

PROFESSIONAL SERVICES AGREEMENT

(Grid Resilience Infrastructure Partnerships (GRIP) Grant Management Consultant Services)

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered on _____, by and between the **City of Lake Worth Beach**, a Florida municipal corporation (“City”) and **Qualus, LLC**, a Limited Liability Company, located at 100 Colonial Center Parkway Suite 400, Lake Mary, Florida 32746, authorized to do business in the State of Florida (“Consultant”).

RECITALS

WHEREAS, the City issued a Request for Proposal (No.25-201) for Grant Management Consultant Services to help assist the City with providing comprehensive grant management services for the Department of Energy (“DOE”) Grid Resilience Infrastructure Partnerships (“GRIP”) grant (“RFP”); and

WHEREAS, Consultant has provided the City with a written proposal in response to the RFP to provide the services as described and set out in the RFP (“Consultant’s Proposal”); and

WHEREAS, the City desires to accept Consultant’s Proposal in order for the Consultant to render the services to the City as provided herein; and

WHEREAS, the services sought by the City under this Agreement may be funded, in whole or in part, by a federal grant (“DOE GRIP grant”), which federal grant requires compliance with all applicable federal law, regulations, executive orders, policies, procedures, directives, and special clauses as further illustrated in the federal contract provisions attached hereto as **Exhibit “A”** and incorporated herein by reference; and

WHEREAS, Consultant further warrants that it is experienced and capable of performing the services hereunder in a professional and competent manner; and

WHEREAS, the purpose of this Agreement is to set forth certain terms and conditions for the provision of services by Consultant to the City; and,

WHEREAS, the City finds entering this Agreement with the Consultant serves a valid public purpose.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the sufficiency of which is hereby acknowledged by the parties, the City and Consultant agree as follows:

SECTION 1: INCORPORATION OF RECITALS. The foregoing Recitals are incorporated into this Agreement as true and correct statements.

SECTION 2: CONSULTANT’S SERVICES. The Consultant shall provide Grant Management Consultant Services to the City as more specifically described in the **RFP** and the **Consultant’s Proposal**, which are both incorporated herein by reference, and in accordance with all DOE GRIP grant requirements including specifically those federal contract provisions included in **Exhibit “A”** (Consultant is referred to as “Contractor” in Exhibit “A”).

SECTION 3: INDEPENDENT CONTRACTOR RELATIONSHIP. No relationship of employer or employee is created by this Agreement, it being understood that Consultant will act hereunder as an independent contractor and none of Consultant’s, officers, directors, employees, independent contractors, representatives or agents performing services for Consultant pursuant to this Agreement shall have any claim under this Agreement or otherwise against the City for compensation of any kind under this

Agreement. The relationship between the City and Consultant is that of independent contractors, and neither shall be considered a joint venturer, partner, employee, agent, representative or other relationship of the other for any purpose expressly or by implication.

SECTION 4: TERM, TIME AND TERMINATION.

a. Term. This Agreement is for an initial period of five (5) years with the possibility of renewal dependent on the DOE GRIP grant duration; annual appropriation of the funds by the City's City Commission; and, mutual written agreement by both parties.

b. Time for Completion. Time is of the essence in the performance of this Agreement. Consultant shall at all times carry out its duties and responsibilities as expeditiously as possible and in accordance with the project schedule as set forth in RFP, Consultant's Proposal, or as otherwise agreed between the parties.

c. Force Majeure. Neither party hereto shall be liable for its failure to perform hereunder due to any circumstances beyond its reasonable control, such as acts of God, wars, riots, national emergencies, sabotage, strikes, labor disputes, accidents, and governmental laws, ordinances, rules, or regulations. The Consultant or City may suspend its performance under this Agreement as a result of a force majeure event without being in default of this Agreement, but upon the removal of such force majeure event, the Consultant or City shall resume its performance as soon as is reasonably possible. Upon the Consultant's request, the City shall consider the facts and extent of any failure to perform the services and, if the Consultant's failure to perform was without its or its sub-consultant's fault or negligence, the schedule and/or any other affected provision of this Agreement may be revised accordingly, subject to the City's rights to change, terminate, or stop any or all of the services at any time. No extension shall be made for delay occurring more than seven (7) days before a notice of delay or claim therefore is made in writing to the City. In the case of continuing cause of delay, only one (1) notice of delay or claim is necessary.

d. Termination without cause. Either party may terminate this Agreement at any time with or without cause by giving not less than thirty (30) days written notice of termination.

e. Termination for cause. Either party may terminate this Agreement at any time in the event that the other party engages in any act or makes any omission constituting a material breach of any term or condition of this Agreement. The party electing to terminate this Agreement for breach shall provide the other party with written notice specifying the nature of the breach. The party receiving the notice shall then have five (5) business days from the date of the notice in which to remedy the breach; however, if such breach is capable of cure but cannot reasonably be cured within five (5) business days, such breach shall not constitute grounds for termination, so long as the breaching party provides the non-breaching party with written notice within three (3) business days of receipt of the written notice of breach advising the non-breaching party that the breach cannot be reasonably cured within five (5) business days and specifying the reasons therefore and, within the five (5) business day period, commences and thereafter is in good faith proceeding diligently and continuously to remedy such breach, but in no event shall any additional time to cure granted hereunder exceed thirty (30) calendar days in the aggregate after receipt of the original written notice of breach. If the corrective action is not timely taken as stated herein, then this Agreement shall terminate without further notice or demand.

f. Early Termination. If this Agreement is terminated before the expiration of the term or completion of all services by either party, the Consultant shall:

1. Stop services on the date and to the extent specified including without limitation services of any sub-consultants.

2. Transfer all work in progress, completed work, and other materials related to the terminated services to the City in the format acceptable to City.
3. Continue and complete all parts of the services that have not been terminated.

g. Effect of Termination. Termination of this Agreement shall not affect any rights, obligations, and liabilities of the parties arising out of services provided prior to the date of termination. Notwithstanding the foregoing, the parties acknowledge and agree that the City is a municipal corporation existing under the laws of the State of Florida, and as such, this Agreement (and all Exhibits hereto) are subject to budgeting and appropriation by the City of funds sufficient to pay the costs associated herewith in any fiscal year of the City. Notwithstanding anything in this Agreement to the contrary, in the event that no funds are appropriated or budgeted by the City's governing board in any fiscal year to pay the costs associated with the City's obligations under this Agreement, or in the event the funds budgeted or appropriated are, or are estimated by the City to be, insufficient to pay the costs associated with the City's obligations hereunder in any fiscal period, then the City will notify Consultant of such occurrence and either the City or Consultant may terminate this Agreement by notifying the other in writing, which notice shall specify a date of termination no earlier than twenty-four (24) hours after giving of such notice. Termination in accordance with the preceding sentence shall be without penalty or expense to the City of any kind whatsoever; however, City shall pay Consultant for all services performed under this Agreement through the date of termination.

SECTION 5: COMPENSATION.

a. Payments. The City agrees to compensate Consultant in accordance with the price proposal set forth in the Consultant's Proposal. The City shall not reimburse Consultant for any additional costs incurred as a direct or indirect result of Consultant providing services to the City under this Agreement and not set forth in Consultant's Proposal. For additional hourly rate services and additional reimbursable expenses, the Consultant must receive prior written approval from the City before providing any additional hourly rate services or incurring any additional reimbursable expenses.

b. Invoices. Consultant shall render invoices to the City for services that have been rendered in conformity with this Agreement, the RFP, and the Consultant's Proposal. The monthly invoices shall set forth the Total Annual Cost (at monthly increments) as set forth in Consultant's Proposal (inclusive of reimbursable costs associated with the Total Annual Cost). The monthly invoices shall also include any additional hourly rate services and related reimbursable expenses, which have received the prior written approval of the City. The invoices shall specify the services performed and the time spent on such work. All reimbursable expenses shall also be clearly identified on the invoice with supporting documentation. Invoices will be reviewed for approval and if an invoice is not approved, the City will notify Consultant within ten (10) days of receipt of the invoice of the deficiencies in the invoice. Once the deficiencies are corrected and a new or amended invoice submitted, the City shall make payment within twenty (20) days. Invoices will normally be paid within thirty (30) days following the City's receipt of Consultant's invoice.

SECTION 6: INDEMNIFICATION. Consultant, its officers, employees and agents shall indemnify and hold harmless the City, including its officers and employees from liabilities, damages, losses, and costs, including but not limited to, reasonable attorney's fees (at the trial and appellate levels), to the extent caused by the negligence, of Consultant, its officers, directors, employees, representatives and agents employed or utilized by Consultant in the performance of the services under this Agreement. The City agrees to be responsible for its own negligence. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the City or Consultant, nor shall this Agreement be construed as a waiver of sovereign immunity for the City beyond the waiver provided in section 768.28, Florida Statutes.

SECTION 7: COMPLIANCE AND DISQUALIFICATION. Each of the parties agrees to perform its responsibilities under this Agreement in conformance with all laws, regulations and administrative instructions that relate to the parties' performance of this Agreement.

SECTION 8: PERSONNEL. Consultant represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City. All of the services required hereunder shall be performed by Consultant or under its supervision, and all personnel engaged in performing the services shall be fully qualified and authorized or permitted under federal, state and local law to perform such services.

SECTION 9: SUB-CONSULTANTS. The City reserves the right to accept the use of a sub-consultant or to reject the selection of a particular sub-consultant and approve all qualifications of any sub-consultant in order to make a determination as to the capability of the sub-consultant to perform properly under this Agreement. All sub-consultants providing professional services to Consultant under this Agreement will also be required to provide their own insurance coverage identical to those contained in this Agreement. In the event that a sub-consultant does not have insurance or does not meet the insurance limits as stated in this Agreement, Consultant shall indemnify and hold harmless the City for any claim in excess of the sub-consultant's insurance coverage, arising out of the negligent acts, errors or omissions of the sub-consultant.

SECTION 10: FEDERAL AND STATE TAX. The City is exempt from payment of Florida State Sales and Use Tax. Consultant is not authorized to use the City's Tax Exemption Number.

SECTION 11: INSURANCE. Prior to commencing any services, Consultant shall provide proof of insurance coverage as required hereunder. Such insurance policy(s) shall be issued by the United States Treasury or insurance carriers approved and authorized to do business in the State of Florida, and who must have a rating of no less than "excellent" by A.M. Best or as mutually agreed upon by the City and Consultant. All such insurance policies may not be modified or terminated without the express written authorization of the City.

<u>Type of Coverage</u>	<u>Amount of Coverage</u>
Professional liability/ Errors and Omissions	\$1,000,000 per occurrence
Commercial general liability (Products/completed operations Contractual, insurance broad form property, Independent Consultant, personal injury)	\$1,000,000 per occurrence \$2,000,000 annual aggregate
Automobile (owned, non-owned, & hired)	\$ 1,000,000 single limits
Worker's Compensation	\$ statutory limits

The commercial general liability and automobile liability policies will name the City as an additional insured on a primary, non-contributing basis, and proof of all insurance coverage shall be furnished to the City by way of an endorsement to same or certificate of insurance prior to the provision of services. The certificates shall clearly indicate that Consultant has obtained insurance of the type, amount, and classification as required for strict compliance with this section. Failure to comply with the foregoing requirements shall not relieve Consultant of its liability and obligations under this Agreement.

SECTION 12: SUCCESSORS AND ASSIGNS. The City and Consultant each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the

partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as agreed in writing by all parties, this Agreement is not assignable.

SECTION 13: DISPUTE RESOLUTION, LAW, VENUE AND REMEDIES. All claims arising out of this Agreement or its breach shall be submitted first to mediation. The parties shall share the mediator's fee equally. The mediation shall be held in Palm Beach County. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

SECTION 14: WAIVER OF JURY TRIAL. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.

SECTION 15: ACCESS AND AUDITS. Consultant shall maintain adequate records to justify all payments made by the City under this Agreement for at least three (3) years after completion of this Agreement and longer if required by applicable federal or state law. The City shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at Consultant's place of business. In no circumstances will Consultant be required to disclose any confidential or proprietary information regarding its products and service costs.

SECTION 16: NONDISCRIMINATION. Consultant warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, or sexual orientation.

SECTION 17: AUTHORITY TO PRACTICE. Consultant hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business and provide the services required under this Agreement, and that it will at all times conduct its business and provide the services under this Agreement in a reputable manner. Proof of such licenses and approvals shall be submitted to the City upon request.

SECTION 18: SEVERABILITY. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

SECTION 19: PUBLIC ENTITY CRIMES. Consultant acknowledges and agrees that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a consultant, supplier or sub-contractor under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. The Consultant will advise the City immediately if it becomes aware of any violation of this statute.

SECTION 20: NOTICE. All notices required in this Agreement shall be sent by hand-delivery, certified mail (RRR), or by nationally recognized overnight courier, and if sent to the City shall be sent to:

City of Lake Worth Beach
Attn: City Manager/Financial Department/Procurement Division
7 N. Dixie Highway
Lake Worth Beach, FL 33460

and if sent to Consultant, shall be sent to:

Qualus, LLC
Attn: Petter Fiskrud, Senior Vice President, Operations
100 Colonial Center Pkwy
Suite 400
Lake Mary, FL 32746

The foregoing names and addresses may be changed if such change is provided in writing to the other party. Notice shall be deemed given upon receipt.

SECTION 21: ENTIRETY OF AGREEMENT. The City and Consultant agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

SECTION 22: WAIVER. Failure of a party to enforce or exercise any of its right(s) under this Agreement shall not be deemed a waiver of that parties' right to enforce or exercise said right(s) at any time thereafter.

SECTION 23: PREPARATION AND NON-EXCLUSIVE. This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation. This is a non-exclusive Agreement and the City reserves the right to contract with individuals or firms to provide the same or similar services.

SECTION 24: MATERIALITY. All provisions of the Agreement shall be deemed material. In the event Consultant fails to comply with any of the provisions contained in this Agreement or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Agreement and City may at its option provide notice to Consultant to terminate for cause.

SECTION 25: LEGAL EFFECT. This Agreement shall not become binding and effective until approved by the City. The Effective Date is the date this Agreement is executed by the City.

SECTION 26: NOTICE OF COMPLAINTS, SUITS AND REGULATORY VIOLATIONS. Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Agreement. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

SECTION 27: SURVIVABILITY. Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.

SECTION 28: COUNTERPARTS. This Agreement may be executed in one or more counterparts, each

of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement. This Agreement may be signed digitally and each digitally signed counterpart shall be considered as an original of the signing party.

SECTION 29: PALM BEACH COUNTY IG. In accordance with Palm Beach County ordinance number 2011-009, Consultant acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. Consultant has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.

SECTION 30: AGREEMENT DOCUMENTS AND CONTROLLING PROVISIONS. This Agreement consists of this Agreement, the RFP and the Consultant's Proposal (which are incorporated herein by reference), and **Exhibit "A"**. The parties agree to be bound by all the terms and conditions set forth in the aforementioned documents. To the extent that there exists a conflict between the terms and conditions of this Agreement and the remaining aforementioned documents, the terms and conditions of **Exhibit "A"** shall prevail with this Agreement next taking precedence. The RFP shall take precedence over the Consultant's Proposal. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

SECTION 31: OWNERSHIP OF DELIVERABLES. The deliverables, work product, specifications, calculations, supporting documents, or other work products which are listed as deliverables by the City in the RFP or in the Consultant's Proposal shall become the property of the City upon payment for same. Consultant may keep copies or samples thereof and shall have the right to use the same for its own purposes. The City accepts sole responsibility for the reuse of any such deliverables in a manner other than as initially intended or for any use of incomplete documents.

SECTION 32: REPRESENTATIONS AND BINDING AUTHORITY. By signing this Agreement, on behalf of Consultant, the undersigned hereby represents to the City that he or she has the authority and full legal power to execute this Agreement and any and all documents necessary to effectuate and implement the terms of this Agreement on behalf of Consultant for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Agreement.

SECTION 33: PUBLIC RECORDS. Consultant shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (a) Keep and maintain public records required by the City to perform the services.
- (b) Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if Consultant does not transfer the records to the City.
- (d) Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of Consultant or keep and maintain public records required by the City to perform the service. If Consultant transfers all public records to the City upon completion of the Agreement, Consultant shall destroy any duplicate public records that are exempt or confidential or exempt from public records disclosure requirements. If Consultant keeps and maintains public records upon completion of the Agreement, Consultant shall meet all applicable requirements for retaining public records. All records stored

electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT THE CITY OF LAKE WORTH BEACH, ATTN: CITY CLERK, AT (561) 586-1662, CITY CLERK@LAKEWORTHBEACHFL.GOV, 7 N. DIXIE HIGHWAY, LAKE WORTH BEACH, FL 33460.

SECTION 34: CONFIDENTIAL AND PROPRIETARY INFORMATION. Each party (the "Receiving Party") will keep confidential and not disclose to any other person or entity or use (except as expressly and unambiguously authorized by this Agreement) information, technology or software ("Confidential Information") obtained from the other party (the "Disclosing Party"); provided, however, that the Receiving Party will not be prohibited from disclosing or using information (i) that at the time of disclosure is publicly available or becomes publicly available through no act or omission of the Receiving Party, (ii) that is or has been disclosed to the Receiving Party by a third party who is not under, and to whom the Receiving Party does not owe, an obligation of confidentiality with respect thereto, (iii) that is or has been independently acquired or developed by the Receiving Party without access to the Disclosing Party's Confidential Information, (iv) that is already in the Receiving Party's possession at the time of disclosure, or (v) that is required to be released by law.

SECTION 35: EXPORT ADMINISTRATION. Each party agrees to comply with all export laws and regulations of the United States ("Export Laws") to assure that no software deliverable, item, service, technical data or any direct product thereof arising out of or related to this Agreement is exported directly or indirectly (as a physical export or a deemed export) in violation of Export Laws.

SECTION 36: SCRUTINIZED COMPANIES.

(a) Consultant certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in a boycott of Israel. Pursuant to Section 287.135, Florida Statutes, the City may immediately terminate this Agreement at its sole option if Consultant or any of its subcontractors are found to have submitted a false certification; or if Consultant or any of its subconsultants, are placed on the Scrutinized Companies that Boycott Israel List or are engaged in a boycott of Israel during the term of this Agreement.

(b) If this Agreement is for one million dollars or more, Consultant certifies that it and its subconsultants are also not on the Scrutinized Companies with Activities in Sudan List, Scrutinized Companies with Activities in Iran Terrorism Sectors List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the City may immediately terminate this Agreement at its sole option if Consultant, or any of its subconsultants are found to have submitted a false certification; or if Consultant or any of its subconsultants are placed on the Scrutinized Companies with Activities in Sudan List, or has been placed on a list created pursuant to Section 215.473, Florida Statutes, relating to scrutinized active business operations in Iran, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

SECTION 37: E-VERIFY Pursuant to Section 448.095(5) Florida Statutes, the Consultant shall:

(a) Register with and use the E-Verify system to verify the work authorization status of all newly

hired employees and require all subcontractors (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;

(b) Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, contract with, Agreement with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(k), Florida Statute;

(c) Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the City upon request;

(d) Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;

(e) Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and

(f) Be aware that if the City terminates this Agreement under Section 448.095(5)(c), Florida Statutes, the Consultant may not be awarded a contract for at least 1 year after the date on which this Agreement is terminated and will be liable for any additional costs incurred by the City as a result of the termination of this Agreement.

SECTION 38: SECTION 787.06 COMPLIANCE: The Consultant, by signing this Agreement as set forth below, attests that the Consultant does not use coercion for labor or services as defined in section 787.06, Florida Statutes.

SECTION 39: LIMITATION OF LIABILITY.

(a) Notwithstanding any term or provision to the contrary herein, in no event will either party be liable to the other for any special, incidental, punitive, indirect, exemplary, or consequential damages, including, but not limited to, lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, corruption of data, loss of good will, or interruption or loss of use of service, materials or equipment, even if advised of the possibility of such damages, whether arising under a theory of contract, tort (including negligence), strict liability or otherwise.

(b) To the fullest extent permitted by law, the maximum total liability of the Consultant for any and all claims, losses, damages, or expenses arising out of or in connection with this Agreement shall not exceed the greater of: (a) the total amount of compensation to be paid to Consultant under this Agreement, or (b) insurance proceeds recovered under the insurance policies required by this Agreement. The foregoing limitation of liability shall apply to any and all claims, whether based on contract, tort (including negligence), strict liability, or any other legal theory.

REMAINDER OF PAGE IS INTENTIONALLY LEFT BLANK
SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have made and executed this Professional Services Agreement Grid Resilience Infrastructure Partnerships (GRIP) Grant Management Consultant Services as of the day and year set forth above.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Betty Resch, Mayor

ATTEST:

By: _____
Melissa Anne Coyne, MMC, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL
SUFFICIENCY

By: _____
Glen J. Torcivia, City Attorney

By: _____
Yannick Ngendahayo, Financial Services Director

CONSULTANT: Qualus, LLC

By: Petter Fiskerud

[Corporate Seal]

Print Name: Petter Fiskerud

Title: SVP, Operations

STATE OF Florida)
COUNTY OF Seminole)

THE FOREGOING instrument was acknowledged before me by means of physical presence or online notarization on this 13th day of March 2026, by Petter Fiskerud, as the SVP, Operations [title] of **Qualus, LLC**, a limited liability company authorized to do business in the State of Florida, who is personally known to me or who has produced _____ as identification, and who did take an oath under penalty of perjury that the facts stated with regard to section 787.06, Florida Statutes, are true and correct, and that he or she is duly authorized to execute the foregoing instrument and bind **Qualus, LLC**, to the same.

Olivia Pritchett
Notary Public Signature

Notary Seal:

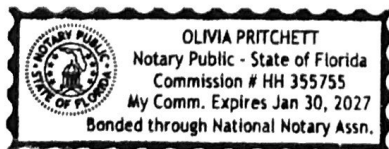


EXHIBIT "A"

Federal Contract Provisions with GRIP Terms

The words "contract" and "agreement" are used interchangeably throughout this document.

The Contractor hereby agrees that the following terms, at a minimum, will be incorporated into any subsequent contract resulting from this solicitation, which is funded in whole or in part with any federal or other funding where the following terms are applicable:

The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants must be US Citizens.

Equal Employment Opportunity. During the performance of the resulting contract, the Contractor agrees as follows:

(1) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(2) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(3) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(4) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(5) In the event of the Contractor's noncompliance with the clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(6) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

Compliance with the Contract Work Hours and Safety Standards Act.

- (1) Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. DOJ, the State of Florida, or the CITY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

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.

Clean Air Act

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The Contractor agrees to report each violation to the CITY, and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by DOJ.

Federal Water Pollution Control Act

- (1) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The Contractor agrees to report each violation to the CITY and understands and agrees that the CITY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by DOJ.

Suspension and Debarment.

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification, as laid out in Exhibit I, is a material representation of fact relied upon by the CITY. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida or the CITY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Byrd Anti-Lobbying Amendment.

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification as laid out in Exhibit J. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Procurement of Recovered materials.

(i) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

- Competitively within a timeframe providing for compliance with the contract performance schedule;
- Meeting contract performance requirements; or
- At a reasonable price.

(ii) Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

(iii) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

Access to Records.

(1) The Contractor agrees to provide the State of Florida, the CITY, the DOJ Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The Contractor agrees to provide the Federal Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

(4) In compliance with the Disaster Recovery Act of 2018, the CITY and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the DOJ Administrator or the Comptroller General of the United States.

DHS Seal, Logo, and Flags.

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific DOJ pre-approval.

Compliance with Federal Law, Regulations, and Executive Orders.

By signing this agreement, the Contractor acknowledges that federal financial assistance may be used to fund all or a portion of the contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, federal policies, procedures, and directives.

No Obligation by Federal Government.

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.

Program Fraud and False or Fraudulent Statements or Related Acts. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

Domestic preferences for procurements.

(1) As appropriate and to the extent consistent with law, the Contractor should purchase, acquire, 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).

(2) For purposes of this section:

(a) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(b) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Prohibition on certain telecommunications and video surveillance services or equipment.

(1) The Contractor is prohibited from obligating or expending loan or grant funds to:

(a) Procure or obtain;

(b) Extend or renew a contract to procure or obtain; or

(c) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses 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).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(2) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), the CITY shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

Compliance with the Davis-Bacon Act.

a. All transactions regarding this contract shall be done in compliance with t Subchapter IV of Chapter 31 of Title 40, United States Code and its implementing regulations in 29 C.F.R. pts. 1, 3, and 5. The contractor shall comply with Subchapter IV of Chapter 31 of Title 40, United States Code and its implementing regulations in 29 C.F.R. pts. 1, 3, and 5..

b. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

- c. Additionally, contractors are required to pay wages not less than once a week.
- d. Current Davis Bacon wage determination for Heavy Construction shall be attached to each Work Order if Federal Funds are utilized.
- e. In accordance with 29 C.R.F. Part 5.5, Contractor shall include the following provisions in full in all subcontracts:

(a) Required contract clauses. The Agency head will cause or require the contracting officer to require the contracting officer to insert in full, or (for contracts covered by the Federal Acquisition Regulation (48 CFR chapter 1)) by reference, in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the laws referenced by § 5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, Provided, That such modifications are first approved by the Department of Labor):

(1) Minimum wages-

(i) Wage rates and fringe benefits. All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of this section, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(v) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph (a)(4) of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (a)(1)(iii) of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii) Frequently recurring classifications.

(A) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph (a)(1)(iii) of this section, provided that:

- (1) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;
- (2) The classification is used in the area by the construction industry; and
- (3) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(B) The Administrator will establish wage rates for such classifications in accordance with paragraph (a)(1)(iii)(A)(3) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

(iii) Conformance.

(A) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination, and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is used in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(C) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(E) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under paragraphs (a)(1)(iii)(C) and (D) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph (a)(1)(iii)(C) or (D) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iv) Fringe benefits not expressed as an hourly rate. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(v) Unfunded plans. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(vi) Interest. In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

(2) Withholding —

(i) Withholding requirements. The [write in name of Federal agency or the recipient of Federal assistance] may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in paragraph (a) of this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work (or otherwise working in construction or development of the project under a development statute) all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph (a)(3)(iv) of this section, the [Agency] may on its own initiative and after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(ii) Priority to withheld funds. The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(i) of this section, or both, over claims to those funds by:

(A) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(B) A contracting agency for its reprocurement costs;

(C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(D) A contractor's assignee(s);

(E) A contractor's successor(s); or

(F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

(3) Records and certified payrolls —

(i) Basic record requirements —

(A) Length of record retention. All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(B) Information required. Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash

equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(C) Additional records relating to fringe benefits. Whenever the Secretary of Labor has found under paragraph (a)(1)(v) of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(D) Additional records relating to apprenticeship. Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

(ii) Certified payroll requirements —

(A) Frequency and method of submission. The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the [write in name of appropriate Federal agency] if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the certified payrolls to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to the [write in name of agency]. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(B) Information required. The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph (a)(3)(i)(B) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the sponsoring government agency (or the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records).

(C) Statement of Compliance. Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

- (1) That the certified payroll for the payroll period contains the information required to be provided under paragraph (a)(3)(ii) of this section, the appropriate

information and basic records are being maintained under paragraph (a)(3)(i) of this section, and such information and records are correct and complete;

(2) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(D) Use of Optional Form WH-347. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (a)(3)(ii)(C) of this section.

(E) Signature. The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(F) Falsification. The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.

(G) Length of certified payroll retention. The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

(iii) Contracts, subcontracts, and related documents. The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

(iv) Required disclosures and access —

(A) Required record disclosures and access to workers. The contractor or subcontractor must make the records required under paragraphs (a)(3)(i) through (iii) of this section, and any other documents that the [write the name of the agency] or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the [write the name of the agency] or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(B) Sanctions for non-compliance with records and worker access requirements. If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required

records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(C) Required information disclosures. Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the [write in name of appropriate Federal agency] if the agency is a party to the contract, or to the Wage and Hour Division of the Department of Labor. If the Federal agency is not such a party to the contract, the contractor, subcontractor, or both, must, upon request, provide the full Social Security number and last known address, telephone number, and email address of each covered worker to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to the [write in name of agency], the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

(4) Apprentices and equal employment opportunity —

(i) Apprentices —

(A) Rate of pay. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(B) Fringe benefits. Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(C) Apprenticeship ratio. The allowable ratio of apprentices to journeymen on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph (a)(4)(i)(D) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph (a)(4)(i)(A) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(D) Reciprocity of ratios and wage rates. Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses contained in paragraphs (a)(1) through (11) of this section, along with the applicable wage determination(s) and such other clauses or contract modifications as the [write in the name of the Federal agency] may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or § 5.12(a).

(iii) The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.

(11) Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

(i) Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

(ii) Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

(iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or 29 CFR part 1 or 3; or

(iv) Informing any other person about their rights under the DBA, Related Acts, this part, or 29 CFR part 1 or 3.

Intellectual property provisions and contact information

The applicable intellectual property provisions may be provided as an attachment. A list of intellectual property provisions may be found at <http://energy.gov/gc/standard-intellectual-property-ip-provisions-financial-assistance-awards>.

Supplies

Contractor agrees to comply with the conditions set forth in 2 CFR Part 200.314 for requirements pertaining to supplies acquired under a Federal award. Contractor further agrees to comply with 2 CFR Part 200.453 pertaining to materials and supply costs, including costs of computing devices.

Intangible Property

Contractor agrees to comply with 2 C.F.R Parts 200.59, 200.315, and 910.362 regarding title to intangible property, such as trademarks, copyrights, patents, and patent applications.

Performance of Work

All work under this contract shall be performed in the United States.

Lobbying Restrictions

Contractor shall not expend, directly or indirectly, any funds obligated under this contract to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. § 1913.

Export Controls

The United States government regulates the transfer of information, commodities, technology, and software considered to be strategically important to the U.S. to protect national security, foreign policy, and economic interests without imposing undue regulatory burdens on legitimate international trade. There is a network of Federal agencies and regulations that govern exports that are collectively referred to as “Export Controls.” The Contractor is responsible for ensuring compliance with all applicable United States Export Control laws and regulations to any work performed under this contract.

Contractor must immediately report to DOE any export control investigations, charges, indictments, convictions, and violations upon occurrence, and for convictions/violations, provide the corrective action(s) to prevent future convictions/violations.

Build America, Buy America (“BABA”)

To the greatest extent practicable, all equipment and products purchased with funds made available in connection with this contract should be American-made.

Contractor must comply with Buy America Requirement.

1. Definitions

- a. “Buy America Preference, Buy America Requirement, or domestic content procurement preference” means a requirement that no amount of funds made available through a program for federal financial assistance may be obligated for an infrastructure project unless—
 - i. all iron and steel used in the project are produced in the United States;
 - ii. the manufactured products used in the project are produced in the United States; or
 - iii. the construction materials used in the project are produced in the United States.
- b. The Buy America Requirement does not apply to non-public infrastructure. For guidance, infrastructure should be considered “public” if it is: (1) publicly owned or (2) privately owned but utilized primarily for a public purpose. Infrastructure should be considered to be “utilized primarily for a public purpose” if it is privately operated on behalf of the public or is a place of public accommodation.
- c. Other relevant definitions can be found in 2 C.F.R. 184.

2. Buy America Requirement for Infrastructure Projects (Buy America Requirement)

None of the funds provided under this contract may be used for a project for infrastructure unless:

- a. All iron and steel used in the project is produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- b. All manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the costs of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation. See 2 C.F.R. 184.5 for determining the cost of components for manufactured products; and
- c. All construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. See C.F.R. 184.6 for construction material standards.

The Buy America Requirement only applies to those articles, materials, and supplies that are consumed in, incorporated into, or permanently affixed to the infrastructure in the project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought into the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America Requirement apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

The Buy America Requirement only applies to an article, material, or supply classified into one of the following categories based on its status at the time it is brought to the work site for incorporation into an infrastructure project:

- a. Iron or steel products;
- b. Manufactured products; or
- c. Construction materials.

The Buy America Requirement only applies to the iron or steel products, manufactured products, and construction materials used for the construction, alteration, maintenance, or repair of public infrastructure in the United States when those items are consumed in, incorporated into, or permanently affixed to the infrastructure. An article, material, or supply incorporated into an infrastructure project should not be considered to fall into multiple categories, but rather must meet the Buy America Preference Requirement for only the single category in which it is classified.

All iron and steel, manufactured products, and construction materials used in the infrastructure project must be produced in the United States.

Section 70917(c) of the BABA states that “construction materials” do not include cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives. Section 70917(c) materials are excluded from Construction materials. Asphalt concrete pavement mixes are typically composed of asphalt cement (a binding agent) and aggregates such as stone, sand, and gravel. Accordingly, asphalt is also excluded from the definition of Construction materials. Section 70917(c) materials, on their own, are not manufactured products, and should not be considered manufactured products when they are used at or combined proximate to the work site—such as is the case with wet concrete or hot mix asphalt brought to the work site for incorporation. However, when certain Section 70917(c) materials (such as stone, sand, and gravel) are used to produce a manufactured product, such as is precast concrete processed into a specific shape or form, and is in such state when brought to the work site, then that product is subject to the BABA requirements. Further clarification is provided in 2 C.F.R. 184 on the circumstances under which a determination is made that Section 70917(c) materials should be treated as components of a manufactured product. That determination is based on consideration of: (i) the revised definition of the “manufactured products” at 2 C.F.R. 184.3; (ii) a new definition of “section 70917(c) materials” at 2 C.F.R. 184.3; (iii) new instructions at 2 C.F.R. 184.4(e) on how and when to categorize articles, materials, and supplies; and (iv) new instructions at 2 C.F.R. 184.4(f) on how to apply the Buy America preference by category.

3. Certification of compliance. Contractor must certify or provide equivalent documentation for proof of compliance that a good faith effort was made to solicit bids for domestic products used in the infrastructure project under this contract. Contractor must also maintain certifications or equivalent documentation for proof of compliance that those articles, materials, and supplies that are consumed in, incorporated into, affixed to, or otherwise used in the infrastructure project, not covered by a waiver or exemption provided in 2 C.F.R. 184.8, are produced in the United

States. The certification or proof of compliance must be provided by the suppliers or manufacturers of the iron, steel, manufactured products and construction materials to the CITY.

Telecommunications and Video Surveillance Services and Equipment

In accordance with 2 C.F.R. 200.2016, Contractor is prohibited from obligating or expending project funds (Federal and non-Federal funds) to:

1. Procure or obtain;
2. Extend or renew a contract to procure or obtain;
3. Exercise an option to procure; or
4. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses 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).
 - a. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - b. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence of the Directo of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

For additional information, see Public Law 115-232.

Foreign Government-Sponsored Talent Recruitment Programs

Contractor is prohibited from participating in, or permitting its subcontractors to participate in, a Foreign Government-Sponsored Talent Recruitment Program of a Foreign Country of Risk.

1. A Foreign Government-Sponsored Talent Recruitment Program is an effort directly or indirectly organized, managed, or funded by a foreign government, or a foreign government instrumentality or entity, to recruit science and technology professionals or students (regardless of citizenship or national origin, or whether having a full-time or part-time position). Some foreign government-sponsored talent recruitment programs operate with the intent to import or otherwise acquire from abroad, sometime through illicit means, proprietary technology or software, unpublished data and methods, and intellectual property to further the military modernization goals and/or economic goals of a foreign government. Many, but not all, programs aim to incentivize the targeted individual to relocate physically to the foreign state for the above purpose. Some programs allow for or encourage continued employment at United States research facilities or receipt of federal research funds while concurrently working at and/or receiving compensation from a foreign institution, and some direct participants not to disclose their participation to U.S. entities. Compensation could take any forms including cash, research funding, complimentary foreign travel, honorific titles, career advancement opportunities, promised future compensation, or other types of remuneration or consideration, including in-kind compensation.
2. A Foreign County of Risk is a DOE designated country, including Iran, North Korea, Russia, and China. Such designations are subject to change.

Transparency of Foreign Connections

Contractor must notify the DOE within fifteen (15) business days of learning of the following circumstances:

1. Any current or pending subsidiary, foreign business entity, or offshore entity that is based in or funded by any foreign country of risk or foreign entity based in a country of risk;
2. Any current or pending contractual or financial obligation or other agreement specific to a business arrangement, or joint venture-like arrangement with an entity owned by a country or risk or foreign entity based in a country of risk;

3. Any current or pending change in ownership structure of the Recipient or subrecipient that increases foreign ownership related to a country of risk. Each notification shall be accompanied by a complete and up-to-date capitalization table showing all equity interests held including limited liability company (LLC) and partnership interests, as well as derivatives securities. Include both the number of shares issued to each equity holder, as well as the percentage of that series and of all equity on fully diluted basis. For each equity holder, provide the place of incorporation and the principal place of business, as applicable. If the equity holder is a natural person, identify the citizenship(s);
4. Any current or pending venture capital or institutional investment by an entity that has a general partner or individual holding a leadership role in such entity who has a foreign affiliation with any foreign country of risk;
5. Any current or pending technology licensing or intellectual property sales to a foreign country of risk; and
6. Any changes to the Contractor's board of directors, including additions to the number of directors, the identity of new directors, as well as each new director's citizenship, shareholder affiliation (if applicable); each notification shall include a complete up-to-date list of all directors (and board observers), including their full name, citizenship and shareholder affiliation, date of appointment, duration of term, as well as a description of observer rights as applicable.
7. Any proposed changes to the equipment used on the project that would result in:
 - a. Equipment originally made or manufactured in a foreign country of risk (including relabeled or rebranded equipment).
 - b. Coded equipment where the source code is written in a foreign country of risk.
 - c. Equipment from a foreign country of risk that will be connected to the internet or other remote communication system.
 - d. Any companies from a foreign country of risk that will have physical or remote access to any part of the equipment used on the project after delivery.

Duplicative Funding

Contractor must notify the CITY if Contractor has or receives any other award of federal funds for activities that potentially overlap with the activities funded under the contract.

Construction Signage

Contractor is encouraged to display DOE Investing in America signage during and after construction. Guidance can be found at: (<https://www.energy.gov/design>).

Reporting, Tracking and Segregation of Incurred Costs

Contractor shall keep separate records for funds in connection with this contract and must ensure those records comply with the requirements of all applicable Federal, State, and local laws, regulations, DOE policy and guidance, and terms contained herein.

Interim Conflict of Interest Policy

Contractor shall comply with the DOE interim Conflict of Interest Policy for Financial Assistance ("COI Policy"), as applicable.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY
MATTERS - LOWER-TIER COVERED TRANSACTIONS**

This document is a covered transaction for purposes of the debarment and suspension regulations implementing Executive Order 12549, Debarment and Suspension (1986) and Executive Order 12689, Debarment and Suspension (1989) at 2 C.F.R. Part 3000 (Non- procurement Debarment and Suspension). As such, Contractor is required to confirm that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

INSTRUCTIONS FOR CERTIFICATION

- 1) By signing this Certification, the Contractor, also sometimes referred to herein as a prospective primary participant, is providing the certification set out below.
- 2) The inability of a Contractor to provide the certification required below will not necessarily result in denial of participation in the covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the CITY's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- 3) The certification in this clause is a material representation of fact upon which reliance was placed when the CITY determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the CITY, the CITY may terminate this transaction for cause or default.
- 4) The prospective primary participant shall provide immediate written notice to the CITY if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- 5) The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal and voluntarily excluded, as used in this certification, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549.
- 6) The prospective primary participant agrees by signing the Addendum that it shall not knowingly enter into any lower tier covered transactions with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction. If it is later determined that the prospective primary participant knowingly entered into such a transaction, in addition to other remedies available to the CITY, the CITY may terminate this transaction for cause or default.
- 7) The prospective primary participant further agrees by signing this Addendum that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," as available through the United States Department of Homeland Security, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- 8) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
- 9) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Petter Fiskerud

Signature of Contractor's Authorized Official

Petter Fiskerud SVP, Operations

Name and Title of Contractor's Authorized Official

3/13/2026

Date

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor Qualus, LLC certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Petter Fiskerud

Signature of Contractor's Authorized Official

Petter Fiskerud SVP, Operations

Name and Title of Contractor's Authorized Official

3/13/2026

Date