



**BEACH CLEANING AND MAINTENANCE ASSISTANCE
INTERLOCAL AGREEMENT
GLO CONTRACT NO. 16-124-009**

THE GENERAL LAND OFFICE (the “GLO”) and Nueces County (“Local Government”), Tax Identification Number 17460005857, each a “Party” and collectively “the Parties,” enter into the following Beach Cleaning and Maintenance Assistance Agreement (the “Contract”) as part of the Beach Cleaning and Maintenance Assistance Program (the “Program”). This Contract provides for the reimbursement of Local Government pursuant to the Open Beaches Act, Chapter 61 of the Texas Natural Resources Code (TNRC), Sections 61.061-61.083 (the “Act”) and Title 31 of the Texas Administrative Code (“TAC”), Chapter 25, which require the GLO to reimburse each eligible city or county that has applied the state's share of the costs of cleaning and maintaining public beaches in Texas.

I. DEFINITIONS / INTERPRETIVE PROVISIONS / PROJECT DESCRIPTION

1.01 DEFINITIONS

“[Administrative and Audit Regulations](#)” means the statutes and regulations included in Chapter 321 of the Government Code; Subchapter F of Chapter 2155 of the Government Code; and the requirements of Article VII herein. State agencies and/or designee’s with the authority to audit and inspect include, the GLO, the GLO’s contracted examiners, the State Auditor’s Office, the Texas Attorney General’s Office and the Texas Comptroller of Public Accounts.

“[Application for Assistance](#)” means the document submitted by Local Government to be considered as an eligible participant for reimbursement of beach cleaning and maintenance expenses.

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

“[Clean and Maintain](#)” means the collection and removal of litter and debris and the supervision and elimination of sanitary and safety conditions that would pose a threat to personal health or safety if not removed or otherwise corrected and includes the employment of lifeguards, beach patrols, and litter patrols.

“[Contract](#)” means this entire document along with any Attachments, both physically attached and incorporated by reference.

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

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

“GASB” means the Governmental Accounting Standards Board.

“General Affirmations” means the statements in Attachment A, attached hereto and incorporated herein for all purposes, which Local Government affirms by executing this Contract.

“GLO” means the Texas General Land Office, its officers, employees, and designees.

“HUB” means Historically Underutilized Business, as defined by Chapter 2161 of the Texas Government Code.

“Local Government” means Nueces County, selected to accomplish the Project under this Contract.

“Mentor Protégé” means the Comptroller of Public Accounts’ leadership program found at: <http://www.window.state.tx.us/procurement/prog/hub/mentorprotege/>

“Notice of Disbursement” means the written notification to Local Government indicating the amount of reimbursement being paid by the GLO for the Project under this Contract.

“Project” means the beach cleaning and maintenance services described in the Application for Assistance.

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

“Subcontractor” means an individual or business that signs a contract, or enters into an agreement with Provider, to perform part or all of the obligations of Local Government under this Contract.

1.02 INTERPRETIVE PROVISIONS

- (a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms;
- (b) The words “hereof,” “herein,” “hereunder,” and similar words refer to this Contract as a whole and not to any particular provision, Section, Attachment, work order, or schedule of this Contract unless otherwise specified;
- (c) The term “including” is not limiting and means “including without limitation” and, unless otherwise expressly provided in this Contract, (i) references to contracts (including this Contract) and other contractual instruments shall be deemed to include all subsequent amendments and other modifications thereto, but only to the extent that such amendments and other modifications are not prohibited by the terms of this Contract, and (ii) references to any statute or regulation are to be construed as including all statutory and regulatory provisions consolidating, amending, replacing, supplementing, or interpreting the statute or regulation;
- (d) The captions and headings of this Contract are for convenience of reference only and shall not affect the interpretation of this Contract;
- (e) All Attachments within this Contract, including those incorporated by reference, and any Amendments are considered part of the terms of this Contract;

- (f) This Contract may use several different limitations, regulations, or policies to regulate the same or similar matters. All such limitations, regulations, and policies are cumulative and each shall be performed in accordance with its terms;
- (g) Unless otherwise expressly provided, reference to any action of the GLO or by the GLO by way of consent, approval, or waiver shall be deemed modified by the phrase “in its/their sole discretion.” Notwithstanding the preceding sentence, any approval, consent, or waiver required by, or requested of, the GLO shall not be unreasonably withheld or delayed;
- (h) Time is of the essence in this Contract.
- (i) In the event of conflicts or inconsistencies between this contract and its attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: Signed Contract; Attachments to the Contract: **Attachment A, Attachment B, and Attachment C**.

1.03 APPLICATION FOR ASSISTANCE

Local Government has applied to the GLO for state funds for reimbursement of eligible expenses incurred by Local Government for the purpose of cleaning and maintaining public beaches within its boundaries in accordance with the Act and the TAC, as either may be amended from time to time (hereinafter collectively referred to as the “Applicable Law”). The Application for Assistance is incorporated herein by reference in its entirety.

1.04 SCOPE OF WORK

Local Government has the obligation to clean and maintain beaches under the Act and is eligible to apply for reimbursement from the state for cleaning and maintaining **FOURTEEN THOUSAND TWO HUNDRED SEVENTY (14,270)** linear feet of public beaches abutting the Gulf of Mexico and located within its jurisdiction, in accordance with the Application for Assistance and the Applicable Law (the “Project”). Local Government shall be responsible for procuring all appropriate licenses and permits which may be required by any competent authority for the performance of the Project.

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II. TERM

2.01 DURATION

This Contract shall be effective September 1, 2015, and shall terminate on August 31, 2019.

2.02 EARLY TERMINATION

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

2.03 ABANDONMENT OR DEFAULT

If the Provider defaults on the contract, the GLO reserves the right to cancel the contract without notice.

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III. REIMBURSEMENT

3.01 ELIGIBILITY

Local Government represents that it is eligible for reimbursement and meets all the requirements of the Applicable Law for participation in the Program. Local Government covenants and agrees to comply with the Applicable Law related to the Program. Specifically, Local Government covenants that:

- (i) it meets the eligibility requirements of 61 TNRC 73 and 31 TAC 25; and
- (ii) if it collects a Beach User Fee (BUF), it is currently in compliance and will remain in compliance with the BUF provisions in 31 TAC 15, during the fiscal year for which reimbursement is sought.

Local Government further agrees that all beach maintenance activities will be performed in compliance with its Beach/Dune Plan and 31 TAC 15.

3.02 CALCULATION OF REIMBURSEMENTS

The GLO agrees to reimburse Local Government its pro rata share for eligible expenses incurred in connection with the Project during the state fiscal year in which reimbursement is sought. The amount reimbursed each disbursement period shall not exceed Local Government's pro rata share of the total funds allocated by the GLO for reimbursement of program participants for beach cleaning and maintenance. The amount available for distribution among program participants each year is **SEVEN HUNDRED TWENTY-NINE THOUSAND THREE HUNDRED THIRTY-NINE DOLLARS (\$729,339.00)**.

Reimbursement will be based upon the Local Government's proportionate share of total linear footage of gulf beach and the Local Government's proportionate share of the total of participant expenditures on cleaning and maintaining gulf beaches during the two fiscal years preceding the disbursement. **The GLO will determine the actual amount of Local Government's pro rata share for each disbursement period in accordance with 31 TAC 25.** All expenditures used in the calculation of Local Government's pro rata share of reimbursement must be eligible pursuant to 31 TAC 25.12. Pursuant to 31 TAC 25.13, no city or county may receive as its state share an amount that is greater than two-thirds of the amount of eligible expenses spent for the purpose of cleaning and maintaining public beaches within its jurisdiction during each disbursement period. In the event the GLO determines after a disbursement that additional funds are available, the GLO may, in its sole discretion, disburse an additional amount to participants on a pro rata basis.

Reimbursement to Local Government for the state's share of cleaning and maintaining gulf beaches under this Contract cannot be determined until after an application has been received, all reimbursement requests have been submitted and evaluated, and the necessary calculations have been made in accordance with 31 TAC 25. the GLO shall disburse the funds on a semi-annual basis and provide Local Government a Notice of Disbursement, a sample of which is shown in **Attachment B**. **The Notice of Disbursement for each year will be added to Attachment C of the contract upon its issuance.**

3.03 REIMBURSEMENT REQUESTS

Local Government shall submit itemized reimbursement requests in accordance with the Applicable Law, no more frequently than once per calendar quarter. GLO regulations for the Program stipulate that reimbursements to participants will be made semi-annually. Because the actual semi-annual reimbursement to participants is dependent upon the total eligible expenditures documented by all participants, any who fail to submit complete and timely quarterly reports are deemed to delay reimbursement to all other participants unfairly. Timely submittal means that the quarterly reports must be received by the GLO no later than sixty (60) days after the end of each quarter of the state fiscal year in which the expenses are incurred. By entering into this Contract, Local Government agrees to timely submit complete and accurate quarterly reports. **AT ITS SOLE DISCRETION, THE GLO MAY DENY REIMBURSEMENT FOR EXPENDITURES IN A QUARTER IN WHICH THE COMPLETE, ACCURATE QUARTERLY REPORT WAS NOT TIMELY FILED WITH THE GLO.**

3.04 INELIGIBILITY

If the GLO determines that Local Government has not complied with the Applicable Law, the GLO shall notify Local Government in accordance 31 TAC 25.21 of Local Government's ineligibility for reimbursement. The GLO may withhold funds until Local Government achieves full compliance, in the sole determination of the GLO. The GLO may require reimbursement of funds disbursed to Local Government during any period of noncompliance.

THE PARTIES ACKNOWLEDGE AND AGREE THAT NO REIMBURSEMENT SHALL BE MADE BY THE GLO FOR EXPENSES INCURRED FOR THE PROJECT DURING ANY PERIOD IN WHICH LOCAL GOVERNMENT WAS NOT IN COMPLIANCE WITH ALL APPLICABLE LAWS, RULES, AND REGULATIONS RELATED TO THE PROGRAM.

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IV. STATE FUNDING

4.01 STATE FUNDING

- (a) This Contract shall not be construed as creating any debt on behalf of the State of Texas and/or the GLO in violation of Article III, Section 49, of the Texas Constitution. In compliance with Article VII, Section 6 of the Texas Constitution, it is understood that all obligations of the GLO hereunder are subject to the availability of state funds. If such funds are not appropriated or become unavailable, this Contract may be terminated. In that event, the Parties shall be discharged from further obligations, subject to the equitable settlement of their respective interests, accrued up to the date of termination.
- (b) Furthermore, any claim by Local Government for damages under this Contract may not exceed the amount of funds appropriated for payment, but not yet paid to Local Government, under the annual budget in effect at the time of the breach. Nothing in this provision shall be construed as a waiver of sovereign immunity.

4.02 GENERAL AFFIRMATIONS

To the extent that they are applicable, Provider further certifies that the General Affirmations in **Attachment A** have been reviewed, and that Provider is in compliance with each of the requirements reflected therein.

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V. RECORDS, AUDIT, RETENTION, AND DISCLOSURE

5.01 BOOKS AND RECORDS

Local Government shall keep and maintain under GAAP or GASB, as applicable, full, true, and complete records necessary to fully disclose to the GLO or the State of Texas Auditor's Office and/or their authorized representatives sufficient information to determine compliance with the terms and conditions of this Contract and all state laws, rules, and regulations.

5.02 INSPECTION AND AUDIT

Pursuant to Texas Gov't Code Chapter 2262, Local Government agrees that all relevant records related to this Contract, including the records of its Subcontractors, shall be subject to the Administrative and Audit Regulations. Local Government understands that acceptance of state funds under this Contract, directly or indirectly as a subcontractor, acts as acceptance of the authority of the State Auditor's Office to conduct an audit or investigation in connection with those funds. Accordingly, such records shall be subject at any time to inspection, investigation, examination, audit, and copying at any location where such records may be found, with or without notice from the GLO or other government entity with necessary legal authority. Local Government agrees to cooperate fully with any state entity in the conduct of inspection, investigation, examination, audit, and copying, including providing all relevant records and information requested. **Local Government shall ensure that all subcontracts awarded reflect the requirements of this Section and the requirement to cooperate.**

5.03 PERIOD OF RETENTION

All records relevant to this Contract shall be retained for a minimum of seven (7) years. The period of retention begins at the date of payment by the GLO for the goods or services or from the date of termination of the Contract, whichever is later. The period of retention shall be extended for a period reasonably necessary to complete an audit and/or to complete any administrative proceeding or litigation that may ensue.

5.04 CONFIDENTIALITY

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

5.05 PUBLIC RECORDS

Pursuant to Texas Gov't Code Chapter 2261, Provider agrees this Contract may be posted to the GLO's website. Additional information related to the performance of this Contract may be subject to the Public Information Act ("PIA") and will be withheld from public disclosure or released only in accordance therewith. Provider shall make any information required under the PIA available to the GLO in portable document file (".pdf") format or

any other format agreed between the Parties. Failure of Provider to mark as “confidential” or a “trade secret” any information that it believes to be excepted from disclosure waives any and all claims Provider may make against the GLO for releasing such information without prior notice to Provider. Provider shall notify GLO’s General Counsel within twenty-four hours of receipt of any third party written requests for information, and forward a copy of said written requests to PIALegal@glo.texas.gov. If request was not written, Provider shall forward the third party's contact information to the above-designated e-mail address.

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VI. MISCELLANEOUS PROVISIONS

6.01 INSURANCE

Pursuant to Chapter 2259 of the Texas Government Code entitled, "Self-Insurance by Governmental Units," Provider is self-insured and, therefore is not required to purchase insurance.

6.02 Taxes/Workers' Compensation/Unemployment Insurance

PROVIDER AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, PROVIDER SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF PROVIDER'S AND PROVIDER'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. PROVIDER AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. THE GLO SHALL NOT BE LIABLE TO THE PROVIDER, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/ OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER. 2) PROVIDER AGREES TO INDEMNIFY AND HOLD HARMLESS THE GLO, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. PROVIDER SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY PROVIDER WITH THE GLO NAMED AS A DEFENDANT IN ANY LAWSUIT AND PROVIDER MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE GLO. PROVIDER AND THE GLO AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

6.03 LEGAL OBLIGATIONS

Local Government shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Local Government to provide the goods or services required by this Contract. Local Government will be responsible for payment of all taxes, assessments, fees, premiums, permits, and licenses required by law. Local Government agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract.

6.04 INDEMNITY

AS GOVERNMENTAL ENTITIES AND AS REQUIRED UNDER THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, EACH PARTY UNDERSTANDS THAT IT IS LIABLE FOR ANY

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

6.05 ASSIGNMENT AND SUBCONTRACTS

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

6.06 HISTORICALLY UNDERUTILIZED BUSINESSES (HUBS) / MENTOR PROTÉGÉ

In accordance with State law, it is the GLO's policy to assist HUBs whenever possible, to participate in providing goods and services to the agency. The GLO encourages those Parties with whom it contracts for the provision of goods and services to adhere to this same philosophy in selecting subcontractors to assist in fulfilling their obligations with the GLO. The GLO encourages the Parties it contracts with to partner with certified HUBs that participate in the Comptroller's Mentor Protégé Program.

6.07 RELATIONSHIP OF THE PARTIES

Local Government is associated with the GLO only for the purposes and to the extent specified in this Contract, and, in respect to Local Government's performance pursuant to this Contract and the Act, Local Government is and shall be an independent contractor and, subject only to the terms of this Contract and Applicable Law, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create for the GLO any liability whatsoever with respect to the indebtedness, liabilities, and obligations of Local Government or any other party. Local Government shall be solely responsible for, and the GLO shall have no obligation with respect to:

- (a) withholding of income taxes, FICA, or any other taxes or fees;
- (b) industrial or workers' compensation insurance coverage;
- (c) participation in any group insurance plans available to employees of the State of Texas;
- (d) participation or contributions by the state to the State Employees Retirement System;
- (e) accumulation of vacation leave or sick leave; or
- (f) unemployment compensation coverage provided by the state.

6.08 COMPLIANCE WITH OTHER LAWS

In the performance of this Contract, Local Government shall comply with all applicable federal, state, and local laws, ordinances, and regulations. Local Government shall make itself familiar with and at all times shall observe and comply with all federal, state, and local laws, ordinances, and regulations that in any manner affect performance under this Contract. Local Government will be deemed to have knowledge of all applicable laws and regulations and be deemed to understand them.

6.09 NOTICES

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

GLO:

Texas General Land Office
1700 N. Congress Avenue, Mail Code 158
Austin, TX 78701
Attention: Legal Services Division

Local Government:

Nueces County Coastal Parks
PO Box 18608
Corpus Christie, TX, 78480
Attention: Samuel L. Neal, Jr., County Judge
With Copy to: Alana Scott, Assistant Director

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

6.10 GOVERNING LAW AND VENUE

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

6.11 SEVERABILITY

If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

6.12 FORCE MAJEURE

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

6.13 DISPUTE RESOLUTION

If a contract dispute arises that cannot be resolved to the satisfaction of the Parties, either Party may notify the other Party in writing of the dispute. If the Parties are unable to satisfactorily resolve the dispute within fourteen (14) days of the written notification, the Parties must use the dispute resolution process provided for in Chapter 2260 of the Texas Government Code to attempt to resolve the dispute. This provision shall not apply to any matter with respect to which either Party may make a decision within its respective sole discretion.

6.14 ENTIRE CONTRACT AND MODIFICATION

This Contract, its integrated Attachment(s), and any purchase order issued in conjunction with this Contract constitute the entire agreement of the Parties and are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Any additional or conflicting terms in such Attachment(s) and/or purchase order shall be harmonized with this Contract to the extent possible. Unless such integrated Attachment or purchase order specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language shall be construed consistently with the terms of this Contract.

6.15 COUNTERPARTS

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

6.16 PROPER AUTHORITY

Each Party hereto represents and warrants that the person executing this Contract on its behalf has full power and authority to enter into this Contract. Local Government acknowledges that this Contract is effective for the period of time specified in the Contract. Any services performed by Local Government before this Contract is effective or after it ceases to be effective are performed at the sole risk of Local Government.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE FOR GLO CONTRACT NO. 16-124-009

GENERAL LAND OFFICE

NUECES COUNTY

Anne L. Idsal, Chief Clerk/
Deputy Land Commissioner

By: _____
Title: _____

Date of execution: _____

Date of execution: _____

^{DS} SA _____ LS ^{DS} SA
^{DS} JP _____ Div. ^{DS} LS
^{DS} SA
 DIR _____
^{DS} GC ML

ATTACHMENTS TO THIS CONTRACT:

ATTACHMENT A: GENERAL AFFIRMATIONS

ATTACHMENT B: SAMPLE NOTICE OF DISBURSEMENT

ATTACHMENT C: NOTICES OF DISBURSEMENT (to be added upon issuance)

ATTACHMENTS FOLLOW

GENERAL AFFIRMATIONS

Provider agrees without exception to the following affirmations:

1. The Provider has not given, offered to give, nor intends to give at anytime hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with this Contract.
2. Pursuant to Title 10, Section 2155.004 of the Texas Government Code, the Provider has not received compensation from the GLO for preparing any part of this Contract.
3. Under Section 231.006, Family Code, Provider certifies that the individual or business entity named in this Contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. Any Provider subject to this section must include names and Social Security Numbers of each person with at least twenty-five percent (25%) ownership in the business entity named in this Contract. This information must be provided prior to execution of any offer.
4. Provider certifies by signing this Attachment that: (a) the entity executing this Contract; (b) its principals; (c) its subcontractors; and (d) any personnel designated to perform services related to the work herein described are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal Department or Agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as Pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Provider's subcontracts if payment in whole or in part is from federal funds.
5. In addition, Provider certifies it is in compliance with all State of Texas statutes and rules relating to procurement; and that the participants named in items 4(a) through 4(d) above are not listed on the federal government's terrorism watch list described in Executive Order 13224. Entities ineligible for federal procurement are listed at <https://www.sam.gov/portal/public/SAM/>, which Provider may review in making this certification. Provider acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate. This provision shall be included in its entirety in Provider's subcontracts if payment in whole or in part is from federal funds.
6. Provider agrees that any payments due under this Contract will be applied towards any debt, including, but not limited to, delinquent taxes and child support that is owed to the State of Texas.
7. Provider certifies that it is in compliance with Texas Government Code, Title 6, Subtitle B, Section 669.003, relating to contracting with the executive head of a state agency. If this section applies, Provider will complete the following information in order for the bid to be evaluated:

Name of Former Executive: _____

Name of State Agency: _____

Date of Separation from State Agency: _____

Position with Provider: _____

Date of Employment with Provider: _____

- 8. Provider agrees to comply with Texas Government Code, Title 10, Subtitle D, Section 2155.4441, relating to the purchase of products produced in the State of Texas under service contracts.
- 9. Provider understands that acceptance of funds under this Contract acts as acceptance of the authority of the State Auditor’s Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Provider further agrees to cooperate fully with the State Auditor’s Office, or its successor, in conducting the audit or investigation, including providing all records requested. Provider will ensure that this clause is included in any subcontract it awards.
- 10. Provider certifies that if it employs any former employee of the GLO, such employee will perform no work in connection with this Contract during the twelve (12) month period immediately following the employee’s last date of employment at the GLO.
- 11. Provider shall not discriminate against any employee or applicant for employment because of race, disability, color, religion, sex, age, or national origin. The Provider shall take affirmative action to ensure that applicants are employed and that employees are treated without regard to their race, color, sex, religion, age, disability, or national origin. Such action shall include, but is 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. Provider agrees to post notices, which set forth the provisions of this non-discrimination article, in conspicuous places available to employees or applicants for employment. Provider shall include the above provisions in all subcontracts pertaining to the work.
- 12. Provider understands that the GLO does not tolerate any type of fraud. The GLO’s policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Providers are expected to report any possible fraudulent or dishonest acts, waste, or abuse affecting any transaction with the GLO to the GLO's Internal Audit Director at 512.463.5338 or to tracey.hall@glo.texas.gov.

NOTE: Information, documentation, and other material in connection with this Contract may be subject to public disclosure pursuant to the "Public Information Act," Chapter 552 of the Texas Government Code.

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SAMPLE NOTICE OF DISBURSEMENT

Pursuant to **ARTICLE III** of GLO Contract No. 16-***-***-****, the Beach Cleaning and Maintenance Assistance Agreement (“Contract”) between Local Government and the Texas General Land Office (“GLO”), the GLO agrees to reimburse Local Government the amount of:

***** THOUSAND **** HUNDRED **** AND **/100 DOLLARS (\$**,***.**)**

as reimbursement for cleaning and maintenance expenses of the public beaches within its jurisdiction for the period September 1, 2015, through August 31, 2016.

Notice is made this, the *** day of *****, 2015, and sent by the GLO Project Manager, or a designee.

This Notice of Reimbursement shall also be sent to the GLO Legal Services Division for inclusion in the Contract as **Attachment C**.

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Certificate Of Completion

Envelope Number: 2E6DD969B37549FD9DFE1A1A04D67006
 Subject: New Beach Cleaning K: 16-124-009 Nueces County (Texas General Land Office)
 Source Envelope:
 Document Pages: 24
 Certificate Pages: 3
 AutoNav: Enabled
 Envelopeld Stamping: Enabled

Status: Sent

Envelope Originator:
 Sarah Aimadeddine
 1700 N Congress Ave
 Ste 935
 Austin, TX 78701-1495
 sarah.aimadeddine@glo.texas.gov
 IP Address: 204.65.210.7

Record Tracking

Status: Original
 10/7/2015 CT

Holder: Sarah Aimadeddine
 sarah.aimadeddine@glo.texas.gov

Location: DocuSign

Signer Events

Signature

Timestamp

Sarah Aimadeddine
 sarah.aimadeddine@glo.texas.gov
 Texas General Land Office
 Security Level: Email, Account Authentication (None)

Sent: 10/7/2015 CT
 Viewed: 10/7/2015 CT
 Signed: 10/7/2015 CT

Using IP Address: 204.65.210.7

Electronic Record and Signature Disclosure:
 Not Offered
 ID:

Scottie Aplin
 scottie.aplin@glo.texas.gov
 Legal Services
 Texas General Land Office
 Security Level: Email, Account Authentication (None)

Sent: 10/7/2015 CT
 Viewed: 10/8/2015 CT
 Signed: 10/8/2015 CT

Using IP Address: 204.65.210.241

Electronic Record and Signature Disclosure:
 Not Offered
 ID:

Jason Pinchback
 jason.pinchback@glo.texas.gov
 Texas General Land Office
 Security Level: Email, Account Authentication (None)

Sent: 10/8/2015 CT
 Viewed: 10/12/2015 CT
 Signed: 10/12/2015 CT

Using IP Address: 204.65.210.112

Electronic Record and Signature Disclosure:
 Not Offered
 ID:

Laura Sargent
 laura.sargent@glo.texas.gov
 Texas General Land Office
 Security Level: Email, Account Authentication (None)



Sent: 10/12/2015 CT
 Viewed: 10/12/2015 CT
 Signed: 10/12/2015 CT

Using IP Address: 204.65.210.62

Electronic Record and Signature Disclosure:
 Not Offered
 ID:

Signer Events	Signature	Timestamp
<p>David Green david.green@glo.texas.gov Legal Services Texas General Land Office Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered ID:</p>	<p> Using IP Address: 204.65.210.63</p>	<p>Sent: 10/12/2015 CT Viewed: 10/12/2015 CT Signed: 10/12/2015 CT</p>
<p>Mark Havens mark.havens@glo.texas.gov Director of Oil and Gas Legal Texas General Land Office Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered ID:</p>	<p> Using IP Address: 204.65.210.2 Signed using mobile</p>	<p>Sent: 10/12/2015 CT Viewed: 10/13/2015 CT Signed: 10/13/2015 CT</p>
<p>Samuel L. Neal nueces.countyjudge@co.nueces.tx.us Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered ID:</p>		<p>Sent: 10/13/2015 CT Viewed: 10/13/2015 CT</p>
<p>Anne Idsal anne.idsal@glo.texas.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered ID:</p>		

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp

Carbon Copy Events	Status	Timestamp
<p>Christopher Burnett christopher.burnett@glo.texas.gov Texas General Land Office Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered ID:</p>	<p></p>	<p>Sent: 10/8/2015 CT</p>
<p>Janette Gibreal janette.gibreal@glo.texas.gov Texas General Land Office Security Level: Email, Account Authentication (None)</p>	<p></p>	<p>Sent: 10/12/2015 CT</p>

Carbon Copy Events	Status	Timestamp
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Electronic Record and Signature Disclosure:
Not Offered
ID:

Shanna Starkey
shanna.starkey@glo.texas.gov
Texas General Land Office

COPIED

Sent: 10/12/2015 CT
Viewed: 10/14/2015 CT

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered
ID:

Alana Scott
alana.scott@co.nueces.tx.us

COPIED

Sent: 11/10/2015 CT
Viewed: 11/10/2015 CT

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered
ID:

Alana Scott
alana.scott@co.nueces.tx.us

COPIED

Sent: 10/13/2015 CT

Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
Not Offered
ID:

Notary Events	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	11/10/2015 CT
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