP in order to avoid disqualification. All Tabulations can also be viewed and downloaded at this site. Annual RFP award information can be accessed at:

[http://www.co.cameron.tx.us/administration/purchasing\\_department/bids\\_rfp\(q\)\\_and\\_addms\\_and\\_tabs.ph](http://www.co.cameron.tx.us/administration/purchasing_department/bids_rfp(q)_and_addms_and_tabs.php)

p

Review this document in its entirety. Be sure your RFP is complete, and double check your RFP for accuracy.

Cameron County is an Equal Employment Opportunity Employer. Review this document in its entirety. Be sure your RFP is complete, and double check your RFP for accuracy.

**GOVERNING FORMS:** *In the event of any conflict between the terms and provisions of these requirements and the specifications, the specifications shall govern. In the event of any conflict of interpretation of any part of this overall document, Cameron County's interpretation shall govern. Where substitutions are used, they must be of equivalent value or service, and specified by the Proposer as such, in the columns to the right on the "Minimum Specifications' Forms". The County's specifications may be exceeded and should be noted by the Vendor as such. Any RFP NOT MEETING the Minimum Requirements specified will be rejected.*

**GOVERNING LAW:** *This invitation to RFP is governed by the competitive proposing requirements of the County Purchasing Act, Texas Local Government Code, §262.021 et seq., as amended. Offerors shall comply with all applicable federal, state and local laws and regulations. Offeror is further advised that these requirements shall be fully governed by the laws of the State of Texas and that Cameron County may request and rely on advice, decisions and opinions of the Attorney General of Texas and the County Attorney concerning any portion of these requirements.*

Questions requiring only clarification of instructions or specifications will be handled verbally. If any questions results in a change or addition to this RFP, the Change(s) and addition(s) will be forwarded to all vendors involved (as quickly as possible) in the form of a written addendum only. Verbal changes to Bids/RFP's/RFQ's must be backed-up by written addendum or written Q/A clarifications which would be posted on County Purchasing Web site. Without written Addendum or written Q / A clarification, verbal changes to Bids / RFP / RFQ will not apply.

Sign the Vendor's Affidavit Notice, complete answers to Attachments A,B, C, D, E, F, G, H, I and return all with your RFP.

### **CONFLICT OF INTEREST QUESTIONNAIRE:**

**For vendor or other person doing business with local governmental entity**

This questionnaire must be filed in accordance with chapter 176 of the Local Government Code by a person doing business with the governmental entity.

**By law this questionnaire must be filed with the records administrator (County Clerk's Office) of the local government not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.**

A person commits an offense if the person violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than September 1 of the year for which an activity described in Section 176.006(a), Local Government Code, is pending and not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.

**Please review this entire document, if for any reason there is any information to disclose, relative to any questions in this Conflict of Interest form, you must file with County Clerk's Office subject to above instructions can be downloaded at the following web site:**

**<http://www.co.cameron.tx.us/purchasing/docs/conflictofinterest.pdf>**

### **DISCLOSURE OF INTERESTS:**

This questionnaire must be filed with the records administrator (County Clerk's Office) of the local government and no later than the 7<sup>th</sup> business day after the person becomes aware of facts that require this statement to be filed. Cameron County, Texas requires all persons or firms seeking to do business with the County to **provide the following information if the person becomes aware of facts that require this statement to be filed**. Every question must be answered. If the question is not applicable, answer with "N/A."

**Please review this entire document, if for any reason there is any information to disclose, relative to any questions in this disclosure of interest form, you must file with County Clerk's Office subject to above instructions.**

**can be downloaded at the following web site:**

**<http://www.co.cameron.tx.us/purchasing/docs/DisclosureofInterest.pdf>**

### **TEXAS ETHICS COMMISSION FORM 1295**

All RFPs prior to award or award of Contract by Commissioner's Court will require that the Texas Ethics Commission (TEC) Form 1295 Electronic (on line) Vendor filing procedure be completed by Vendor.

All Vendors being recommended to Commissioners Court for award or renewal of award on Agenda must register and obtain a TEC Certification for the specific award. This Certification Form 1295 must be electronically submitted, printed and notarized. Notarized form must be emailed or delivered to County Purchasing Department making the request for form. This process must be completed prior to

Commissioners Court Agenda for approval consideration of RFP award. There is no charge for this TEC online process.

Texas Ethics Commission (TEC) Form 1295 must be completed (by firm - on line "New Form 1295 Certificate of Interested Parties Electronic Filing Application" Site at: [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm) )

If any Vendors have questions as to TEC Form 1295 visit the County Purchasing Web site left column tab "Vendor – TEC Form 1295" for more information. TEC Web site links can be found at this location including Question / Answers and Video instructions.  
tab Link: [http://www.co.cameron.tx.us/administration/purchasing\\_department/index.php](http://www.co.cameron.tx.us/administration/purchasing_department/index.php)

PROPOSER SHALL SUBMIT RFP ON THE FORM PROVIDED, SIGN THE VENDOR AFFIDAVIT, AND RETURN ENTIRE RFP PACKET. In the event of inclement weather and County Offices are officially closed on a Proposal deadline day, RFP's will be received until 2:00 p.m. of the next business day. Proposals will be opened at the Cameron County Courthouse, 1100 East Monroe Street, Brownsville, Texas in the Purchasing Department – 3<sup>rd</sup> Floor – Room # 345 (as per Purchasing Dept. time clock.

RFP'S SUBMITTED AFTER THE SUBMISSION DEADLINE SHALL BE RETURNED UNOPENED AND WILL BE CONSIDERED VOID AND UNACCEPTABLE.

PROPOSERS MAY ATTEND PUBLICLY HELD COMM COURT MEETING FOR AWARD OF THIS SOLICITATION. All responding bidders/ proposers are welcome to attend the publicly held Commissioners Court meeting relative to the outcome / award of this solicitation. Court Meeting agenda date and times may be obtained at the following web site:  
<http://www.co.cameron.tx.us/judge/agenda.htm>

SUCCESSFUL PROPOSERS WILL BE NOTIFIED BY MAIL. All responding vendors will receive written notification regarding the outcome of the award.

OPEN RECORDS ACCESS TO ALL INFORMATION SUBMITTED. All information included will be open to the public, other proposers, media as per the Open Records Act and not be confidential in nature. If you deem any information as confidential, it should not be made part of your RFP package.

**PLEASE NOTE CAREFULLY**

**THIS IS THE ONLY APPROVED INSTRUCTION FOR USE ON YOUR RFP. ITEMS BELOW APPLY TO AND BECOME A PART OF TERMS AND CONDITIONS OF RFP. ANY EXCEPTIONS THERETO MUST BE IN WRITING.**

1. **ORIGINAL AND SEVEN (7) COPIES OF RFP's MUST BE SUBMITTED** Each RFP shall be placed in a separate envelope completely and properly identified with the name and number of the RFP. RFP's must be in the Purchasing Department **BEFORE** the hour and date specified.
2. Each RFP shall be placed in a separate envelope completely and properly identified with the name and number of the RFP. RFPs must be in the Purchasing Department **BEFORE** the hour and date specified.
3. RFPs **MUST** give full firm name and address of the Proposer. Failure to manually sign RFP will disqualify it. Person signing RFP should show **TITLE or AUTHORITY TO BIND THE FIRM IN A CONTRACT.**
4. RFPs **CANNOT** be altered or amended after deadline time. Any alterations made before deadline time must be initiated by proposer or his authorized agent. No RFP can be withdrawn after opening time without approval by the Commissioners Court based on a written acceptable reason.
5. Written and verbal inquiries pertaining to RFPs must give RFP Number and Company.
6. NO substitutions, changes or cancellations permitted without written approval of Purchasing Agent.
7. The County reserves the right to accept or reject all or any part of any RFP, waiver minor technicalities. The County of Cameron reserves the right to award by item category or by total RFP. Prices should be itemized. Cameron County retains the option to re-RFP at any time if in its best interest and is not automatically bound to renewal or re-RFP. The County reserves the right to add additional County Departments (at a later time during this RFP award) as the need arises.
8. The County reserves the right to accept or reject all or any part of any RFP, waiver minor technicalities. The County of Cameron reserves the right to award by item category or by total RFP. Prices should be itemized.  
County also reserves the right to award either with or without trade-in, if applicable. Cameron County retains the option to re-solicit at any time if in its best interest and is not automatically bound to renewal or re-solicitation.

The County reserves the right to hold all RFPs for 60 days from the due date of receipt without actions.

The County reserves the right to add additional County Departments (at a later time during this RFP award) as the need arises. The County also reserves the right to consider utilizing CO-OP Interlocal Agreements / pricing if determined to be more advantageous to the County.

9. This is a RFP inquiry only and implies no obligation on the part of Cameron County. The County reserve the right to accept or reject any or all proposals received. Incomplete proposals will be considered at the County's sole discretion.
10. Partial RFPs will not be accepted unless awarded by complete category or line item.
11. It is expected that the proposer will meet all state and federal safety standards and laws in effect on the date of the RFP for the item(s) being specified, and the particular use for which they are meant.
12. It is the responsibility of the proposer to ask any and all questions the proposer feels to be pertinent to the proposal. Cameron County shall not be required to attempt to anticipate such questions for proposers. Cameron County will endeavor to respond promptly to all questions asked.
13. RFP SUBMISSION: Proposals must be in correct format and complete. Respondents are expected to address all items in as much detail as necessary for Cameron County representatives to make a fair evaluation of the Proposer and the Proposal.
14. The contract will be awarded to the most qualified proposal. An Evaluation Committee will review all completed proposals.
15. The County reserves the right to reject any and all proposals and to waive any irregularities. All expenses incurred by the proposer in preparing its response to this RFP and in seeking award of this contract shall be borne solely by the proposer.
16. The County does not guarantee that a contract (or contracts) will be awarded as a result of the RFP. In the event that a contract award is made, but the contract is not executed, the County does not guarantee that the contract will be re-awarded. Cameron County staff will review all proposals for compliance and thoroughness. The proposals found to be in compliance will then be distributed to the members of a Selection Committee.
17. REIMBURSEMENTS: There is no express or implied obligation for the County to reimburse responding firms for any expenses incurred in preparing proposals in response to this Request for Proposal. The County will not reimburse responding firms for these expenses, nor will the County pay any subsequent costs associated with the provision of any additional information or presentation, or to procure a contract for these services.
18. MANAGEMENT: Should there be a change in ownership or management; the contract shall be cancelled unless a mutual agreement is reached with the new County or manager to continue the contract with its present provisions and prices. This contract is nontransferable by contract vendor.
19. NEGOTIATIONS: Negotiations may be conducted with responsible offeror(s) who submit proposals that are reasonably susceptible of being selected. All firm(s) reasonably susceptible of being selected based on criteria set forth in this RFP may be given an opportunity to make a presentation and/or interview with the Selection Committee. Following any presentation and/or interviews, firms will be ranked in order of preference and contract negotiations will begin with the top ranked firm. Should negotiations with the highest ranked firm fail to yield a contract, or if the firm is unable to execute said contract, negotiations will be formally ended and then commence with the second highest ranked firm, etc. However, the County may in their sole discretion, award a contract without interviews, based solely on information supplied in the

proposal responses.

20. This RFP does not commit County or their representatives to enter into a contract or award any services related to this RFP, nor does it obligate County or their representatives to pay any costs incurred in preparation or submission of a proposal or in anticipation of a contract.
21. **CONTRACTUAL OBLIGATIONS:** This request for Proposal, response and associated documentation, any negotiations and final contract, when properly accepted by Cameron County, shall constitute a contract equally binding between the proposer and Cameron County.

**INVOICES AND PAYMENTS:** (a) Vendor shall submit separate invoices, in duplicate, on each purchase order after each delivery. Invoices shall indicate the purchase order number, shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight weigh bill when applicable, should be attached to the invoice. Mail to: Cameron County, ATTN: Auditor's Office, 1100 East Monroe St., Brownsville, Texas 78520. Payment shall not be due until the above instruments are submitted after delivery. Our Vendors must keep the Auditor advised of any changes in your remittance addresses. (b) County's only obligation to pay Vendor is to pay from funds budgeted and available for the purpose of the purchase. Lack of funds shall render this contract null and void to the extent funds are not available and any delivered but unpaid for goods will be returned to Vendor by the County. (c) Do not include Federal Excise, State or City Sales Tax. County shall furnish tax exemption certificate if required.

Any invoice, which cannot be verified by the contract price and/or is otherwise incorrect, will be returned to the Vendor for correction. Under term contracts, when multiple deliveries and/or services are required, the Vendor may invoice following each delivery and the County will pay on invoice. Contracts providing for a monthly charge will be billed and paid on a monthly basis only. Prior to any and all payments made for good and/or services provided under this contract, the Vendor should provide his Taxpayer Identification Number or social security number as applicable. This information must be on file with the Cameron County Auditor's office. Failure to provide this information may result in a delay in payment and/or back-up withholding as required by the Internal Revenue Services.

Vendor shall submit two (2) copies of an itemized invoice showing RFP number and purchase order number to:

**CAMERON COUNTY AUDITOR  
ACCOUNTS PAYABLE  
1100 EAST MONROE ST.,  
BROWNSVILLE, TEXAS 78520**

Please note that any payment due under this RFP award will be applied towards any debt, including but not limited to delinquent taxes that is owed to Cameron County.

**PAYMENT DISCOUNT:** Indicate the payment discount (s) available depending on the when invoices are paid. For example, 1/30 means a 1% discount if paid within 30 days, 2/15 means a 2% discount if paid within 15 days, etc. Payment in full will be made within thirty (30) days of delivery, inspection, and receipt of invoice.

All costs quotations must include all the various features needed to satisfy the requirements. Note: No amounts will be paid for the items in this RFP in excess of the amounts quoted.

## **II. Housing Loan Program Background:**

The County of Cameron entered into contract with Community Development Corporation (CDCB) to operate the Cameron-Willacy Counties Colonia Self-Help Center Program with a \$1,500,000 grant provided by the Texas Department of Housing and Community Affairs. Colonia Self-help Centers (CSHC) are designed to assist individuals and families of low-income and very low-income to finance, refinance, construct, improve, or maintain a safe, suitable home in the "colonias" designated service areas. Texas Community Development Block Grant (TxCDBG) defines "colonias" as being a community or neighborhood that lack potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing. A colonia is located in an unincorporated rural area and is populated by low-income families. This grant will allow the County to offer the following services: homeownership classes, construction skills classes, tool lending library, residential rehabilitation, small home repairs, not feasible for rehabilitation (reconstruction), and new construction of housing units.

The CDCB, non-profit Self-Help Center operator, has been contracted to perform 25-30 housing "reconstructions." The legal services being requested under the RFP are connected to these number of reconstruction forgivable loans.

## **III. RFP Purpose Statement:**

Cameron County is seeking the professional legal services of one or more Texas of State registered attorneys to assist in the preparation and proper filing of approximately twenty three (23) housing reconstruction loan documents as required by the Texas Department of Housing and Community Affairs (TDHCA) pursuant to the Colonia Self-Help Center Program. There are twenty five (25) documents to be prepared and filed for each of the twenty three (23) housing reconstructions.

The average cost for each reconstruction is approximately seventy-eight thousand dollars (\$78,000). The cost to the reconstruction is paid on behalf of the owner by two financial sources of funds. Up to \$50,000 is financed by a forgivable loan from the Texas Department of Housing and Community Affairs (TDHCA) pursuant to the Colonia Self-Help Center Program. The remainder of the cost is leveraged from another type of loan or grant.

It is expected that the preparation and filing of reconstruction legal documents be timely in a fashion to draw the grant funds expeditiously from the TDHCA to pay the construction contractor and quickly moving the family into their reconstructed home.

The housing reconstruction financial assistance is structured in the form of a five-year deferred payment, zero-interest forgivable loan that creates a 1<sup>st</sup> 2<sup>nd</sup> or 3<sup>rd</sup> lien. The housing assistance provides a five year deferred payment, zero-interest forgivable loan. A forgivable loan resembles a grant in that if the present owner retains the property for a specified period of years, no payment is required. The forgivable loan is instituted through the use of a promissory note. An assigned housing coordinator assists the approved homeowner to provide a mortgage lien through a deed of trust against the

property to the Colonia Self Help Center Housing Assistance Program in the amount stipulated on the related promissory note. An attorney licensed to practice law in the State of Texas must draft these legal documents. The deed of trust, which must reference the promissory note, must be recorded with the county's real property records. Each year that the assisted homeowner retains ownership and resides in the home a percentage of the amount is forgiven as if it were a grant.

**Repayment of Note:** If the assisted homeowner continues to occupy the home until the term of the note expires, the owner pays nothing and there are no conditions on the disposition of the property. If the property is sold, transferred or vacated by the assisted homeowner for any single period that exceeds thirty (30) days during the five-year forgivable loan period, the repayment terms of the promissory note will be enforced except in those cases addressed in paragraph 8C, below. Please note that the 30 day period does not apply to migrant laborers as occupational migration does not constitute the abandonment or vacating of a home.

**Accelerated Forgiveness in Certain Cases:** In the event of (1) death, (2) relocation to a managed care facility, or (3) relocation resulting from documented mental or physical incapacitation of the sole remaining assisted homeowner identified in the original application, the County may forgive any remaining loan balance.

#### **IV. Duration of Legal Service Contract:**

When all the reconstruction units have been completed under the TDHCA – County Contract Number 7217003. To date, via amendments to the TDHCA Contract approximately 23 reconstructions will be performed.

#### **V. Scope of Services:**

The real estate attorney or title company will represent Cameron County's Colonia Self-Help Program in all aspects of preparing, reviewing, and assisting the home owner in the completion of all documentation associated with the notifications, execution, and filing to provide for the perfection of the loan provided to the home owner for the improvement to their real property. The documents that will be prepared and reviewed for completion and adequacy for public filing are as follows:

1. Closing document (includes list of attached document)
2. Document Correction Agreement;
3. Contractor's Disclosure Statement pertaining to Texas Property Code §53.255 and §53.257(b) ("Contractor Disclosure");
4. Disclosure Regarding Review of Loan Documentation;
5. Lender/Consumer Agreement for Method of Providing Disbursement Disclosures ("Lender/Consumer Agreement");
6. Contractor's Disbursement Disclosures pertaining to Texas Property Code §53.258 ("Contractor Disbursement Statement");
7. Contractor's List of Subcontractors and Suppliers ("Subcontractor List");



8. Construction Loan Agreement with the following contractor documents attached thereto as exhibits:
  - A = Request for Disbursement
  - B = Affidavit of Completion and Indemnity
  - C = Unconditional Partial Release During Construction  
Conditional Partial Release During Construction  
Unconditional Release of Final Payment  
Conditional Final Release
  - D = Final Bills Paid Affidavit by Contractor
  - E = Affidavit of Commencement;
9. Mechanic's Lien Note
10. Mechanic's Lien Contract;
11. Request for Disbursement;
12. Promissory Note ("Note");
13. Deed of Trust ("Deed of Trust");
14. Financing Statement to be filed in the County UCC or Real Estate records of Cameron or Willacy County, Texas ("Financing Statement-County");
15. Financing Statement to be filed with Secretary of State ("Financing Statement-State");
16. Affidavit of Identity;
17. Taxpayer Identification ("W-9");
18. Survey & Title Letter;
19. Notice of Final Agreement;
20. Transfer of Mechanic's Lien;
21. Mortgage Fraud Notice;
22. Affidavit of Occupancy and Residency;
23. Home Improvement Closing Certificate [IF REHABILITATION LOAN/HOME IMPROVEMENT] or New Home Closing Certificate [IF NEW HOME];
24. Federal Right of Rescission (Notice of Right to Cancel) for Consumer and Lender (x 2) ;  
and
25. Sweat Equity Affidavit.

Items No. 1 through inclusive, together with the Closing Disclosure and Texas Disclosure (collectively, "Disclosure Statements"), are hereinafter collectively referred to as the "Closing Documents". In addition to the Closing Document, an itemization of amounts financed by Lender and amounts to be collected from Borrower is enclosed as well.

For authorized documents see Exhibit "B." The successful candidate will receive document templates to complete the above named forms.

#### **VI. RFP Qualifications:**

It is important that the respondent(s) possess the necessary skills and qualifications to successfully represent the Cameron County Colonia Self-Help (CCCSHP) Program in the thorough completion of the above mentioned documents through the process of filing in the appropriate county records. Therefore, CCCSHP has established the following criteria:

- Respondent(s) must be a graduate of an accredited law school, must be a member of the Texas State Bar.
- Ability to communicate and possibility to translated necessary documents in from English to Spanish.
- Respondent(s) must have prior experience in Real Estate Title work, real estate transactions, completion of mortgage or promissory notes, real estate documentation completion, real estate document filing, loan perfection, Housing and urban Development closings, Texas Department of Housing and Community Affairs (TDHCA) program requirements, or similar programs.
- Respondent(s) and/or all attorneys being bid from a particular team/firm must have at least ten (5) years' experience practicing law in Texas.
- Respondent(s) must maintain professional liability insurance in the amount of \$1,000,000 for the duration of its contract with CCCSHP.
- Respondent(s) must be willing to enter into a contract with CCCSHP.
- Respondent(s) must provide a certified statement that the attorney(s) or firm is not debarred, suspended or otherwise prohibited from doing business with any federal, state or local agency.
- Respondent(s) must complete Form 1295 (on County's website) Statement of conflict of interest.

#### **VII. Evaluation Criteria:**

CCCSHP shall establish a technical evaluation committee which shall review all technical proposals solely on the basis of qualifications and technical merit. A separate cost proposal evaluation shall be conducted by the Contracting Officer to determine the reasonableness of cost. All firms deemed to be in the competitive range may be invited for an interview. CCCSHP reserves the right to hold discussions and award multiple contracts for various services under this solicitation if deemed necessary. Specific criteria upon which proposals will be reviewed during the process and their representative weight is detailed below:

#### **VIII. Contract Award Process:**

The Contract Award process will consist of an evaluation of the technical qualifications and capacity of the Offerors based upon the Evaluation Criteria set forth below. The technical evaluation committee will review, score and rank the technical proposals submitted by each Offeror in accordance with the pre-established criteria. For the purpose of conducting negotiations, proposals will initially be classified as acceptable, potentially acceptable, or unacceptable. Proposals determined by the Contracting Officer to be either acceptable or potentially acceptable and that have a reasonable chance of resulting in a contract award will be included in the competitive range. CCCSHP may select one or more entities for contract award.

#### **Threshold Evaluation Criteria:**

- a. **Review:** All RFP responses received on or prior to the date and time due will be reviewed to determine that the responses meet the threshold submission requirements of the RFP. Threshold review consists of the following:

<b>Evaluation Criteria</b>	<b>Max Points</b>
<b>Evidence of Professional Qualifications</b>	<b>30 points</b>
<b>Offeror's Approach to Providing Required Services</b>	<b>20 points</b>
<b>Knowledge of Applicable Statutes, Codes and Regulations</b>	<b>10 points</b>
<b>Relevant and Past Summary Process Experience</b>	<b>10 points</b>
<b>Relevant and Past Real Estate Counsel Experience</b>	<b>10 points</b>
<b>Cost Effectiveness of Services Proposed</b>	<b>20 points</b>
<b>BONUS</b>	
<b>Section 3 Participation</b>	<b>5 points</b>
<b>SBE/MBE/WBE Firm</b>	<b>5 points</b>
<b>MAX TOTAL POINTS</b>	<b>110 points</b>

**WEIGHTED QUANTITATIVE SCORING:**

Each Vendor will be assigned a score of 0 - 4 by each evaluator for each criteria

4 = Very good / Exceeds expectations

3 = Above expectations

2 = Meets expectations

1 = Does not meet expectations

0 = non responsive

Evaluators score by category will be multiplied by the assigned weight for each criteria by vendor then totaled.

Scoring for price will be a ratio and based on a pro rata factor of the best price submitted.

Ex: Vendor W - price \$100,000 = 4 points X assigned weight (ie: 20%) = 80 points

Vendor X - price \$150,000 = 2.66 points X assigned weight (ie: 20%) = 53.2 points

Vendor Y - price \$200,000 = 2 points X assigned weight (ie: 20%) = 40 points

$\$100,000 \div \$200,000 = .50 \times 4 = 2 \times 20 = 40$

$\$100,000 \div \$150,000 = .66 \times 4 = 2.666 \times 20 = 53$

Once RFPs are reviewed and scored, a short list will be compiled. Interviews may be conducted with Proposers determined by total score rankings. Additional information may be required at that time. Negotiations will begin with the Proposer selected for the project. Commissioners Court will make the final selection and possible approval of the contract.

**A Maximum of 440 Points may be awarded.**

- b. **Acceptable Proposals:** The Committee shall determine which proposals are within the acceptable range. Unless one proposal is clearly above the rest, then all Offerors with an Acceptable score shall be interviewed by the Committee.

- c. **Negotiations:** HUD Procurement Handbook allows considerable flexibility so long as each proposal is treated fairly and consistently. Once negotiation sessions are completed, each firm may be requested to submit its Best and Final Offer.

**IX. Sample CDBG Contract Agreement & Terms and Conditions, Exhibit – A.**

**X. Required 25 Closing Legal Documents, Exhibit – B.**

**EXHIBIT A**

**DISCLAIMER:** This sample draft document was developed by TDA's Office of Rural Affairs and does not include all applicable provisions. This document has important legal consequences. Please consult with your legal counsel with respect to its completion or modification to insure that it is in compliance with any appropriate local, state and federal laws applicable.

## Sample Contract

### MANAGEMENT/ADMINISTRATION SERVICES

#### PART I AGREEMENT

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between the CITY/COUNTY OF \_\_\_\_\_, hereinafter called the "City"/"County", acting herein by \_\_\_\_\_ hereunto duly authorized, and \_\_\_\_\_ hereinafter called "the Contractor", acting herein by \_\_\_\_\_.

**WITNESSETH THAT:**

WHEREAS, the City/County of \_\_\_\_\_ desires to [implement/construct/etc.] the following: \_\_\_\_\_ [describe project] under the general direction of the Texas Community Development Block Grant (hereinafter called "TxCDBG") Program; and Whereas the City/County desires to engage \_\_\_\_\_ to render certain professional administrative services in connection with this TxCDBG Project, Contract Number \_\_\_\_\_.

NOW THEREFORE, the parties do mutually agree as follows:

1. Definitions:

Throughout this document:

- a. "Agreement" refers to the contract between a city or county and a professional or administrative services Contractor to assist with the administration, construction, engineering or implementation of all or any portion of a community development block grant from the Texas Department of Agriculture.
- b. "Contractor" refers to a professional or administrative services Contractor engaged to assist a City or County with the administration, construction, engineering or implementation of all or a portion of a community development block grant from the Texas Department of Agriculture.
- c. "Parties" refer to the Contractor and the City/County.

2. Scope of Services

The Contractor will perform the services set out in Part II, Scope of Services.

3. Time of Performance - The services of the Contractor shall commence on \_\_\_\_\_ In any event, all of the services required and performed hereunder shall be completed no later than \_\_\_\_\_.

4. Local Program Liaison - For purposes of this Contract, the [e.g. City Manager/County] or equivalent authorized person will serve as the Local Program Liaison and primary point of contact for the Contractor. All required progress reports and communication regarding the project shall be directed to this liaison and other local personnel as appropriate.
5. Access to Information - The City / County, the Texas Department of Agriculture (TDA), the Texas State Auditor's Office, the Comptroller General of the United States, or any successor agency or representative, shall have access to any books, documents, papers and records relating to the Contractor's agreement with the City/County or the administration, construction, engineering or implementation of the TxCDBG award between TDA and City / County.
6. Compensation and Method of Payment - The maximum amount of compensation and reimbursement to be paid hereunder shall not exceed \$ \_\_\_\_\_. Payment to the Contractor shall be based on satisfactory completion of identified milestones in Part III - Payment Schedule of this Agreement.
7. Indemnification - The Contractor shall comply with the requirements of all applicable laws, rules and regulations, and shall exonerate, indemnify, and hold harmless the City/County and its agency members from and against any and all claims, costs, suits, and damages, including attorneys' fees, arising out of the Contractor's performance or nonperformance of the activities, services or subject matter called for in this agreement or in connection with the management and administration of the TxCDBG contract, and shall assume full responsibility for payments of Federal, State and local taxes on contributions imposed or required under the Social Security, worker's compensation and income tax laws.
8. Miscellaneous Provisions
  - a. This Agreement shall be construed under and in accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in \_\_\_\_\_ County, Texas.
  - b. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Agreement.
  - c. In any case one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
  - d. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.
  - e. This Agreement may be amended by mutual agreement of the parties hereto and a writing to be attached to and incorporated into this Agreement.
9. Extent of Agreement

This Agreement, which includes Parts I-IV, [and if applicable, including the following exhibits/attachments: ] represents the entire and integrated agreement between the City/County and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by authorized representatives of both City/County and Contractor.

IN WITNESSETH WHEREOF, the parties have executed this Agreement by causing the same to be signed on the day and year first above written.

BY: \_\_\_\_\_  
(Local City/County Official)  
\_\_\_\_\_  
(Printed Name)  
\_\_\_\_\_  
(Title)

BY: \_\_\_\_\_  
(Contractor's Authorized Representative)  
\_\_\_\_\_  
(Printed Name)  
\_\_\_\_\_  
(Title)



## PART IV TERMS AND CONDITIONS

1. Termination for Cause. If the Contractor fails to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor violates any of the covenants, conditions, agreements, or stipulations of this Agreement, the City/County shall have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof, which shall be at least five days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Contractor pursuant to this Agreement shall, at the option of the City/County, be turned over to the City / County and become the property of the City / County. In the event of termination for cause, the Contractor shall be entitled to receive reasonable compensation for any necessary services actually and satisfactorily performed prior to the date of termination.

Notwithstanding the above, the Contractor shall not be relieved of liability to the City/County for damages sustained by the City/County by virtue of any breach of contract by the Contractor, and the City/County may set-off the damages it incurred as a result of the Contractor's breach of contract from any amounts it might otherwise owe the Contractor.

2. Termination for Convenience of the City/County. The City/County may terminate this Agreement at any time by giving at least ten (10) days' notice in writing to the Contractor. If this Contract is terminated for convenience, the City/County will pay the Contractor for actual services rendered up to the termination date, based on the charges for time, labor, expenses and other items specified in the Agreement.
3. Changes. The City/County may, from time to time, request changes in the services the Contractor will perform under this Agreement. Such changes, including any increase or decrease in the amount of the Contractor's compensation, must be agreed to by all parties and finalized through a signed, written amendment to this Agreement.
4. Resolution of Program Non-Compliance and Disallowed Costs. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or TxCDBG program requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within 30 days of receipt of a written notice of the dispute or invitation to negotiate, and attempt to reach a just and equitable solution satisfactory to both parties. If the matter is not resolved by negotiation within 30 days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Agreement and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. *[This section may also provide for the qualifications of the mediator(s), the locale of meetings, time limits, or any other item of concern to the parties.]* If the matter is not resolved through such mediation within 60 days of the initiation of that procedure, either party may proceed to file suit.

5. Personnel.

- a. The Contractor represents that he/she/it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City/County.
- b. All of the services required hereunder will be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
- c. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City/County. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.

6. Assignability. The Contractor shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City/County thereto; Provided, however, that claims for money by the Contractor from the City/County under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City/County.

7. Reports and Information. The Contractor, at such times and in such forms as the City/County may require, shall furnish the City/County such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.

8. Records and Audits. The Contractor shall insure that the City/County maintains fiscal records and supporting documentation for all expenditures of funds made under this contract in a manner that conforms to 2 CFR 200.300-.309, 24 CFR 570.490, and this Agreement. Such records must include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the funds provided under this Agreement. City/County shall retain such records, and any supporting documentation, for the greater of three years from closeout of the Agreement or the period required by other applicable laws and regulations.

9. Findings Confidential. All of the reports, information, data, etc., prepared or assembled by the Contractor under this contract are confidential and the Contractor agrees that they shall not be made available to any individual or organization without the prior written approval of the City/County.

10. Copyright. No report, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Contractor.

11. Compliance with Local Laws. The Contractor shall comply with all applicable laws, ordinances and codes of the State and local governments, and the Contractor shall save the City/County harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.

12. Conflicts of interest.

- a. Governing Body. No member of the governing body of the City/County and no other officer, employee, or agent of the City/County, who exercises any functions or responsibilities in connection with administration, construction, engineering, or implementation of the TxCDBG award between TDA and the City / County shall have any personal financial interest, direct or indirect, in the Contractor or this Agreement; and the Contractor shall take appropriate steps to assure compliance.
  - b. Other Local Public Officials. No other public official who exercises any functions or responsibilities in connection with the planning and carrying out of administration, construction, engineering or implementation of the TxCDBG award between TDA and the City/County shall have any personal financial interest, direct or indirect, in the Contractor or this Agreement; and the Contractor shall take appropriate steps to assure compliance.
  - c. Contractor and Employees. The Contractor warrants and represents that it has no conflict of interest associated with the TxCDBG award between TDA and the City/County or this Agreement. The Contractor further warrants and represents that it shall not acquire an interest, direct or indirect, in any geographic area that may benefit from the TxCDBG award between TDA and the City/County or in any business, entity, organization or person that may benefit from the award. The Contractor further agrees that it will not employ an individual with a conflict of interest as described herein.
13. Debarment and Suspension (Executive Orders 12549 and 12689). The Contractor certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, or otherwise excluded from or ineligible for participation in federally-assisted programs under Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235). The term "principal" for purposes of this Agreement is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor. The Contractor understands that it must not make any award or permit any award (or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

#### Federal Civil Rights Compliance.

14. Equal Opportunity Clause (applicable to contracts and subcontracts over \$10,000).

During the performance of this contract, the Contractor agrees 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 considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. The Contractor will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- 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 Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

15. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
16. Section 109 of the Housing and Community Development Act of 1974. The Contractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.
17. Section 504 Rehabilitation Act of 1973, as amended. The Contractor agrees that no otherwise qualified individual with disabilities shall, solely by reason of his/her disability, be denied the benefits of, or be subjected to discrimination, including discrimination in employment, under any program or activity receiving federal financial assistance.
18. Age Discrimination Act of 1975. The Contractor shall comply with the Age Discrimination Act of 1975 which provides that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

*[If this Contract is greater than \$100,000, include the following Section 3 language:]*

19. Economic Opportunities for Section 3 Residents and Section 3 Business Concerns.

- 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 Agreement 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 Agreement. 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 subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Agreement 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).

**EXHIBIT B**



# CLOSING DOCUMENT



■, Year

**VIA OVERNIGHT DELIVERY**

Title Agent Name  
Title company name  
Title address  
Title city

Re: Loan in the amount of Loan Amt ("Loan") from \_\_\_\_\_ ("Lender")  
to HUSBAND and WIFE, husband and wife ("Borrower")

Dear Title Agent Name:

In connection with the referenced Loan involving real property ("Property") in County County, Texas, which is the subject of the Commitment for Title Insurance ("Commitment") issued by Title company name, a Texas corporation as agent for Title Underwriter ("Title Company") bearing GF No. GF No and dated effective Title Commitment Effective Date, enclosed are the following documents:

1. Document Correction Agreement;
2. Contractor's Disclosure Statement pertaining to Texas Property Code §53.255 and §53.257(b) ("Contractor Disclosure");
3. Disclosure Regarding Review of Loan Documentation;
4. Lender/Consumer Agreement for Method of Providing Disbursement Disclosures ("Lender/Consumer Agreement");
5. Contractor's Disbursement Disclosures pertaining to Texas Property Code §53.258 ("Contractor Disbursement Statement");
6. Contractor's List of Subcontractors and Suppliers ("Subcontractor List");
7. Construction Loan Agreement with the following contractor documents attached thereto as exhibits:

A = Request for Disbursement  
B = Affidavit of Completion and Indemnity  
C = Unconditional Partial Release During Construction  
Conditional Partial Release During Construction  
Unconditional Release of Final Payment  
Conditional Final Release  
D = Final Bills Paid Affidavit by Contractor  
F = Affidavit of Commencement;

8. Mechanic's Lien Note in the amount of \$ \_\_\_\_\_ ("Mechanic's Lien Note");
9. Mechanic's Lien Contract;
10. Request for Disbursement;
11. Promissory Note in the amount of \$ \_\_\_\_\_ § ("Note");
12. Deed of Trust ("Deed of Trust");
13. Welcome Letter/First Payment Coupon;
14. Financing Statement to be filed in the County UCC or Real Estate records of County County, Texas ("Financing Statement-County");
15. Financing Statement to be filed with Secretary of State ("Financing Statement-State");
16. Affidavit of Identity (x ☐);
17. Taxpayer Identification ("W-9") (x ☐);
18. Survey & Title Letter;
19. Notice of Final Agreement;
20. Transfer of Mechanic's Lien;
21. Mortgage Fraud Notice;
22. Affidavit of Occupancy and Residency;
23. ☐ Home Improvement Closing Certificate [IF REHABILITATION LOAN/HOME IMPROVEMENT] or New Home Closing Certificate [IF NEW HOME];
24. Federal Right of Rescission (Notice of Right to Cancel) for Consumer and Lender (x 2) ; and
25. Sweat Equity Affidavit.

Items No. 1 through ☐ inclusive, together with the Closing Disclosure and Texas Disclosure (collectively, "Disclosure Statements"), are hereinafter collectively referred to as the "Closing Documents". In addition to the Closing Document, an itemization of amounts financed by Lender and amounts to be collected from Borrower is enclosed as well.

You are hereby authorized and instructed to:

- A. Fax a proposed Disclosure Statements as well as a copy of the latest updated Commitment to [our post closing division to the attention of] \_\_\_\_\_ at (512) \_\_\_\_\_, or email to \_\_\_\_\_, and contact him/her at ( ) \_\_\_\_\_ to obtain approval of the form;
- B. Ensure that Borrower has obtained property and casualty (hazard) insurance in the amount of the Loan showing Lender as loss payee. Ensure that Contractor has obtained builder's risk insurance.]
- C. ■ [IF ESCROWING Ensure that an initial escrow deposit in the amount of \$ \_\_\_\_\_ is forwarded to Lender to be deposited into the escrow account;
- D. Ensure that Borrower has received copies of all Closing Documents at least one day prior to Closing as required under Texas Property Code §53.257;
- E. Ensure that Contractor has received copies of all pertinent Closing Documents;
- F. Ensure that Borrower has received proper disclosure from the Contractor prior to Closing as required under Texas Property Code §53.255 such as the Contractor Disclosure and Subcontractor List ;
- G. Ensure that Borrower has received proper disclosure from the Lender as required under Texas Property Code §53.258 such as the Lender/Consumer Agreement and Contractor's Disbursement Statement used to apply for an advance of funds;
- H. Ensure that all Closing Documents are (i) properly dated as of the date of closing, (ii) fully executed and acknowledged where applicable, (iii) all blanks are completed, and (iv) all exhibits are attached appropriately. No additions and/or corrections are to be made to the Closing Documents without prior approval of the undersigned. Ensure that Borrower receives copies of all executed Closing Documents, two (2) copies each of the ■ [IF REHABILITATION LOAN/HOME IMPROVEMENT: "Notice of Right to Cancel", included in the Mechanic's Lien Contract as Attachment 1 [OR IF NEW CONSTRUCTION: an Application for Residential Homestead Tax Exemption to be provided by the title company] and the First Payment Coupon;
- I. Ensure that the Title Company is unconditionally committed to issue to Lender a Loan Policy of Title Insurance ("Policy") (from which the arbitration provision must be deleted and which must contain an environmental lien protection endorsement) in the amount of ~~Loan/Amo~~ in accordance with the Commitment and the following additional instructions:

**Schedule A.** Schedule A must reflect all Lender's security documents.

**Schedule B.**

1. ■Item 2 must be modified to read "shortages in area".
2. ■[OPTIONAL – depends on whether a payment plan or tax deferral is in place ] Item No. 5 must read "Standby fees, taxes and assessments by any taxing authority for the year 20■ and subsequent years. Company insures that standby fees, taxes and assessments by any taxing authority for the year 20■ are not yet due and payable."
3. Schedule B may include an exception for the following:
  - (a) Any and all liens arising by reason of unpaid bills or claims for work performed or materials furnished in connection with improvements placed, upon the subject land. However, the Company does insure the Insured against loss, if any, sustained by the Insured under this Policy if such liens have been filed with the County Clerk of the county where the property lies, prior to the date hereof.
  - (b) Pending disbursement of the full proceeds of the loan secured by the lien instrument set forth under Schedule A hereof, this Policy insures only to the extent of the amount actually disbursed, but increases as each disbursement is made in good faith and without knowledge of any defects in or objections to, the title up to the face amount of the policy. Nothing contained in this paragraph shall be construed as limiting any exceptions under Schedule B, or any printed provision of this Policy

**Schedule C.** ALL Schedule C items must be satisfied, including any and all liens, so that such items are not exceptions on the Policy.

- J. Deliver (by overnight delivery for receipt on the first business day after Borrower has executed the Closing Documents) the following documents directly to [our post closing division to the attention of] \_\_\_\_\_ at the[Lender/servicer's name], [Lender/servicer's address], [city], Texas [zip]:
  1. Original Document Correction Agreement
  2. Certified copy of Contractor Disclosure;
  3. Original Disclosure Regarding Review of Loan Documentation;
  4. Original Construction Loan Agreement;
  5. Original Mechanic's Lien Note;
  6. Original Note;
  7. Original Affidavit of Identity (x ■);
  8. Certified copy of Subcontractor List;
  9. Original Lender/Consumer Agreement;
  10. Certified copy of Contractor Disbursement Statement;
  11. Certified copy of Mechanic's Lien Contract;
  12. Certified copy of Deed of Trust;
  13. Certified copy of Financing Statement - State;
  14. Certified copy of Financing Statement - County;
  15. Certified copies of Disclosure Statements;
  16. Original Notice of Invalidity of Oral Agreements;

17. ■ Original New Home Closing Certificate OR Home Improvement Closing Certificate;
18. Certified copy of Transfer of Mechanic's Lien;
19. Original Mortgage Fraud Notice;
20. Original Survey and Title Letter;
21. Original Affidavit of Occupancy;
22. Federal Right of Rescission (Notice of Right to Cancel) for Consumer and Lender (x 2)  
;and
23. Original W-9(s)

K. On the first business day after Borrower has executed the Closing Documents, please do the following:

1. Obtain oral verification from \_\_\_\_\_ at ( ) \_\_\_\_\_ to proceed with the closing, at which time the initial disbursement in the amount shown on the Disclosure Statements will be wire-transferred to Title Company's account.
2. Disburse the initial disbursement in accordance with the Disclosure Statements previously approved by Lender.
3. Record in the following order the Contract, Transfer of Mechanic's Lien and Deed of Trust in the Real Property Records of County County, Texas, and then file the County Financing Statement in the UCC Records of County County, Texas.
4. Next, file the State Financing Statement with the Office of the Secretary of State.

L. Within \_\_\_\_\_ days after closing, deliver the following original documents to \_\_\_\_\_:

1. Original Policy;
2. Original recorded Mechanic's Lien Contract;
3. Original recorded Deed of Trust;
4. Original recorded Transfer of Mechanic's Lien; and
5. Original recorded County Financing Statement and State Financing Statement.

**Prior to Closing**, please sign and return to the undersigned one copy of this letter acknowledging your agreement to comply with the foregoing instructions (for your convenience, a faxed copy to ( ) \_\_\_\_\_ - \_\_\_\_\_ will be sufficient).

You are not authorized to proceed with the closing until you have complied with the foregoing. If you have any questions regarding the loan documents or clarification of these instructions, please call the undersigned at \_\_\_\_\_.

Sincerely,

Enclosures

**TITLE COMPANY NAME**, as agent for **Title Underwriter**, hereby acknowledges receipt of the above-listed documents and its agreement to comply with the terms of these instructions, except as limited by applicable laws and regulations, including Procedure Rule P-35 of the Texas Department of Insurance.

**TITLE COMPANY NAME**, **Entity Type**, as agent for  
**Title Underwriter**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

# **DOCUMENT CORRECTION AGREEMENT**

## DOCUMENT CORRECTION AGREEMENT

LENDER: ■, a ■

BORROWER: TEST HUSBAND and TEST WIFE, husband and wife

PROPERTY: Property/address, Property/city

DATE: \_\_\_\_\_, Year

**AGREEMENT TO CORRECT MISSTATED INFORMATION OR PROVIDE ADDITIONAL DOCUMENTATION OR FEES:** In consideration of Lender disbursing funds for the closing of the Loan secured by the Property being encumbered, and regardless of the reason for any loss, misplacement, or inaccuracy in any Loan documentation, Borrower(s) agrees as follows: If any document is lost, misplaced, misstated or inaccurately reflects the true and correct terms and conditions of the Loan, upon request of the Lender, Borrower(s) will comply with Lender's request to execute, acknowledge, initial and deliver to Lender any documentation Lender deems necessary to replace or correct the lost, misplaced, misstated or inaccurate document(s). If the original promissory note is replaced, the Lender hereby indemnifies the Borrower(s) against any loss associated with a demand on the original note. All documents Lender requests of Borrower(s) shall be referred to as "Replacement Documents." Borrower(s) agrees to deliver the Replacement Documents within ten (10) days after receipt by Borrower(s) of a written request for such replacements. Borrower(s) also agrees that upon request Borrower(s) will supply additional amounts and/or pay to Lender any additional sum previously disclosed to Borrower(s) as a cost or fee associated with the Loan, which for whatever reason was not collected at closing.

**REQUEST BY LENDER:** Any request under this Agreement may be made by the Lender, (including assignees and persons acting on behalf of the Lender) or Settlement Agent, and shall be prima facie evidence of the necessity for same. A written statement addressed to Borrower(s) at the address indicated in the Loan documentation shall be considered conclusive evidence of the necessity for Replacement Documents.

**BORROWER LIABILITY:** If Borrower(s) fails or refuses to execute, acknowledge, initial and deliver the Replacement Documents or provide the Additional Documents or fees to Lender more than ten (10) days after being requested to do so by Lender, and understanding that Lender is relying on these representations, Borrower(s) agree(s) to be liable for any and all loss or damage which Lender reasonably sustains thereby, including but not limited to all reasonable attorney's fees and costs incurred by Lender.

**FAILURE TO DELIVER REPLACEMENT DOCUMENTS CAN CONSTITUTE DEFAULT:** Borrower's failure or refusal to comply with the terms of the correction request may constitute a default under the note and/or deed of trust, and may give Lender the option of declaring all sums secured by the loan documents immediately due and payable.



This Agreement shall survive the closing of the Loan, and inure to the benefit of Lender's successors and assigns and be binding upon the heirs, devisees, personal representatives, successors and assigns of Borrower(s).

**BORROWER:**

REST HUSBAND, husband

REST WIFE, wife

**CONTRACTOR'S DISCLOSURE  
STATEMENT FOR RESIDENTIAL  
CONSTRUCTION**

**CONTRACTOR'S DISCLOSURE STATEMENT FOR RESIDENTIAL  
CONSTRUCTION**

**Texas Property Code § 53.255(b) and § 53.257(b)**

The language of this disclosure is based on Tex. Prop. Code § 53.255(b). The disclosure must be substantially similar to the statutory language. This Disclosure Statement is delivered to you before the execution of the construction contract pursuant to Section 53.255(b) and Section 53.257(b) of the Texas Property Code.

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**Basic Information**

**Date:** ■

**Borrower:** ■

**Lender:** ■

**Contractor:** ■

**Contractor's Address:** ■

**Property:** ■ [property address] more specifically described in Exhibit "A"  
attached hereto

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**KNOW YOUR RIGHTS AND RESPONSIBILITIES UNDER THE LAW.** You are about to enter into a transaction to build a new home or remodel existing residential property. Texas law requires your contractor to provide you with this brief overview of some of your rights, responsibilities, and risks in this transaction.

**CONVEYANCE TO CONTRACTOR NOT REQUIRED.** Your contractor may not require you to convey your real property to your contractor as a condition to the agreement for the construction of improvements on your property.

**KNOW YOUR CONTRACTOR.** Before you enter into your agreement for the construction of improvements to your real property, make sure that you have investigated your contractor. Obtain and verify references from other people who have used the contractor for the type and size of construction project on your property.

**GET IT IN WRITING.** Make sure that you have a written agreement with your contractor that includes: (1) a description of the work the contractor is to perform; (2) the

required or estimated time for completion of the work; (3) the cost of the work or how the cost will be determined; and (4) the procedure and method of payment, including provisions for statutory retainage and conditions for final payment. If your contractor made a promise, warranty, or representation to you concerning the work the contractor is to perform, make sure that promise, warranty, or representation is specified in the written agreement. An oral promise that is not included in the written agreement may not be enforceable under Texas law.

**READ BEFORE YOU SIGN.** Do not sign any document before you have read and understood it. **NEVER SIGN A DOCUMENT THAT INCLUDES AN UNTRUE STATEMENT.** Take your time in reviewing the documents. If you borrow money from a lender to pay for the improvements, you are entitled to have the loan closing documents furnished to you for review at least one business day before the closing. Do not waive this requirement unless a bona fide emergency or another good cause exists, and make sure you understand the documents before you sign them. If you fail to comply with the terms of the documents, you could lose your property. You are entitled to have your own attorney review any documents. If you have any questions about the meaning of a document, consult an attorney.

**GET A LIST OF SUBCONTRACTORS AND SUPPLIERS.** Before construction commences, your contractor is required to provide you with a list of the subcontractors and suppliers the contractor intends to use on your project. Your contractor is required to supply updated information on any subcontractors and suppliers added after the list is provided. Your contractor is not required to supply this information if you sign a written waiver of your rights to receive this information.

**MONITOR THE WORK.** Lenders and governmental authorities may inspect the work in progress from time to time for their own purposes. These inspections are not intended as quality control inspections. Quality control is a matter for you and your contractor. To ensure that your home is being constructed in accordance with your wishes and specifications, you should inspect the work yourself or have your own independent inspector review the work in progress.

**MONITOR PAYMENTS.** If you use a lender, your lender is required to provide you with a periodic statement showing the money disbursed by the lender from the proceeds of your loan. Your contractor is also required to furnish you with a statement at least once each month of money disbursed to subcontractors and suppliers for this project. Review these statements and make sure that the money is being properly disbursed.

**CLAIMS BY SUBCONTRACTORS AND SUPPLIERS.** Under Texas law, if a subcontractor or supplier who furnishes labor or materials for the construction of improvements on your property is not paid, you may become liable and your property may be subject to a lien for the unpaid amount, even if you have not contracted directly with the subcontractor or supplier. To avoid liability, you should take the following actions:

C:\Users\mayates\Documents\Self help CDCB\Closing Documents\2 -ContractorDiscStmntResConstruction 53.255  
53.257.doc

(1) If you receive a written notice from a subcontractor or supplier, you should withhold payment from your contractor for the amount of the claim stated in the notice until the dispute between your contractor and the subcontractor or supplier is resolved. If your lender is disbursing money directly to your contractor, you should immediately provide a copy of the notice to your lender and instruct the lender to withhold payment in the amount of the claim stated in the notice. If you continue to pay the contractor after receiving the written notice without withholding the amount of the claim, you may be liable and your property may be subject to a lien for the amount you failed to withhold.

(2) During construction and for 30 days after final completion, termination, or abandonment of the contract by the contractor, you should withhold or cause your lender to withhold 10 percent of the amount of payments made for the work performed by your contractor. This is sometimes referred to as "statutory retainage." If you fail to withhold the 10 percent for at least 30 days after final completion, termination, or abandonment of the contract by the contractor and if a valid claim is timely made by a claimant, you may be personally liable and your property may be subject to a lien up to the amount that you failed to withhold.

If a claim is not paid within a certain time period, the claimant is required to file a mechanic's lien affidavit in the real property records in the county where the property is located. A mechanic's lien affidavit is not a lien on your property, but the filing of the affidavit could result in a court imposing a lien on your property if the claimant is successful in litigation to enforce the lien claim.

**SOME CLAIMS MAY NOT BE VALID.** When you receive a written notice of a claim or when a mechanic's lien affidavit is filed on your property, you should know your legal rights and responsibilities regarding the claim. Not all claims are valid. A notice of a claim by a subcontractor or supplier is required to be sent, and the mechanic's lien affidavit is required to be filed, within strict time periods. The notice and the affidavit must contain certain information. All claimants may not fully comply with the legal requirements to collect on a claim. If you have paid the contractor in full before receiving the notice of a claim and have fully complied with the law regarding statutory retainage, you may not be liable for that claim. Accordingly, you should consult your attorney when you receive a written notice of a claim to determine the true extent of your liability or potential liability for that claim.

**OBTAIN A LIEN RELEASE AND A BILLS-PAID AFFIDAVIT.** When you receive a notice of claim, do not release withheld funds without obtaining a signed and notarized release of lien and claim from the claimant. You can also reduce the risk of having a claim filed by a subcontractor or supplier by requiring as a condition of each payment made by you or your lender that your contractor furnish you with an affidavit stating that all bills have been paid. Under Texas law, on final completion of the work and before final payment, the contractor is required to furnish you with an affidavit

stating that all bills have been paid. If the contractor discloses any unpaid bill in the affidavit, you should withhold payment in the amount of the unpaid bill until you receive a waiver of lien or release from that subcontractor or supplier.

**OBTAIN TITLE INSURANCE PROTECTION.** You may be able to obtain a title insurance policy to insure that the title to your property and the existing improvements on your property are free from liens claimed by subcontractors and suppliers. If your policy is issued before the improvements are completed and covers the value of the improvements to be completed, you should obtain, on the completion of the improvements and as a condition of your final payment, a "completion of improvements" policy endorsement. This endorsement will protect your property from liens claimed by subcontractors and suppliers that may arise from the date the original title policy is issued to the date of the endorsement.

**CONTRACTOR:**

\_\_\_\_\_, a  
\_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ACKNOWLEDGEMENT**

The undersigned acknowledges receipt of this Contractor's Disclosure Statement for Residential Construction and represents and warrants that the undersigned has read and signed this Contractor's Disclosure Statement for Residential Construction on this ■ day of ■, 20 ■.

The undersigned also acknowledges receipt of a copy of the contractor's list of subcontractors and suppliers attached as Exhibit "B" hereto.

The undersigned further acknowledges receipt of copies of the loan closing documents furnished by Lender for review at least one business day before the closing and a copy of the attached contractor's list of subcontractors and suppliers.

**BORROWER:**

\_\_\_\_\_

**«BORROWER\_1\_NAME»,  
«Borrower\_1\_Marital\_Status»**

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**«BORROWER\_2\_NAME»,  
«Borrower\_2\_Marital\_Status»**

## **EXHIBIT "A"**

### **Legal Description of the Property**



**EXHIBIT "B"**

**Contractor's List of Subcontractors and Suppliers**

**CONTRACTOR'S LIST OF SUBCONTRACTORS AND SUPPLIERS**

**Basic Information**

DATE: \_\_\_\_\_

OWNER: ■

CONTRACTOR: ■

LENDER: ■

PROPERTY: ■ \_\_\_\_\_

This listing is provided to you in fulfillment of the Texas Property Code §53.256 requirements.

**NOTICE: THIS LIST OF SUBCONTRACTORS AND SUPPLIERS MAY NOT BE A FINAL LISTING. UNLESS YOU SIGN A WAIVER OF YOUR RIGHT TO RECEIVE UPDATED INFORMATION, THE CONTRACTOR IS REQUIRED BY LAW TO SUPPLY UPDATED INFORMATION, AS THE INFORMATION BECOMES AVAILABLE, FOR EACH SUBCONTRACTOR OR SUPPLIER USED IN THE WORK PERFORMED ON YOUR RESIDENCE.**

<u>NAME OF SUBCONTRACTOR/SUPPLIER</u>	<u>ADDRESS</u>	<u>TELEPHONE</u> <u>NO.</u>
---------------------------------------	----------------	--------------------------------

- 1.
- 2.
- 3.

Prepared on: \_\_\_\_\_, «Year».

**CONTRACTOR:**

■, ■

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[ ] ACKNOWLEDGEMENT**

**I have received a copy of this list of subcontractors and suppliers.**

Received on: \_\_\_\_\_, «Year».

**OWNER/BORROWER:**

\_\_\_\_\_

\_\_\_\_\_

**DISCLOSURE REGARDING REVIEW OF  
LOAN DOCUMENTS**

## DISCLOSURE REGARDING REVIEW OF LOAN DOCUMENTATION

Date: \_\_\_\_\_, «Year»

Borrower: TEST HUSBAND AND TEST WIFE, husband and wife

Lender: ■, a ■

Property Address: Property address, Property city

The undersigned acknowledge that, pursuant to Texas Property Code 53.257, Lender "shall deliver to the owner all documentation relating to the closing of the loan not later than one business day before the date of closing." The undersigned have had the opportunity to review the loan documentation and to postpone the date of closing in order to review the documentation.

The undersigned hereby instruct Lender and closing agent as follows:

(Check the appropriate box)

- ☐ 1. The undersigned have reviewed the loan documentation at least one business day before the date of closing.
- ☐ 2. The undersigned requests that the closing date be postponed for at least one business day to enable the undersigned to review the loan documentation.
- ☐ 3. Pursuant to Texas Property Code 53.257(a), the undersigned hereby gives written consent to Lender to deliver the loan documentation on the date of closing because of a bona fide emergency or another good cause and undersigned requests that the closing proceed immediately.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, «Year».

**BORROWER:**

TEST HUSBAND, husband

TEST WIFE, wife

**CONTRACTOR'S DISBURSEMENT  
DISCLOSURE FOR RESIDENTIAL  
CONSTRUCTION (Consumer-Owned)**

## Contractor's Disbursement Disclosure for Residential Construction (Consumer-Owned)

### Basic Information

Date: \_\_\_\_\_, 20\_\_

Owner:                     ,                     

Property Address:                     ,                     

Project: [include description] A single-family residence ■ [, specifically a manufactured housing unit bearing serial number \_\_\_\_\_,] and related improvements to be constructed ■ [, installed and affixed] on the real property specifically described as:                     .

Contractor:                     ,                     

Lender: ■, a ■

The following information is required to be provided under section 53.258 of the Texas Property Code in connection with this payment request for construction on the Property. This statement will be furnished by depositing the statement in the United States mail, first class, postage paid, and properly addressed to Owner or by hand delivering the statement to Owner before Contractor receives the requested funds.

**A. Bills Paid.** The following is a list of bills or expenses for labor or materials used on the Project that have been paid and for which Contractor is requesting payment:

Name and address of subcontractor or supplier:

Description of bill or expense paid:

Amount paid:

**B. Bills to Be Paid.** The following is a list of bills or expenses relating to labor or materials used on the Project that will be paid from the funds requested. This list contains the name and address of each person who subcontracted directly with Contractor and whom Contractor intends to pay from the requested funds.

Name and address of payee:

Description of bill or expense to be paid:

Amount to be paid:

**CONTRACTOR:**

**«CONT NAME», «Cont Entity type»**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LENDER/CONSUMER AGREEMENT  
FOR METHOD OF PROVIDING  
DISBURSEMENT DISCLOSURES**



**LENDER/CONSUMER AGREEMENT  
FOR METHOD OF PROVIDING DISBURSEMENT DISCLOSURES**

**ADDENDUM TO CONSTRUCTION LOAN AGREEMENT  
DISBURSEMENT DISCLOSURES**

This Addendum shall be attached to and made a part of the Construction Loan Agreement executed by the parties hereto on this same date.

Prior to any direct disbursement of loan proceeds to the original contractor, the lender will make available for inspection and copying the following disclosures: (1) a copy of the original contractor's disbursement disclosure reflecting the bills and expenses for which the disbursement is requested; and (2) the lender's disbursement statement reflecting all disbursements made by the lender since the last statement. The parties hereto expressly agree that these disclosures will be made to the owner(s)/borrower(s) (hereinafter referred to collectively as "owner") by the lender in the following manner:

- A. The disclosures will be made available for inspection and copying at the lender's offices located at \_\_\_\_\_, between the hours of 9:00 a.m. and 4:00 p.m. on the day a disbursement is scheduled to be made to the original contractor. The disbursement will not be made prior to 4:00 p.m. on such date.
- B. Each disbursement, together with all previous disbursements, must not exceed the percentage of the Amount Available for Construction upon the completion of at least the equal percentage of the construction, less the retainage required by law.
- C. The original contractor is required to furnish the contractor's disbursement disclosure directly to the owner prior to the requested disbursement. When the owner receives such disclosure from the contractor, owner should check with the lender to determine the schedule for such disbursement and the availability of the disclosures for inspection and copying. For such information, owner may contact lender between 9:00 a.m. and 4:00 p.m. as follows: \_\_\_\_\_ - (512) 475-\_\_\_\_\_,  
\_\_\_\_\_. @ \_\_\_\_\_.
- D. As a courtesy to the owner, lender will notify the owner of the scheduled disbursement and availability of the disclosures for inspection and copying, by placing a telephone call to owner between 9:00 a.m. and 1:00 p.m. on the date of the scheduled disbursement at the following telephone number: ~~XXXXXXXXXXXX~~. If the owner is not available to receive the telephone call, lender will, if possible, leave an appropriate message. If lender is unable to leave a message or is otherwise unable to reach the owner with the telephone call, lender shall be under no obligation to make additional phone calls in connection with that disbursement.

E. Lender will also mail a copy of the disclosures to the owner by placing the same in the United States mail, first class, postage prepaid, addressed to the owner as follows:

~~«Borrower Mailing Address (street only)»~~

~~«Borrower Mailing Address (CDS)»~~

Lender shall place the notice in the mail at a regularly maintained office or branch of the U.S. Postal Service on or before the date of the scheduled disbursement. Notwithstanding lack of receipt by owner, lender will be deemed to have "provided" the disclosures to owner when lender places a copy in the mail in accordance with this paragraph.

LENDER AND OWNER(S) EXPRESSLY AGREE THAT THE METHOD DESCRIBED ABOVE SHALL CONSTITUTE FULL COMPLIANCE WITH THE LENDER'S OBLIGATION UNDER CHAPTER 53 OF THE TEXAS PROPERTY CODE (RELATING TO RESIDENTIAL CONSTRUCTION PROJECTS) TO PROVIDE SUCH DISBURSEMENT DISCLOSURES TO THE OWNER(S) PRIOR TO DISBURSEMENT.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, ~~«Year»~~

LENDER:

■, a ■

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

OWNER(S):

~~«Borrower 1 name»~~

~~«Borrower 1 Marital Status»~~

~~«Borrower 2 name»~~

~~«Borrower 2 Marital Status»~~

**CONTRACTOR'S LIST OF  
SUBCONTRACTORS AND SUPPLIERS**

## CONTRACTOR'S LIST OF SUBCONTRACTORS AND SUPPLIERS

### Basic Information

DATE: \_\_\_\_\_

OWNER: ~~BORROWER 1 NAME~~, ~~BORROWER 2 NAME~~,  
~~Borrower Status needed for combined bo~~

CONTRACTOR: ~~CONTRACTOR NAME~~, ~~Contractor Entity Type~~

LENDER: ■, a ■

PROPERTY: \_\_\_\_\_

This listing is provided to you in fulfillment of the Texas Property Code §53.256 requirements.

**NOTICE: THIS LIST OF SUBCONTRACTORS AND SUPPLIERS MAY NOT BE A FINAL LISTING. UNLESS YOU SIGN A WAIVER OF YOUR RIGHT TO RECEIVE UPDATED INFORMATION, THE CONTRACTOR IS REQUIRED BY LAW TO SUPPLY UPDATED INFORMATION, AS THE INFORMATION BECOMES AVAILABLE, FOR EACH SUBCONTRACTOR OR SUPPLIER USED IN THE WORK PERFORMED ON YOUR RESIDENCE.**

NAME OF SUBCONTRACTOR/SUPPLIER

ADDRESS

TELEPHONE NO.

- 1.
- 2.
- 3.

Prepared on: \_\_\_\_\_, «Year». CONTRACTOR:

~~CONTRACTOR NAME~~,  
~~Contractor Entity Type~~

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

### **[ ■ ] ACKNOWLEDGEMENT**

I have received a copy of this list of subcontractors and suppliers.

Received on: \_\_\_\_\_, ~~Year~~.

OWNER/BORROWER:

~~BORROWER 1 NAME~~  
~~Borrower 1 Marital Status~~

~~BORROWER 2 NAME~~ ~~Borrower 2 Marital~~  
~~Status~~

# CONSTRUCTION LOAN AGREEMENT

## CONSTRUCTION LOAN AGREEMENT

This Construction Loan Agreement ("Agreement") is made on the date stated below among Owner, Lender and Contractor who is identified and whose addresses are stated below. This Agreement relates to the manner of disbursement of the loan proceeds from the Note described below to or for the benefit of Owner and for the construction of the Improvements on the Real Property described below. The Note is secured by a First/Second Lien Deed of Trust lien on the Real Property.

**OWNER:** BORR 1 NAME, BORR 2 NAME, Borrower Status Both

**OWNER'S ADDRESS:** Mail Add, Mail Add City/State/Zip

**LENDER:** \_\_\_\_\_, \_\_\_\_\_

a

**LENDER'S ADDRESS:** \_\_\_\_\_, \_\_\_\_\_

**CONTRACTOR:** Cont Name, Cont Entity type

**CONTRACTOR'S ADDRESS:** Cont Add, Cont Add CCSZ

**TITLE COMPANY:** Title Co name, Title Co entity

**TITLE COMPANY'S ADDRESS:** Title Co add, Title Co CCSZ

**NOTE(S):** Mechanic's lien note ("Mechanic's Lien Note") of even date herewith in the original principal amount of MLK Amb, executed by Owner and payable to the order of Contractor, which has been renewed and extended into a Loan Amb Lien Position lien real estate lien note of even date executed by Owner payable to Lender, as stated in the Lien Position Lien Real Estate Lien Note, and secured by the Real Property and Improvements described below.

**CONTRACT:** Mechanic's Lien Contract of even date executed by Owner and Contractor providing for the construction of the Improvements, retaining a lien in the amount of MLK Amb against the Real Property and transferring the lien securing the Mechanic's Lien Note to Lender.

**REAL PROPERTY:** Legal Description

**IMPROVEMENTS:** A single-family residence and related improvements to be constructed on the Real Property.

**AMOUNT AVAILABLE FOR CONSTRUCTION:** MLK Amb

**COMMENCEMENT DATE:** As of even date herein

**COMPLETION DATE:** ~~Construction Completion Date~~

**SUBSTANTIAL COMPLETION:** When the Improvements have been completed according to the plans and are fit for their intended use except for minor items to be completed in a punch list.

**WARRANTY STANDARDS:** If a home is rehabilitated, the housing unit must, at a minimum, meet or exceed the Texas Minimum Construction Standards ("TMCS"), the Minimum Energy Efficiency Requirements for Single Family Construction Activities, the applicable single family construction standards under Title 10, Part 1, Chapter 21 of the Texas Administrative Code, as well as local building codes and zoning ordinances and has no observed deficiencies related to health and safety standards. If a home is reconstruction or new construction, the housing unit must, at a minimum, meet or exceed the International Residential Code ("IRC") and Contractor must also ensure compliance with the universal design features in new construction, established by §2306.514, Texas Government Code, energy standards as verified by a RESCHECK certification, energy efficiency standards established under §2306.187, Texas Government Code, International Energy Conservation Code, and the International Residential Codes, as required by Subchapter G, Chapter 214, Local Government Code. In addition, the residence shall be habitable.

**1. Purpose and Limitation of Disbursements.**

(a) Owner may request disbursements from the Amount Available for Construction by submitting to Lender a Request for Disbursement in the forms attached hereto as Exhibit "A" anytime within ~~«M» months for draw»~~ (~~«AutoMergeField»~~) months of the date of this Agreement. Disbursements shall be made under the following conditions:

(i) Not applicable;

(ii) All disbursements for construction costs shall be made directly to the Contractor;

(iii) Each request for disbursement must be accompanied by invoices from the relevant Contractor, manufacturers, suppliers and subcontractors on letterhead of the Contractor, manufacturers, suppliers and subcontractors (which shall include their name and address) indicating the specific labor and/or materials to which such invoices apply and giving a breakdown of any amounts owed to material suppliers and subcontractors in connection with such work in accordance with the Draw Request attached hereto as Exhibit "A";

(iv) Each disbursement, together with all previous disbursements, must not exceed the percentage of the Amount Available for Construction upon the completion of at least the equal percentage of the construction, less the retainage required by law;



(v) The remainder of the Amount Available for Construction will be disbursed only upon the occurrence of all of the following: (aa) 100% of the construction covered by the Contract is complete; (bb) neither the location, placement nor construction of Owner's residence violates or interferes with any applicable recorded instrument or governmental regulation affecting the Real Property; and (cc) Contractor has timely provided Owner with the updated written list of subcontractors and suppliers of any tier and has verified the list as accurate as of final completion in order for Contractor and Owner to prepare, file, and send an the Affidavit of Completion and Indemnity in the form attached hereto as Exhibit "B"; and (dd) the releases in the form attached hereto as Exhibits "C", have been executed by all appropriate parties. If the Owner and Contractor have prepared, filed and sent the Affidavit of Completion and Indemnity within 10 days of the date the construction is completed, retainage will then be released by Lender on behalf of Owner, to Contractor on the fortieth (40th) day after the date of final completion as stated in the Affidavit of Completion and Indemnity, provided no unreleased mechanic's liens have been filed by that time. Otherwise, Lender, on behalf of Owner, shall pay the retainage to Contractor on the last business day of the third month following the month of final completion of the project, provided no unreleased mechanic's liens on Owner's residence have been filed by that time; and

(vi) If the Amount Available for Construction is less than the Contract Sum (said difference hereinafter called "Owner's Funds"), either Owner or Contractor must provide satisfactory evidence to Lender that Owner's Funds have been delivered to and accepted by Contractor pursuant to the Contract.

(b) Any funds, other than amounts held by the Lender as retainage, not yet disbursed pursuant to this Agreement «M months for draw» («AutoMergeField») months from the date of this Agreement, shall be used to repay the Notes unless the Lender shall provide additional time to the Owner to complete construction.

(c) If the Owner has (i) misrepresented Owner's eligibility to receive the loan proceeds pursuant to the Notes, (ii) has misused the proceeds of the Notes, or (iii) has made any misrepresentations in connection with this Agreement, then, in addition to any other measures available to Lender, Lender shall apply any undisbursed funds to payment of the Notes.

(d) Owner acknowledges that Owner has been able to choose the licensed contractor/supplier of its choice to construct the residence. UNDER NO CIRCUMSTANCES IS THE OPERATION OF THIS AGREEMENT INTENDED TO INSURE THE QUALITY OF THE CONSTRUCTION OR INSURE THAT THE CONTRACTOR, MANUFACTURER, SUPPLIER, OR LABORER HAS NOT PLACED A LIEN ON OWNER'S PROPERTY. Owner is not obligated to request a disbursement from the Amount Available for Construction if Owner is not satisfied with the quality of the construction or Owner is not satisfied that a lien has not been placed on the Real Property.

Owner agrees that Lender will not be held liable for any acts or omissions on the part of the contractor/supplier, manufacturer or laborer.

(e) Owner acknowledges that before a final disbursement can be made under this Agreement, Owner must provide Lender with [■ a certified copy of the recorded Statement of Ownership and Location, notice of installation for the manufactured home unit and/or proof of proper installation by a licensed installer or retailer,] an Affidavit of Completion and Indemnity (Exhibit "B") signed by Owner, a Final Bills Paid Affidavit (Exhibit "D") signed by Contractor, and an Unconditional Release of Final Payment or Conditional Final Release (Exhibit "C") signed by Contractor and each manufacturer, subcontractor and supplier, verifying that all work has been completed and all materials delivered and that each contractor, supplier and subcontractor has waived its right to file a lien against Owner's residence in connection with the construction of the residence.

**2. Owner's Obligations. Owner further agrees that:**

(a) The Improvements will be constructed and fully equipped in a good and workmanlike manner with materials of high quality, strictly in accordance with the plans and specifications submitted to Lender, and such construction and equipping will be commenced as soon as possible (as evidenced by Affidavit of Commencement attached as Exhibit "E") and prosecuted with due diligence and will be fully completed not later than the maturity date of the Mechanic's Lien Note;

(b) No changes will be made in the plans and specifications submitted to Lender except on the written approval of the same by Lender;

(c) No substantial extras shall be allowed to any contractor, manufacturer or any subcontractor or material change made in any contract or subcontract without the Lender's prior written approval and consent;

(d) Owner will promptly furnish Lender, at Lender's request, after execution thereof, executed copies of all contracts between Owner and Contractor or manufacturer and all subcontracts between Contractor and all of its subcontractors and suppliers;

(e) Owner will cooperate with Lender in arranging for inspections by representatives of Lender of the progress of construction from time to time and will promptly comply with Lender's requirements or satisfy any objections regarding construction of the Improvements or the progress thereof;

(f) Owner will not suffer or permit any mechanics' or materialmen's lien claims to be filed or otherwise asserted against the Real Property or any funds due Contractor and will promptly discharge the same in case of the filing of any claims for lien or proceedings for the enforcement thereof; provided, however, that Owner shall have the right to contest in good faith and with reasonable diligence the validity of any such lien or claim on furnishing to Lender such security or indemnity as it may require;

(g) Owner will pay all premiums on all insurance policies required from time to time during the progress of construction, and furnish to Lender additional and renewal insurance policies with companies, coverage, and amounts satisfactory to Lender;

(h) Owner will pay all real estate taxes and assessments of every kind on the Real Property before the same become delinquent, and Lender may at any time require Owner to provide evidence that taxes have been paid current;

(i) Owner will pay to Lender all of Lender's expenses incurred in regard to this loan, including, but not limited to, attorney's fees, title insurance premiums and charges, survey costs, recording fees, expenses of making inspections, and other expenses incurred by Lender. Any expense so advanced or incurred by Lender shall be secured by the Deed of Trust. In the event that Lender shall expend any amounts in performance of any of Owner's covenants or agreements under the Notes or any document securing the Notes, such amounts shall constitute additional indebtedness secured under the Deed of Trust, to the extent allowed by law;

(j) Owner will keep accurate and proper books and records of the development of the Real Property and the construction of the Improvements, and will at all reasonable hours allow Lender or its representative to examine such books and records and all contracts and bills relating to the construction of the Improvements;

(k) All of the personal property, fixtures, attachments, and equipment delivered on, attached to, or used in connection with the construction of the Improvements or the operation thereof will be kept free and clear of all liens, encumbrances, and security interests whatsoever, and Owner will be the absolute owner of said personal property, fixtures, attachments, and equipment and will, from time to time, furnish Lender with satisfactory evidence of such ownership, including searches of applicable public records;

(l) At Lender's request, Owner will execute and deliver, or cause to be executed and delivered, a security agreement granting Lender a security interest in furniture, furnishings, fixtures, and equipment to the extent so required and other supporting documents which Lender may require in connection therewith, including financing statements and searches of records under the Uniform Commercial Code.

### **3. Contractor's Obligations.**

(a) Contractor agrees to ensure that Owner's residence, once complete and affixed to the Real Property, does not violate or interfere with any applicable recorded instrument or governmental regulation affecting the Real Property. Contractor agrees that if Owner's residence was demolished and cannot be reconstructed by the Completion Date becomes the responsibility of Contractor for completion of Owner's residence.

- (b) Obtain Contractor's risk insurance coverage for casualty loss and public liability in reasonable amounts, to protect Contractor and Owner.
- (c) Diligently prosecute the construction to completion and substantially complete the construction according to the plans by the Completion Date.
- (d) Pay all valid bills and charges to Contractor for material or labor relating to the Improvements.
- (e) Keep the Property free from claims of liens for labor or material arising directly through Contractor, except that Contractor may reasonably dispute any claim.
- (f) Provide Owner with a written list of all manufacturers, subcontractors and suppliers of any tier furnishing labor, material, equipment, or other improvements for the project. The list will include each manufacturer's, subcontractor's or supplier's name, address, and telephone number and will be updated within fifteen days of any addition or deletion of a manufacturer, subcontractor or supplier. A final list will be provided to Owner on or before final completion of the Improvements.

**4. Owner's Representations. Owner represents to Lender that:**

- (a) Owner is, or will be at the time of closing, the fee simple owner of the Real Property described above. This Real Property is the same as the Real Property described in the Deed of Trust securing the Note executed by Owner to Lender. There are no liens, claims or charges against the Real Property, other than those that are referred to in the loan documents, or that have been previously approved and agreed to by Lender.
- (b) None of the Improvements to be constructed by Owner are now located on the Real Property.
- (c) No written contract regarding the construction of all or any portion of the Improvements to be constructed by Owner on the Real Property has been recorded or filed for record in the Office of the County Clerk of the county where the Real Property is located.
- (d) No affidavit regarding any oral contract for the construction of all or any portion of the Improvements to be constructed by Owner has been recorded or filed for record in the Office of the County Clerk of the county where the Real Property is located.
- (e) No construction has been commenced, nor have any materials or supplies been delivered to the Real Property to be used in the construction of the Improvements.

(f) No person has taken or permitted any action that would cause the inception or priority of any mechanic's or materialmen's lien, or any other lien, charge, or encumbrance upon the Real Property to be prior or superior to the liens and security interest of the Deed of Trust executed by Owner.

(g) All warranties, representations and certifications made, and all information and material submitted or caused to be submitted to Lender in connection with the loan are true and correct, and there have been no material changes in or conditions affecting any of such warranties, representations, certifications, material or information prior to the date of the closing.

(h) The execution and delivery of the loan documents and all other documents executed or delivered by or on behalf of Owner and pertaining to the loan have been duly authorized and approved by the parties executing such documents and constitute the valid and binding obligations of Owner enforceable in accordance with their respective terms, and the payment or performance thereof will be subject to no offsets, claims or defenses.

(i) There is no material pending or threatened claim or litigation against the Real Property, Owner or any guarantors of the loan.

(j) The execution and delivery of the loan documents does not violate or contravene in any way any documents creating or governing any party executing such documents, or any other agreement or instrument to which such party may also be a party, or by which it or any of its property may be bound. Furthermore, the execution and delivery of such loan documents will not be in conflict with, result in a breach of, or constitute a default under any such other agreements or instruments, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of such party, except as contemplated by the provisions of the loan documents, and no action or approval with respect thereto by any third person is required.

(k) No consent or approval of any regulatory body to the execution, delivery or performance of the loan documents is required by law.

(l) The execution and delivery of the loan documents do not contravene any law, order, decree, rule or regulation to which any person, firm or entity executing such loan documents is subject.

(m) The financial statements delivered to Lender by or on behalf of Owner are each true and correct in all respects and there has been no material adverse change in such statements as of this date. Owner, and each person, firm or entity executing the loan documents, is solvent, is not bankrupt, has not committed any act of bankruptcy, and has no outstanding liens, suits, garnishments, bankruptcies, or court actions which could render him or it insolvent.

5. **Actions for Lender's Benefit Only.** The authority herein conferred on Lender and any action taken by Lender in making inspections of the Real Property, procuring sworn statements and waivers of liens, approving contracts and subcontracts and approving plans and specifications will be taken by Lender for its own protection only, and Lender shall not be deemed to have assumed any responsibility to Owner or any other person with respect to any such action herein authorized or taken by Lender or with respect to the proper construction of the Improvements, performance of contracts or subcontracts by any manufacturer, contractors or subcontractors, or prevention of claims for mechanic's lien.

6. **Limitations of Warranties.** To the extent allowed by law, the warranties are limited as set forth below: Owner accepts the work with the following limitations concerning warranties: any warranties on consumer products have been assigned to the Owner who will look only to the issuer of those warranties for enforcement of their term. The only warranties concerning the construction, quality or value of the property or Improvements, are expressed, and not implied, and are represented by and limited to the express one-year improvement warranty with contractual warranty standards delivered to Owner upon Substantial Completion; Owner waives all other warranties and representations, oral and written, expressed and implied, concerning the property or Improvements, including without limitation any warranty of habitability, fitness for purpose, or construction in a good workmanlike manner.

7. **Non-Waiver by Lender.** No waiver of any breach or default hereunder shall constitute or be construed as a waiver by Lender of any subsequent breach or default or of any breach or default of any other provision.

8. **Notices.** Any notice will be deemed to be delivered, whether actually received or not, when deposited in the United States mail, postage fully prepaid, certified mail, and addressed to the intended recipient at the last known address according to the records of the party delivering the notice. Notice given in any other manner will be effective only if and when received by the addressee. Any address for notice may be changed by written notice delivered as provided here.

9. **Controlling Agreement.** In the event the Mechanic's Lien Contract executed by Contractor and Owner is inconsistent with this Agreement, the terms and conditions of this Agreement shall govern.

10. **Choice of Law.** Each Party submits to the jurisdiction of the state and federal courts in the State of Texas and to venue in the County in which the Real Property is situated.

11. **Repair or Renovation Construction.** If the work of this contract includes repair or renovation of existing improvements the following provisions apply. Contractor and Owner certify and represent that they are aware of, and have complied with the following legal rights and obligations:

- a. **Rescission.** Owner may rescind this contract (and any other proposals, contracts, or agreements with contractor regarding the repair or renovation of existing improvements)

without penalty or charge within three (3) days after the execution of the contract by all parties. See Notice of Cancellation Form below.

- b. *Place of Signing Contract.* Owner acknowledges that this Contract was signed at one of the following offices, and not elsewhere: (a) the office of a third party lender making an extension of credit for work and material to be furnished (b) offices of an attorney at law; or (c) offices of a title company.
- c. *5 day waiting period.* This Mechanic's Lien Contract and any other contract signed in connection with the repairs and renovations work mentioned in this contract, have not been executed by the owner or the owner's spouse before the 5th day after the owner made written application for an extension of credit for the work and material contemplated.

12. **Force Majeure.** The time period for performance of the obligations of Contractor set forth in this Agreement shall be subject to extension by reason of any Force Majeure Event, provided in no event shall the cumulative period of all such extensions exceed three (3) months. As used herein, a "Force Majeure Event" shall mean strikes, embargoes, unusual delays in transportation, national emergencies, extreme weather conditions, acts of God, affirmative acts of governmental agencies relating to the population in general (as opposed to acts of governmental agencies relating to the Improvements or the Real Property). If Contractor shall be unable to perform its obligations in whole or in part due to a Force Majeure Event, Contractor shall promptly notify Owner and Lender of the nature of such Force Majeure Event and the obligations affected thereby. Upon delivery of such notice, the performance by Contractor of the obligations set forth in such notice shall be suspended to the extent, but solely to the extent, performance of such obligations is affected by such Force Majeure Event.

#### NOTICE

**IMPORTANT NOTICE:** You and your contractor are responsible for meeting the terms and conditions of this contract. If you sign this contract and you fail to meet the terms and conditions of this contract, you may lose your legal ownership rights in your home. **KNOW YOUR RIGHTS AND DUTIES UNDER THE LAW.**

#### RESIDENTIAL CONSTRUCTION LIABILITY ACT (RCLA) NOTICE

**This contract is subject to Chapter 27 of the Texas Property Code. The provisions of that chapter may affect your right to recover damages arising from a construction defect. If you have a complaint concerning a construction defect and that defect has not been corrected as may be required by law or by contract, you must provide the notice required by Chapter 27 of the Texas Property Code to the contractor by certified mail, return receipt requested, not later than the 60th day before the date you file suit to recover damages in a court of law or initiate arbitration. The notice must refer to Chapter 27 of the Texas Property Code and must describe the construction defect. If requested by the contractor, you must provide the**

contractor an opportunity to inspect and cure the defect as provided by Section 27.004 of the Texas Property Code.

**OWNER:**

Date: \_\_\_\_\_

**«BORR-1-NAME» «Borr-1-Status»**

**«Borr-2-Name» «Borr-2-Status»**

**YOU, THE OWNER, MAY CANCEL THIS TRANSACTION AT ANY TIME BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.**

**CONTRACTOR:**

**«CONT-NAME» «Cont-Entity-type»**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**LENDER:**

\_\_\_\_\_, a  
\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Date: \_\_\_\_\_



**ATTACHMENT NO. 1**  
**Notice of Cancellation**

Date: \_\_\_\_\_, **«Year»**

**YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.**

**IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN TEN BUSINESS DAYS FOLLOWING RECEIPT BY THE MERCHANT OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELED.**

**IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE MERCHANT AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE MERCHANT REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE MERCHANT'S EXPENSE AND RISK.**

**IF YOU DO NOT AGREE TO RETURN THE GOODS TO THE MERCHANT OR IF THE MERCHANT DOES NOT PICK THEM UP WITHIN TWENTY DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION.**

**TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM TO «CONT\_NAME», «CONT\_ENTITY\_TYPE» AT «CONT\_ADD», «CONT\_ADD\_GCSZ», NOT LATER THAN MIDNIGHT OF \_\_\_\_\_.**

**I HEREBY CANCEL THIS TRANSACTION.**

Date: \_\_\_\_\_

**OWNER:**

\_\_\_\_\_  
**«BORR\_1\_NAME», «BORR\_1\_STATE»**

\_\_\_\_\_  
**«BORR\_2\_NAME», «BORR\_2\_STATE»**

**Exhibits:**

- A = Request for Disbursement**
- B = Affidavit of Completion and Indemnity**
- C = Unconditional Partial Release During Construction**
  - Conditional Partial Release During Construction**
  - Unconditional Release of Final Payment**
  - Conditional Final Release**
- D = Final Bills Paid Affidavit by Contractor**
- E = Affidavit of Commencement**

**EXHIBIT "A"**  
**REQUEST FOR DISBURSEMENT**

DISBURSEMENT NUMBER \_\_\_\_\_

**TEST HUSBAND** and **TEST WIFE**, husband and wife ("Owner"), requests that a disbursement be made pursuant to the Construction Loan Agreement dated \_\_\_\_\_, 20\_\_\_\_\_, between Owner, **CONTRACTOR NAME**, **Contractor type** ("Contractor"), and the \_\_\_\_\_ ("Lender"), in the amount of \$ \_\_\_\_\_, \_\_\_\_\_%\* of **MLK Amt**, the Amount Available for Construction, less the retainage required by law.

This disbursement, together with all previous disbursements, does not exceed:

- (a) ☐ % [ex. 90% w/ 10% retainage is considered 100%] of the Amount Available for Construction, less the retainage required by law, upon closing of the Note; or
- (b) ☐ [100%] of the Amount Available for Construction, less the retainage required by law, if all the construction is complete

Attached hereto are invoices from the Contractor specifying the work to which such invoice applies and giving a breakdown of all amounts owed to suppliers or subcontractors in connection with such work.

\*NOTE: THE FINAL DISBURSEMENT OF AT LEAST 10% OF THE AMOUNT AVAILABLE FOR CONSTRUCTION WITHHELD FROM EACH DRAW, CHANGE ORDER, OR OTHER MODIFICATION TO THE AMOUNT AVAILABLE FOR CONSTRUCTION: IF CONTRACTOR HAS TIMELY PROVIDED OWNER WITH THE UPDATED WRITTEN LIST OF SUBCONTRACTORS AND SUPPLIERS OF ANY TIER AND CONTRACTOR HAS VERIFIED THE LIST AS ACCURATE AS OF FINAL COMPLETION, OWNER WILL PREPARE, FILE, AND SEND AN AFFIDAVIT OF COMPLETION WITHIN TEN DAYS OF THE DATE OF PROJECT FINAL COMPLETION. RETAINAGE WILL THEN BE RELEASED TO CONTRACTOR THE FORTIETH (40TH) DAY AFTER THE DATE OF FINAL COMPLETION AS STATED IN THE AFFIDAVIT, PROVIDED NO UNRELEASED MECHANIC'S LIENS HAVE BEEN FILED BY THAT TIME. IF OWNER FAILS TO TIMELY PROVIDE THE AFFIDAVIT OF COMPLETION, RETAINAGE WILL BE PAID TO CONTRACTOR ON THE LAST BUSINESS DAY OF THE THIRD MONTH FOLLOWING THE MONTH OF FINAL COMPLETION OF THE PROJECT, PROVIDED NO UNRELEASED MECHANIC'S LIENS HAVE BEEN FILED BY THAT TIME.

Owner certifies that the disbursement requested above is for the cost of construction of improvements and that the information set forth above or attached hereto is true and correct. Owner understands that it may take up to three (3) days for Lender to inspect the improvements for

which this disbursement is requested and to make a disbursement of the requested construction loan proceeds.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**OWNER:**

**«BORR-1-NAME», «Borr-1-Status»**

**«Borr-2-Name», «Borr-2-Status»**

**EXHIBIT "B"**  
**AFFIDAVIT OF COMPLETION AND INDEMNITY**  
**Property Code § 53.106**

**THE STATE OF TEXAS**                   §  
   §  
**COUNTY OF** «COUNTY»           §

**Owner:**           «BORROWER\_1\_NAME» «BORROWER\_2\_NAME»,  
                         «Borrower Status needed for combined bo»

**Owner's Address:**   «Combined Addresses for areas of the fo»

**Contractor:**       «Contractor Name», «Contractor Entity Type»

**Contractor's Address:** «Contractor Address street only»,  
                                 «Contractor Address city county state»

**Lender:**           \_\_\_\_\_  
                          a \_\_\_\_\_

**Lender's Address:**   \_\_\_\_\_  
                                 \_\_\_\_\_

**Mechanic's Lien Contract**

**Date:**

**Owner:** «BORROWER\_1\_NAME» «BORROWER\_2\_NAME»,  
          «Borrower Status needed for combined bo»

**Contractor:** «Contractor Name », «Contractor Entity Type»

**Trustee:** \_\_\_\_\_ of \_\_\_\_\_ County, Texas

**Title Insurance Providers:** \_\_\_\_\_

**Property:**       «Legal Description», which has the street address of  
                         «Property Address street only», «Property Address city county state »

**Improvements:**       Construction of a single-family residence [and related improvements on the  
                                 Property described above.

Completion Date: \_\_\_\_\_

**Affidavit of Completion**

The persons or entities signing this affidavit ("Affiant"), on oath, swears that the following statements are true and within the personal knowledge of the Affiant:

1. **Date of Completion:** The Improvements to the Property were completed on the Completion Date. For purposes of this affidavit, "completion" means the actual completion of the work, including any extras or change orders reasonably required or contemplated under the original plans or original contract, other than warranty or repair work.
2. **Claims against Retained Funds.** NO SUBCONTRACTOR OR OTHER LIEN CLAIMANT MAY HAVE A LIEN ON RETAINED FUNDS UNLESS THE CLAIMANT FILES AN AFFIDAVIT CLAIMING A LIEN NO LATER THAN THE FORTIETH (40<sup>TH</sup>) DAY AFTER THE WORK UNDER THE ORIGINAL CONTRACT IS COMPLETED.
3. **Owner's Statement as to Other Notices.** Owner states that he or she has received a written request to receive a copy of an affidavit of completion from the following persons who have furnished labor or materials for the Land, and from no other persons:

**Persons Requesting Copy of Affidavit of Completion:**

- \_\_\_\_\_
4. Contractor is a [Texas corporation/Texas general partnership/Texas limited partnership/sole proprietorship/[specify other entity]].
  5. Affiant signing on behalf of Contractor is [the president/an authorized partner/a general partner/the sole proprietor/[describe other representative capacity]] of Contractor and is authorized to make this affidavit on behalf of Contractor.
  6. The construction required by the Mechanic's Lien Contract has been completed in accordance with the requirements of the Mechanic's Lien Contract and the Construction Loan Agreement between Owner, Lender and Contractor referred to in the Mechanic's Lien Contract.
  7. Contractor has paid each of Contractor's manufacturer, subcontractors, laborers, and materialmen in full for all labor and materials provided to Contractor for the construction of Improvements on the Property, excepting only the amounts owed to the persons identified below:

Existing Creditor or Lienholder

Approximate Amount

1. ■
2. ■
3. ■

\$ ■  
\$ ■  
\$ ■

8. This affidavit is made to induce Owner to accept the construction as completed, to induce Lender to fund a loan to Owner to pay Contractor all or part of the consideration in the Mechanic's Lien Contract, and to induce Title Insurance Providers to issue mortgagee [include if applicable: and owner] title insurance [policy/policies] without mechanic's lien exceptions.

This affidavit has been signed on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

AFFIANTS:

OWNER:

«Borr 1 Name», «Borr 1 Status»

«Borr 2 Name», «Borr 2 Status»

THE STATE OF TEXAS

COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me by «Borr 1 Name», on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas

THE STATE OF TEXAS

COUNTY OF \_\_\_\_\_ §

§  
§

This instrument was acknowledged before me by «Borr 2 Name», on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas

**CONTRACTOR:**

**CONTRACTOR NAME**  
**Contractor Entity Type**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

THE STATE OF TEXAS §  
§  
COUNTY OF **COUNTY** §

SWORN TO, SUBSCRIBED AND ACKNOWLEDGED before me on this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_  
of **Contractor Name**, **Contractor Entity Type**.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas

**Indemnity**

For valuable consideration, including Owner's acceptance of the construction as completed, Lender's funding of Owner's loan to pay Contractor all or part of the consideration in the Mechanic's Lien Contract, and Title Insurance Providers's issuing of title insurance [policy/policies], Contractor warrants to those parties the truth of this affidavit of completion and agrees to indemnify, defend, and hold Owner, Lender, and Title Insurance Providers harmless from all losses, damages, judgments, and expenses, including attorney's fees and court and other costs, that any or all of them suffer, incur, or pay because any part of this affidavit of completion is not true or completely correct.

**CONTRACTOR:**

**CONTRACTOR NAME**  
**Contractor Entity Type**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**EXHIBIT "C"**

**Unconditional Partial Release During Construction**

**Conditional Partial Release During Construction**

**Unconditional Release of Final Payment**

**Conditional Final Release**

**Unconditional Partial Release During Construction**

**NOTICE:** This document waives rights unconditionally and states that you have been paid for giving up those rights. It is prohibited for a person to require you to sign this document if you have not been paid the payment amount set forth below. If you have not been paid, use a conditional release form.

Project: Construction of a project known as a single family residence ■ [ , a manufactured housing unit bearing serial number \_\_\_\_\_ ] (the "Project"), ~~(Property/Address/serial number)~~, ~~(Property/Address/city/county/state)~~, legally described as ~~(Legal Description)~~.

Job No.: \_\_\_\_\_

The signer of this document has been paid and has received a progress payment in the sum of \$[amount] for all labor, services, equipment, or materials furnished to the property or to [name of person with whom signer contracted] on the property of [name of owner] located at [specify location] to the following extent: [specify job description]. The signer therefore waives and releases any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common-law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position that the signer has on the above-referenced project to the following extent:

This release covers a progress payment for all labor, services, equipment, or materials furnished to the property or to [name of person with whom signer contracted] as indicated in the attached statement[s] or progress payment request[s], except for unpaid retention, pending modifications and changes, or other items furnished.

The signer warrants that the signer has already paid or will use the funds received from this progress payment to promptly pay in full all of the signer's manufacturers, laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above-referenced project in regard to the attached statement[s] or progress payment request[s].

EXECUTED this \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
[Name of contractor/subcontract/company]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Conditional Partial Release During Construction**

Project: Construction of a project known as a single family residence ■ [ , a manufactured housing unit bearing serial number \_\_\_\_\_ ] (the "Project"), ~~Property Address street only~~, ~~Property Address city county state~~, legally described as ~~Legal Description~~

Job No.: \_\_\_\_\_

On receipt by the signer of this document of a check from [name of maker of check] in the sum of \$[amount] payable to [name[s] of payee[s] of check], and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common-law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position that the signer has on the property of ~~BORROWER 1 NAME BORROWER 2 NAME~~ located at ~~Property Address street only~~, ~~Property Address city county state~~ to the following extent: [specify job description].

This release covers a progress payment for all labor, services, equipment, or materials furnished to the property or to [name of person with whom signer contracted] as indicated in the attached statement[s] or progress payment request[s], except for unpaid retention, pending modifications and changes, or other items furnished.

Before any recipient of this document relies on this document, the recipient should verify evidence of payment to the signer.

The signer warrants that the signer has already paid or will use the funds received from this progress payment to promptly pay in full all of the signer's manufacturers, laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above-referenced project in regard to the attached statement[s] or progress payment request[s].

EXECUTED this \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
[Name of contractor/subcontractor/company]

By: \_\_\_\_\_  
Name : \_\_\_\_\_  
Title: \_\_\_\_\_

**Unconditional Release on Final Payment**

**NOTICE:** This document waives rights unconditionally and states that you have been paid for giving up those rights. It is prohibited for a person to require you to sign this document if you have not been paid the payment amount set forth below. If you have not been paid, use a conditional release form.

Project: Construction of a project known as a single family residence ■ [ a manufactured housing unit bearing serial number \_\_\_\_\_ ] (the "Project"), ~~Property Address (street only),~~  
~~Property Address (city, county, state),~~ legally described as ~~Legal Description~~

Job No.: \_\_\_\_\_

The signer of this document has been paid in full for all manufacturers, labor, services, equipment, or materials furnished to the property or to [name of person with whom signer contracted] on the property of ~~BORROWER 1 NAME BORROWER 2 NAME~~ located at ~~Property Address (street only),~~ ~~Property Address (city, county, state),~~ to the following extent: [specify job description]. The signer therefore waives and releases any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common-law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position.

The signer warrants that the signer has already paid or will use the funds received from this final payment to promptly pay in full all of the signer's manufacturers, laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above-referenced project up to the date of this waiver and release.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
[Name of contractor/subcontractor/company]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Notary Public, State of Texas

**Conditional Final Release**

Project: Construction of a project known as a single family residence ■ [ , a manufactured housing unit bearing serial number \_\_\_\_\_ ] (the "Project"), ~~Property Address (street only)~~, ~~Property Address city county state~~, legally described as ~~Legal Description~~

Job No.: \_\_\_\_\_

On receipt by the signer of this document of a check from [name of maker of check] in the sum of \$[amount] payable to [name[s] of payee[s] of check], and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common-law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position that the signer has on the property of ~~BORROWER 1 NAME BORROWER 2 NAME~~ located at ~~Property Address (street only)~~, ~~Property Address city county state~~ to the following extent: [specify job description].

This release covers the final payment to the signer for all manufacturers, labor, services, equipment, or materials furnished to the property or to [name of person with whom signer contracted].

Before any recipient of this document relies on this document, the recipient should verify evidence of payment to the signer.

The signer warrants that the signer has already paid or will use the funds received from this final payment to promptly pay in full all of the signer's manufacturers, laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above-referenced project up to the date of this waiver and release.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
[Name of contractor/subcontractor/company]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT "D"**  
**FINAL BILLS- PAID AFFIDAVIT**  
**BY CONTRACTOR**

Date:

Owner: «BORROWER 1 NAME» «BORROWER 2 NAME»,  
«Borrower Status needed for combined bo»

Owner's Mailing Address:

Contractor: «CONTRACTOR NAME», «Contractor Entity Type»

Contractor's Mailing Address: «Contractor Address street only»,  
«Contractor Address City county state»

Affiant: [include relationship to contractor]

Affiant's Mailing Address:

Property: «Property Address street only», «Property Address City county state», legally  
described as being «Legal Description»

Improvements: Construction, renovation, or repair of improvements located on or relating  
to project known as a single family residence[, a manufactured housing unit (MHU) bearing  
serial number(s) \_\_\_\_\_]  
and related improvements to be affixed to the Property] located on Property.

Affiant swears individually and on behalf of Contractor that the following statements are  
true and within the personal knowledge of Affiant:

1. Affiant has personal knowledge of the facts stated in this affidavit. Affiant has full  
authority to make the agreements in this affidavit on behalf of Contractor.
2. Affiant understands that Owner has required this affidavit as a condition of  
payment for labor or materials used in construction of the Improvements.
3. Contractor has paid each of Contractor's manufacturers, subcontractors, laborers,  
and materialmen in full for all labor and materials provided to Owner or Contractor for  
construction of the Improvements, excepting only the amounts owed to the persons identified  
below:

Name of Payee	Address	Telephone No.	Amount Owed
1.			
2.			

3.			

Contractor warrants and represents that the following specified bills or classes of bills will be paid by Contractor from the funds paid to Contractor by Owner in reliance on this affidavit:

Name of payee or description of class:

Name of Payee	Address	Telephone No.	Amount Owed
1.			
2.			
3.			

Contractor agrees to indemnify and hold Owner harmless from any loss or expense resulting from false or incorrect information in this affidavit.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**CONTRACTOR:**

**CONTRACTOR NAME**,  
**Contractor Entity Type**

By: \_\_\_\_\_  
Name of Affiant: \_\_\_\_\_  
Title: \_\_\_\_\_

SUBSCRIBED AND SWORN TO before me on \_\_\_\_\_ by [name of affiant],  
\_\_\_\_\_ of **CONTRACTOR NAME**, **Contractor Entity Type**, on behalf of  
Contractor.

\_\_\_\_\_  
Notary Public, State of Texas

[SEAL]



**EXHIBIT "E"**  
**AFFIDAVIT OF COMMENCEMENT**

**Basic Information**

Date:

Owner:

Owner's Mailing Address:

Contractor:

Contractor's Mailing Address:

Property: [include legal description]

Improvements:

Affiants, [name of owner] and [name of contractor], on oath swear that the following statements are true and within the personal knowledge of Affiants:

1. *Commencement of Construction.* Construction of the Improvements commenced on [date].
2. *Delivery of Materials.* Materials to be used in constructing the Improvements were first delivered to the Property on [date].
3. *Representations.* Affiant, [name of contractor], makes these representations individually and on behalf of Contractor.

\_\_\_\_\_  
[Name of owner]

SUBSCRIBED AND SWORN TO before me on \_\_\_\_\_ by [name of affiant].

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
[Name of contractor]

SUBSCRIBED AND SWORN TO before me on \_\_\_\_\_ by [name of affiant].

\_\_\_\_\_  
Notary Public, State of Texas



# MECHANIC'S LIEN NOTE

## MECHANIC'S LIEN NOTE

### Basic Information

Date: \_\_\_\_\_, ~~Year~~

Maker: ~~BORR1 NAME BORR2 NAME~~, ~~Borrower Status Both~~

Maker's Mailing Address: ~~Mailing Address~~, ~~City State Zip~~

Payee: ~~CONT NAME~~, ~~Cont Entity type~~

Payee's Mailing Address: ~~Cont Address~~, ~~Cont Address CCSZ~~

Place for Payment: ~~Cont Address~~, ~~Cont Address CCSZ~~

Principal Amount: ~~MEK Amt spell~~ ~~(MEK Amt)~~

Annual Interest Rate on Unpaid Principal from Date of Funding: None

Annual Interest Rate on Matured, Unpaid Amounts: \_\_\_\_\_ percent (\_\_\_\_%) per annum

Terms of Payment (principal and interest): Principal shall be due and payable upon completion of the improvements but no later than \_\_\_\_\_ (Construction Completion Date)

#### Security for Payment:

Liens created in Mechanic's Lien Contract between Maker and Payee:

Date: Of even date herewith

Contractor: ~~CONT NAME~~, ~~Cont Entity type~~

Property: ~~Prop Address~~, ~~Prop Address City State Zip~~, more specifically described as:  
~~Legal Description~~

#### Deed of Trust renewing liens

Date: Of even date herewith

Grantor: ~~BORR1 NAME BORR2 NAME~~, ~~Borrower Status Both~~

Beneficiary: \_\_\_\_\_, a \_\_\_\_\_

Trustee: \_\_\_\_\_ of \_\_\_\_\_ County, Texas

This note incorporates and is subject to the Mechanic's Lien Contract.

### **Promise to Pay**

Maker promises to pay to the order of Payee at the Place for Payment and according to the Terms of Payment the Principal Amount plus interest at the rates stated above. All unpaid amounts are due by the final scheduled payment date.

### **Default and Remedies**

If Maker defaults in the payment of this note or in the performance of any obligation in any instrument securing or collateral to this note, Payee may declare the unpaid principal balance and earned interest on the note immediately due. Maker and each surety, endorser, and guarantor waive all demand for payment, presentation for payment, notice of intention to accelerate maturity, notice of acceleration of maturity, protest, and notice of protest, to the extent permitted by law.

### **Prepayment**

Maker may at any time make full or partial prepayments on the principal without paying any penalty, in addition to making regularly scheduled payments. Unless Payee agrees otherwise in writing, the making of partial prepayments will not alter the dates or amounts of regularly scheduled payments. Payee may require that any partial prepayments be in the same amount as regularly scheduled payments.

### **Attorney's Fees**

If any party retains an attorney to enforce this note, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

### **Usury Savings**

Interest on the debt evidenced by this note will not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law. Any interest in excess of that maximum amount will be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted prepayment, any excess will be canceled automatically as of the acceleration or prepayment or, if already paid, credited to the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides any conflicting provisions in this and all other instruments concerning the debt.

### **Other Clauses**

Each Maker is responsible for all obligations represented by this note.

**When the context requires, singular nouns and pronouns include the plural.**

**NOTICE**

**ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.**

**MAKER:**

**{BORR 1 NAME} {Borr 1 Status}**

**{BORR 2 NAME} {Borr 2 Status}**

## ENDORSEMENT

Pay to the order of the \_\_\_\_\_ [Beneficiary's name, entity type], with recourse.

Date: \_\_\_\_\_

**PAYEE:**

**CONT NAME, Cont Entity type**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



# **MECHANIC'S LIEN CONTRACT**

## MECHANIC'S LIEN CONTRACT

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**THE STATE OF TEXAS**

**COUNTY OF**   COUNTY  

**Date:** \_\_\_\_\_,   Year  

**Owner:**   Borr-1-Name   and   Borr-2-Name  ,   Borr-1-Status     Borrower     Status     Both  

**Owner's Mailing Address:**   Mail-Addr  ,   Mail-Addr-City-City-State-Zip  

**Contractor:**   CONT-NAME  ,   Cont-Entity-type  

**Contractor's Mailing Address:**   Cont-Addr  ,   Cont-Addr-CGSZ  

**Lender:** ☐

**Lender's Mailing Address:** ☐

**Trustee:** ☐

**Trustee's Mailing Address:** ☐

**Property:**

**Address:**   Prop-Addr-St  ,   Prop-Addr-City-City-State-Zip  

**Legal description:**   Legal-Description  

**Exceptions to Conveyance and Warranty:**

**Prior Lien:** ☐

Any visible and apparent encumbrances may have been removed by such as road work, sewer, or other improvements and/or other parties or contractors. The encumbrances of which the instrument is a part.

Notwithstanding to whom the instrument is recorded, the instrument is not a lien on the property of the lender.

~~Right of the public, the State of Texas, and its political subdivision in and to that part of the land, if any, taken or used for road purposes~~

~~All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals together with all rights, privileges, and immunities relating thereto appearing in the Public Records~~

~~Rights or claims of Parties in Possession not shown by the Public Records~~

**Construction and Improvements:** Project as described in Construction Loan Agreement between Owner and Contractor and approved by Lender.

**Completion Date:** ~~Construction Completion Date~~

**Consideration:** Owner agrees to pay, or cause to be paid to Contractor for the construction of the improvements and the transportation and affixation of the improvements to the Property, the sum of ~~MLK Amb~~, all of which is to be advanced by Lender at the request and for the benefit of Owner.

**Cash:**

**Mechanic's Lien Note ("Note"):**

**Date:** Of even date herewith

**Amount:** ~~MLK Amb~~

**Maker:** ~~BORR 1 NAME~~ and ~~BORR 2 NAME~~,  
~~Borrower Status Both~~

**Payee:** ~~Cont Name~~, ~~Cont Entity type~~

**Maturity date:** As stated therein

For the Consideration, Contractor agrees to furnish the materials and labor and to complete the construction on the Property on or before the Completion Date in a good and workmanlike manner according to the Construction Loan Agreement between Owner, Contractor and Lender, incorporated herein by reference.

To secure payment of the Note, Owner grants to Contractor a mechanic's, artisan's, and materialman's lien on the Property and on all improvements and fixtures on the Property at any time.

To enforce the lien and to further secure payment of the Note, Owner conveys the Property to Trustee in trust. Owner warrants and agrees to defend the title to the Property subject to the Exceptions to Conveyance and Warranty. If Owner performs all the covenants and pays the Note according to its terms, this conveyance will have no further effect, and at Owner's expense Contractor will execute a release of the liens created by this contract.

## **A. Owner's Warranties and Rights**

Owner makes the following warranties and has the following rights:

1. Owner owns the Property in fee simple, subject only to the Prior Lien and the Exceptions to Conveyance and Warranty.
2. If Owner and Contractor agree in writing to alter plans for the Construction, on completion of the Construction Owner will pay for all extra work done and material furnished as a result of the alterations, and that amount will be a part of the Consideration and the debt secured by this contract.
3. If Owner receives notice of or may become liable for a lien or claim for labor or materials furnished to Contractor and primarily chargeable to Contractor, Owner may retain from payments on the Note an amount sufficient to completely indemnify Owner against the lien or claim.
4. Notwithstanding anything to the contrary in this contract, during progress of the Construction and for thirty days after it is completed, Owner may retain the amounts required by sections 53.101 and 53.081 of the Texas Property Code. Retainage will be withheld until the last business day of the third month after the month of final completion of the project, unless otherwise provided in the Construction Loan Agreement between the parties or any other residential construction contract between the parties. If Owner elects not to retain funds as provided herein, Owner shall do so at the sole risk of Owner.
5. If a loss occurs before the Construction is completed and delivered to Owner, Owner may use any insurance proceeds to restore the destroyed or damaged property without affecting the lien created in this contract.
6. OWNER MAY FURNISH THE INSURANCE REQUIRED OF OWNER BY THIS CONTRACT EITHER THROUGH EXISTING POLICIES OWNED OR CONTROLLED BY OWNER OR THROUGH EQUIVALENT COVERAGE FROM ANY INSURANCE COMPANY AUTHORIZED TO TRANSACT BUSINESS IN TEXAS.

## **B. Owner's Obligations**

Owner agrees to:

1. pay all taxes and assessments on the Property when due;
2. preserve the lien's priority as it is established in this contract;
3. if this is not a first lien, pay all prior lien notes that Owner is liable to pay and abide by all prior lien instruments;
4. if this contract is for improvements to the Property, keep the Property other than those improvements in good repair and condition during the Construction and keep all of the Property in good repair and condition after the Construction is completed;

5. if this contract is for new construction, keep the Property in good repair and condition after the Construction is completed;
6. except to the extent that Contractor is required to insure the Construction during its progress, maintain at Owner's sole cost and expense, and in a form acceptable to Contractor or its transferees, insurance policies containing the following coverages issued by an insurance company or companies authorized to engage in the insurance business in Texas with a financial rating acceptable to Contractor or its transferees:
  - a. property insurance covering all improvements located on the Property in an amount equal to their full replacement cost or such lesser amount as Lender may agree, in writing containing a standard mortgagee clause, provided that the amounts of coverage comply with all coinsurance requirements of the policy;
  - b. fire and extended coverage, including windstorm coverage, if required by Lender;
  - c. flood insurance if the Property is located in a flood hazard area; and
  - d. any other insurance coverage that may be reasonably required by Contractor or its transferees.
7. deliver the insurance policy to Contractor within ten days of the date of the contract and deliver renewals to Contractor at least fifteen days before expiration;
8. obey all laws, ordinances, and restrictive covenants applicable to the Property; and
9. keep any buildings occupied as required by the insurance policy.

#### **C. Contractor's Obligations**

In addition to Contractor's obligations in the Construction Loan Agreement and any other residential construction contract, Contractor agrees that:

1. Until the Construction is completed and delivered to Owner, Contractor will insure the Construction and all related materials against loss or damage by fire and the perils included in extended coverage in an amount equal to the Consideration. The policy will be payable to the parties to this contract according to their respective interests. If Contractor does not provide this insurance, Contractor will bear any loss to the Construction and materials.
2. Contractor will neither make nor charge for any alterations in the Construction described in the plans and specifications unless Contractor and Owner agree otherwise in writing. Any alterations made without a written agreement will be considered performed under the original contract at no additional charge.
3. Contractor will pay all costs of the Construction, including labor, materials, manufacturers and subcontractors, and will furnish Owner receipts for and releases from these costs.
4. If any other lien claims are filed, Contractor will pay for their removal or else provide a statutory bond.

#### **D. Contractor's Rights**

In addition to Contractor's rights in the Construction Loan Agreement and any other residential construction contract, Contractor has the following rights:

1. Contractor may appoint in writing a substitute trustee, succeeding to all rights and responsibilities of Trustee.
2. After completion of the Construction, Contractor may apply any proceeds received under the insurance policy either to reduce the Note or to repair or replace damaged or destroyed improvements covered by the policy.
3. If Owner fails to perform any of Owner's obligations other than providing insurance, Contractor may perform those obligations and be reimbursed by Owner on demand for any amounts so paid, including attorney's fees.
4. If Owner is required to furnish insurance and fails to do so, Contractor may procure it and add the premium advanced by Contractor to the amount due under the Note.
5. If Owner defaults in any payment on the Note or if this lien is foreclosed, Owner will reimburse Contractor for reasonable fees paid to an attorney who is not an employee of Contractor and court and other costs for collection of payments or foreclosure of the lien. The amount to be reimbursed will be secured by this contract.
6. If a default exist or Owner fails to perform any of Owner's obligations and the default continues after Contractor gives Owner written notice of the default and a twenty-day period in which to cure the default (or longer if required by law or by written agreement), Contractor may:
  - a. declare the unpaid principal balance and earned interest on the Note immediately due;
  - b. request Trustee to foreclose this lien, in which case Contractor or Contractor's agent will give notice of the foreclosure sale as provided by the Texas Property Code as then in effect; and
  - c. purchase the Property at any foreclosure sale by offering the highest bid and then have the bid credited on the Note.

Notice of default is deemed given when deposited with the United States Postal Service (certified mail, return receipt requested), addressed to Owner at Owner's Mailing Address or to Owner's last address as shown in the records of the holder of the debt.

#### **E. Trustee's Duties**

If foreclosure becomes necessary, Trustee will:

1. either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then in effect;
2. sell and convey all or part of the Property "AS IS" to the highest bidder for cash with a general

warranty binding Owner, subject to the Prior Lien and to the Exceptions to Conveyance and Warranty and without representation or warranty, express or implied, by Trustee;

3. from proceeds of the sale, pay, in this order:
  - a. expenses of foreclosure, including a reasonable commission to Trustee;
  - b. to Contractor, the full amount of principal, interest, attorney's fees, and other charges due and unpaid;
  - c. any amounts required by law to be paid before payment to Owner; and
  - d. to Owner, any balance; and
4. be indemnified by Contractor against all costs, expenses, and liabilities incurred by Trustee for acting in the execution or enforcement of the trust created by this contract, which includes all court and other costs, including attorney's fees, incurred by Trustee in defense of any action or proceeding taken against Trustee in that capacity.

#### **F. General Provisions**

1. If Contractor is terminated, according to the Construction Loan Agreement, due to Contractor's default, or if the Construction is not completed as agreed between Owner and Contractor, the amount of the Consideration subject to Contractor's lien will be reduced by the amount reasonably necessary to complete the Construction as agreed. If Contractor is not the holder of the Note, the holder may complete the Construction, and the lien created in this contract will inure to the benefit of the holder.
2. This contract is executed, acknowledged, and delivered before any labor has been performed or any material has been delivered to the Property for the Construction.
3. If any of the Property is sold under this contract, Owner will immediately surrender possession to the purchaser. If Owner fails to do so, Owner will become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.
4. Recitals in any trustee's deed conveying the Property will be presumed to be true.
5. The lien created in this contract will remain superior to liens later created even if the time of payment of all or part of the Note is extended or part of the Property is released.
6. If any portion of the Note cannot be lawfully secured by this contract, payments will be applied first to discharge that portion.
7. Owner assigns to Contractor all amounts payable to or received by Owner from condemnation of all or part of the Property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the Property. After deducting any expenses incurred, including attorney's fees and court and other costs, Contractor will either release any remaining amounts to Owner or apply them to reduce the Note. Owner will immediately give

Contractor notice of any actual or threatened proceedings for condemnation of all or part of the Property.

8. Proceeding under this contract, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.
9. Interest on the debt secured by this contract will not exceed the maximum rate or amount of non-usurious interest that may be contracted for, taken, reserved, charged, or received under law. Any interest in excess of that maximum amount will be automatically credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted prepayment, any such excess will be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides any conflicting provisions in this and all other instruments concerning the debt.
10. When the context requires, singular nouns and pronouns include the plural.
11. The term Note includes all amounts secured by this contract.
12. Contractor includes Contractor's assignees or transferees. This contract binds, benefits, and may be enforced by the successors in interest of all parties.
13. If Owner and Maker are not the same person, the term Owner includes Maker.

**G. Repair or Renovation Construction.**

If the work of this contract includes repair or renovation of existing improvements the following provisions apply. Contractor and Owner certify and represent that they are aware of, and have complied with the following legal rights and obligations:

1. *Rescission.* Owner may rescind this contract (and any other proposals, contracts, or agreements with contractor regarding the repair or renovation of existing improvements) without penalty or charge within three (3) days after the execution of the contract by all parties. See Notice of Cancellation Form below.
2. *Place of Signing Contract.* Owner acknowledges that this Contract was signed at one of the following offices, and not elsewhere: (a) the office of a third party lender making an extension of credit for work and material to be furnished (b) offices of an attorney at law; or (c) offices of a title company.
3. *5 day waiting period.* This Mechanic's Lien Contract and any other contract signed in connection with the repairs and renovations work mentioned in this contract, have not been executed by the owner or the owner's spouse before the 5th day after the owner made written application for an extension of credit for the work and material contemplated.

**NOTICE**



ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

**IMPORTANT NOTICE:** You and your contractor are responsible for meeting the terms and conditions of this contract. If you sign this contract and you fail to meet the terms and conditions of this contract, you may lose your legal ownership rights in your home. **KNOW YOUR RIGHTS AND DUTIES UNDER THE LAW.**

**RESIDENTIAL CONSTRUCTION LIABILITY ACT (RCLA) NOTICE**

This contract is subject to Chapter 27 of the Texas Property Code. The provisions of that chapter may affect your right to recover damages arising from a construction defect. If you have a complaint concerning a construction defect and that defect has not been corrected as may be required by law or by contract, you must provide the notice required by Chapter 27 of the Texas Property Code to the contractor by certified mail, return receipt requested, not later than the 60th day before the date you file suit to recover damages in a court of law or initiate arbitration. The notice must refer to Chapter 27 of the Texas Property Code and must describe the construction defect. If requested by the contractor, you must provide the contractor an opportunity to inspect and cure the defect as provided by Section 27.004 of the Texas Property Code.

**OWNER:**

\_\_\_\_\_  
«BORR\_1\_NAME», «Borr\_1\_Status»

**THE STATE OF TEXAS**

**COUNTY OF** \_\_\_\_\_

This instrument was acknowledged before me by «BORR\_1\_NAME», «Borr\_1\_Status» on this \_\_\_\_\_ day of \_\_\_\_\_, «Year».

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas

,

**YOU, THE OWNER, MAY CANCEL THIS TRANSACTION AT ANY TIME BEFORE**

**MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.**

**CONTRACTOR:**

**«CONTNAME», «Cont Entity type»**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**THE STATE OF TEXAS**

**COUNTY OF \_\_\_\_\_**

This instrument was acknowledged before me by \_\_\_\_\_,  
\_\_\_\_\_ of **«CONTNAME», «Cont Entity type»**, on behalf of said  
entity, on this \_\_\_\_\_ day of \_\_\_\_\_, **«Year»**.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas

**ATTACHMENT NO. 1**

**Notice of Cancellation**

**Date:** \_\_\_\_\_

**YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.**

**IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN TEN BUSINESS DAYS FOLLOWING RECEIPT BY THE MERCHANT OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELED.**

**IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE MERCHANT AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE MERCHANT REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE MERCHANT'S EXPENSE AND RISK.**

**IF YOU DO NOT AGREE TO RETURN THE GOODS TO THE MERCHANT OR IF THE MERCHANT DOES NOT PICK THEM UP WITHIN TWENTY DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION.**

**TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM TO «CONT\_NAME», «CONT\_ENTITY\_TYPE» AT «CONT\_ADD», «CONT\_ADD\_CCSZ» NOT LATER THAN MIDNIGHT OF \_\_\_\_\_.**

**I HEREBY CANCEL THIS TRANSACTION.**

**Date:** \_\_\_\_\_

**OWNER:**

\_\_\_\_\_  
**«BORR\_1\_NAME», «BORR\_1\_Status»**

,

**PREPARED BY:**

**AFTER RECORDING RETURN TO:**

Life Co. ID#

Life Co. add

Life Co. GC#

Attn: Life Agents Name

Life Co. Phone

GF No. GE No.

## MECHANIC'S LIEN CONTRACT

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS:  
YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**THE STATE OF TEXAS**

**COUNTY OF**           COUNTY          

**Date:**                                 ,           Year          

**Owner:**           BORR1 NAME           and           BORR2 NAME          ,           BORR1 Status                     Borrower                     Status                     Both          

**Owner's Mailing Address:**           Mail Add          ,           Mail Add City Cty State Zip          

**Contractor:**           CONT NAME          ,           Cont Entity Type          

**Contractor's Mailing Address:**           Cont Add          ,           Cont Add CGSZ          

**Lender:** ☐

**Lender's Mailing Address:** ☐

**Trustee:** ☐

**Trustee's Mailing Address:** ☐

**Property:**

**Address:**           Prop Add St          ,           Prop Add City Cty State Zip          

**Legal description:**           Legal Description          

**Exceptions to Conveyance and Warranty:**

**Prior Lien:** ☐

          Any visible and apparent encumbrances that may affect the property, such as mortgages, servicer's liens, judgments, liens, or other claims, the existence of which is known or should be known by the parties to this contract, are hereby acknowledged and agreed to by the parties to this contract.

          The parties to this contract agree that the parties to this contract shall be bound by the terms and conditions of this contract and shall not be bound by any other terms and conditions.

~~Right of the public, the State of Texas, and its political subdivisions, in and to that part of the land, any, taken or used for road purposes.~~

~~All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals together with all rights, privileges, and immunities relating thereto, appearing in the Public Records.~~

~~Rights of claims of Parties in Possession not shown by the Public Records.~~

**Construction and Improvements:** Project as described in Construction Loan Agreement between Owner and Contractor and approved by Lender.

**Completion Date:** ~~«Construction Completion Date»~~

**Consideration:** Owner agrees to pay, or cause to be paid to Contractor for the construction of the improvements and the transportation and affixation of the improvements to the Property, the sum of ~~«MLK Amt»~~, all of which is to be advanced by Lender at the request and for the benefit of Owner.

**Cash:**

**Mechanic's Lien Note ("Note"):**

**Date:** Of even date herewith

**Amount:** ~~«MLK Amt»~~

**Maker:** ~~«BORR 1 NAME»~~ and ~~«BORR 2 NAME»~~,  
~~«Borrower Status Both»~~

**Payee:** ~~«Cont Name»~~, ~~«Cont Entity type»~~

**Maturity date:** As stated therein

For the Consideration, Contractor agrees to furnish the materials and labor and to complete the construction on the Property on or before the Completion Date in a good and workmanlike manner according to the Construction Loan Agreement between Owner, Contractor and Lender, incorporated herein by reference.

To secure payment of the Note, Owner grants to Contractor a mechanic's, artisan's, and materialman's lien on the Property and on all improvements and fixtures on the Property at any time.

To enforce the lien and to further secure payment of the Note, Owner conveys the Property to Trustee in trust. Owner warrants and agrees to defend the title to the Property subject to the Exceptions to Conveyance and Warranty. If Owner performs all the covenants and pays the Note according to its terms, this conveyance will have no further effect, and at Owner's expense Contractor will execute a release of the liens created by this contract.

## **A. Owner's Warranties and Rights**

Owner makes the following warranties and has the following rights:

1. Owner owns the Property in fee simple, subject only to the Prior Lien and the Exceptions to Conveyance and Warranty.
2. If Owner and Contractor agree in writing to alter plans for the Construction, on completion of the Construction Owner will pay for all extra work done and material furnished as a result of the alterations, and that amount will be a part of the Consideration and the debt secured by this contract.
3. If Owner receives notice of or may become liable for a lien or claim for labor or materials furnished to Contractor and primarily chargeable to Contractor, Owner may retain from payments on the Note an amount sufficient to completely indemnify Owner against the lien or claim.
4. Notwithstanding anything to the contrary in this contract, during progress of the Construction and for thirty days after it is completed, Owner may retain the amounts required by sections 53.101 and 53.081 of the Texas Property Code. Retainage will be withheld until the last business day of the third month after the month of final completion of the project, unless otherwise provided in the Construction Loan Agreement between the parties or any other residential construction contract between the parties. If Owner elects not to retain funds as provided herein, Owner shall do so at the sole risk of Owner.
5. If a loss occurs before the Construction is completed and delivered to Owner, Owner may use any insurance proceeds to restore the destroyed or damaged property without affecting the lien created in this contract.
6. OWNER MAY FURNISH THE INSURANCE REQUIRED OF OWNER BY THIS CONTRACT EITHER THROUGH EXISTING POLICIES OWNED OR CONTROLLED BY OWNER OR THROUGH EQUIVALENT COVERAGE FROM ANY INSURANCE COMPANY AUTHORIZED TO TRANSACT BUSINESS IN TEXAS.

## **B. Owner's Obligations**

Owner agrees to:

1. pay all taxes and assessments on the Property when due;
2. preserve the lien's priority as it is established in this contract;
3. if this is not a first lien, pay all prior lien notes that Owner is liable to pay and abide by all prior lien instruments;
4. if this contract is for improvements to the Property, keep the Property other than those improvements in good repair and condition during the Construction and keep all of the Property in good repair and condition after the Construction is completed;

5. if this contract is for new construction, keep the Property in good repair and condition after the Construction is completed;
6. except to the extent that Contractor is required to insure the Construction during its progress, maintain at Owner's sole cost and expense, and in a form acceptable to Contractor or its transferees, insurance policies containing the following coverages issued by an insurance company or companies authorized to engage in the insurance business in Texas with a financial rating acceptable to Contractor or its transferees:
  - a. property insurance covering all improvements located on the Property in an amount equal to their full replacement cost or such lesser amount as Lender may agree, in writing containing a standard mortgagee clause, provided that the amounts of coverage comply with all coinsurance requirements of the policy;
  - b. fire and extended coverage, including windstorm coverage, if required by Lender;
  - c. flood insurance if the Property is located in a flood hazard area; and
  - d. any other insurance coverage that may be reasonably required by Contractor or its transferees.
7. deliver the insurance policy to Contractor within ten days of the date of the contract and deliver renewals to Contractor at least fifteen days before expiration;
8. obey all laws, ordinances, and restrictive covenants applicable to the Property; and
9. keep any buildings occupied as required by the insurance policy.

#### **C. Contractor's Obligations**

In addition to Contractor's obligations in the Construction Loan Agreement and any other residential construction contract, Contractor agrees that:

1. Until the Construction is completed and delivered to Owner, Contractor will insure the Construction and all related materials against loss or damage by fire and the perils included in extended coverage in an amount equal to the Consideration. The policy will be payable to the parties to this contract according to their respective interests. If Contractor does not provide this insurance, Contractor will bear any loss to the Construction and materials.
2. Contractor will neither make nor charge for any alterations in the Construction described in the plans and specifications unless Contractor and Owner agree otherwise in writing. Any alterations made without a written agreement will be considered performed under the original contract at no additional charge.
3. Contractor will pay all costs of the Construction, including labor, materials, manufacturers and subcontractors, and will furnish Owner receipts for and releases from these costs.
4. If any other lien claims are filed, Contractor will pay for their removal or else provide a statutory bond.



#### **D. Contractor's Rights**

In addition to Contractor's rights in the Construction Loan Agreement and any other residential construction contract, Contractor has the following rights:

1. Contractor may appoint in writing a substitute trustee, succeeding to all rights and responsibilities of Trustee.
2. After completion of the Construction, Contractor may apply any proceeds received under the insurance policy either to reduce the Note or to repair or replace damaged or destroyed improvements covered by the policy.
3. If Owner fails to perform any of Owner's obligations other than providing insurance, Contractor may perform those obligations and be reimbursed by Owner on demand for any amounts so paid, including attorney's fees.
4. If Owner is required to furnish insurance and fails to do so, Contractor may procure it and add the premium advanced by Contractor to the amount due under the Note.
5. If Owner defaults in any payment on the Note or if this lien is foreclosed, Owner will reimburse Contractor for reasonable fees paid to an attorney who is not an employee of Contractor and court and other costs for collection of payments or foreclosure of the lien. The amount to be reimbursed will be secured by this contract.
6. If a default exist or Owner fails to perform any of Owner's obligations and the default continues after Contractor gives Owner written notice of the default and a twenty-day period in which to cure the default (or longer if required by law or by written agreement), Contractor may:
  - a. declare the unpaid principal balance and earned interest on the Note immediately due;
  - b. request Trustee to foreclose this lien, in which case Contractor or Contractor's agent will give notice of the foreclosure sale as provided by the Texas Property Code as then in effect; and
  - c. purchase the Property at any foreclosure sale by offering the highest bid and then have the bid credited on the Note.

Notice of default is deemed given when deposited with the United States Postal Service (certified mail, return receipt requested), addressed to Owner at Owner's Mailing Address or to Owner's last address as shown in the records of the holder of the debt.

#### **E. Trustee's Duties**

If foreclosure becomes necessary, Trustee will:

1. either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then in effect;
2. sell and convey all or part of the Property "AS IS" to the highest bidder for cash with a general

warranty binding Owner, subject to the Prior Lien and to the Exceptions to Conveyance and Warranty and without representation or warranty, express or implied, by Trustee;

3. from proceeds of the sale, pay, in this order:
  - a. expenses of foreclosure, including a reasonable commission to Trustee;
  - b. to Contractor, the full amount of principal, interest, attorney's fees, and other charges due and unpaid;
  - c. any amounts required by law to be paid before payment to Owner; and
  - d. to Owner, any balance; and
4. be indemnified by Contractor against all costs, expenses, and liabilities incurred by Trustee for acting in the execution or enforcement of the trust created by this contract, which includes all court and other costs, including attorney's fees, incurred by Trustee in defense of any action or proceeding taken against Trustee in that capacity.

#### **F. General Provisions**

1. If Contractor is terminated, according to the Construction Loan Agreement, due to Contractor's default, or if the Construction is not completed as agreed between Owner and Contractor, the amount of the Consideration subject to Contractor's lien will be reduced by the amount reasonably necessary to complete the Construction as agreed. If Contractor is not the holder of the Note, the holder may complete the Construction, and the lien created in this contract will inure to the benefit of the holder.
2. This contract is executed, acknowledged, and delivered before any labor has been performed or any material has been delivered to the Property for the Construction.
3. If any of the Property is sold under this contract, Owner will immediately surrender possession to the purchaser. If Owner fails to do so, Owner will become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.
4. Recitals in any trustee's deed conveying the Property will be presumed to be true.
5. The lien created in this contract will remain superior to liens later created even if the time of payment of all or part of the Note is extended or part of the Property is released.
6. If any portion of the Note cannot be lawfully secured by this contract, payments will be applied first to discharge that portion.
7. Owner assigns to Contractor all amounts payable to or received by Owner from condemnation of all or part of the Property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the Property. After deducting any expenses incurred, including attorney's fees and court and other costs, Contractor will either release any remaining amounts to Owner or apply them to reduce the Note. Owner will immediately give

Contractor notice of any actual or threatened proceedings for condemnation of all or part of the Property.

8. Proceeding under this contract, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.
9. Interest on the debt secured by this contract will not exceed the maximum rate or amount of non-usurious interest that may be contracted for, taken, reserved, charged, or received under law. Any interest in excess of that maximum amount will be automatically credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted prepayment, any such excess will be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides any conflicting provisions in this and all other instruments concerning the debt.
10. When the context requires, singular nouns and pronouns include the plural.
11. The term Note includes all amounts secured by this contract.
12. Contractor includes Contractor's assignees or transferees. This contract binds, benefits, and may be enforced by the successors in interest of all parties.
13. If Owner and Maker are not the same person, the term Owner includes Maker.

**G. Repair or Renovation Construction.**

If the work of this contract includes repair or renovation of existing improvements the following provisions apply. Contractor and Owner certify and represent that they are aware of, and have complied with the following legal rights and obligations:

1. *Rescission.* Owner may rescind this contract (and any other proposals, contracts, or agreements with contractor regarding the repair or renovation of existing improvements) without penalty or charge within three (3) days after the execution of the contract by all parties. See Notice of Cancellation Form below.
2. *Place of Signing Contract.* Owner acknowledges that this Contract was signed at one of the following offices, and not elsewhere: (a) the office of a third party lender making an extension of credit for work and material to be furnished (b) offices of an attorney at law; or (c) offices of a title company.
3. *5 day waiting period.* This Mechanic's Lien Contract and any other contract signed in connection with the repairs and renovations work mentioned in this contract, have not been executed by the owner or the owner's spouse before the 5th day after the owner made written application for an extension of credit for the work and material contemplated.

**NOTICE**

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

**IMPORTANT NOTICE:** You and your contractor are responsible for meeting the terms and conditions of this contract. If you sign this contract and you fail to meet the terms and conditions of this contract, you may lose your legal ownership rights in your home. **KNOW YOUR RIGHTS AND DUTIES UNDER THE LAW.**

#### RESIDENTIAL CONSTRUCTION LIABILITY ACT (RCLA) NOTICE

This contract is subject to Chapter 27 of the Texas Property Code. The provisions of that chapter may affect your right to recover damages arising from a construction defect. If you have a complaint concerning a construction defect and that defect has not been corrected as may be required by law or by contract, you must provide the notice required by Chapter 27 of the Texas Property Code to the contractor by certified mail, return receipt requested, not later than the 60th day before the date you file suit to recover damages in a court of law or initiate arbitration. The notice must refer to Chapter 27 of the Texas Property Code and must describe the construction defect. If requested by the contractor, you must provide the contractor an opportunity to inspect and cure the defect as provided by Section 27.004 of the Texas Property Code.

OWNER:

\_\_\_\_\_  
«BORR\_1\_NAME», «Borr\_1\_Status»

THE STATE OF TEXAS

COUNTY OF \_\_\_\_\_

This instrument was acknowledged before me by «BORR\_1\_NAME», «Borr\_1\_Status» on this \_\_\_\_\_ day of \_\_\_\_\_, «Year».

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
,  
**YOU, THE OWNER, MAY CANCEL THIS TRANSACTION AT ANY TIME BEFORE**

**MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.**

**CONTRACTOR:**

**«CONTNAME», «ContEntitytype»**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**THE STATE OF TEXAS**

**COUNTY OF \_\_\_\_\_**

This instrument was acknowledged before me by \_\_\_\_\_,  
\_\_\_\_\_ of **«CONTNAME», «ContEntitytype»**, on behalf of said  
entity, on this \_\_\_\_\_ day of \_\_\_\_\_, **«Year»**.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas

**ATTACHMENT NO. 1**

**Notice of Cancellation**

**Date:** \_\_\_\_\_

**YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.**

**IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN TEN BUSINESS DAYS FOLLOWING RECEIPT BY THE MERCHANT OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELED.**

**IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE MERCHANT AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE MERCHANT REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE MERCHANT'S EXPENSE AND RISK.**

**IF YOU DO NOT AGREE TO RETURN THE GOODS TO THE MERCHANT OR IF THE MERCHANT DOES NOT PICK THEM UP WITHIN TWENTY DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION.**

**TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM TO «CONT\_NAME», «CONT\_ENTITY\_TYPE» AT «CONT\_ADD», «CONT\_ADD\_CCSZ» NOT LATER THAN MIDNIGHT OF \_\_\_\_\_.**

**I HEREBY CANCEL THIS TRANSACTION.**

**Date:** \_\_\_\_\_

**OWNER:**

\_\_\_\_\_  
**«BORR\_NAME» «BORR\_STATUS»**

,

**PREPARED BY:**

**AFTER RECORDING RETURN TO:**

**<Title> <Co. Add>**

**<Title> <Co. Add>**

**<Title> <Co. GCSZ>**

**Attn: <Title> <Agents Name>**

**<Title> <Co. Phone>**

**GF No. <GF No>**

# REQUEST FOR DISBURSEMENT



## **REQUEST FOR DISBURSEMENT**

DISBURSEMENT NUMBER \_\_\_\_\_

TEST HUSBAND and TEST WIFE, husband and wife ("Owner"), requests that a disbursement be made pursuant to the Construction Loan Agreement dated \_\_\_\_\_, 20\_\_\_\_, between Owner, «CONTRACTOR\_NAME», «Contractor\_type» ("Contractor"), and the \_\_\_\_\_, a \_\_\_\_\_ ("Lender"), in the amount of \$ \_\_\_\_\_, \_\_\_\_\_ %\* of «MLK\_Amb», the Amount Available for Construction, less the retainage required by law.

This disbursement, together with all previous disbursements, does not exceed the percentage of the Amount Available for Construction upon the completion of at least the equal percentage of the construction, less the retainage required by law.

Attached hereto are invoices from the Contractor specifying the work to which such invoice applies and giving a breakdown of all amounts owed to manufacturer, suppliers or subcontractors in connection with such work.

\*NOTE: THE FINAL DISBURSEMENT OF AT LEAST 10% OF THE AMOUNT AVAILABLE FOR CONSTRUCTION WITHHELD FROM EACH DRAW, CHANGE ORDER, OR OTHER MODIFICATION TO THE AMOUNT AVAILABLE FOR CONSTRUCTION: IF CONTRACTOR HAS TIMELY PROVIDED OWNER WITH THE UPDATED WRITTEN LIST OF MANUFACTURER, SUBCONTRACTORS AND SUPPLIERS OF ANY TIER AND CONTRACTOR HAS VERIFIED THE LIST AS ACCURATE AS OF FINAL COMPLETION, OWNER WILL PREPARE, FILE, AND SEND AN AFFIDAVIT OF COMPLETION WITHIN TEN DAYS OF THE DATE OF PROJECT FINAL COMPLETION. RETAINAGE WILL THEN BE RELEASED TO CONTRACTOR THE FORTIETH (40TH) DAY AFTER THE DATE OF FINAL COMPLETION AS STATED IN THE AFFIDAVIT, PROVIDED NO UNRELEASED MECHANIC'S LIENS HAVE BEEN FILED BY THAT TIME. IF OWNER FAILS TO TIMELY PROVIDE THE AFFIDAVIT OF COMPLETION, RETAINAGE WILL BE PAID TO CONTRACTOR ON THE LAST BUSINESS DAY OF THE THIRD MONTH FOLLOWING THE MONTH OF FINAL COMPLETION OF THE PROJECT, PROVIDED NO UNRELEASED MECHANIC'S LIENS HAVE BEEN FILED BY THAT TIME.

Owner certifies that the disbursement requested above is for the cost of construction of Improvements and that the information set forth above or attached hereto is true and correct. Owner understands that it may take up to three (3) days for Lender to inspect the Improvements for which this disbursement is requested and to make a disbursement of the requested construction loan proceeds.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**OWNER:**

«BORR\_1\_NAME», «Borr\_1\_Status»

---

«Borr\_2\_Name», «Borr\_2\_Status»

# PROMISSORY NOTE

**PROMISSORY NOTE**  
**("Note")**

Loan Amount

Year

For value received, TEST HUSBAND and TEST WIFE, husband and wife (whether one or more, "Maker") promise to pay to the order of \_\_\_\_\_ ("Payee") at \_\_\_\_\_ ("Place for Payment") (or at such other place as Payee may from time to time designate by written notice to Maker), the sum of Loan Amount or so much thereof as may be advanced and outstanding.

No interest shall accrue on this Note.

Repayment of principal of this Note is deferred during the [12 month] construction period. After completion of construction, this Note shall be due and payable in legal tender of the United States of America in five (5) equal, annual installments of \$ ■ beginning on the first day of Month Paym'ts Begin each year beginning Month Paym't date (the "First Anniversary"), and shall continue annually until Maturity date ("maturity"), the expiration of five (5) years. At that time, the unpaid and un-forgiven amounts owing under this Note shall be due and payable in full.

Provided that the Maker complies with the terms of this Note, the Deed of Trust, Mechanic's Lien Note, Mechanic's Lien Contract, construction loan agreement dated on or about even date herewith by and between Maker and Payee and any and all other documents evidencing, securing or executed in connection with this Note (collectively, "Loan Documents"), the amounts of principal due and payable under this Note shall be deferred and waived annually at a rate of twenty percent (20%) of principal per year beginning on the First Anniversary and continuing annually until maturity.

All amounts owing on this Note shall be payable at the Place for Payment defined above (or at such other place designated by Payee in writing delivered to Maker at the address of Maker set forth below) in lawful money of the United States of America that is legal tender for public and private debts at the time of payment.

If the full amount of any payment installment is not paid within 15 days after it becomes due and payable, then Maker shall pay to Payee, at the option of Payee, the payment of a late charge (the "Late Charge") to compensate Payee for the loss of use of funds and for the administrative expenses and costs of handling such delinquent payment equal to a one-time charge of five percent (5%) of the amount of such payment that was not timely paid or Seven and 50/100 Dollars (\$7.50), whichever is greater (but such Late Charge together with all interest payable hereon shall not exceed the maximum lawful rate under Applicable Law). Payee is not obligated to accept any past due payment that is not accompanied by a Late Charge, but may accept such payment without waiving its rights to collect the Late Charge. In no event shall a Late Charge be payable by reason of the acceleration of the indebtedness evidenced by this Note; therefore, a Late Charge would only be due and payable with respect to payments under this Note which became delinquent prior to the acceleration of the indebtedness evidenced hereby.

Maker shall pay a charge of \$25.00 for any check returned for any reason.

Except as provided in this Note, Maker and each endorser and guarantor of this Note jointly and severally waive grace, presentment for payment, notice of renewals and extensions, notice of nonpayment, notice of protest, notice of and demand for payment of installments or other amounts coming due under this Note that are not paid when due, notice of intent or election to accelerate maturity or the actual acceleration of maturity of the indebtedness evidenced by this Note, and diligence in the collection of this Note, in filing suit on this Note and in seizing or foreclosing on any collateral securing this Note or and agree to one or more extensions of maturity and partial payments before or after maturity without prejudice to rights of the holder of this Note.

If this Note is placed in the hands of an attorney for collection or is collected by legal proceedings of any kind, Maker agrees to pay all costs of collection, including reasonable attorneys' fee and costs. Notwithstanding anything to the contrary contained herein, if Maker's first mortgage is an FHA-insured mortgage, the Maker is not liable for Payee's costs and expenses, including attorney fees, if the event of default results solely from Maker's violation of the owner-occupancy restriction.

All obligations of this Note are the joint and several obligations of each signer.

This Note is secured by a Lien Deed of Trust (With Security Agreement) ("Deed of Trust") of even date herewith from Maker to \_\_\_\_\_, Trustee for Payee, upon and against the following described property to-wit:

Legal, which has a street address of Property, addressProperty, city

■ [IF A SUBORDINATE LIEN a Deed of Trust dated of even date therewith, executed by TEST HUSBAND and TEST WIFE, husband and wife to ■, Trustee, for , , to be recorded in the Real Property Records of County County, Texas, securing a promissory note of even date therewith, in the original principal amount of ( ) payable to the order of , .]

Any default under the Deed of Trust securing this Note shall be deemed to be a default under this Note.

If any part of the collateral securing this Note is transferred or conveyed without Payee's prior, written consent, or if Maker ceases to occupy the mortgaged property as his or her principal residence, any unpaid or un-forgiven balance of this Note is immediately due and payable and Payee may invoke any remedies provided under the Deed of Trust securing this Note. In accordance with 12 USC §1701j-3 and its implementing regulations under 12 C.F.R. §591.5, if the collateral is residential real property containing fewer than five dwelling units or a residential manufactured home occupied by Maker, , the exercise of this due-on-sale provision is limited and does not apply to (a) a subordinate lien or encumbrance that does not transfer rights of occupancy of the property; (b) creation of a purchase money security interest for household appliances; (c) transfer by devise, descent, or operation of law on the death of a co-owner; (d) grant of a leasehold interest of three years or less without an option to purchase; (e) transfer to a spouse or children of owner or between co-owners; (f) transfer to a relative of owner resulting from owner's death; (g) a transfer resulting from a decree of a dissolution of marriage, a legal separation agreement, or an incidental property settlement agreement by which the spouse of Maker becomes an owner of the property; (h) transfer to an inter vivos trust in which owner

This restriction on the transfer of mortgaged property will automatically terminate if title to the property is transferred by foreclosure or deed-in-lieu of foreclosure, or if the mortgage is assigned to the Secretary of the U. S. Department of Housing and Urban Development in accordance with 24 C.F.R. §203.41.

All agreements and transactions between Maker and Payee, whether now existing or hereafter arising, whether contained herein or in any other instrument, and whether written or oral, are hereby expressly limited so that in no contingency or event whatsoever, whether by reason of acceleration of the maturity hereof, prepayment, demand for payment or otherwise, shall the amount contracted for, charged or received by Payee from Maker for the use, forbearance, or detention of the principal indebtedness or interest hereof, which remains unpaid from time to time, exceed the maximum amount permissible under Applicable Law, it particularly being the intention of the parties hereto to conform strictly to the law of the State of Texas and of the United States of America, whichever is applicable. Any interest payable hereunder or under any other instrument relating to the loan evidenced hereby that is in excess of the legal maximum under Applicable Law, shall, in the event of acceleration of maturity, prepayment, demand for payment or otherwise, be automatically, as of the date of such acceleration, prepayment, demand or otherwise, applied to a reduction of the principal indebtedness hereof and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of such principal, such excess shall be refunded to Maker. To the extent permitted by Applicable Law, determination of the legal maximum amount of interest shall at all times be made by amortizing, prorating, allocating and spreading in equal parts during the period of the full stated term of the loan, all interest at any time contracted for, charged or received from Maker in connection with the loan, so that the actual rate of interest on account of such indebtedness is uniform throughout the term thereof.

<u>          </u>	<u>          </u>
<b>Initials</b>	<b>Initials</b>

original principal sum of ~~MIK Amb~~ ~~spelled out~~ (~~MIK Amb~~) of even date herein, executed by Maker and payable to the order of Contractor ("Mechanic's Lien Note"), more fully described in and secured by a mechanic's lien contract of even date herein between Maker as Owner, and ~~CONTRACTOR NAME~~, ~~Contractor type~~, as Contractor ("Mechanic's Lien Contract") as said mechanic's lien note and contract transferred to Payee, and all liens rights and interest securing same are hereby ratified, renewed and brought forward for the benefit of Payee.

This Note shall be governed by and construed in accordance with the laws of the State of Texas and the United States of America from time to time in effect. The term "Applicable Law" as used herein means (1) the law pertaining to maximum rates of interest that is now in effect and (2) any law that comes into effect at any time in the future allowing a higher maximum interest rate than the law now in effect.

**MAKER:**

~~TEST HUSBAND~~, ~~husband~~

~~TEST WIFE~~, ~~wife~~

Loan Originator Organization (LOO):  
Individual Loan Originator Name (LO):

\_\_\_\_\_  
\_\_\_\_\_

NMLSR ID#: \_\_\_\_\_  
NMLSR ID#: \_\_\_\_\_

# **LIEN DEED OF TRUST**



**~~FIRST, SECOND~~ LIEN DEED OF TRUST**  
(“Deed of Trust”)

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER’S LICENSE NUMBER**

**THE STATE OF TEXAS**

**COUNTY OF ~~COUNTY~~**

Date: \_\_\_\_\_, ~~Year~~

Grantor: ~~TEST HUSBAND~~ and ~~TEST WIFE~~, ~~husband and wife~~

Grantor’s Mailing Address: ~~Mailing address, Property city~~

Trustee: \_\_\_\_\_ of \_\_\_\_\_ County, Texas

Trustee’s Mailing Address: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ County, Texas \_\_\_\_\_

Beneficiary: \_\_\_\_\_, a \_\_\_\_\_

Beneficiary’s Mailing Address: \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ County, Texas

Promissory Note (“Note”)

Date: Of even date herewith

Original principal amount: ~~«Loan Amt. spelled out» («Loan Amt»)~~

Maker: ~~TEST HUSBAND~~ and ~~TEST WIFE~~, ~~husband and wife~~

Payee: \_\_\_\_\_, a \_\_\_\_\_

Maturity date: ~~«Maturity date»~~

Property: ~~Legal~~, which has a street address of ~~Property address, Property city~~, together with the following personal property:

All fixtures, supplies, building materials, and other goods of every nature now or hereafter located, used, or intended to be located or used on the Property;

All plans and specifications for development of or construction of improvements on the Property;

All contracts and subcontracts relating to the construction of improvements on the Property;

All accounts, contract rights, instruments, documents, general intangibles, and chattel paper arising from or by virtue of any transactions relating to the Property;

All permits, licenses, franchises, certificates, and other rights and privileges obtained in connection with the Property;

All proceeds payable or to be payable under each policy of insurance relating to the Property; and

All products and proceeds of the foregoing.

Notwithstanding any other provision in this Deed of Trust, the term "Property" does not include personal effects used primarily for personal, family, or household purposes.

Prior Lien: ☐ None [OR, if subordinate: a Deed of Trust dated of even date therewith, executed by ~~TEST HUSBAND~~ and ~~TEST WIFE~~, husband and wife to ☐, Trustee, for , , to be recorded in the Real Property Records of ~~County~~ County, Texas, securing a promissory note of even date therewith, in the original principal amount of ( ) payable to the order of , .]

Other Exceptions to Conveyance and Warranty:

~~«Title Commitment Exceptions type Alt En»~~ [Any encumbrances of record.]

For value received and to secure payment of the Note, Grantor conveys the Property to Trustee in trust. Grantor warrants and agrees to defend the title to the Property, subject to the Other Exceptions to Conveyance and Warranty. On payment of the Note and all other amounts secured by this Deed of Trust, this Deed of Trust will have no further effect, and Beneficiary will release it at Grantor's expense.

## Clauses and Covenants

### A. Grantor's Obligations

Grantor agrees to:

1. keep the Property in good repair and condition;
2. pay all taxes and assessments on the Property before delinquency;
3. defend title to the Property subject to the Other Exceptions to Conveyance and Warranty and preserve the lien's priority as it is established in this Deed of Trust;

4. maintain, in a form acceptable to Beneficiary, an insurance policy that:
  - a. covers all improvements for their full insurable value as determined when the policy is issued and renewed, unless Beneficiary approves a smaller amount in writing;
  - b. provides fire and extended coverage, including windstorm coverage;
  - c. protects Beneficiary with a standard mortgage clause;
  - d. provides flood insurance at any time the Property is in a flood hazard area; and
  - e. contains such other coverage as Beneficiary may reasonably require;
5. comply at all times with the requirements of the 80 percent coinsurance clause;
6. deliver the insurance policy to Beneficiary within ten days of the date of this Deed of Trust and deliver renewals to Beneficiary at least fifteen days before expiration;
7. obey all laws, ordinances, and restrictive covenants applicable to the Property; and
8. if the lien of this Deed of Trust is not a first lien, pay or cause to be paid all prior lien notes and abide by or cause to be abided by all prior lien instruments.

#### **B. Beneficiary's Rights**

1. Beneficiary may appoint in writing a substitute trustee, succeeding to all rights and responsibilities of Trustee.
2. If the proceeds of the Note are used to pay any debt secured by prior liens, Beneficiary is subrogated to all the rights and liens of the holders of any debt so paid.
3. Beneficiary may apply any proceeds received under the insurance policy either to reduce the Note or to repair or replace damaged or destroyed improvements covered by the policy. If the Property is Grantor's primary residence and Beneficiary reasonably determines that repairs to the improvements are economically feasible, Beneficiary will make the insurance proceeds available to Grantor for repairs.
4. Notwithstanding Note terms to the contrary, and unless applicable law prohibits, all payments received by Beneficiary from Grantor under the Note or this Deed of Trust may, at Beneficiary's discretion, be applied first to amounts payable under this Deed of Trust and then to amounts due and payable to Beneficiary under the Note, to be applied to late charges, principal, or interest in the order Beneficiary in its discretion determines.
5. If Grantor fails to perform any of Grantor's obligations, Beneficiary may perform those obligations and be reimbursed by Grantor on demand for any amounts so paid, including attorney's fees, plus

interest on those amounts from the dates of payment at the rate stated in the Note for matured, unpaid amounts. The amount to be reimbursed will be secured by this Deed of Trust. Notwithstanding anything to the contrary contained herein, if Grantor's first mortgage is an FHA-insured mortgage, the Grantor is not liable for Beneficiary's costs and expenses, including attorney fees, if the event of default results solely from Grantor's violation of the owner-occupancy restriction.

6. If there is a default on the Note or if Grantor fails to perform any of Grantor's obligations and the default continues after any required notice of the default and the time allowed to cure, Beneficiary may:
  - a. declare the unpaid principal balance and earned interest on the Note immediately due;
  - b. direct Trustee to foreclose this lien, in which case Beneficiary or Beneficiary's agent will cause notice of the foreclosure sale to be given as provided by the Texas Property Code as then in effect; and
  - c. purchase the Property at any foreclosure sale by offering the highest bid and then have the bid credited on the Note.
7. Beneficiary may remedy any default without waiving it and may waive any default without waiving any prior or subsequent default.

### **C. Trustee's Rights and Duties**

If directed by Beneficiary to foreclose this lien, Trustee will:

1. either personally or by agent give notice of the foreclosure sale as required by the Texas Property Code as then in effect;
2. sell and convey all or part of the Property "AS IS" to the highest bidder for cash with a general warranty binding Grantor, subject to the Prior Lien and to the Other Exceptions to Conveyance and Warranty and without representation or warranty, express or implied, by Trustee;
3. from the proceeds of the sale, pay, in this order:
  - a. expenses of foreclosure, including a reasonable commission to Trustee;
  - b. to Beneficiary, the full amount of principal, interest, attorney's fees, and other charges due and unpaid;
  - c. any amounts required by law to be paid before payment to Grantor; and
  - d. to Grantor, any balance; and

4. be indemnified by Beneficiary against all costs, expenses, and liabilities incurred by Trustee for acting in the execution or enforcement of the trust created by this Deed of Trust, which includes all court and other costs, including attorney's fees, incurred by Trustee in defense of any action or proceeding taken against Trustee in that capacity.

#### **D. General Provisions**

1. If any of the Property is sold under this Deed of Trust, Grantor must immediately surrender possession to the purchaser. If Grantor fails to do so, Grantor will become a tenant at sufferance of the purchaser, subject to an action for forcible detainer.
2. Recitals. Recitals in any trustee's deed conveying the Property will be presumed to be true.
3. Proceeding under this Deed of Trust, filing suit for foreclosure, or pursuing any other remedy will not constitute an election of remedies.
4. Lien. This lien will remain superior to liens later created even if the time of payment of all or part of the Note is extended or part of the Property is released.
5. If any portion of the Note cannot be lawfully secured by this Deed of Trust, payments will be applied first to discharge that portion.
6. Condemnation. Grantor assigns to Beneficiary all amounts payable to or received by Grantor from condemnation of all or part of the Property, from private sale in lieu of condemnation, and from damages caused by public works or construction on or near the Property. After deducting any expenses incurred, including attorney's fees and court and other costs, Beneficiary will either release any remaining amounts to Grantor or apply such amounts to reduce the Note. Beneficiary will not be liable for failure to collect or to exercise diligence in collecting any such amounts. Grantor will immediately give Beneficiary notice of any actual or threatened proceedings for condemnation of all or part of the Property.
7. Collateral Assignment. Grantor assigns to Beneficiary absolutely, not only as collateral, all present and future rent and other income and receipts from the Property. Grantor warrants the validity and enforceability of the assignment. Grantor may as Beneficiary's licensee collect rent and other income and receipts as long as Grantor is not in default under the Note or this Deed of Trust. Grantor will apply all rent and other income and receipts to payment of the Note and performance of this Deed of Trust, but if the rent and other income and receipts exceed the amount due under the Note and Deed of Trust, Grantor may retain the excess. If Grantor defaults in payment of the Note or performance of this Deed of Trust, Beneficiary may terminate Grantor's license to collect rent and other income and then as Grantor's agent may rent the Property and collect all rent and other income and receipts. Beneficiary neither has nor assumes any obligations as lessor or landlord with respect to any occupant of the Property. Beneficiary may exercise Beneficiary's rights and remedies under this paragraph without taking possession of the Property. Beneficiary will apply all rent and other income and receipts collected under this paragraph first to expenses incurred in exercising Beneficiary's rights and remedies and then to Grantor's obligations under the Note and this Deed of

Trust in the order determined by Beneficiary. Beneficiary is not required to act under this paragraph, and acting under this paragraph does not waive any of Beneficiary's other rights or remedies. If Grantor becomes a voluntary or involuntary debtor in bankruptcy, Beneficiary's filing a proof of claim in bankruptcy will be deemed equivalent to the appointment of a receiver under Texas law.

8. Usury. Interest on the debt secured by this Deed of Trust will not exceed the maximum amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law. Any interest in excess of that maximum amount will be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted prepayment, any such excess will be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides any conflicting provisions in this and all other instruments concerning the debt.
9. When the context requires, singular nouns and pronouns include the plural.
10. The term Note includes all extensions and renewals of the Note and all sums secured by this Deed of Trust.
11. Successors Bound. This Deed of Trust binds, benefits, and may be enforced by the successors in interest of all parties.
12. If Grantor and Borrower are not the same person, the term Grantor includes Borrower.
13. Severability. If any provision of this Deed of Trust is determined to be invalid or unenforceable, the validity or enforceability of any other provision will not be affected.
14. Extension of Mechanic's Lien Contract. Grantor represents that this Deed of Trust and the Note are given for the following purposes:

«Amt of loan used for closing costs» of the Note secured by this Deed of Trust is given for payment of taxes and other closing costs, and the remaining «MLK Amt» of the Note secured by this Deed of Trust is given for payment for improvements on the property that Beneficiary has agreed to make for Grantor under a mechanic's lien contract of even date between Grantor as owner, Beneficiary, and «CONTRACTOR NAME», «Contractor type», as Contractor ("Mechanic's Lien Contract"), creating a lien against the property to secure the Note.

The Note secured by this Deed of Trust is given in renewal and extension, and not in extinguishment, of the sum of «MLK Amt» left owing and unpaid by Grantor on that one certain mechanic's lien note in the original principal sum of «MLK Amt», dated on even date herein, executed by Grantor and payable to the order of «CONTRACTOR NAME», «Contractor type» ("Mechanic's Lien Note"), more fully described in and secured by the Mechanic's Lien Contract creating a lien on the Property. The Mechanic's Lien Note and the mechanic's and materialman's lien granted in the Mechanic's Lien Contract to Contractor have been transferred by Contractor to County by Transfer of Lien. Grantor acknowledges that the lien securing the Mechanic's Lien Note

is valid, that it subsists against the property and that by this Deed of Trust it is renewed and extended in full force until the Note is paid.

In addition to creating a deed-of-trust lien on all the real and other property described above, Grantor also grants to Lender a security interest in all of the above-described personal property pursuant to and to the extent permitted by the Texas Uniform Commercial Code.

In the event of a foreclosure sale under this Deed of Trust, Grantor agrees that all the Property may be sold as a whole at Lender's option and that the Property need not be present at the place of sale.

15. **Transfer of Property.** **IN THE EVENT THAT SALE OR CONVEYANCE IS MADE OF ALL OR ANY PORTION OF THE MORTGAGED PREMISES WITHOUT THE PRIOR WRITTEN CONSENT OF BENEFICIARY TO SAID SALE, THEN BENEFICIARY MAY AT ITS ELECTION ACCELERATE THE MATURITY OF THE NOTE AND DEMAND FULL PAYMENT OF THE BALANCE OF ALL PRINCIPAL AND INTEREST REMAINING DUE THEREON.** . However, this option shall not be exercised by beneficiary if exercise is prohibited by federal law as of the date of this Deed of Trust. In accordance with 12 USC §1701j-3 and its implementing regulations under 12 C.F.R. §591.5, if the property is residential, real property containing fewer than five (5) dwelling units or a manufactured home occupied by grantor, the exercise of this due-on-sale provision is limited and does not apply to: (a) a subordinate lien or encumbrance that does not transfer rights of occupancy of the property; (b) creation of a purchase-money security interest for household appliances; (c) transfer by devise, descent, or operation of law on the death of a co-grantor; (d) grant of a leasehold interest of three years or less without an option to purchase; (e) transfer to a spouse or children of grantor or between co-grantors; (f) transfer to a relative of grantor resulting from grantor's death; (g) a transfer resulting from a decree of a dissolution of marriage, a legal separation agreement, or an incidental property settlement agreement by which the spouse of Grantor becomes an owner of the property; (h) transfer to an inter vivos trust in which grantor is and remains a beneficiary and occupant of the property; or (i) any other transfer or disposition described in regulations prescribed by the Federal Home Loan Bank Board.

This restriction on the transfer of Property will automatically terminate if title to the Property is transferred by foreclosure or deed-in-lieu of foreclosure, or if the mortgage is assigned to the Secretary of the U. S. Department of Housing and Urban Development (HUD) in accordance with 24 C.F.R. §203.41.

16. **Loan Not a Home Equity Loan.** The Loan evidenced by the Note is not an extension of credit as defined by Section 50(a)(6) or Section 50(a)(7), Article XVI, of the Texas Constitution. If the Property is used as Maker's residence, then Maker agrees that Maker will receive no cash from the Loan evidenced by the Note and that any advances not necessary to purchase the Property, extinguish an owelty lien, complete construction, or renew and extend a prior lien against the Property, will be used to reduce the balance evidenced by the Note or such Loan will be modified to evidence the correct Loan balance, at Beneficiary's option. Maker agrees to execute any documentation necessary to comply with this Section.

17. ■ [only if subordinate] Cross Default. If Grantor fails to pay any part of principal or interest secured by a Prior Lien or liens on the Property when it becomes payable or defaults on any prior lien instrument, the entire debt secured by this Deed of Trust will immediately become payable at the option of Beneficiary.
18. ■ [only if subordinate] Second Lien. Notwithstanding any provision of this Deed of Trust to the contrary, the lien created by this instrument shall be subordinate and inferior to the lien created by the Prior Lien.
19. Principal Residence. Without waiving the requirement for prior written consent as addressed in paragraph 15 above, Grantor agrees that they are a household with an income at or below eighty percent (80%) of area median income in the area in which the Property is located, as determined by HUD Section 8 income limits adjusted for family size. Grantor acknowledges that the property was occupied by Grantor as their principal residence within thirty (30) days of the later of the end of the construction period or the closing of this loan and further agrees that Grantor will continue to use the property as their principal residence. If Grantor ceases to occupy the property as their principal residence, the holder of the Note may at its election accelerate the maturity of the Note and demand full payment of the balance of all principal and interest, if any, remaining due thereon. However, this election shall not be exercised by Beneficiary if prohibited by Federal law.
20. Reserve for Taxes and Insurance. ■ [IF OTHER LIENHOLDER IS ESCROWING, INSERT THIS: In the event a reserve for taxes and insurance is no longer required under the Prior Lien,] Grantor will create a reserve, at the request of Beneficiary, for the payment of all insurance premiums, taxes, and assessments against or affecting the Mortgaged Property by paying to Beneficiary on the same day as regular payments are made under the Note until maturity of the Note, a sum equal to the premiums that will next become due and payable on the hazard insurance policies covering the Mortgaged Property, or any part thereof, plus taxes and assessments next due on the Mortgaged Property, or any part thereof, as estimated by Beneficiary, less all sums deposited therefor, divided by the number of months to elapse before one month prior to the date when such premiums, taxes and assessments will become delinquent. Grantor shall have the right to rely upon tax information furnished by applicable taxing authorities in the payment of such taxes or assessments and shall have no obligation to make any protest of any such taxes or assessments. Beneficiary shall hold such sums without interest, unless interest is required by applicable law, for the purposes of paying such premiums, taxes and assessments. Any excess over the amounts required for such purposes shall be held in such account for future use as provided in this section. The conveyance or transfer of Grantor's interest in the Mortgaged Property for any reason (including without limitation the foreclosure of a subordinate lien or security interest or a transfer by operation of law) shall constitute an assignment or transfer of Grantor's interest in and rights to such funds under this section but subject to the rights of Beneficiary hereunder.

**E. Construction Loan Mortgage**

1. This Deed of Trust is a "construction mortgage" within the meaning of section 9.334 of the Texas



Business and Commerce Code. The liens and security interests created and granted by this Deed of Trust secure an obligation incurred for the construction of improvements on land [include if applicable: , including the acquisition cost of the land].

2. Grantor agrees to comply with the covenants and conditions of the construction loan agreement, if any, executed in connection with the Note and this Deed of Trust. All advances made by Lender under the construction loan agreement will be indebtedness of Grantor secured by the liens created by this Deed of Trust, and such advances are conditioned as provided in the construction loan agreement.
3. All amounts disbursed by Lender before completion of the improvements to protect the security of this Deed of Trust up to the principal amount of the Note will be treated as disbursements under the construction loan agreement. All such amounts will bear interest from the date of disbursement at the rate stated in the Note, unless collections from Grantor of interest at that rate would be contrary to applicable law, in which event such amounts will bear interest at the rate stated in the Note for matured, unpaid amounts and will be payable on notice from Lender to Grantor requesting payment.
4. From time to time as Lender deems necessary to protect Lender's interests, Grantor will, on request of Lender, execute and deliver to Lender, in such form as Lender directs, assignments of any and all rights or claims that relate to the construction of improvements on the Property.
5. In case of breach by Grantor of the covenants and conditions of the construction loan agreement, Lender, at its option, with or without entry on the Property, may (a) invoke any of the rights or remedies provided in the construction loan agreement, (b) accelerate the amounts secured by this Deed of Trust and invoke the remedies provided in this Deed of Trust, or (c) do both.

**GRANTOR:**

TEST HUSBAND, husband

TEST WIFE, wife

THE STATE OF TEXAS

COUNTY OF COUNTY

This instrument was acknowledged before me by WESLEY HUSBAND, on this \_\_\_\_\_ day of \_\_\_\_\_, Year.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas

THE STATE OF TEXAS

COUNTY OF COUNTY

This instrument was acknowledged before me by BORROWER 2 NAME, on this \_\_\_\_\_ day of \_\_\_\_\_, Year.

(Seal)

\_\_\_\_\_  
Notary Public - State of Texas

Loan Originator Organization (LOO): \_\_\_\_\_

Individual Loan Originator Name (LO): \_\_\_\_\_

PREPARED BY:

\_\_\_\_\_  
NMLSR ID#:

\_\_\_\_\_  
NMLSR ID#:

AFTER RECORDING RETURN TO:

«Title Company name only»

«Title Company dba if applicable»

«Title Company Address street only»

«Title Company Address city county sta»

Attn: «Title Agents Name»

GF #: «GF No»

# UCC FINANCING STATEMENT

# UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]
B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

## 1. DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME				
OR	1b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS	CITY		STATE	POSTAL CODE
			TX	
1d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION	1f. JURISDICTION OF ORGANIZATION	1g. ORGANIZATIONAL ID #, if any
				<input type="checkbox"/> NONE

## 2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME				
OR	2b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
2c. MAILING ADDRESS	CITY		STATE	POSTAL CODE
2d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID #, if any
				<input type="checkbox"/> NONE

## 3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - Insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME				
OR	3b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX
3c. MAILING ADDRESS	CITY		STATE	POSTAL CODE
	Austin		TX	78711-3941
				USA

## 4. This FINANCING STATEMENT covers the following collateral:

1. All furniture, equipment and other personal property now or hereafter owned by Debtor and used in connection with, located on or related in any way to the real property ("Property") described as being [\*\*\*\*LEGAL DESCRIPTION HERE], and all renewals or replacements thereof or articles in substitution therefore, whether or not the same are or shall be attached in any manner to the buildings and other improvements now or hereafter erected, constructed or developed on the Property ("Project"); 2. All building materials and equipment now or hereafter delivered to the Property and all building and construction materials, equipment and parts intended to be installed in or on the Property or Project; 3. All plans and specifications for the Project; 4. All contracts and subcontracts relating to the Project;

(See Addendum)

5. ALTERNATIVE DESIGNATION (if applicable):	LESSOR/LESSOR	CONSIGNEE/CONSIGNOR	BAILEE/BAILO	SELLER/BUYER	AG. LIEN	NON-UCC FILING
6. <input checked="" type="checkbox"/> True FINANCING STATEMENT is to be filed (or recorded) in the REAL ESTATE RECORDS. Attach Addendum (if applicable)	7. Check to REQUEST SEARCH REPORT (S) on Debtor(s)		All Debtors			
8. OPTIONAL FILER REFERENCE DATA	ADDITIONAL FILER		Debtor 1			

Loan # 0987987

## UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

### 9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME

OR

9b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME, SUFFIX

### 10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

### 11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only one name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME

OR

11b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

11c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

11d. SEE INSTRUCTIONS

ADD'L INFO RE  
ORGANIZATION  
DEBTOR

11e. TYPE OF ORGANIZATION

11f. JURISDICTION OF ORGANIZATION

11g. ORGANIZATIONAL ID #, if any

☐ NONE

### 12. ADDITIONAL SECURED PARTY'S or ASSIGNOR S/P'S NAME - Insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME

OR

12b. INDIVIDUAL'S LAST NAME

FIRST NAME

MIDDLE NAME

SUFFIX

12c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

13. This FINANCING STATEMENT covers ☐ timber to be cut or ☐ as-extracted collateral, or is filed as a ☒ fixture filing.

14. Description of real estate

As more fully described on Exhibit "A" attached hereto and made a part hereof, and being located in XXXXX County, Texas.

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

16. Additional collateral description:

5. All permits, licenses, franchises, certificates, and other rights and privileges obtained in connection with the Property; 6. All proceeds arising from or by virtue of the sale, lease or other disposition of any of the real or personal property described herein; 7. All proceeds (including premium refunds) payable or to be payable under each policy of insurance relating to the Project; 8. All proceeds arising from the taking of all or a part of the Property or any rights appurtenant thereto, including change of grade of streets, curb cuts or other rights of access, for any public or quasi-public use under any law or by rights of eminent domain, or by private or other purchase in lieu thereof; and, 9. All other interest of every kind and character which Debtor now has or at any time hereafter acquires in and to the above-described personal property and all property which is used or useful in connection therewith.

17. Check only if applicable and check only one box.

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box.

☐ Debtor is a TRANSMITTING UTILITY

☐ Filed in connection with a Manufactured-Home Transaction — effective 30 years

☐ Filed in connection with a Public-Finance Transaction — effective 30 years

# UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)

B. SEND ACKNOWLEDGMENT TO (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (1a or 1b) - do not abbreviate or combine names

1a. ORGANIZATION'S NAME					
OR	1b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY
			TX		USA
1d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION	1f. JURISDICTION OF ORGANIZATION	1g. ORGANIZATIONAL ID #, if any	
				<input type="checkbox"/> NONE	

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only one debtor name (2a or 2b) - do not abbreviate or combine names

2a. ORGANIZATION'S NAME					
OR	2b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
2c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY
2d. SEE INSTRUCTIONS	ADD'L INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID #, if any	
				<input type="checkbox"/> NONE	

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - Insert only one secured party name (3a or 3b)

3a. ORGANIZATION'S NAME					
OR	3b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
3c. MAILING ADDRESS		CITY	STATE	POSTAL CODE	COUNTRY
P.O. Box 13941		Austin	TX	78711-3941	USA

4. This FINANCING STATEMENT covers the following collateral:

1. All furniture, equipment and other personal property now or hereafter owned by Debtor and used in connection with, located on or related in any way to the real property ("Property") described as being [\*\*\*\*LEGAL DESCRIPTION HERE], and all renewals or replacements thereof or articles in substitution therefore, whether or not the same are or shall be attached in any manner to the buildings and other improvements now or hereafter erected, constructed or developed on the Property ("Project"); 2. All building materials and equipment now or hereafter delivered to the Property and all building and construction materials, equipment and parts intended to be installed in or on the Property or Project; 3. All plans and specifications for the Project; 4. All contracts and subcontracts relating to the Project;

5. ALTERNATIVE DESIGNATION (if applicable):	LESSEE/LESSOR	CONSIGNEE/CONSIGNOR	BAILEE/BAILOR	SELLER/BUYER	AG. LIEN	NON-UCC FILING
6. THIS FINANCING STATEMENT is to be filed (for record) (for recording) or the REAL (if applicable):	7. CHECK TO REQUEST SEARCH REPORT (s) OR Debtor(s)		All Debtors		Debtor 1	Debtor 2
8. OPTIONAL FILER REFERENCE DATA						
Loan # 0987987						

## UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

### 9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME		
OR		
9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME, SUFFIX

### 10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

### 11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one name (11a or 11b) - do not abbreviate or combine names

11a. ORGANIZATION'S NAME				
OR				
11b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX	
11c. MAILING ADDRESS		CITY	STATE	POSTAL CODE COUNTRY
11d. <u>SEE INSTRUCTIONS</u>	ADD'L INFO RE ORGANIZATION DEBTOR	11e. TYPE OF ORGANIZATION	11f. JURISDICTION OF ORGANIZATION	11g. ORGANIZATIONAL ID #, if any <input type="checkbox"/> NONE

### 12. ☐ ADDITIONAL SECURED PARTY'S or ☐ ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

12a. ORGANIZATION'S NAME				
OR				
12b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX	
12c. MAILING ADDRESS		CITY	STATE	POSTAL CODE COUNTRY

13. This FINANCING STATEMENT covers ☐ timber to be cut or ☐ ice-extracted collateral, or is filed as a ☐ fixture filing.

14. Description of real estate.

As more fully described on Exhibit "A" attached hereto and made a part hereof, and being located in XXXXX County, Texas.

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

16. Additional collateral description.

5. All permits, licenses, franchises, certificates, and other rights and privileges obtained in connection with the Property; 6. All proceeds arising from or by virtue of the sale, lease or other disposition of any of the real or personal property described herein; 7. All proceeds (including premium refunds) payable or to be payable under each policy of insurance relating to the Project; 8. All proceeds arising from the taking of all or a part of the Property or any rights appurtenant thereto, including change of grade of streets, curb cuts or other rights of access, for any public or quasi-public use under any law or by rights of eminent domain, or by private or other purchase in lieu thereof; and, 9. All other interest of every kind and character which Debtor now has or at any time hereafter acquires in and to the above-described personal property and all property which is used or useful in connection therewith.

17. Check only if applicable and check only one box.

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box.

- ☐ Debtor is a TRANSMITTING UTILITY  
☐ Filed in connection with a Manufactured-Home Transaction — effective 30 years  
☐ Filed in connection with a Public-Finance Transaction — effective 30 years

# AFFIDAVIT OF IDENTITY



## **Affidavit of Identity**

**Date:**

**Affiant:**

**[Affiant's Other Name(s):]**

**Affiant on oath swears that the following statement[s] [is/are] true and [is/are] within the personal knowledge of Affiant:**

**Affiant is sometimes known by Affiant's Other Name[s]. Affiant and the person[s] indicated by Affiant's Other Name[s] are the same person.**

**Affiant is not the same person as the [name] named in [specify document].**

\_\_\_\_\_  
**[Name of affiant]**

**SUBSCRIBED AND SWORN TO before me on \_\_\_\_\_ by [name of affiant].**

\_\_\_\_\_  
**Notary Public, State of Texas**

FORM **W-9** REQUEST FOR  
TAXPAYER IDENTIFICATION  
NUMBER

## Request for Taxpayer Identification Number and Certification

► Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Give Form to the  
requester. Do not  
send to the IRS.

Print or type. See specific instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.  <input type="checkbox"/> Individual/sole proprietor or single-member LLC  <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.  <input type="checkbox"/> Other (see instructions) ► _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  Exempt payee code (if any) _____  Exemption from FATCA reporting code (if any) _____  <small>(Applies to accounts maintained outside the U.S.)</small>
	5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
6 City, state, and ZIP code		
7 List account number(s) here (optional)		

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number	
	-  -
OR	
Employer identification number	
	-

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign  
Here

Signature of  
U.S. person ►

Date ►

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
  - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
  - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
  - Form 1099-S (proceeds from real estate transactions)
  - Form 1099-K (merchant card and third party network transactions)
  - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
  - Form 1099-C (canceled debt)
  - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.
- If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

## What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; do not leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

**a. Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note: ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

**b. Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

**c. Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

**d. Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

**e. Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

### Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

### Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) ...	THEN check the box for ...
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

### Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

#### Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

**A**—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

**B**—The United States or any of its agencies or instrumentalities

**C**—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

**D**—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

**E**—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

**F**—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

**G**—A real estate investment trust

**H**—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

**I**—A common trust fund as defined in section 584(a)

**J**—A bank as defined in section 581

**K**—A broker

**L**—A trust exempt from tax under section 664 or described in section 4947(a)(1)

**M**—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

## Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

## Line 6

Enter your city, state, and ZIP code.

## Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/Businesses](http://www.irs.gov/Businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in Items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

## What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
5. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee <sup>3</sup> The actual owner <sup>1</sup>
6. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor <sup>4</sup>
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

\*Note: The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN.
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@ftc.gov](mailto:spam@ftc.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Visit [www.irs.gov/identitytheft](http://www.irs.gov/identitytheft) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.



# **SURVEY AND TITLE LETTER**

## **SURVEY AND TITLE LETTER**

I/We the undersigned Borrower(s) hereby certify that I/we have received, reviewed, and approved a copy of the attached survey which is incorporated hereto by reference and have signed or initialed and dated same for identification purposes. I/We am/are aware of the indicated encroachments, protrusions, easements, limitations, access, dimensions, and/or other conditions shown on the survey.

I/We further certify that the Settlement Agent has provided me/us with a copy of the Commitment for Title Insurance and that I/we have reviewed and consent to all of the exceptions to title which would appear in an Owner's Title Policy for the Property.

**IN CONSIDERATION OF THE LENDER MAKING A LOAN TO BORROWER(S), I/WE HEREBY HOLD LENDER HARMLESS FROM ANY COMPLAINT ARISING AS A RESULT OF ANY MATTERS INDICATED IN THE SURVEY, THE EXCEPTIONS STATED IN THE COMMITMENT FOR TITLE INSURANCE, AND THE OWNER'S AND MORTGAGEE TITLE INSURANCE POLICIES.**

**IN ADDITION TO BUT NOT IN LIEU OF THE ABOVE AND FOR THE CONSIDERATION RECITED ABOVE, I/WE HAVE BEEN MADE AWARE OF THE FOLLOWING SPECIFIC CONDITIONS AFFECTING THE ABOVE-DESCRIBED PROPERTY AND I/WE DO HEREBY AGREE, INDEMNIFY AND HOLD HARMLESS LENDER, ITS SUCCESSORS AND ASSIGNS FROM ANY CLAIMS, COSTS, DAMAGES, CAUSES OF ACTION AND EXPENSES IN ANY WAY ARISING FROM THE FOLLOWING CONDITIONS:**

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, «Year»

\_\_\_\_\_  
«Borrower\_1\_name»,  
«Borrower\_1\_Marital\_Status»

# NOTICE OF FINAL AGREEMENT

## **Notice of Final Agreement**

**Date:**

**Borrower:**

**Lender:**

**To: Borrower and all other debtors and obligors with respect to the Loan identified below.**

**1. THE WRITTEN LOAN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.**

**THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

**2. As used in this notice:**

**“Obligor” means any entity or individual who (a) is obligated to pay the Loan or (b) otherwise is or becomes obligated to pay the Loan (for example, as cosigner or guarantor) or (c) has pledged any property as security for the Loan.**

**“Loan” means the loan by Lender that is to be evidenced by the note dated [date] executed by Borrower, payable to the order of Lender, in the original principal amount of \$[amount] as modified and extended by Borrower.**

**“Written Loan Agreement” means one or more promises, notes, agreements, undertakings, security agreements, deeds of trust, or other documents, or commitments, or any combination of actions or documents relating to the Loan.**

**3. Each Borrower and Obligor who signs below acknowledges, represents, and warrants to Lender that Lender has given and each respective Borrower and Obligor has received a copy of this notice on or before the execution of any Loan Agreement.**

\_\_\_\_\_  
**[Name of lender]**

\_\_\_\_\_  
**[Name of borrower]**

\_\_\_\_\_  
**[Name of obligor]**

# TRANSFER OF LIEN

## TRANSFER OF LIEN

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER**

**STATE OF TEXAS**

**COUNTY OF** «COUNTY»

**Date:** \_\_\_\_\_, «Year»

**Holder of Note and Lien:** «CONTRACTOR NAME», «Contractor type»

**Holder's Mailing Address (including county):** «Contractor Address street only»,  
«Contractor Address CCSZ»

**Transferee:** ■

**Transferee's Mailing Address (including county):**

■  
**Mechanic's Lien Note ("Note"):**

**Date:** \_\_\_\_\_ of even date herewith

**Original Amount:** «MLK\_Amt»

**Maker:** «Borrower 1 name», «Borrower Status needed for combined bor»

**Payee:** «CONTRACTOR NAME», «Contractor type»

**Unpaid Principal and Interest:** «MLK\_Amt»

**Date of Maturity:** As therein provided

**Note and Lien is Described in the Following Documents:**

Mechanic's Lien Contract of even date, recorded in the Official Records, «County» County, Texas, executed by «Borrower 1 name», «Borrower Status needed for combined bor», securing said Mechanic's Lien Note payable to the order of «CONTRACTOR NAME», «Contractor type».

**Deed of Trust Renewing Note and Lien is Described in the Following Documents:**

A «Lien Position» Lien Deed of Trust renewing the lien of even date, from «Borrower 1 name», «Borrower Status needed for combined bor», to ■, Trustee for Transferee, securing that certain Promissory Note in the amount of «Loan Amt».

**Property (including any improvements):**

«Legal Description», which has a street address of «Property Address street only»,  
«Property Address CCSZ»

**Prior Liens:** None

**Transfer of Lien and Waiver Rights**

For value received, Holder of the Note and Lien TRANSFERS to Transferee the herein described Note and Lien, warrants that the Lien is valid against the Property in the priority indicated, and represents that the unpaid principal and interest on the Note are correctly stated.

■ [The transfer is without recourse on Holder of Note and Lien.]

Holder of the Note and Lien expressly waives and releases any and all present and future rights to establish or enforce the liens described in this instrument as security for payment of any future or other debt.

When the context requires, singular nouns and pronouns include the plural.

**HOLDER OF NOTE AND LIEN:**

«CONTRACTOR NAME», «Contractor\_type\_»

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**THE STATE OF TEXAS**

**COUNTY OF** «COUNTY»

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_,  
«Year», by \_\_\_\_\_ [name], \_\_\_\_\_ [title]  
of «CONTRACTOR NAME», «Contractor type», on behalf of said corporation.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas

**PREPARED BY:**

**AFTER RECORDING RETURN TO:**

OR

**PREPARED BY:**

**AFTER RECORDING RETURN TO:**

**Title Company name only**

**Title Company dba if applicable**

**Title Company Address street only**

**Title Company Address city county state**

**Attn: Title Agents Name**

**GF #: GF No**



# MORTGAGE FRAUD NOTICE

## **MORTGAGE FRAUD NOTICE**

**WARNING:** Intentionally or knowingly making a materially false or misleading written statement to obtain property or credit, including a mortgage loan, is a violation of Section 32.32, Texas Penal Code, and, depending on the amount of the loan or value of the property, is punishable by imprisonment for a term of 2 years to 99 years and a fine not to exceed \$10,000.00.

I/we, the undersigned home loan applicant(s), represent that I/we have received, read, and understand this notice of penalties for making a materially false or misleading written statement to obtain a home loan.

I/we represent that all statements and representations contained in my/our written home loan application, including statements or representations regarding my/our identity, employment, annual income, and intent to occupy the residential real property secured by the home loan, are true and correct as of the date of loan closing.

### **AFFIANT:**

By: \_\_\_\_\_  
Name: «BORROWER\_1\_NAME»,  
«Borrower\_1\_Marital\_Status»

### **THE STATE OF TEXAS**

### **COUNTY OF «COUNTY»**

On this \_\_\_\_\_ day of \_\_\_\_\_, «Year», before me, a Notary Public in and for «County» County, State of Texas, personally appeared «BORROWER\_1\_NAME», known to me to be the person or persons who are named in the above form, who executed the above form, and who under oath stated that he/she/they read the above notice and that the facts stated therein are personally known to him/her/them and are true and correct.

(Seal)

\_\_\_\_\_  
Notary Public, State of Texas

**AFFIDAVIT OF OCCUPANCY &  
RESIDENCY**

## COLONIA SELF-HELP CENTER PROGRAM

### Affidavit of Occupancy & Residence

Owner hereby certifies and acknowledges that home being constructed or rehabilitated is located at \_\_\_\_\_ (property address). The Owner hereby certifies and acknowledges that the above reference property is and will continue to be their primary residence and will be occupied within 30 days of closing or the completion of construction.

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Printed Name

### ACKNOWLEDGEMENT

STATE OF TEXAS

COUNTY OF \_\_\_\_\_

Before me, this instrument was signed and acknowledged on \_\_\_\_\_  
\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Typed / Printed Name

\_\_\_\_\_  
My Commission Expires

(SEAL)

# **HOME IMPROVEMENT CLOSING CERTIFICATE**

**(Addition/Repair/Renovation of Existing Homestead)**

**HOME IMPROVEMENT CLOSING CERTIFICATE**  
**Addition/Repair/Renovation of Existing Homestead**

Owners: TEST HUSBAND and TEST WIFE, husband and wife

Contractor: CONTRACTOR NAME, Contractor Type

Closing Date: \_\_\_\_\_, DATE

Property Address: Property address, Property city

1. We are the only Owners of the above referenced Property.
2. We have made written application for an extension of credit for construction of improvements for the Property. The amount of our loan is intended to be used for the purpose(s) indicated in the mechanic's lien contract of even date between us and Contractor.
3. We have not executed any contract for work or materials with the Contractor before the 5<sup>th</sup> day after our above mentioned application for an extension of credit, or prior to today's closing.
4. This transaction is being closed at the following office: (must be either at the office of the Lender, a title company, or an Attorney-at-Law):

Title company name

Title address

Title City

5. At closing, we received 2 copies of the "Notice of Right to Cancel". We understand that we can cancel or rescind this contract and any other contract for the contemplated construction at any time within three days after the signing of such contract by all parties, without penalty or charge of any kind whatsoever.
6. We received the "Residential Construction Contract Disclosure" from Contractor at least one business day before the Closing Date.
7. We have received all of the documents related to the closing of the loan for the construction of improvements by Contractor on the Property at least one business day before the Closing Date.
8. As of this date, none of the improvements to be constructed are now located on the Property and no construction has been commenced, nor have any materials or supplies been delivered to the Property to be used in the construction of the improvements to the Property.

9. We are signing this certificate at the same time that I am signing the mechanic's lien contract and mechanic's lien note and documents related to construction of the improvements by Contractor on the Property.
10. When this Certificate is executed by only one person, it should be interpreted as if pertinent verbs, nouns, and pronouns were changed correspondingly, and referenced to any gender includes the other gender.

Owner: \_\_\_\_\_  
**RESIDENT HUSBAND, husband**

Owner: \_\_\_\_\_  
**RESIDENT WIFE, wife**

# **NEW HOME CLOSING CERTIFICATE**



## NEW HOME CLOSING CERTIFICATE

Owner: «Borr\_1\_Name», «Borr\_1\_Status»

Contractor: «CONT\_NAME», «Cont\_Entity\_type»

Closing Date: \_\_\_\_\_, «Year»

Property: «Prop\_Add\_St», «Prop\_Add\_CityCtyStateZip»

1. [I am/ We are] the only Owner[s] of the Property.
2. [I/We] have received all of the documents related to the closing of the loan for the new home construction by Contractor on the Property at least one business day before the Closing Date.
3. [I/We] received the residential construction contract disclosure statement from Contractor at least one business day before the Closing Date.
4. As of this date, none of the improvements contracted for by Owner[s] are located on the Property and no construction has been commenced, nor have any materials or supplies been delivered to the Property to be used in the construction of the improvements by Owner[s].
5. [I am/We are] signing this certificate at the same time as [I am/ we are] signing the mechanic's lien contract and mechanic's lien note and documents related to construction of the new home by Contractor on the Property.
6. When this certificate is executed by only one person, it should be interpreted as if pertinent verbs, nouns, and pronouns were changed correspondingly, and referenced to any gender includes the other gender.

OWNER(S):

\_\_\_\_\_  
«Borr\_1\_Name», «Borr\_1\_Status»

\_\_\_\_\_  
«Borr\_1\_Name», «Borr\_1\_Status»

**TRUTH-in-LENDING NOTICE OF RIGHT  
OF RECISSION – COUNTY**

**(NOTICE OF RIGHT TO CANCEL – GENERAL)**

**Truth-in-Lending Notice of Right of Rescission – County  
(Notice of Right to Cancel—General)**

**Identification of transaction:** Owner-Occupied Rehabilitation Loan Program Contract dated \_\_\_\_\_, by and between \_\_\_\_\_ (“creditor”) and \_\_\_\_\_ (“consumer”) [name of owner and spouse, if any].

**Your Right to Cancel**

You are entering into a transaction that will result in a lien on your home. You have a legal right under federal law to cancel this transaction, without cost, within three business days from whichever of the following events occurs last:

1. the date of the transaction, which is \_\_\_\_\_; or
2. the date you received your Truth-in-Lending disclosures; or
3. the date you received this notice of your right to cancel.

If you cancel the transaction, the lien is also canceled. Within twenty calendar days after we receive your notice, we must take the steps necessary to reflect the fact that the lien on your home has been canceled, and we must return to you any money or property you have given to us or to anyone else in connection with this transaction.

You may keep any money or property we have given you until we have done the things mentioned above, but you must then offer to return the money or property. If it is impractical or unfair for you to return the property, you must offer its reasonable value. You may offer to return the property at your home or at the location of the property. Money must be returned to the address below. If we do not take possession of the money or property within twenty calendar days of your offer, you may keep it without further obligation.

**How to Cancel**

If you decide to cancel this transaction, you may do so by notifying us in writing, at \_\_\_\_\_.

You may use any written statement that is signed and dated by you and states your intention to cancel, or you may use this notice by signing and dating the notice of cancellation below. Keep one copy of this notice because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice not later than midnight of \_\_\_\_\_ (or midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to cancel in some other way, it must be delivered to the above address no later than that time.

In this agreement "you" and "your" refer to the consumer, and "we" and "us" refer to the creditor.

Consumer acknowledges receipt of the completed Truth-in-Lending Notice of Right of Rescission.

**CONSUMER:**

\_\_\_\_\_

\_\_\_\_\_

**Date:** \_\_\_\_\_

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**Notice of Cancellation**

**I WISH TO CANCEL.**

**CONSUMER:**

\_\_\_\_\_

\_\_\_\_\_

**Date:** \_\_\_\_\_

**TRUTH-in-LENDING NOTICE OF RIGHT  
OF RECISSION – CONTRACTOR**

**(NOTICE OF RIGHT TO CANCEL – GENERAL)**

**Truth-in-Lending Notice of Right of Rescission - Contractor  
(Notice of Right to Cancel—General)**

**Identification of transaction:** Owner-Occupied Rehabilitation Loan Program Contract dated \_\_\_\_\_, by \_\_\_\_\_ ("creditor") and \_\_\_\_\_ ("consumer").

**Your Right to Cancel**

You are entering into a transaction that will result in a lien on your home. You have a legal right under federal law to cancel this transaction, without cost, within three business days from whichever of the following events occurs last:

1. the date of the transaction, which is \_\_\_\_\_; or
2. the date you received your Truth-in-Lending disclosures; or
3. the date you received this notice of your right to cancel.

If you cancel the transaction, the lien is also canceled. Within twenty calendar days after we receive your notice, we must take the steps necessary to reflect the fact that the lien on your home has been canceled, and we must return to you any money or property you have given to us or to anyone else in connection with this transaction.

You may keep any money or property we have given you until we have done the things mentioned above, but you must then offer to return the money or property. If it is impractical or unfair for you to return the property, you must offer its reasonable value. You may offer to return the property at your home or at the location of the property. Money must be returned to the address below. If we do not take possession of the money or property within twenty calendar days of your offer, you may keep it without further obligation.

**How to Cancel**

If you decide to cancel this transaction, you may do so by notifying us in writing, at \_\_\_\_\_.

You may use any written statement that is signed and dated by you and states your intention to cancel, or you may use this notice by signing and dating the notice of cancellation below. Keep one copy of this notice because it contains important information about your rights.

If you cancel by mail or telegram, you must send the notice not later than midnight of \_\_\_\_\_ (or midnight of the third business day following the latest of the three events listed above). If you send or deliver your written notice to cancel in some other way, it must be delivered to the above address no later than that time.

In this agreement "you" and "your" refer to the consumer, and "we" and "us" refer to the creditor.

Consumer acknowledges receipt of the completed Truth-in-Lending Notice of Right of Rescission.

**CONSUMER:**

\_\_\_\_\_

\_\_\_\_\_

**Date:** \_\_\_\_\_

---

**Notice of Cancellation**

**I WISH TO CANCEL.**

**CONSUMER:**

\_\_\_\_\_

\_\_\_\_\_

**Date:** \_\_\_\_\_

**TEXAS DEPARTMENT OF HOUSING  
AND COMMUNITY AFFAIRS OFFICE  
OF COLONIA INITIATIVES**

**[COLONIA SELF-HELP CENTER PROGRAM (“CSHC”)]**



**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
**OFFICE OF COLONIA INITIATIVES**  
**■ [COLONIA SELF-HELP CENTER PROGRAM ("CSHC")]**

**Form 25**  
**Sweat Equity Affidavit**

In accordance with Chapter 2306, Subchapter FF of the Texas Government Code and the Colonia Self-Help Center Program Rules under Title 10, Part 1, Chapter 25 of the Texas Administrative Code, the Income Eligible Family Applicant(s) are residents of the Colonia Self-Help Center service area and have provided 15% of the labor necessary to build the proposed housing and/or other housing units in a Colonia through a Colonia Self-Help Center program.

☐ I, the Income Eligible Family Applicant(s), have provided through personal labor at least 15% of the labor necessary to build or rehabilitate the proposed housing by working through a Colonia Self-Help Center program;

☐ I, the Income Eligible Family Applicant(s), have provided personal labor at least 15% of the labor necessary through building or rehabilitating housing for others through a Colonia Self-Help Center program;

☐ I, the Income Eligible Family Applicant(s), have provided through the non-contract labor of friends, family, or volunteers and through personal labor at least 15% of the labor necessary to build or rehabilitate the proposed housing by working through a Colonia Self-Help Center program;

☐ I, the Income Eligible Family Applicant(s), cannot provide the amount of personal labor required due to a documented disability or other limiting circumstances; however, at least 15% of the labor necessary to build or rehabilitate the proposed housing has been provided through the non-contract labor of friends, family, or volunteers by working through a Colonia Self-Help Center program.

\_\_\_\_\_  
Signature of Income Eligible Family Applicant

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature of Income Eligible Family Applicant

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature of CHSC's Authorized Agent

\_\_\_\_\_  
Printed Name

**ACKNOWLEDGEMENT**

**STATE OF TEXAS** )  
**COUNTY OF** \_\_\_\_\_ )

Before me, this instrument was signed and acknowledged on \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public, State of Texas

\_\_\_\_\_  
Typed / Printed Name

(SEAL)

\_\_\_\_\_  
My Commission Expires

RFP Title \_\_\_\_\_

Proposer's Name \_\_\_\_\_

Attachment A

### REFERENCES

Please list three (3) references of current customers who can verify the quality of service your company provides. The County prefers customers of similar size and scope of work to this RFP.

***THIS FORM MUST BE RETURNED WITH YOUR RFP.***

#### REFERENCE ONE

Government/Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person and Title: \_\_\_\_\_

Phone: \_\_\_\_\_ e-mail address: \_\_\_\_\_

Contract Period: \_\_\_\_\_ Scope of Work \_\_\_\_\_

#### REFERENCE TWO

Government/Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person and Title: \_\_\_\_\_

Phone: \_\_\_\_\_ e-mail address: \_\_\_\_\_

Contract Period: \_\_\_\_\_ Scope of Work \_\_\_\_\_

#### REFERENCE THREE

Government/Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person and Title: \_\_\_\_\_

Phone: \_\_\_\_\_ e-mail address: \_\_\_\_\_

Contract Period: \_\_\_\_\_ Scope of Work \_\_\_\_\_

***THIS FORM MUST BE RETURNED WITH YOUR RFP***

STATE OF TEXAS  
COUNTY OF CAMERON

**AFFIDAVIT**

The undersigned certifies that the RFP prices contained in this RFP have been carefully checked and are submitted as correct and final and if RFP is accepted (within 60 days), agrees to furnish any and/or all items upon which prices are offered, at the price(s) and upon the conditions contained in the Specifications.

BEFORE ME, the undersigned authority, A Notary Public in and for the State of \_\_\_\_\_, on this day personally appeared \_\_\_\_\_ who, after having first been duly sworn, upon oath did depose and say;

That the foregoing RFP submitted by \_\_\_\_\_ hereinafter called "Proposer" is the duly authorized agent of said company and that the person signing said RFP has been duly authorized to execute the same. Proposer affirms that they are duly authorized to execute this contract, that this company, corporation, firm, partnership or individual has not prepared this RFP in collusion with any other Proposer. The Proposer is not a member of any trust, pool, or combination to control the price of products or services RFP on, or to influence any person to RFP or not to RFP thereon. I further affirm that the Proposer has not given, offered to give, nor intends to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discounts, trip, favor, or service to a public servant in connection with the submitted RFP. The contents of this RFP as to prices, terms or conditions of said RFP have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this RFP.

Name and Address of Proposer :

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone number \_\_\_\_\_ Fax number \_\_\_\_\_

\_\_\_\_\_  
Signature

Name: \_\_\_\_\_ Title: \_\_\_\_\_

SWORN TO AND SUBSCRIBE BEFORE ME THIS \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for County \_\_\_\_\_ State \_\_\_\_\_

***THIS FORM MUST BE RETURNED WITH YOUR RFP***

**RESIDENCE CERTIFICATION**

Pursuant to Texas Government Code §2252.001 *et seq.*, as amended, Cameron County requests Residence Certification. §2252.001 *et seq.* of the Government Code provides some restrictions on the awarding of governmental contracts; pertinent provisions of §2252.001 are stated below:

“Nonresident Proposer ” refers to a person who is not a resident.

“Resident Proposer ” refers to a person whose principal place of business is in this state, including a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

☐ I certify that \_\_\_\_\_ is a Resident  
(Company Name)  
Proposer of Texas as defined in Government Code §2252.001.

☐ I certify that \_\_\_\_\_ is a Nonresident  
(Company Name)  
Proposer as defined in Government Code §2252.001 and our principal place of business is  
\_\_\_\_\_  
(City and State)

Print  
Name: \_\_\_\_\_ Signature: \_\_\_\_\_

***THIS FORM MUST BE RETURNED WITH YOUR RFP***

**CAMERON COUNTY EXPRESSLY REQUESTS THAT PROPOSERS NOT DISCUSS THIS ENGAGEMENT OR THIS PROPOSER'S PLANS, EXPERIENCE OR CREDENTIALS WITH OTHER PROPOSERS OR ANY MEMBER OF COMMISSIONERS' COURT, ANY COUNTY OFFICIAL, OR ANY EVALUATION COMMITTEE MEMBER APPOINTED BY COMMISSIONERS COURT. EXCLUDED ARE PRE-PROPOSAL CONFERENCES, EVALUATION COMMITTEE SCHEDULED PROPOSER PRESENTATIONS OR PROPOSER INTERVIEWS, OR EVALUATION COMMITTEE SCHEDULED EQUIPMENT OR SERVICES DEMONSTRATIONS. YOU MAY CONTACT THE ASST. AUDITOR / PURCHASING DEPARTMENT AT ANY TIME.**

**FROM RFP OPENING DATE THROUGH COMMISSIONERS COURT MEETING FOR SELECTION, VENDORS WILL NOT APPROACH THE COUNTY JUDGE OR COMMISSIONERS TO DISCUSS MATTERS PERTAINING TO THIS BID.**

1. Has any individual with the firm submitting this Proposal Response made any contact with any member of Commissioners Court, any County Official, or an Evaluation Committee member concerning this Invitation to RFP, other than questions to the Assistant County Auditor/Purchasing Officer?

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2. Has any individual with the firm submitting this Proposal Response made any contact with any other Proposer concerning this Invitation to RFP?

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\_\_\_\_\_  
Signature of person submitting this RFP

\_\_\_\_\_  
Date

***THIS FORM MUST BE RETURNED WITH YOUR RFP***

ORDER NO. 2007O2005

THE STATE OF TEXAS     §  
                                      §  
 COUNTY OF CAMERON     §

**ORDER ADOPTING CONTRACTING RULES  
 FOR PERSONS INDEBTED TO COUNTY**

WHEREAS, pursuant to V.T.C.A., Local Government Code, Section 262.0276, a commissioners court is authorized to adopt rules permitting a county to refuse to enter into a contract or other transaction with a person indebted to the county;

WHEREAS, the Commissioners Court of Cameron County finds it is in the best interest of Cameron County to adopt such rules;

NOW THEREFORE, BE IT ORDERED by the Commissioners Court of Cameron County, that the following rules be adopted regarding Cameron County and persons interested in doing business with Cameron County:

1. Cameron County may refuse to enter into a contract or other transaction with a person with a past due debt to Cameron County, including delinquent ad valorem taxes, even if the person is the lowest successful proposer; and
2. For purposes of this Order, a debt is past due if it is not received in the County Treasurer's Office by the due date in a written agreement or notice, and ad valorem taxes are past due if not received in the County Tax Assessor/Collector's Office by February 1<sup>st</sup> following the January 1<sup>st</sup> on which the ad valorem taxes are due.
3. For purposes of this Order, a person includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that proposes or otherwise seeks to enter into a contract or other transaction with Cameron County requiring approval by the Commissioners Court.

ADOPTED this 13 day of March, 2007.

Taxpayer Identification Number (T.I.N.): \_\_\_\_\_

Cameron County Acct #'s : Real Estate \_\_\_\_\_ Personal Property \_\_\_\_\_

01. Is the person or the firm submitting this RFP current with all local and State taxes?

\_\_\_\_\_

\_\_\_\_\_  
 Signature of person submitting this RFP

\_\_\_\_\_  
 Date

**THIS FORM MUST BE RETURNED WITH YOUR RFP**

**Certification**

**Regarding Debarment, Suspension Ineligibility**

As is required by the Federal Regulations Implementing Executive Order 12549, Debarment and Suspension, 45 CFR Part 76, Government-wide Debarment and Suspension, in the applicant certifies, to the best of his or her knowledge and belief, that both it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency;
- b. Have not within a three-year period preceding this bid/proposal and/or application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction, violation of federal or state antitrust statutes or commission of embezzlement, theft, theory, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c. Are not presently indicted for or otherwise criminally or civilly charged by a government entity with commission of any of the offenses enumerated herein; and
- d. Have not within a three-year period preceding this bid/proposal and/or application had one or more public transactions terminated of cause or default.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Date: \_\_\_\_\_

If the Proposer is unable to certify to all of the statements in this Certification, such Proposer should attach an explanation to this RFP / Proposal.

***THIS FORM MUST BE RETURNED WITH YOUR RFP***

**CONFLICT OF INTEREST QUESTIONNAIRE****FORM CIQ****For vendor doing business with local governmental entity**

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

**OFFICE USE ONLY**

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001 (1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

Date Received

1. Name of vendor who has a business relationship with local governmental entity.

2. ☐ Check this box if you are filing an update to a previously filed questionnaire.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3. ☐ Name of local government officer about whom the information in this section is being disclosed.

Name of Officer

This section (item 3 including subparts A, B, C, & D) must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001 (1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer services as an officer or director, or holds an ownership interest of one percent or more?

☐ Yes ☐ No

D. Describe each employment or business and family relationship with the local government officer named in this section.

4. ☐

Signature of vendor doing business with the governmental entity

Date



## NEPOTISM CHART

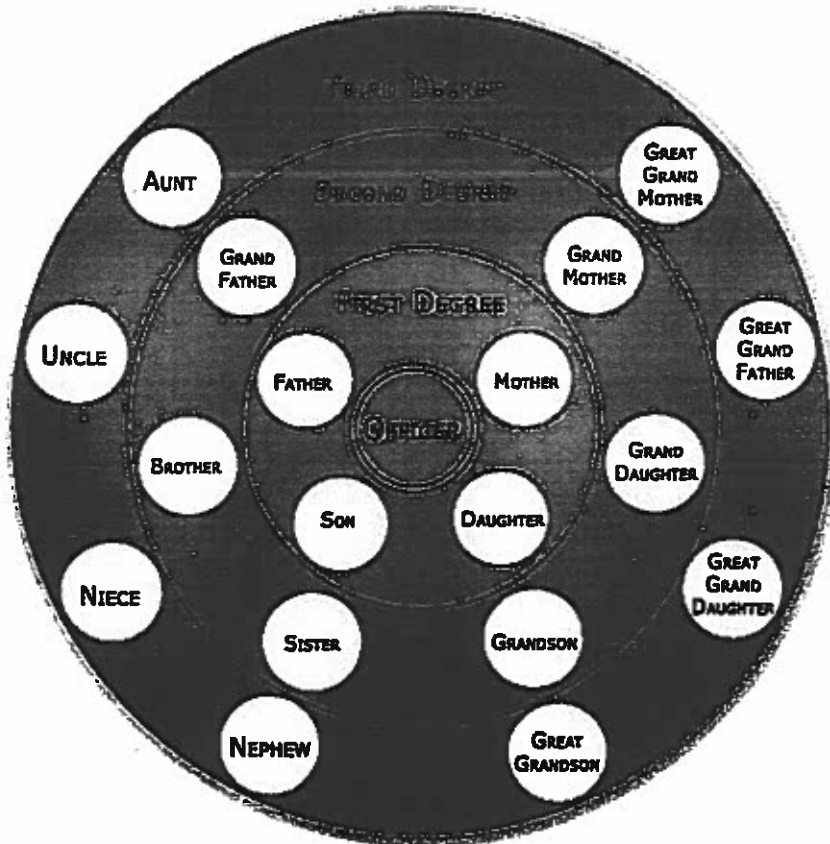
The chart below shows

- Affinity Kinship (relationship by marriage)
- Consanguinity Kinship (relationship by blood) for purposes of interpreting nepotism as defined in VTCA Government Code, Chapter 573, §§573.021 - .025

### AFFINITY KINSHIP Relationship by Marriage



### CONSANGUINITY KINSHIP Relationship by Blood



**DISCLOSURE OF INTERESTS**

**MUST BE FILLED OUT AND SUBMITTED WITH THE BID/RFP/RFQ**  
**IF DISCLOSING: BIDDER / PROPOSER MUST ALSO FILE WITH THE COUNTY CLERK'S OFFICE**  
**THE PURCHASING DEPT. WILL NOT BE FILING ON THE BIDDER'S BEHALF**

Cameron County, Texas requires all persons or firms seeking to do business with the County to provide the following information. Every question must be answered. If the question is not applicable, answer with "N/A." By law this questionnaire must be filed with the records administrator (County Clerk's Office) of the local government.

Date \_\_\_\_\_

FIRM NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

FIRM is: 1. Corporation ( )      2. Partnership ( )      3. Sole Owner ( )  
4. Association ( ) 5. Other ( ) \_\_\_\_\_

**DISCLOSURE QUESTIONS**

If additional space is necessary, please use the reverse side of this page or attach separate sheet.

1. State the names of each "employee, elected official, or member of Commissioners Court" of Cameron County having Substantial Interest in Business Entity Local Govt. Code 171.002

## DISCLOSURE OF INTERESTS (CONTINUED)

- a) For purpose of this chapter, a person has a substantial interest in a business entity if :
- (1) the person owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity; or
  - (2) funds received by the person from the business entity exceeds 10 percent of the person's gross income for the previous year.
- b) A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.
- c) A local public official is considered to have a substantial interest under this section if a person related to the official in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest under this section.

Name	Title	Department

## CERTIFICATE

I certify that all information provided is true and correct as of the date of this statement, that I have not knowingly withheld disclosure of any information requested; and that supplemental statements will be promptly submitted to the Cameron County as changes occur.

Certifying Person: \_\_\_\_\_ Title: \_\_\_\_\_  
(Type or Print)

Signature of Certifying Person: \_\_\_\_\_ Date: \_\_\_\_\_



**HOUSE BILL 89 VERIFICATION**

I, \_\_\_\_\_,  
[Person Name]

the undersigned representative of \_\_\_\_\_  
[Company or Business Name]

(hereafter referred to as Company) being an adult over the age of eighteen (18) years of age, does hereby depose and verify that the Company named above, under the provisions of Subtitle F, Title 10, Texas Government Code Chapter 2270:

1. Does not currently boycott the country of Israel; and
2. Will not boycott the country of Israel during the term of the contract with Cameron County, Texas.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*Pursuant to Section 2270.001, Texas Government Code:*

1. *"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes; and*
2. *"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or any limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of those entities or business associations that exist to make a profit.*

**THIS FORM MUST BE RETURNED WITH YOUR RFP**

## **GENERAL TERMS & CONDITIONS (Requests for proposals (RFP))**

**ADDENDA:** If RFP specifications, terms or conditions are revised, the Cameron County Purchasing Department will issue an addendum addressing the nature of the changes and notify interested potential Proposers. Proposers must acknowledge receipt and consideration of any such changes by signing the addendum and including it in the RFP package containing the Proposer's submittal.

**ADVERTISING:** Unless otherwise required by law, Proposers to County RFPs shall not publish and shall keep confidential their intentions and actions respecting any response to the RFP.

**AWARD:** Cameron County may hold RFP responses for a period of sixty (60) days. Cameron County reserves the right to reject any or all responses to RFPs. Cameron County reserves the right to award a contract, if any, based on the Proposer's response when compared to the EVALUATION CRITERIA (AS STATED IN THE RFP) and, in accordance with the laws of the State of Texas, reserves the right to waive any formality or irregularity, to make awards to more than one proposer. Commissioners Court reserves the right to determine the method and procedures for the final award of all RFPs at any time they may choose, regardless of the Point System used by the Evaluation Committee.

**BONDS:** If the contract that may be entered into with the County will likely require a performance guarantee or bond, the Purchasing Department will attach a separate page to the RFP explaining those requirements.

**CANCELLATION AND TERMINATION:** In any contract resulting from the RFP, the County shall have the right to cancel all or any part of the undelivered portion of the contract if (1) Proposer breaches any of the terms hereof, including, but not limited to, applicable warranties, and/or (2) Proposer becomes insolvent or files for bankruptcy. Such right of cancellation is in addition to, and not in lieu of, any other remedies which the County may have in law or equity. Cancellation of work hereunder shall be effected by the delivery to the Proposer of a "Notice of Cancellation of Undelivered Work" specifying the extent to which performance of work, including all goods and services, under the contract is cancelled and the date upon which such cancellation becomes effective.

The performance of work under any resulting contract may be terminated in whole, or in part, by the County in accordance with this provision. The County shall have the right to terminate all or any part of the contract if (1) the Proposer breaches any of the terms hereof, including, but not limited to, applicable warranties, and/or (2) Proposer becomes insolvent or files for bankruptcy. Such right of termination is in addition to, and not in lieu of, any other remedies which the County may have in law or equity. Termination of work hereunder shall be effected by the delivery to the Proposer of a "Notice of Termination" specifying the extent to which performance of work, including all goods and services, under the contract is terminated and the date upon which such termination becomes effective.

**CHANGE ORDERS:** No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All change orders to the contract will be made in writing by mutual consent of the Proposer and the County.

**CONTRACT RENEWALS:** Contract Renewals must receive Commissioners Court approval. For contract renewal status and information, please contact Elisa Cisneros at 956-982-5405 e-mail: [Elisa.Cisneros2@co.cameron.tx.us](mailto:Elisa.Cisneros2@co.cameron.tx.us) Cameron County Purchasing Dept. or Dylbia Jeffries 956-550-1340 [djefferies@co.cameron.tx.us](mailto:djefferies@co.cameron.tx.us) at the Cameron County Civil Legal Division. Any price escalations are limited to those stated by the original contract terms. All contracts with a one (1) year renewal option require that the Proposer must notify Cameron County of any anticipated price increases in writing at least three months (90 calendar days) prior to the annual renewal award date unless otherwise specified within the specific provisions of the contract up for renewal. This allows the County sufficient time to find an alternative vendor if possible. If Proposer fails to notify the County within time noted it shall be assumed that there will be no price increase for the following year's award period if renewed. This procedure does not apply to any contract which allows for Open Market Price increases or Cost allowance increases.

**DISCRIMINATION:** In order to encourage fair employment practices, the Proposer agrees as follows: 1.) Proposer will not discriminate against any employee or applicant for employment because of race, sex, color, age, religion, handicap, or national origin; 2) in all solicitations or advertisements for employees, the Proposer will state that all qualified applicants will receive consideration

without regard to race, color, sex, age, religion, handicap or national origin; 3) the Proposer will furnish such relevant information and reports as requested by the County for the purpose of determining compliance with these regulations; and 4) failure of the Proposer to comply with these laws will be deemed a breach of contract and it may be cancelled, terminated or suspended in whole or in part as a result thereof.

**DISQUALIFICATION OF PROPOSER:** Upon submitting a response to this RFP, Proposer certifies that the Proposer has not violated the antitrust laws of this state codified in Texas Business and Commerce Code 15.01, *et seq.*, as amended, or the federal antitrust laws, and has not communicated directly or indirectly its RFP considerations, plan or response to any competitor or any other person engaged in such line of business. Any and all responses may be rejected if the County believes that collusion exists among the Proposers. If multiples are submitted by a Proposer and after all responses to the RFPs are opened one or more of the responses are withdrawn, the result will be that all of the responses submitted by that Proposer will be withdrawn; however, nothing herein prohibits a Proposer from submitting multiples for different products or services.

**EVALUATION:** All responses will be evaluated in accordance with law and reviewed to assure they are in the best interest of Cameron County. Evaluations shall be based on criteria bearing on price and performance of the items or services in the user environment. Any specific criteria section or sections identified elsewhere in this RFP may be evaluated by one or more evaluators once the basis and details of this process have been approved by the Purchasing Officer and acknowledged by the Evaluation Committee. Detailed information pertaining to this selective evaluation process is available to Proposers and the Commissioners Court upon request. Evaluation sheets and any summary of all responses are subject to review by the Cameron County Purchasing Department and Evaluation Committee's recommendation to Cameron County Commissioners Court. Compliance with all RFP requirements, delivery terms and needs of the using department are considerations in evaluating responses. Pricing is NOT the only criterion for making a recommendation (see criteria and relative importance of price and other evaluation factors, if any, specified elsewhere in this RFP). The Cameron County Purchasing Department reserves the right to contact any Proposer, at any time, to clarify, verify or request information with regard to that Proposer's response. The Cameron County Purchasing Department further reserves the right to hold negotiation discussions with any responsible Proposer determined to be reasonably susceptible of being selected for award in accordance with law.

**PROTEST PROCEDURES:** Procedure - This protest procedure is available to Proposers responding to this RFP and requesting a debriefing conference.

Debriefing Conference – A debriefing conference must be requested in writing to the Purchasing Department within five (5) business days from the date of the RFP award by the Cameron County Commissioners' Court. Debriefing questions must be submitted in writing to the Purchasing Department no later than two (2) business days before the scheduled date for the Debriefing Conference. These questions will be answered at the debriefing conference. Follow-up questions must be submitted (in writing) no later than one (1) business day after the date of the Debriefing Conference and answered no later than two (2) business days after the date of the Debriefing Conference. Follow-up answers will be sent via e-mail or fax (if e-mail not available). For RFPs, Proposers are given the opportunity to ask questions of the Evaluation Committee relative to their responses and the Committee's scores.

Protests are made: 1. To the Purchasing Department after the debriefing conference. Proposer protests shall be received, in writing, by the Purchasing Department within five (5) business days after the debriefing conference. 2. To the Protest Committee, only after the protest to the Purchasing Department was not satisfactorily resolved. Protests to the Protest Committee shall be made within five (5) business days after the Proposer has received notification from the County Purchasing Department of its decision.

Grounds for protest

1. Errors were made in computing the score.
2. The County failed to follow procedures established in the RFP, the Purchasing policy on acquisitions or applicable state or federal laws or regulations.
3. Bias, discrimination or conflict of interest on the part of an evaluator. Protests not based on these criteria shall not be considered.

Format and Content - Protesting Proposers shall include, in their written protest to the Cameron County Purchasing Department, all facts and arguments upon which they rely. Proposers shall, at a minimum, provide:

1. Information about the protesting Proposer; name of firm, mailing address, phone number and name of individual responsible for submission of the protest.
2. Information about the acquisition and the acquisition method.
3. Specific and complete statement of the County's action(s) being protested. 4. Specific reference to the grounds for the protest.
5. Description of the relief or corrective action requested.
6. For protests to the Protest Committee, a copy of the Purchasing Department's written decision on the protest.

**Review Process:**

1. Upon receipt of a Proposer's protest, the Purchasing Department shall postpone further steps in the acquisition process until the Proposer protest has been resolved.
2. The Department's internal protest review procedures consist of the following:
  - a) The Purchasing Department shall perform an objective review of the protest by individuals not involved in the acquisition protested. The review shall be based on the written protest material submitted by the Proposer.
  - b) A written decision will be delivered to the Proposer within five business days after receipt of the protest, unless more time is needed. The protesting Proposer shall be notified if additional time is necessary.

**Final Determination:**

The final determination shall:

1. Find the protest lacking in merit and uphold the agency's action; or
2. Find only technical or harmless errors in the agency's acquisition process, determine the agency to be in substantial compliance, and reject the protest; or 3. Find merit in the protest and provide the agency options which may include recommendations to a) correct its errors and reevaluate all proposals, and/or b) reissue the Proposer solicitation document; or c) make other findings and determine other courses of action as appropriate.

**Protest Committee Review Process:**

Protests to the Protest Committee may be made only for Protest Committee approved acquisitions, and only after review by County Purchasing Department. Protests of the decisions of County Purchasing Department shall be made by letter to the Protest Committee, who may establish procedures to resolve the protest. Protests shall be received by the Protest Committee within five business days after the decision of Purchasing Department in order to be considered. The Committee's decision is final, with no further administrative appeal available.

**FISCAL FUNDING:** A multi-year lease or lease/purchase arrangement (if requested by the Special Requirements/Instructions), or any contract continuing as a result of an extension option, must include "fiscal funding out" clause. If, for any reason, funds are not appropriated to continue the lease or contract, said lease or contract shall become null and void on the last day of the current appropriation of funds. After expiration of the lease, leased equipment shall be removed by the Proposer from the using department without penalty of any kind or form to Cameron County. All charges and physical activity related to delivery, installation, removal and redelivery shall be the responsibility of the Proposer.

**GRATUITIES AND PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS:** Any elected or appointed official who has any substantial interest, either direct or indirect, in any business entity seeking to contract with the County, shall, before any vote or decision on any matter involving the business entity, file an affidavit stating the nature and extent of interest and shall abstain from any participation in the matter. This is not required if the vote or decision will not have any special effect on the entity other than its effect on the public. However, if a majority of the governing body is also required to file, and do file similar affidavits, then the member is not required to abstain from further participation. Attached and included in this RFP is a disclosure of all of this Company's business or pecuniary financial relationships with officers or employees of Cameron County or County entities (if any such

relationships exists) which must be filled out, attached and included with the RFP response. The County may, by written notice to the Proposer, cancel this contract without liability to Proposer if it is determined by County that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Proposer, or any agent, or representative of the Proposer, to any officer or employee of Cameron County with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending or the making or any determinations with respect to the performance of such a contract. In the event this contract is cancelled by County pursuant to this provision, County shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the costs incurred by Proposer in providing such gratuities. Proposer guarantees that he has not retained a person to solicit or secure any contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the Proposer for the purpose of securing business.

**HISTORICALLY UNDERUTILIZED BUSINESS (HUB) CERTIFICATION:** If Proposer is a Certified Historically Underutilized Business (HUB), please include a copy of your HUB Certificate with your response. This information will assist Cameron County in the percentage tracking of HUB utilization.

**INSURANCE:** The Proposer shall secure and maintain, throughout the duration of the Contract, insurance of such types and in such amounts as may be necessary to protect the Proposer and the interests of the County against all hazards or risks of loss as hereinafter specified. The form and limits of such insurance, together with the insurer, shall be acceptable to the County. It shall be the responsibility of the Proposer to maintain adequate insurance coverage at all times. Failure of the Proposer to maintain adequate coverage shall not relieve the Proposer of any contractual responsibility or obligation.

**MAINTENANCE:** Maintenance required for equipment requested in RFPs should be available in Cameron County by a manufacturer authorized maintenance facility. Costs for this service shall be shown on the Pricing/Delivery Information form. If Cameron County opts to include maintenance, it shall be so stated in the purchase order and said cost will be included. Service will commence only upon expiration of applicable warranties and should be priced accordingly.

**MATERIAL SAFETY DATA SHEETS:** Under the "Hazardous Communication Act", commonly known as the "Texas Right To Know Act", a Proposer must provide to the County with each delivery, material safety data sheets which are applicable to hazardous substances defined in the Act. Failure of the Proposer to furnish this documentation will be cause to reject any RFP applying thereto.

**NAME BRANDS:** Specifications may reference name brands and model numbers. It is not the intent of Cameron County to restrict responses to RFPs in such cases, but to establish a desired quality level of merchandise or to meet a pre-established standard common to similar existing items. Proposers may offer items of equal stature and standard, but the burden of proof of such stature and standard rests with Proposers. Cameron County shall act as sole judge in determining equality and acceptability of products offered.

**PRICING:** Prices for all goods and/or services shall be firm for the duration of the contract and shall be stated on the Pricing/Delivery Information form. Prices shall be all inclusive: No price changes, additions, or subsequent qualifications will be honored during the term of the contract. All prices must be written in ink or typewritten. Pricing on all transportation, freight, drayage and other charges are to be prepaid by the Proposer and included in the price. If there are any additional charges of any kind, other than those mentioned above, specified or unspecified, Proposer MUST indicate the items required and attendant costs or forfeit the right to payment for such items. Where unit pricing and extended pricing differ, unit pricing prevails.

**RECYCLED MATERIALS:** Cameron County encourages the use of products made of recycled materials and shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. County will be the sole judge in determining product preference application.

**SCANNED RE-TYPED RESPONSE:** If in its RFP response, Proposer either electronically scans, re-types, or in some way reproduces the County's published RFP package, then in event of any conflict between the terms and provisions of the County's published RFP specifications, or any portion thereof, and the terms and provisions of the RFP response made by Proposer, the County's RFP specifications as published shall control. Furthermore, if an alteration of any kind to the County's published RFP specifications is only discovered after the contract is executed and is or is not being performed, the contract is subject to immediate cancellation.



**SILENCE OF SPECIFICATIONS:** The apparent silence of specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practices are to prevail and that only material and workmanship of the finest quality are to be used. All interpretations of specifications shall be made on the basis of this statement. The items furnished under this contract shall be new, unused of the latest product in production to commercial trade and shall be of the highest quality as to materials used and workmanship. The manufacturer furnishing these items shall be experienced in design and construction of such items and shall be an established supplier of the item needed in the RFP. Substitute items will not be accepted unless approved (in advance).

**SUPPLEMENTAL MATERIALS:** Proposers are responsible for including all pertinent product data in the returned RFP package. Literature, brochures, data sheets, specification information, completed forms requested as part of the RFP package and any other facts which may affect the evaluation and subsequent contract award should be included. Materials such as legal documents and contractual agreements, which the Proposer wishes to include as a condition of the RFP response must also be in the returned RFP response package. Failure to include all necessary and proper supplemental materials may be cause to reject the Proposer's entire RFP.

**TITLE TRANSFER:** Title and Risk of Loss of goods shall not pass to Cameron County until Cameron County actually receives and takes possession of the goods at the point or points of delivery. Receiving times may vary with the using department. Generally, deliveries may be made between 8:30 a.m. and 4:00 p.m., Monday through Friday. Proposers are advised to consult the using department for instructions. The place of delivery shall be shown under the "Special Requirements/Instructions" section of this RFP package and/or on the Purchase Order as a "Deliver To:" with the address.

**USAGE REPORTS:** Cameron County reserves the right to request, and receive at no additional cost up to two (2) times during the contract period, a usage report detailing the products and/or services furnished to date under a contract resulting from this RFP. The reports must be furnished no later than five (5) working days after written request and itemize all purchases to date by

Cameron County department with a description, of each item purchased, including the manufacturer, quantity of each item purchased, the per unit and extended price of each item purchased, and the total amount and price of all items purchased.

**WARRANTY PRICE:** (a) The price to be paid by the County shall be that contained in Proposer's response to the RFP which Proposer warrants to be no higher than Proposer's current prices on orders by others for products of the kind and specification covered by this agreement for similar quantities under similar or like conditions and methods of purchase. In the event Proposer breaches this warranty, the prices of the items shall be reduced to the Proposer's current prices on orders by others, or in the alternative, County may cancel this contract without liability to Proposer for breach or Proposer's actual expense.

(b) The Proposer warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Proposer for the purpose of securing business. For breach or violation of this warranty, the County shall have the right in addition to any other right or rights to cancel this contract without liability and to deduct from the contract price, or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee.

Proposers shall furnish all data pertinent to warranties or guarantees which may apply to items in the RFP.

Proposers may not limit or exclude any implied warranties.

Proposer warrants that products sold and services provided to the County shall conform to the highest commercial and/or professional standards in the industry and laws established by the U.S. Department of Labor, U.S. Department of Homeland Security, Occupational Safety and Health Administration and O.S.H.A. Act of 1970. In the event any product does not conform to OSHA Standards, where applicable, Cameron County may return the product for correction or replacement at the Proposer's expense. If Proposer fails to make the appropriate correction within a reasonable time, Cameron County may correct at the Proposer's expense.

**-WARRANTY ITEMS/PRODUCTS:** Proposer warrants that products sold and services provided to the County shall conform to the highest commercial and/or professional standards in the industry and laws established by the U.S. Department of Labor, U.S. Department of Homeland Security, Occupational Safety and Health Administration and O.S.H.A. Act of 1970. In the event product

does not conform to OSHA Standards, where applicable, Cameron County may return the product for correction or replacement at the Proposer's expense. If Proposer fails to make the appropriate correction within a reasonable time, Cameron County may correct at the Proposer's expense.

Proposer shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the County.

Proposer warrants that the goods furnished will conform to the specifications, drawings and descriptions listed in the RFP invitation and to the sample(s) furnished by Proposer, if any. In the event of a conflict between the specifications, drawings and descriptions, the specifications shall govern. All items must be new, in first class condition, unless otherwise specified. The design, strength, and quality of materials must conform to the highest standards of manufacturing practice.

Items supplied under this contract shall be subject to the County's approval. Successful Proposer shall warrant that all items/services shall conform to the proposed specifications and/or all warranties as stated in the Uniform Commercial Code and be free from all defects in material, workmanship and title. Any items found defective or not meeting specifications shall be picked up and promptly replaced by the successful Proposer at no expense to the County.

**SAFETY WARRANTY:** As noted above, Proposer warrants that the products sold to County shall conform to the standards promulgated by the U.S. Department of Labor under the Occupational Safety and Health Act of 1970. In the event the product does not conform to OSHA standards, County may return the product for correction or replacement at the Proposer's expense. In the event Proposer fails to make the appropriate correction within a reasonable time, correction made by County will be at Proposer's expense. Have you attached the required warranty information to the RFP (if applicable)? "Yes" or "No"

#### **APPLICABLE LAW**

To the extent it is applicable, this agreement shall be governed by the Uniform Commercial Code. Wherever the term "Uniform Commercial Code" is used, it shall be construed as meaning "the Uniform Commercial Code" as adopted in the State of Texas as effective and in force on the date of this agreement. Otherwise, Texas state and federal law shall apply.

**ASSIGNMENT DELEGATION:** No right, obligation or interest in this contract shall be assigned or delegated to another by Proposer without the written permission of the County. Any attempted assignment or delegation by Proposer shall be wholly void and totally ineffective for all purposes unless made in conformity with this paragraph.

**CONTRACT OBLIGATION:** Cameron County Commissioners Court must award any resulting contract and the County Judge or other person authorized by the Cameron County Commissioners Court must sign the contract before it becomes binding on Cameron County or the Proposer. Department Heads are NOT authorized to sign agreements for Cameron County. Binding agreements shall remain in effect until all products and/or services covered by this RFP - have been delivered and accepted and all contract requirements have been satisfied.

**ERRORS AND OMISSIONS:** Errors and Omissions in the RFP or any provision herein described will not be construed as to relieve the Proposer of any responsibility or obligation requisite to the complete and satisfactory implementation, operation, and support of all obligations under any resulting contract.

**FORCE MAJEURE:** If, by reason of Force Majeure, either party hereto shall be rendered unable wholly, or in part, to carry out its obligations under this RFP and any resulting contract, then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term "Force Majeure" as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightening, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines or canals, or

other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely with the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.

**HOLD HARMLESS AGREEMENT:** The successful Proposer shall indemnify and hold Cameron County harmless from all claims for personal injury, death and/or property damage resulting directly or indirectly from Proposer's performance. Proposer shall procure and maintain, with respect to the subject matter of this RFP, appropriate insurance coverage including, as a minimum, public liability and property damage with adequate limits to cover Proposer's liability as may arise directly or indirectly from work performed and goods or services sold under the terms of this RFP. Certification of such coverage must be provided to the County upon request.

**INFRINGEMENTS:** There will be no warranty by County against infringements. As part of this contract for sales, Proposer agrees to ascertain whether goods manufactured in accordance with the specifications attached to this agreement will give rise to the rightful claim of any third person by way of infringement or the like. County makes no warranty that the production of goods according to the specification will not give rise to such a claim, and in no event shall County be liable to Proposer for indemnification in the event that Proposer gets sued on the grounds of infringement or the like. If Proposer is of the opinion that an infringement or the like will result, Proposer shall notify County to that effect in writing within two (2) weeks after the signing of this agreement. If County does not receive notice and is subsequently held liable for the infringement or the like, Proposer will hold County harmless. If Proposer in good faith ascertains that production of the goods in accordance with the specifications will result in infringement or the like, this contract shall be null and void, except that County will pay Proposer the reasonable cost of Proposer's search as to infringement. The Proposer agrees to protect the County from claims involving infringement of patents or copyrights.

**INTERPRETATION PAROLE EVIDENCE:** Unless a separate contract or addendum hereof is prepared and entered into following the award of this RFP to a successful Proposer, this writing is intended by the parties as a final expression of the terms of this RFP and the general terms of any resulting contract. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term. Acceptance or acquiescence in a course of performance rendered under this RFP and any resulting contract shall not be relevant to determine meaning even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to Control, if applicable.

**LATE RESPONSES:** RFP responses must be received by the County before the hour and date specified. Responses received after the time and date specified will be disqualified and may be returned to sender. The County is not responsible for lateness or non-delivery of mail, delivered to wrong office, carrier, etc.

**MODIFICATIONS:** This contract can be modified or rescinded only by a writing signed by both of the parties or their duly authorized agents.

**O.S.H.A:** Proposer must meet all Federal and State OSHA requirements.

**REMEDIES:** The successful Proposer and County agree that both parties have all rights, duties, defenses and remedies available under law.

**RIGHT TO ASSURANCE:** During the RFP process and any resulting contract, whenever a Proposer or County in good faith has reason to question the other's intent to perform, demand may be made that the other party give written assurance of intent. In the event that a demand is made, and no assurance is given within five (5) days, such failure may be treated as an anticipatory repudiation of the RFP and any resulting contract.

**SEVERABILITY:** If any section, subsection, paragraph, sentence, clause, phrase or word of these requirements or the specifications shall be held invalid, such holding shall not affect the remaining portions of these requirements and the specifications and it is hereby declared that such remaining portions would have been included in these requirements and the specifications as though the invalid portion had been omitted.

**VENUE:** Both parties agree that venue for any litigation arising from this contract shall lie in Cameron County, Texas.

**PROPOSER SHALL CONFIRM ACCEPTANCE OF RFB TERMS:** The Proposer shall specifically state acceptance of these terms and conditions as a basis for providing the County with a response to this RFP.

**THESE TERMS INCORPORATED:** These General Terms and Conditions shall be incorporated in the response to the RFP and any resulting contract to this RFP. The Proposer shall specifically state acceptance of these terms and conditions as a basis for providing the County with a response to this RFP.

**OTHER TERMS:** The Proposer shall state any exceptions desired to these terms and conditions and may suggest alternate wording that addresses the intent of the term or condition. The County may accept or reject any suggestions in accordance with law.

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TDHCA 7216135  
RFP for Reconstruction Loan Closing Legal Services  
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