

AMERICAN RESCUE PLAN ACT (ARPA)
CONTRACT FOR ENGINEERING AND/OR ARCHITECTURAL SERVICES
FOR JET A FUEL SYSTEM IMPROVEMENTS AT BAY CITY REGIONAL AIRPORT

PART I - AGREEMENT

THIS AGREEMENT, entered into the _____ day of _____, 2022 by and between the CITY OF BAY CITY, hereinafter called the “City”, acting herein by _____ hereunto duly authorized, and Civil PEs, LLC. hereinafter called “Consultant”, acting herein by Thomas D Dodson.

WITNESSETH THAT:

WHEREAS, the City of Bay City desires to enter into engineering services for the design of Jet A Fuel System Improvements under the general direction of the American Rescue Plan Act (hereinafter called ARPA) administered by the United States Department of the Treasury (USDT); and

WHEREAS, the City desires to engage Civil PEs, LLC to render certain services in connection with ARPA Projects.

NOW THEREFORE, the parties do mutually agree as follows:

1. Scope of Services
The Consultant will perform the services set out in Part II, Scope of Services
2. ARPA Compliance
The Consultant agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing.
3. Time of Performance
The services of the Consultant shall commence on _____. In any event, all of the services required and performed hereunder shall be completed no later than _____ or the project(s) administrative closure date of December 31, 2026, as defined by the USDT, whichever is later. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury’s implementing regulations, City/County may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.
4. Local Program Liaison
For purposes of this Agreement, the GrantWorks project manager or equivalent authorized person will serve as the Local Program Liaison and primary point of contact for the Consultant. All required progress reports and communication regarding the project shall be directed to this liaison and other local personnel as appropriate.

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5. Maintenance of and Access to Records

The Consultant shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.

The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of the Consultant in order to conduct audits or other investigations.

Records shall be maintained by the Consultant for a period of five (5) years after all funds have been expended or returned to USDT, whichever is later.

6. Compensation and Method of Payment

The Consultant shall be compensated with a negotiated fixed fee of \$42,600. Payment to the Consultant shall be based on satisfactory progress on phases as listed in Part III, Payment Schedule, of This Agreement.

7. Indemnification

The Consultant shall comply with the requirements of all applicable laws, rules, and regulations, and shall exonerate, indemnify, and hold harmless the City and its agency members from and against any and all claims, costs, suits, and damages, including attorney's fees arising out of the Consultant's performance or nonperformance of the activities, services or subject matter called for in this Agreement, 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

- This Agreement shall be construed under and according to the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Matagorda County, Texas.
- 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.
- 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.
- 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.

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- This Agreement may be amended by mutual agreement of the parties hereto and a writing to be attached to be incorporated into this Agreement.

9. Extent of Agreement

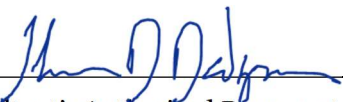
This Agreement which includes Parts I-V, and if applicable, the following exhibits/attachments: Exhibit 1 – Sample Monthly Status Report and Exhibit 2 – Fee Calculation by Phase, represents the entire and integrated agreement between the City and the Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by authorized representatives of both City and the Consultant.

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 Official)

(Printed Name)

(Title)

BY:  _____
(Consultant's Authorized Representative)

Thomas D Dodson
(Printed Name)

President
(Title)

CIVIL PES PROJECT NO. 2022BAYCITY
Civil PEs LLC SAM Registration No. LWPNN5LRNDV5

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PART II - SCOPE OF SERVICES

The Consultant shall render the following professional services necessary for the development of the project.

Bid Packaging Services, Bidding Services, Construction Phase Services, Closeout Services

SCOPE OF SERVICES

1. Attend preliminary conferences with the city regarding the requirements of the project.
2. Develop documentation of the existing condition for depiction in the project manual.
 - a. piping from tank to cabinet;
 - b. Existing cabinetry;
 - c. Existing appurtenances including but not limited to hosing, kiosks, etc. and;
 - d. Bollards and fencing.
3. Development of sketches and project manual to create support documents for a contract between the airport and a construction contractor.
4. Coordination with grant administrator on required elements of the project manual.
5. In coordination with and at the direction of City Electrician, develop sketches and notes to depict the electrical improvements for a contract between the airport and a construction contractor.
6. Development of a Construction Safety and Phasing Plan (CSPP) for the work associated with a contract between the airport and a construction contractor.
7. Furnish the City a written monthly status report at least seven (7) days prior to the regularly scheduled council meeting until the project is closed. The format for this report is attached to this Agreement as Exhibit 1.
8. The Consultant shall provide the following Bid Package Assembly and Bidding Services:
 - a. Prepare and submit a Construction Safety and Phasing Plan.
 - b. Prepare bid packet/contract documents/advertisement for bids.
 - c. Provide technical advice to assist in answering bidders' questions.
 - d. Incorporate any and all wage rate modifications or supersedes via bid addendum (if applicable).
 - e. Conduct bid opening and prepare minutes.
 - f. Tabulate, analyze, and review bids for completeness and accuracy.
 - g. Verify construction contractor's eligibility through www.SAM.gov. This verification shall be completed at time of solicitation and repeated immediately prior to award.
 - h. Conduct a pre-construction conference and prepare a copy of the report/minutes.
 - i. Coordinate with the City to issue a Notice to Proceed to construction contractor.

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- j. Use locally approved forms for instructions to bidders, general conditions, contract, bid bond, performance bond, and payment bond if applicable.
9. The Consultant shall provide the following Construction Phase Services:
- a. Conduct a meeting with airport users and the contractor to explain the construction project, delineate lines of authority, and review the Construction Phasing and Safety Plan.
 - b. Make periodic visits during the construction period to the site to observe the progress and quality of the work, and to determine, in general, if the work is proceeding in accordance with the Agreement.
 - c. Consult with and advise the City during construction; issue to contractors all instructions requested by the City; and prepare routine change orders if required, at no charge for professional services to the City when the change order is required to correct errors or omissions by the Consultant; provide price analysis for change orders; process change orders approved by City and the Consultant and submit to GrantWorks for approval prior to execution with the construction contractor.
 - d. Review shop and working drawings furnished by contractors for compliance with design concept and with information given in contract documents (contractors will be responsible for dimensions to be confirmed and correlated at the job site).
 - e. Validate all contractors' payment requests and submit to the City within 14 days of receipt.
 - f. Validation of payment requests shall include documentation of the Consultant's on-site observations and review of the contractor's applications for payment, determine the amount owed to the contractor in such amounts; such approvals of payment to constitute a representation to the City, based on such observations and review, that the work has progressed to the point indicated and that the quality of work is in accordance with the plans, specifications and contract documents.
 - g. Ensure that any retainage provision specified in the Construction contract is reflected in payment requests.
 - h. The City may require the Consultant to assist in collection of Final Bills Paid Affidavits from Contractors and/or subcontractors.
 - i. Conduct interim/final inspections.
 - j. Prepare Certificate of Construction Completion
10. The Consultant will assemble from the Contractor and provide the final project documents including schematic(s), shop drawings, submittals, operational manuals, and warranty documents. The information will be provided in digital format, compatible with computer systems owned or readily available to the City.

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SUBCONTRACTS

1. No work under this Agreement shall be subcontracted by the Consultant without prior approval, in writing from the City.
2. The Consultant shall, prior to proceeding with the work, notify the City in writing of the name of any subcontractors proposed for the work, including the extent and character of the work to be done by each.
3. If any time during the progress of the work, the City determines that any subcontractor is incompetent or undesirable, the City will notify the Consultant who shall take reasonable and immediate steps to satisfactorily cure the problem, substitute performance, or cancel such subcontract. Subletting by subcontractors shall be subject to the same regulations. Nothing contained in this Agreement shall create any contractual relation between any subcontractor and the City.
4. The Consultant will include in all contracts and subcontracts in excess of \$150,000 a provision which requires compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). The provisions shall require reporting of violations to the US Department of Treasury, TECQ, and the Regional Office of the Environmental Protection Agency (EPA).
5. The Consultant will include in all contracts and subcontracts in excess of \$250,000 provisions or conditions which will allow for administrative, contractual or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.
6. The Consultant will include in all contracts and subcontracts in excess of \$10,000 provisions addressing termination for cause and for convenience by the City including the manner by which it will be effected and the basis for settlement.
7. The Consultant will include in all contracts and subcontracts provisions requiring compliance with the following, if applicable:
 - a. Prime construction contracts in excess of \$10,000,000, as stated in the Coronavirus State and Local Fiscal Recovery Funds Compliance and Reporting Guidance Section B Project and Expenditure Report, number 8 j 1 on page 21 must be in compliance with the Davis-Bacon Act, as amended (40 U.S.C.3141-3144, 3146-3148) as supplemented by Department of Labor regulations (29 CFR part 5);
 - b. Prime construction contracts in excess of \$2,000, compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR part 3)
 - c. Contracts greater than \$10,000, the inclusion of the Equal Opportunity clause provided under 41 CFR 60-1.4(b) (Executive Order 11246);

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- d. Contracts exceeding \$100,000, compliance with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352);
 - e. For contracts in excess of \$10,000,000 that involve the employment of mechanics or laborers, compliance with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708), including work week requirements and safety conditions for workers, as supplemented by Department of Labor regulations (29 CFR Part 5); and
 - f. For procurement of recovered materials where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000, compliance with 2 CFR 200.322 and section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, which requires procuring only items designated in guidelines of the EPA at 40 CFR part 247 that contain the highest percentage of recovered materials practicable.
 - g. Recipients and contractors will comply with CFR 200.216 which prohibits obligating or expending loan or grant funds to procure, obtain, extend or contract with services or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - h. Recipients and contractors will comply with CFR 200.322 which requires as appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
8. The Consultant will include in all negotiated contracts and subcontracts a provision which indicates that funds will not be awarded under this contract to any party listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
9. The Consultant will include in all negotiated contracts and subcontracts a provision to the effect that the City, the Texas Comptroller of Public Accounts, the Comptroller General of the United

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States, the U.S. Department of Treasury, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions.

10. The Consultant will include in all contracts and subcontracts a requirement that the contractor maintain all relevant project records for five (5) years after the City has made final payment to the contractor and all other pending matters are closed.

STANDARD OF PERFORMANCE AND DEFICIENCIES

1. All services of the Consultant and its independent professional associates, consultants and subcontractors will be performed in a professional, reasonable and prudent manner in accordance with generally accepted professional practice. The Consultant represents that it has the required skills and capacity to perform work and services to be provided under this Agreement.
2. The Consultant represents that services provided under this Agreement shall be performed within the limits prescribed by the City in a manner consistent with that level of care and skill ordinarily exercised by other professional consultants under similar circumstances.
3. Any deficiency in Consultant's work and services performed under this contract shall be subject to the provisions of applicable state and federal law. Any deficiency discovered shall be corrected upon notice from City and at the Consultant's expense if the deficiency is due to Consultant's negligence. The City shall notify the Consultant in writing of any such deficiency and provide an opportunity for mutual investigation and resolution of the problem prior to pursuit of any judicial remedy. In any case, this provision shall in no way limit the judicial remedies available to the City under applicable state or federal law.
4. The Consultant agrees to and shall hold harmless the City, its officers, employees, and agents from all claims and liability of whatsoever kind or character due to or arising solely out of the negligent acts or omissions of the Consultant, its officers, agents, employees, subcontractors, and others acting for or under the direction of the Consultant doing the work herein contracted for or by or in consequence of any negligence in the performance of this Agreement, or by or on account of any omission in the performance of this Agreement.

PART III - PAYMENT SCHEDULE

City shall compensate the Consultant for professional services provided as scoped in Section above. Consultant shall invoice no more than monthly, on a percentage of completed work for each phase as outlined in Consultant's fee schedule.

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Phase	Lump Sum Fee
Bid Packaging	\$14,500.00
Bidding	\$12,800.00
Construction Phase Services	\$12,900.00
Closeout	\$2,400.00
Total	\$42,600.00

PART IV - TERMS AND CONDITIONS

1. USE OF FUNDS

- a. Recipient, SubRecipients, and Contractors understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the “Act”), Treasury’s regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

2. PERIOD OF PERFORMANCE

The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury’s implementing regulations, Recipients may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021 and ends on December 31, 2024.

3. REPORTING

Consultant agrees to provide timely information aiding the City with any reporting obligations established by the Treasury as they relate to this award.

4. ACCESS TO RECORDS

In accordance with 2 CFR 200.337, during the Agreement’s time of performance the grantee, the subgrantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives will have access to any books, documents, papers, and records maintained by the Consultant which are directly pertinent to the Contract for the purpose of making audit, examination, excerpts, and transcriptions.

5. PRE-AWARD COSTS

Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.

6. ADMINISTRATIVE COSTS

Recipients may use funds provided under this award to cover both direct and indirect costs.

7. COST SHARING

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Cost sharing or matching funds are not required to be provided by the Recipient.

8. CONFLICTS OF INTEREST

Recipient, Sub-Recipients, and Contractors understands and agrees it must maintain a conflict-of-interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict-of-interest policy is applicable to each activity funded under this award. Recipients and subrecipients must disclose in writing to the Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

9. COMPLIANCE WITH APPLICABLE RULES AND REGULATIONS.

- a. Recipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
- b. Federal regulations applicable to this award include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine, are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury’s implementing regulation at 31 C.F.R. Part 19.
 - v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
 - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination

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on the basis of race, color, or national origin under programs or activities receiving federal financial assistance; ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability; iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance; iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

10. REMEDIAL ACTIONS

In the event of Recipient’s noncompliance with section 603 of the Act, other applicable laws, Treasury’s implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.

11. HATCH ACT

Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

12. FALSE STATEMENTS

Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

13. PUBLICATIONS

Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury.”

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14. DEBTS OWED THE FEDERAL GOVERNMENT

- a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.
- b. Any debts determined to be owed to the federal government must be paid promptly by Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or Agreement for ARPA Administration Services. The Treasury will take any actions available to it to collect such a debt.

15. DISCLAIMER

- a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
- b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.

16. PROTECTIONS FOR WHISTLEBLOWERS

- a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or

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vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.

c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. INCREASING SEAT BELT USE IN THE UNITED STATES

Pursuant to Executive Order 13043, 62 FR19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

18. REDUCING TEXT MESSAGING WHILE DRIVING

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving.

19. TERMINATION OF AGREEMENT FOR CAUSE

In accordance with 2 CFR 200 APPENDIX II (B), if the Consultant shall fail to fulfill in a timely and proper manner his/her obligations under this Agreement, or if the Consultant shall violate any of the covenants, agreements, or stipulations of this Agreement, the Client shall provide written notice to Consultant reasonably specifying the failure or violation. If Consultant fails to cure such failure or violation within five (5) business days of receiving such notice or, if the failure or violation is incapable of cure within such time frame, to begin to take actions to cure such failure or violation and to diligently pursue them to completion, Client thereupon shall have the right to terminate this Agreement immediately by giving written notice to the Consultant. Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. In such an event, all finished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Consultant under this Agreement shall, at the option of the Client, become its property.

20. TERMINATION OF AGREEMENT FOR CONVENIENCE

Either the Client or the Consultant may terminate this Agreement at any time by providing at least ten (10) days' notice in writing to the other party to this Agreement. If the Agreement is terminated as provided herein, the Consultant will be paid for the time provided and expenses incurred up to the termination date. In such an event, all finished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Consultant under this Agreement shall, at the option of the Client, become its property.

21. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689, 2 CFR part 180)

The Consultant 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

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federally assisted programs under Executive Orders 12549 (1986) and 12689 (1989). 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 Consultant. The Consultant 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.”

22. FEDERAL COMPLIANCE

During the term of this Agreement, the parties shall comply with all Federal laws, regulations, and rules including the following:

- a. CIVIL RIGHTS ACT OF 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- b. Section 504 Rehabilitation Act of 1973, as amended. The Consultant 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.
- c. AGE DISCRIMINATION ACT OF 1975. The Consultant 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.
- d. SECTIONS 106(b), 102(a)(4) and A109 OF THE HOUSING & COMMUNITY DEVELOPMENT ACT OF 1974. i. Under Title VI of the Civil Rights Act of 1964, no person shall on the ground of race, color, religion, national origin 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.
- e. EQUAL OPPORTUNITY CLAUSE. During the performance of this Agreement, the Consultant agrees as follows:
 - i. The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment

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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 Consultant 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.

- ii. The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- iii. The Consultant 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 Consultant's legal duty to furnish information.
- iv. The Consultant 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 Consultant's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- v. The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, "Equal Employment Opportunity," and of the rules, regulations, and relevant orders of the Secretary of Labor.
- vi. The Consultant 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,

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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.

- vii. In the event of the Consultant'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 Consultant 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.
- viii. The Consultant will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (vii) 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 Consultant 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 Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

23. CONTRACTING WITH SMALL AND MINORITY BUSINESS, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.

- a. The Consultant must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
- b. Affirmative steps must include:
 - i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

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- iii. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- iv. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- v. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- vi. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (i) through (v) of this section.

24. PATENT RIGHTS AND INVENTIONS

The Consultant shall comply with the requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract. (2 CFR 200 Appendix II (f) and Rights to Inventions in 37 CFR Part 401).

25. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. (2 CFR 200 Appendix II (B))

26. ENERGY EFFICIENCY

The Consultant shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94A 163, 89 Stat. 871). (2 CFR 200 APPENDIX II (H) and 42 U.S.C. 6201).

27. VERIFICATION NO BOYCOTT ISRAEL

As required by Chapter 2271.002, Texas Government Code, the Consultant hereby verifies that it does not boycott Israel and will not boycott Israel through the term of this Agreement. For purposes of this verification, "boycott Israel", as defined by §808.001(1) of the Texas Government Code, 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

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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.

28. NO FOREIGN TERRORIST ORGANIZATIONS

Pursuant to Chapter 2252.152, Texas Government Code, the Consultant represents and certifies that, at the time of execution of this Agreement neither the Consultant, nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the same

- i. engages in business with Iran, Sudan, or any foreign terrorist organization as described in Chapters 806 or 807 of the Texas Government Code, or Subchapter F of Chapter 2252 of the Texas Government Code, or
- ii. is a company listed by the Texas Comptroller of Public Accounts under Sections 806.051, 807.051, or 2252.153 of the Texas Government Code. The term "foreign terrorist organization" in this paragraph has the meaning assigned to such term in Section 2252.151 of the Texas Government Code

29. COMBATING TRAFFICKING IN PERSONS

Pursuant to Chapter 52.222-50 of the F.A.R. the consultant agrees to comply with all provisions of the Combating Trafficking in Persons Act.

30. TEXAS ETHICS COMMISSION (10 TAC 2252)

A governmental entity or state agency may not enter into a contract described by Subsection (b) with a business entity unless the business entity, in accordance with this section and rules adopted under this section, submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission that includes:

- (1) a list of each interested party for the contract of which the contracting business entity is aware; and
- (2) the signature of the authorized agent of the contracting business entity, acknowledging that the disclosure is made under oath and under penalty of perjury.

PART V - APPENDICES

CONFLICT OF INTEREST

DISCLOSURE OF LOBBYING ACTIVITIES

CERTIFICATION REGARDING LOBBYING

CERTIFICATE OF INTERESTED PARTIES FORM 1295