

ATASCOCITA COMMUNITY IMPROVEMENT ASSOCIATION
MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (“Agreement”) made this ___ day of _____, _____ by and between Atascocita Community Improvement Association (“ACIA”), a Texas limited liability company with a business address c/o Community Asset Management 9802 FM 1960 Rd. W Ste 210 Humble, Texas 77338 281-852-1155 fax 281-852-9111 and _____, hereinafter called the (“Contractor”), a _____ (corporation / limited liability company / limited partnership / etc.) with a business address of: _____.

WHEREAS, ACIA is a property owner’s association for various neighborhoods in the Northeast Harris County Area (the “Business”); and

WHEREAS, Contractor represents to ACIA that it has trained and where applicable, licensed personnel capable of safely and efficiently performing such requested services and/or equipment in good working order for use by such personnel; and

WHEREAS, in connection with its Business activities, ACIA may from time to time desire to engage Contractor to provide various services in support of ACIA’s activities for the Business and/or to purchase or rent products, equipment, goods, materials or supplies from Contractor for use by ACIA in its Business activities;

WHEREAS, Contractor desires to perform a portion of ACIA’s contract work for and on behalf of ACIA by agreeing to provide services and materials as hereinafter defined in the Scope of Work.

NOW THEREFORE, in consideration of the premises and mutual covenants and representations contained herein, it is agreed as follows:

Section 1. CONTRACT DOCUMENTS AND COMPLIANCE. (a) The term "Contract Documents" refers to this Agreement, the Exhibits hereto, the general, supplementary and special conditions, drawings, specifications, amendments and all other documents that are relevant to Contractor’s Scope of Work (as hereinafter defined) for any given project.

(b) Contractor, by signing this Agreement, acknowledges that it has independently assured itself that all of the aforementioned Contract Documents have been made available to it, confirms it has examined all such documents and agrees that all of the aforesaid Contract Documents shall be considered a part of this Agreement by reference thereto, and the Contractor agrees to be bound to ACIA by the terms and provisions thereof. Contractor undertakes to perform all the duties and obligations of ACIA under the Contract Documents insofar as said duties and obligations are related, directly or indirectly to Contractor’s Work as defined in this Agreement. In the event of a conflict between this Agreement and any other of the Contract Documents, this Agreement shall govern.

Section 2. TERM AND THE WORK. (a) The term of this Agreement shall begin on the date first set forth above and will continue thereafter until terminated by either party upon thirty (30) days written notice, however, subject only to the provisions of Section 20 below, such termination shall not be effective with respect to any project that is currently in process, unless such termination is for cause, such as breach of contract or non-performance. Furthermore, termination will not affect the indemnities or warranties for any project that has been completed.

(b) ACIA does not guarantee an offer of work to Contractor during the term of this Agreement, but Contractor agrees to furnish all supervision, technical personnel, laborers, materials, and equipment necessary to perform any work on a project requested from time to time by ACIA and accepted by Contractor during the term of this Agreement (hereinafter called the "Work") in accordance with the terms and conditions of this Agreement. All requests for and acceptances of Work shall be specific and separate projects and made pursuant to a work order received from ACIA substantially in the form of Schedule A attached hereto and made a part hereof by reference.

Section 3. PAYMENT. ACIA agrees to pay Contractor for the performance of the Work subject to this Agreement the sum reflected in Schedule A; subject, however, to additions and deductions for changes agreed upon or determined as hereinafter provided (the “Contract Price”). Partial payments will be made to Contractor less ten percent (10%) retainage. If the Work is satisfactory to ACIA and Contractor provides acceptable evidence of releases and waivers of liens of Contractor and any and all materialmen and laborers subcontracted by Contractor, ACIA may release the retainage to Contractor.

Contractor shall submit invoices to ACIA no less often than _____, each covering the Work performed since the prior invoice together with a signed and notarized Partial Lien Release, Waiver and All Bills Paid Affidavit substantially in the form of Exhibits B and C attached hereto, and such other supporting evidence as is required by ACIA. Progress payments to Contractor for satisfactory performance of the Work shall be made no later than _____ (__) days after receipt by ACIA of an invoice, lien release and all bills paid affidavit in correct form. Final payment of the balance of the Contract Price shall be made to the Contractor upon the following conditions being met:

1. Completion of the Work;
2. Acceptance of the Work by ACIA and all governmental authorities with jurisdiction over the same (as evidenced by the issuance of permits);
3. Receipt of a final invoice together with a Full and Final Lien Release and Waiver of all Claims substantially in the form of Exhibit C attached hereto, together with an All Bills Paid Affidavit substantially in the form of Exhibit D attached hereto; and
4. Such other requirements as ACIA may reasonably impose to ensure that the Work and Contractor's obligations under this Agreement have been fully performed.

Acceptance of final payment by Contractor shall constitute a full and complete waiver and release of all claims against ACIA and the Project with respect to the Work.

Section 4. CHANGES. When ACIA so orders in writing, Contractor, without nullifying this Agreement, shall make any and all changes in the Work which are within the general scope of this Agreement. Adjustments in the Contract Price or contract time, if any, resulting from such changes shall be set forth in a Change Order. Except for emergency situations in order to prevent endangerment to life or property, Contractor shall not be required to initiate any changes in its Work until such time as it receives assurances from ACIA that ACIA will compensate Contractor for the increase in Contract Price. No such adjustments shall be made for any such changes performed by Contractor that have not been so ordered by ACIA.

Section 5. PROSECUTION OF WORK. Time is of the essence of this Agreement. Contractor shall furnish all tools, equipment, materials, labor and supervision necessary for the performance of this Agreement in a proper, efficient and workmanlike manner. Contractor shall prosecute the Work undertaken in a prompt and diligent manner whenever such Work, or any part of it, becomes available, or at such other time or times as ACIA may direct, and shall not, by delay or otherwise, interfere with or hinder the Work of ACIA or any other Contractor. All materials are to be furnished by Contractor in sufficient time to enable Contractor to perform and complete its Work within the time provided for herein, subject, however, to the Force Majeure provisions contained herein.

Contractor shall immediately report any defects in the work of other persons or materials that would affect the Work. Likewise, Contractor shall immediately report any discrepancies found between the Contract Documents and the physical conditions of the site. A failure to promptly report any such defects or discrepancies shall waive any excuse Contractor based thereon and shall constitute an acceptance of such conditions by Contractor.

Contractor shall keep a competent superintendent on the project site during the progress of the Work who shall be the authorized representative of Contractor for all purposes. Directions and communications to the superintendent from ACIA in connection with the Work shall be treated as directions and communications to Contractor.

Section 6. DELAYS. In the event Contractor's performance of this Agreement is delayed or interfered with by acts of ACIA or other subcontractors, Contractor shall be entitled to a Change Order granting it an extension of time for the performance of same.

Section 7. LABOR. If, by reason of strikes, picketing or disputes of any nature between Contractor and any individual(s), group or organization, Contractor should be persistently, repeatedly, or for a period of five (5) consecutive days, unable to supply enough properly skilled workers or proper materials to execute the Work defined in this Agreement, then ACIA shall be entitled to subcontract other workers to complete the Work at the cost of Contractor.

Section 8. APPROVALS. All drawings and plans of Contractor shall be submitted through Sterling A.S.I. for approval of ACIA and all other communications between Contractor and ACIA with respect to the Work shall be transmitted through Sterling A.S.I. Contractor agrees that it will submit a detailed schedule for the Work as part of its Scope of Work requirements. The schedule for performance of Contractor's Work shall become a part of this Agreement, and shall be approved by ACIA, which approval shall not be unreasonably withheld. Both Parties to this Agreement agree that coordination of schedules is paramount to the successful completion of the Work within the time for performance, and the Parties therefore owe a duty to each other to cooperate in resolving any scheduling conflicts.

Section 9. INSURANCE. Prior to commencement of Work, Contractor shall procure and at all times thereafter maintain with insurers acceptable to ACIA the insurance protecting the Contractor and ACIA against liability from damages because of injuries, including death, suffered by persons, including employees of Contractor, and liability from damages to property arising from and growing out of Contractor's operations, including its subcontractors' and suppliers' operations, in connection with the performance of this Agreement in the amounts and parameters set forth on Schedule D attached hereto. If the terms of any other agreement which is a part of the Contract Documents require larger limits or additional coverage or both, ACIA reserves the right to require Contractor to provide, at Contractor's expense, such larger limits or additional coverage or both.

Contractor shall provide ACIA with certificates (and if requested by ACIA copies of policies) evidencing all insurance prior to beginning any Work under this Agreement. Such policies shall be primary and on a non-contributory basis before any other insurance or self-insurance and shall provide for at least thirty (30) days advance written notice to ACIA of cancellation, material change, reduction of coverage or nonrenewal. Such policies shall contain a waiver of subrogation and shall contain provisions covering contractually assumed liability. Contractor shall cause its subcontractor(s) to procure insurance as outlined above. Contractor shall obtain policies or certificates for its subcontractor(s) and deliver them to ACIA, if requested to do so. Contractor shall name the ACIA as named additional insured on each policy, except for Worker's Compensation.

Section 10. INDEMNIFICATION. To the full extent permitted by law, Contractor shall indemnify and hold harmless ACIA and other contractors and subcontractors and their employees from and against all claims, damages, loss and expenses arising out of or resulting from the performance or non-performance of Contractor's Work, provided that any such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than Contractor's Work itself) including the loss of use resulting therefrom, to the extent caused by the negligent act or omission of Contractor or anyone directly or indirectly employed by Contractor or anyone for whose acts Contractor may be liable. For purposes of the preceding sentence, "negligence" shall be deemed to include both negligent acts and omissions, or willful misconduct, and the negligence of a party shall be deemed to include the respective negligence of its officers, directors, employees, agents, contractors, subcontractors or representatives.

Section 11. LIENS AND CLAIMS. Contractor shall, as and when requested, furnish evidence satisfactory to ACIA that all amounts due for labor and material furnished by Contractor in connection with performance of this Agreement have been paid or will be paid out of the proceeds of the payments to be made by ACIA, including any health, welfare and pension fund payments and payroll taxes. Such evidence shall be furnished in such form and manner as requested by ACIA, and all statements relative thereto shall, if called for by ACIA, be made by sworn affidavit. Contractor shall furnish to ACIA releases and waivers of bond rights and lien rights by persons who have furnished labor, material or other things in the performance of this Agreement, it being agreed that payment of money otherwise due Contractor need not be made by ACIA until such releases are furnished. Unless otherwise required by the Contract Documents, such releases and waivers may be conditioned upon receipt of payment by Contractor. Subject only to the foregoing, Contractor shall deliver its Work free from all claims, encumbrances and liens.

SUBJECT TO ACIA'S TIMELY PAYMENT TO CONTRACTOR IN ACCORDANCE WITH THE TERMS HEREOF, CONTRACTOR SHALL INDEMNIFY AND PROTECT ACIA FROM AND AGAINST ALL LOSSES THAT ARISE OUT OF OR RESULT FROM ALL CLAIMS FOR PAYMENT, WHETHER OR NOT REDUCED TO A LIEN OR MECHANICS LIEN, FILED BY CONTRACTOR OR ANY SUBCONTRACTOR (OF WHATEVER TIER) OF CONTRACTOR, OR ANY OTHER PERSONS UNDER CONTROL OF CONTRACTOR PERFORMING ANY PORTION OF THE WORK, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES INCURRED BY ANY INDEMNITEE IN DISCHARGING ANY SUCH LIEN, WHICH INDEMNITY SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

Section 12. POSSESSION PRIOR TO COMPLETION. Whenever it may be useful or necessary for ACIA to do so, ACIA shall be permitted to inspect, occupy and/or use any portion of the Work which has been either partially or fully completed by Contractor before final inspection and acceptance by ACIA, but such use and/or occupation shall not relieve Contractor of its guarantee of said Work nor of its obligation to make good at its own expense any defect in materials and/or workmanship which may occur or develop prior to ACIA's acceptance of the Work. If such prior use or occupancy increases the cost of or delays the Work, ACIA and Contractor shall negotiate an appropriate Change Order pursuant to the terms of Section 4 of this Agreement.

Section 13. OTHER CONTRACTS. It is understood and agreed that the Work provided for in this Agreement may constitute only a part of the work being performed for ACIA by other contractors. Contractor, therefore, agrees to perform the Work in such a manner that it will not injure, damage or delay any Work performed by any other contractor or supplier,

and further agrees to pay or reimburse ACIA for any additional costs, damage or delay that may be caused to such other work of subcontractors or suppliers, by Contractor or by its agents or employees.

Section 14. INDEPENDENT CONTRACTOR. Contractor specifically agrees that it is, or prior to the start of the Work will become, and will remain during the performance of this Agreement, an independent contractor, providing at its sole expense all of the materials, labor, tools, equipment and other facilities necessary for the performance of the Work. Contractor shall be responsible for all of its own taxes, fees, and licenses. Nothing herein shall create any type of joint venture, partnership, nor in any manner give Contractor the right or ability to make any representations for or bind ACIA in any manner.

Section 15. COMPLIANCE WITH LAW. Contractor agrees to fully comply with all applicable laws, ordinances and regulations. The Work shall be performed without defect and in accordance with the Contract Documents, applicable law, all applicable permits and permit requirements, manufacturers' warranties, recommendations and requirements, engineering and construction standards provided to or from Contractor, and under the authority of ACIA's Representative, who is identified and whose authority is defined herein, all as addressed more fully in this Agreement.

Section 16. SAFETY. Contractor shall take all reasonable safety precautions pertaining to its Work and the conduct thereof and shall employ and designate a safety representative on site to ensure worker safety. Without limiting the generality foregoing, it shall comply with all applicable laws, ordinances rules, regulations and orders issued by any public or government body or authority, whether federal or otherwise, including, but not limited to, occupational safety and health legislation and, in addition, the safety measures called for by ACIA. Contractor shall make and deliver to ACIA a full written report of any accident arising out of or relating to the Work or on the site that causes any injury or property damage within three (3) hours of such accident.

Section 17. PROTECTION OF WORK. Contractor specifically agrees that it is responsible for the protection of its Work until final completion and acceptance thereof by ACIA and that Contractor will make good or replace, at no expense to ACIA, any damage to its Work which occurs prior to said final acceptance.

Section 18. DISPUTES. Contractor shall give ACIA written notice of any claim within five (5) days of the event for which the claim is made. The Parties shall endeavor to resolve all disputes within thirty (30) days, and if unable to resolve to the satisfaction of the Parties, then Contractor shall be allowed to initiate legal proceedings in any court of competent jurisdiction without being in default under the terms and conditions of this Agreement.

Section 19. ATTORNEY'S FEES. In the event either party institutes suit in court against the other party or against the surety of such party, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to any other relief granted by the court.

Section 20. TERMINATION FOR CONVENIENCE. ACIA reserves the right to terminate this Agreement in whole or in part at any time for any reason or for the convenience of the ACIA. Upon receipt of written notice from ACIA of termination of this Agreement, or any part thereof, for convenience, Contractor shall cease work as directed and deliver or return for credit all materials and equipment which have been purchased and/or are in the possession of Contractor relating to the Contractor's Work as indicated in the notice of termination. Upon termination of Contractor for convenience, Contractor shall be paid as full compensation the value of the work performed to date as indicated in the Contractor's schedule of values, plus any reasonable costs, such as restocking or cancellation charges incurred as a direct result of the termination for convenience. If no schedule of values for Contractor's work has been approved by ACIA prior to the date of termination, Contractor shall be paid as full compensation all direct costs incurred in connection with the performance of Contractor's work up to the effective date of termination, and a reasonable fee, not to exceed 10% of the cost of such work, plus any reasonable costs, such as restocking or cancellation charges, incurred as a direct result of the termination for convenience. Contractor waives and releases any claims for other consequential damages or costs, including lost profits, it may otherwise have as a result of termination for convenience. In the event a termination of this Agreement for default is determined to be wrongful or unjustified, the termination shall be treated as and converted to a termination for convenience pursuant to this provision.

Section 21. TAXES. Contractor pricing includes all taxes, licenses and fees of every nature which may be imposed or charged by any governmental authority upon the labor, materials, or other things used in the performance of the Work or upon the transaction between ACIA and Contractor. If ACIA furnishes Contractor with a valid exemption certificate for any tax exemption, then Contractor shall give ACIA a credit against the Contract Price for any taxes included in Contractor's pricing.

Section 22. ACIA'S EQUIPMENT. In the event that Contractor by rental, loan or otherwise, makes use of any of ACIA's equipment or other appliances, Contractor accepts such "as is" and such use shall be at the sole risk of Contractor and Contractor agrees to defend, hold harmless and indemnify ACIA against all claims arising from its use thereof.

Section 23. FURNISHED MATERIAL. In the event that ACIA or its suppliers or other subcontractors, elect to furnish material to Contractor for use in connection with this Agreement, then the cost of handling, storing and installing such material shall be considered as not included in the Contract Price, and ACIA shall be entitled to a credit against the Contract Price for the value of such materials.

Section 24. EQUAL OPPORTUNITY. ACIA prohibits discrimination on the basis of race, color, religion, sex, or national origin, and if any law, regulation or order has any application thereto and is applicable to this Agreement, then Contractor hereby agrees to comply with such provision, law, regulation or order. In the event that any such provision, law, regulation or order requires the physical attachment of specific wording to this Agreement, then such attachments shall be considered a part of this Agreement by reference thereto or shall be physically attached thereto as called for by ACIA.

Section 25. ACIA'S REPRESENTATIVE. The words "ACIA's Representative" as used herein means Sterling A.S.I. appointed by ACIA to supervise the work of Contractor on behalf of ACIA. In furtherance of the foregoing, ACIA shall cause Sterling A.S. I. to designate a representative with authority to act for and bind ACIA with respect to any matter under this Agreement and any Change Order hereto. ACIA shall make the identity and contact information for ACIA's Representative known to Contractor. ACIA reserves the right to replace Community Asset Management with another representative at any time upon written notice to Contractor.

Section 26. ASSIGNMENT. Contractor shall obtain the written consent of ACIA prior to assigning or subcontracting any of the Work, in whole or in part, but such consent on the part of ACIA shall not be unreasonably withheld. Contractor may assign the proceeds of the Work after providing adequate assurances to ACIA that all its laborers, suppliers and other creditors for the Work will be paid and upon obtaining the consent of Contractor's surety, if any, and the acknowledgment of the assignee on forms provided by ACIA. If Contractor assigns or subcontracts any of the Work it shall require the assignee or subcontractor to be bound to ACIA by all of the terms of this Agreement and to carry the same insurance required of Contractor hereunder and shall provide satisfactory evidence of the same to ACIA. Notwithstanding the foregoing, no such assignment or subcontracting shall release Contractor from its obligations under this Agreement.

Section 27. PRIOR UNDERSTANDINGS OR REPRESENTATIONS; ENTIRE AGREEMENT; AMENDMENT. ACIA assumes no responsibility for any understandings or representations made by any of its officers, Trustees, or agents prior to the execution of this Agreement, unless such understandings or representations by ACIA are expressly stated in this Agreement. This Agreement, the attachments hereto and the Contract Documents represent the entire and integrated agreement between the Parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended or modified only by a writing signed by ACIA's representative and the President of the ACIA Board of Trustees.

Section 28. SEVERABILITY AND WAIVER. The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision. The failure of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

Section 29. CAPTIONS. The captions at the beginning of each Section are for convenience only and are to be given no weight in construing the provisions of this Agreement.

Section 30. NOTICES. All notices shall be in writing addressed to the parties at the addresses set out in this Agreement unless subsequently changed in conformance with this notice provision and shall be considered as delivered on the third business day after the date of mailing if sent by certified mail return receipt requested and postage prepaid or when received in all other cases, including telecopy or other printed electronic medium or personal delivery.

Section 31. WARRANTIES. Every part of the Work will be executed in accordance with the Contract Documents and in a sound and workmanlike manner. Contractor expressly warrants that the Work shall conform to the provisions of this Agreement, all applicable laws, rules, regulations and standards, to the applicable industry standards and to the specifications,

drawings, samples or other descriptions upon which this Agreement is based; and that any materials and equipment included as part of the Work shall be of new, good material and workmanship, and free from defects.

Section 32. LAW AND EFFECT. This Agreement shall be governed by the law of the State of Texas without respect to its choice of law provisions. The parties hereto agree that jurisdiction and venue of any matters arising under this Agreement shall be exclusive and proper in any court of competent jurisdiction located in Harris County, Texas.

ATTACHED SCHEDULES "A" and "B" and EXHIBITS "C", AND "D" ARE INCORPORATED HEREIN BY REFERENCE

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their proper officers or duly authorized agents.

ACIA

CONTRACTOR

By: _____

By: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

Schedule "A"

WORK ORDER

This Work Order dated _____ is issued under the provisions of that certain Master Services Agreement between _____ ("Contractor") and Atascocita Community Improvement Association ("Company") dated _____, 2014 (the "Agreement").

- 1. Terms and Conditions. The terms and conditions of the Agreement will control this Order.
- 2. Scope of Services to be provided. The scope of Work to be provided by Contractor to Company under this Order and the prices thereof are as described in the specifications, drawings, and/or work statement attached hereto as Exhibit A, and Contractor's Proposal dated _____.
- 3. Special provisions. _____

ACCEPTED:

Contractor

ISSUED:

Company

Atascocita Community Improvement Association

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____

The Scope of Work and Payment Provision on the attached Exhibit A, and the Contractor's Proposal attached hereto are incorporated into and made a part of this Work Order and the Agreement.

[Attach Scope of Work and Pricing – for this particular contract it will be Exhibits B and D to the

Exhibit B

BILLS PAID AFFIDAVIT AND CONDITIONAL WAIVER OF LIENS (Progress Payments)

STATE OF TEXAS
COUNTY OF _____

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§
§

Owner: (_____)

Prime Contractor: (_____)

Contractor: _____

Affiant: _____

Project Description/Location: (_____

_____)

WORK: All labor, materials, services and equipment furnished to the Property or for the benefit of the Property

APPLICABLE TIME PERIOD: All times prior to and including (_____)

AMOUNT OF PROGRESS PAYMENT: \$ _____

In order to induce the Owner and Prime Contractor to pay to Contractor the amount due for the Work on the Project furnished through the Applicable Time Period, for the Progress Payment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned Affiant hereby swears and certifies, under oath, as follows:

- 1 All obligations of Contractor incurred in connection with Work covered by prior Applications for Payment, and Progress Payments made in connection therewith have been paid (except as specifically disclosed below);
2. Title to all Work, materials and equipment incorporated in said Work or covered by this Application for Payment and Progress Payment will pass to Owner at time of payment, free and clear of all liens, security interests and encumbrances (except as specifically disclosed below); and
3. All Work covered by this Application for Payment and Progress Payment has been completed in accordance with the Contract Documents.

Contractor warrants, represents, and certifies that all laborers, subcontractors, materialmen, and all other persons or parties who have provided labor or materials through, for, or on behalf of the Contractor to the above-noted Project through the date covered by the last Application for Payment and Progress Payment have been paid in full, and Affiant is not aware of any claim for payment or lien by such person or party who has furnished Work on the Project through or under Contractor, *except as follows*:

NAME, ADDRESS, AND TELEPHONE NUMBER OF PARTIES NOT PAID

AMOUNT OWED

CONDITIONAL WAIVER AND RELEASE

Upon receipt by Contractor of the Progress Payment (and collection of good funds from the bank on which any check issued in return for this Waiver and Release is drawn) of the current Application for Payment for Work performed on this Project through, for, or on behalf of Contractor through the date noted above, 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 Contractor, any of his or its agents, employees, successors, assigns, subsidiaries, and legal representatives, has or may have on the Project or any assets of Owner or Prime Contractor, to the following extent:

This release covers the Progress Payment for all Work furnished to the Project or Prime Contractor as indicated in the attached Application for Payment except for unpaid retentions, 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 Contractor.

Contractor hereby represents and warrants that Contractor has already paid or will use the funds received from the Progress Payment to promptly pay in full all of Contractor's laborers, subcontractors, materialmen, and suppliers for all Work performed for by, through, or on behalf of Contractor through the end of the Applicable Time Period or covered by the attached Application for Payment.

Affiant hereby warrants and represents that Affiant has the authority and power to bind Contractor to the terms and statements contained herein and that by his signature hereto, Affiant does so bind Contractor.

CONDITIONED UPON RECEIPT OF THE PROGRESS PAYMENT (AND COLLECTION OF GOOD FUNDS) NOTED ABOVE, CONTRACTOR HEREBY AGREES UNCONDITIONALLY TO DEFEND AND INDEMNIFY OWNER AND PRIME CONTRACTOR AND HOLD OWNER AND PRIME CONTRACTOR HARMLESS AGAINST ALL LIABILITY, LOSS, COST OR EXPENSE (INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES) NOW OR HEREAFTER INCURRED, PAID OR SUFFERED BY OR ASSERTED AGAINST OWNER OR PRIME CONTRACTOR, OR THEIR RESPECTIVE SERVANTS OR AGENTS OR ANY OF OWNER'S OR PRIME CONTRACTOR'S PROPERTY BECAUSE OF ANY CLAIM OR ACTION BY CONTRACTOR, OR BY ANY PERSON OR ENTITY CLAIMING BY, THROUGH OR UNDER CONTRACTOR, WITH RESPECT TO THE CLAIMS, LIENS AND RIGHTS HEREIN WAIVED AND RELEASED OR ARISING OUT OF ANY BREACH OR UNTRUTH OF ANY REPRESENTATION HEREIN MADE; AND

SUBSCRIBED AND SWORN TO BY Affiant on this ____ day of _____, 2014.

CONTRACTOR:

(_____)

By: _____

Name: _____

Title: _____

STATE OF TEXAS §

§

COUNTY OF _____ §

BEFORE ME the undersigned authority on this day personally appeared _____
_____ the _____ of (_____), known
to me to be the person noted above, and swore and acknowledged to me the following: that he/she executed the
foregoing for the purpose and consideration therein expressed, in the capacity therein stated, and as the duly
authorized act and deed of the party releasing and waiving the lien therein; that every statement therein is within
his/her knowledge and is true and correct; and that the list, if any, of persons or parties set out above is a full,
complete, and accurate list of those persons or parties not paid.

Notary Public, State of Texas

RETURN TO:

**Atascocita Community Improvement Association
c/o Community Asset Management
9802 FM 1960 Rd. W Ste 210 Humble, Texas 77338
281-852-1155 fax 281-852-9111**

Exhibit C

FINAL BILLS PAID AFFIDAVIT AND CONDITIONAL WAIVER OF LIEN

STATE OF TEXAS

§
§
§

COUNTY OF _____

Owner: (_____)

Prime Contractor: (_____)

Contractor: _____

Affiant: _____

Project Description/Location: (_____)
_____)
_____)

WORK: All labor, materials, services and equipment furnished to the Property or for the benefit of the Property

PAYMENT: _____

In order to induce the Owner to make final payment to Contractor for work performed on the above described project, the undersigned Affiant states, under oath, as follows:

ALL BILLS PAID

Contractor warrants, represents, swears and certifies, under oath, that it has paid all laborers, subcontractors, materialmen, and all other persons or parties who have provided labor or materials through, for, or on behalf of the Affiant to the above-noted construction project, and Affiant is not aware of any claim for payment or lien by such person or party who has furnished Work on the project through or under Affiant.

CONDITIONAL WAIVER AND RELEASE

Upon receipt by Contractor of the Payment (and collection of good funds from the bank on which any check issued in return for this Waiver and Release 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 Contractor, any of his or its agents, employees, successors, assigns, subsidiaries, and legal representatives, has or may have on the Project or any assets of Owner or Prime Contractor, to the following extent:

This release covers final Payment for all Work furnished to the Project or Prime Contractor.

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

Contractor hereby represents and warrants that Contractor has already paid or will use the funds received from the final Payment to promptly pay in full all of Contractor's laborers, subcontractors, materialmen, and suppliers for all Work performed for by, through, or on behalf of Contractor up to the date of this release.

Affiant hereby warrants and represents that Affiant has the authority and power to bind Contractor to the terms and statements contained herein and that by his signature hereto, Affiant does so bind Contractor.

CONDITIONED UPON RECEIPT OF THE FINAL PAYMENT (AND COLLECTION OF GOOD FUNDS) NOTED ABOVE, CONTRACTOR HEREBY AGREES UNCONDITIONALLY TO DEFEND AND INDEMNIFY

Schedule "D"

Insurance Required and Limits Atascocita Community Improvement Association

Contractor Insurance Requirements:

The Contractor shall purchase and maintain insurance of the following types of coverage and limits of liability:

1) Commercial General Liability (CGL)

- a) CGL with limits of insurance of not less than **\$1,000,000** Each Occurrence **\$2,000,000** Products/Completed Operations Aggregate, **\$1,000,000** Personal & Advertising Injury, **\$100,000** Fire Damage Limit (any one fire), **\$5,000** Medical Expense (any one person) and **\$2,000,000** General Annual Aggregate. The CGL shall have an aggregate per project.
- b) CGL coverage shall be written on ISO Occurrence form CG00 01 1093 or a substitute form providing equivalent coverage and shall cover liability arising from premises, operations, and personal and advertising injury.
- c) Atascocita Community Improvement Association and all other parties required of the Atascocita Community Improvement Association shall be included as insured on the CGL, using ISO Additional Insured Endorsement CG 20 10 11 85 or an endorsement providing equivalent coverage to the additional insureds. This insurance for the additional insureds shall be as broad as the coverage provided for the named insured Contractor. It shall apply as Primary Insurance before any other insurance or self-insurance. Including any deductible, maintained by, or provided to, the additional insured.
- d) Contractor shall maintain CGL coverage for itself and all additional insureds for the duration of the project and maintain Completed Operations coverage for itself and each additional insured for at least 1 year after completion of the Work.
- e) Where applicable, policy shall be endorsed to include owned watercraft

2) Automobile Liability

- a) Business Auto Liability with limits of at least **\$1,000,000** each accident.
- b) Business Auto coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles.

3) Commercial Umbrella

- a) Umbrella limits must be at least **\$1,000,000**.
- b) Umbrella coverage must include as insured's all entities that are additional insureds on the CGL.
- c) Umbrella coverage for such additional insured's shall apply as primary before any other insurance or self-insurance, including any deductible, maintained by, or provided to, the additional insured other than the CGL, Auto Liability and Employer's Liability coverages maintained by the Contractor.

4) Worker's Compensation and Employer's Liability

- a) Employer's Liability insurance limits of at least **\$1,000,000** each accident for bodily injury by accident and **\$1,000,000** each employee for injury by disease.
- b) Where applicable, U.S. Longshore and Harborworkers Compensation Act Endorsement shall be attached to the policy.
- c) Where applicable, the Maritime Coverage Endorsement shall be attached to the policy.

5) ACIA's Pollution Liability

- a) ACIA's pollution liability with limits of at least \$5,000,000
 - b) Policy shall name Atascocita Community Improvement Association as an additional insured
- 6) Waiver of Subrogation**
Contractor waives all rights against ACIA and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by commercial general liability, workers compensation and employer's liability insurance maintained per requirements stated above.
- 7) Contractually Assumed Liability**
Such policies shall contain such endorsements as are necessary to insure that any contractually assumed liability under the contract between Contractor and Atascocita Community Improvement Association is covered by such policies.
- 8) Notification of Cancellation, Non-Renewal or Material Change in Coverage.**
Contractor's General Liability, Automobile Liability, Umbrella Liability and Worker's Compensation policies shall be endorsed to state that Atascocita Community Improvement Association will be notified at least 30 days in advance in the event of cancellation, non-renewal or material change in coverage of said policies.

Certificate of Insurance

Contractor shall provide Atascocita Community Improvement Association with valid certificates of insurance prior to commencement of work verifying said insurance requirements have been met.

Supply Certificates of Insurance to the parties listed below:

**Atascocita Community Improvement Association
c/o Community Asset Management
9802 FM 1960 Rd. W Ste 210 Humble, Texas 77338
281-852-1155 fax 281-852-9111**