

THE CITY OF POMONA

PUBLIC WORKS DEPARTMENT

February 4, 2025

Cody Howing, Director of Engineering
RKA Consulting Group
398 Lemon Creek Drive, Suite E
Walnut, California 91789

ENGAGEMENT LETTER FOR CONSULTANT SERVICES

"Street Improvements and Walking Trail/Steps Rehabilitation," City Project No. 428-71078, RFP No. 2024-67 [HUD Grant No. B-22-CP-CA-0067]

The purpose of this ENGAGEMENT LETTER is for the City of Pomona (the "City") to engage RKA Consulting Group (the "Consultant") to provide As-Needed Professional Civil Engineering, Construction Management, Inspection and Sampling Services pursuant to terms and conditions of the Master Retainer Agreement approved by the City Council on October 5, 2020 and entered into by and between the City of Pomona and Consultant for Specialty Category A-1 (Civil Engineering) and A-4 (Construction Management, Inspection and Sampling Services) for **"Street Improvements and Walking Trail/Steps Rehabilitation," City Project No. 428-71078** in the manner set forth in Exhibit A, "Scope of Services" of the Master Retainer Agreement.

The Scope of Work to be completed pursuant to this Engagement Letter and the cost breakdown are set forth in Exhibit A, attached hereto. The cost for performing the services under this Engagement Letter shall not exceed **Three Hundred, Seventeen Thousand, Four Hundred and Ninety Dollars (\$317,490)**, without prior written approval. The charges and hourly rates shall not exceed those stated and in effect when the Master Retainer Agreement was approved on August 10, 2021 and as stated in the fee schedule attached hereto as Exhibit B.

Consultant acknowledges and agrees that the personnel assigned to this Project, as set forth in Exhibit A shall not be substituted unless prior written authorization is given by the City Engineer. Pursuant to the City's Conflict of Interest Code, Consultant has provided a California Fair Political Practices Commission Statement of Economic Interest- Form 700 for each of each of its staff assigned to the Project for submittal to the City Clerk.

By signing and returning this ENGAGEMENT LETTER, the authorized agent of the Consultant agrees to the provisions stated herein. The engagement of the Consultant for the services stated herein shall occur upon the execution of this letter by the Consultant and the Public Works Director pending issuance of a "Notice to Proceed."

THE CITY OF POMONA

RKA Consulting Group

Recommended By:

By: _____
Its: _____
Date: _____

City Engineer

Approved By:

Approved By:

Public Works Director_____
City Attorney

Date:

Date:

February 5, 2025

Exhibits: A. Scope of Work under Engagement Letter and Cost Breakdown, B. Fee Schedule from Master Retainer Agreement, C. Executive Order N-6-22 Certification, D. Federal Provisions

Exhibit “A”

SCOPE OF SERVICES

GENERAL DESCRIPTION. Consultant shall provide Specialty Category services as outlined in Specialty Category A-1 (Professional Civil Engineering Support Services) and A-4 (Construction Management, Inspection and Sampling Services) for “**Street Improvements and Walking Trail/Steps Rehabilitation,” City Project No. 428-71078, RFP No. 2024-67 [HUD Grant No. B-22-CP-CA-0067]** in accordance with this Scope of Services (the “Project”).

- 1.1 Consultant shall provide said services for compensation not exceeding the amount specified in the Letter of Engagement for this Project and in accordance with Fee Schedule included as Exhibit B to the Engagement Letter.
- 1.2 Consultant shall perform services in good faith and in the City’s best interest. Failure to do so shall constitute a breach that justifies termination of the Engagement Letter.
- 1.3 Consultant recognizes and agrees that, with regard to performance of the services described herein, that time is of the essence. Consultant shall provide said services during all phases of Project through completion of all work and close-out of the Project.
- 1.4 Consultant shall provide one staff person assigned overall responsibility from beginning to end of the Project. This individual will be Consultant’s designated point of contact throughout the demolition and construction phase of the Project. Consultant is responsible for providing comprehensive project and program management services, and prioritizing all issues, problems and/or concerns that may arise during the course of the Project and providing City with recommended solutions for City’s consideration and appropriate action.
- 1.5 Consultant’s Key personnel for administering this Project is/are as follows:

| Name | Title |
|-------------------|----------------------------|
| Cody Howing, PE | Director of Engineering |
| Juan Salazar, PE | Construction Manager |
| Kurt Pedersen, PE | Sr. Project Engineer |
| Michael Lee, PE | Project Manager |
| Tony Lopez | Sr. Public Works Inspector |
- 1.6 Consultant shall propose and coordinate meetings as necessary to complete the scope of work of the project to the satisfaction of the City, including review and progress meetings. Consultant’s performance schedule shall incorporate the review meetings with City staff and others involved in the Project. Consultant will address all design, administrative and management elements necessary to complete the work for the duration of the project.
- 1.7 Consultant shall prepare and submit (electronically) to the City’s Project Manager a weekly progress report on the Project.

2. SCOPE OF WORK.

(428-71078) Street Improvements and Walking Trail/Steps Rehabilitation, RKA Consulting Group

The Consultant shall stage the order of work in such a manner as to provide the following minimum deliverables:

PRE-CONSTRUCTION COORDINATION

At the onset of construction, RKA will organize a pre-construction meeting with the Contractor to review project requirements and establish a coordination framework for successful completion. We will prepare a meeting agenda outlining the project scope and facilitate input from attendees on all construction phase details. Notice of the pre-construction meeting will also be provided to Caltrans. Throughout the project, RKA will attend any City-sponsored staff and public meetings as requested.

SCHEDULING AND TRAFFIC CONTROL REVIEW

While construction scheduling will be considered during design, RKA will review any details left to the Contractor's discretion during this phase. We will ensure the Contractor distributes public construction notices and places informational signs. Our review will confirm that the construction schedule meets all contractual obligations and considers other ongoing City activities to prevent conflicts and delays. Traffic control plans will also be thoroughly reviewed to maintain safe, continuous access for residents, businesses, commuters, and pedestrians. Safety is paramount, and RKA will ensure that all factors contributing to a secure and efficient work site are considered.

PROJECT MANAGEMENT AND DOCUMENTATION

RKA will assign a qualified Project Manager as the primary point of contact between the Contractor and the City. The Project Manager's responsibilities include, but are not limited to, coordinating pre-construction meetings; reviewing submittals, RFIs, RFCs, CCOs, NOPCs, and NCRs; tracking schedules and budgets; leading weekly meetings; managing project updates; reviewing and negotiating change orders; overseeing progress payments; and ensuring quality control and assurance testing. RKA's Project Manager, well-versed in City policies, processes, and procedures, will optimize workflow and maintain organized, accessible project files.

To guide these activities, RKA will develop a project management plan that integrates all critical details from the RFP, as well as any evolving considerations identified during the design and construction phases. This plan will factor in grant or restricted funding timelines and highlight project milestones and critical paths essential for meeting the City's deadlines. It will be finalized following design completion and prior to the construction contract award.

INSPECTION AND SAFETY OVERSIGHT

The Project Inspector will verify that the Contractor maintains a proper safety program. Safety issues will be addressed at the pre-construction meeting and monitored daily. Inspector reports will document daily work, directives, and conditions, ensuring accurate quantity tracking and compliance with contract requirements. RKA will confirm that all project tasks, including punch list items, are completed within the contract timeline.

Optional Deduction Task: The Project Inspector's hours reflected in the fee proposal are in response to the calculated working days and hours of inspection schedule presented in the RFP. We have provided an optional deduction task to align inspection hours with the construction contract working days for potential cost savings.

SCHEDULES, REPORTS, AND MEETINGS

(428-71078) Street Improvements and Walking Trail/Steps Rehabilitation, RKA Consulting Group

RKA will review project submittals and schedules, including milestones for City-established deadlines and anticipated construction timelines. Using the critical path method, we will identify key activities driving project completion. Weekly working day statements will be prepared for both the Contractor and the City. At the City's request, weekly construction progress meetings will be held at the City's office, with meeting minutes recorded and filed.

CONTRACT DIRECTORY AND COMPLIANCE MONITORING

RKA will maintain a detailed project directory, tracking contact information for City staff, utilities, and other stakeholders. This directory will be updated as the project progresses to ensure all relevant parties are identified and accessible. We will also review all stormwater and environmental compliance measures, including SWPPP and SMARTS requirements, ensuring that water flow and environmental mitigation measures conform to regulations throughout construction.

LABOR COMPLIANCE AND FILE MANAGEMENT

Labor compliance documentation will be continuously monitored to confirm adherence to federal and state wage standards. Should non-compliance arise, RKA will coordinate with City staff on withholding progress or retention payments. A well-organized filing system will document and maintain all project-related information, including survey data, testing results, utility coordination records, contracts, change orders, addenda, and daily inspection reports.

CHANGE ORDERS AND PERMITS

RKA will track and record any construction plan or specification revisions to facilitate timely execution of change orders. We will also assist with Stop Notices, Release of Retention, materials certifications, test results, required permits and bonds, 20-day notices, and mechanic's liens from prime or subcontractors.

DOCUMENT CONTROL AND RECORDS DELIVERY

RKA utilizes Microsoft programs for file management and version control, allowing for quick document retrieval and efficient updates. Documents will be organized per the Caltrans Local Procedures Manual, and any requested modifications to the filing system will be implemented before work begins. All project files, including hard copies and electronic records, will be delivered to the City upon project completion.

BUDGET MONITORING

As construction progresses, the Contractor's awarded costs and actual expenditures will be regularly reviewed. RKA will identify and address any budgetary discrepancies, proposing solutions to keep the project on track financially. This budget forecasting will occur every two weeks or more frequently, as needed.

CLOSEOUT AND FINAL DOCUMENTATION

Near project completion, RKA will oversee punch list preparation, obtain as-built drawings, and manage final closeout tasks. We will draft the Notice of Completion for City processing and ensure that all lien waivers, bonds, guarantees, warranties, and other documents are in order.

FEDERAL FUNDING COMPLIANCE

Because the project is federally funded, RKA will adhere to all relevant Caltrans and FHWA guidelines, including those in the Caltrans Local Assistance Procedures Manual (LAPM) and MTA requirements. We will ensure proper documentation and file retention for bid openings, bid analyses, and project closeouts. Upon completion, RKA will provide the City with a fully documented project file in compliance with these requirements.

FEDERALLY FUNDED PROJECT REQUIREMENTS

RKA will maintain full compliance with all HUD funding provisions. Our team, including the Project Inspector, will conduct on-site field visits and interviews, as well as document conditions with field photographs. We will review all interview records against the certified payrolls to verify adherence to prevailing wage requirements and ensure that no underpayments have occurred. If any discrepancies or noncompliance issues are identified, RKA will promptly notify the City and the Contractor, outlining the necessary steps to achieve full compliance.

SCOPE OF WORK: POST-CONSTRUCTION SERVICES

RKA will implement a warranty repair procedure that includes a formal notification prior to the warranty's expiration. Our team will investigate and address issues raised by City staff and coordinate with the responsible contractor to resolve these concerns effectively.

SCOPE OF WORK: OTHER SERVICES


In recognition of the additional oversight required for federal funding, RKA will adhere to best practices outlined in the Local Assistance Procedures Manual. We will promptly address and document any situations that may influence potential claims, minimizing delays and costs. The Project Manager will routinely visit the project site to confirm work progress, verify quantities, and maintain a clear understanding of the proposed improvements. Working closely with the Project Inspector, the Project Manager will ensure that invoices are supported by satisfactory quantities and that proper communication is maintained among City staff, the Contractor, survey crews, and other stakeholders. All outgoing notices and communications will clearly state "under contract with the City of Pomona."

RKA and the Contractor's invoicing will include all information required by the City's RFP. Upon request, RKA will also provide weekly status reports detailing significant project events, progress, potential challenges, scheduling updates, upcoming activities, and any coordination with utilities or other agencies. This structured communication will help maintain transparency and keep the project on track.

Exhibit “B”

FEE PROPOSAL

RKA proposes the following compensation schedule to the City of Pomona to provide Professional Civil Engineering, Construction Management, Inspection and Sampling Services for “**Street Improvements and Walking Trail/Steps Rehabilitation,**” City Project No. 428-71078, RFP No. 2024-67 [HUD Grant No. B-22-CP-CA-0067], for a total Not-to-Exceed amount of \$317,490, per the cost table below:

| | | | | | | | |
|---|--|--|--|--|--|--|--|
|  | City of Pomona | | | | | | |
| | Construction Management and Inspection Services for Street | | | | | | |
| | Improvements and Walking Trail/Steps Rehabilitation [Ganesha Park] | | | | | | |
| | RFB No. 2024-67 | | | | | | |
| | Prj. No. 428-71078 | | | | | | |
| | December 10, 2024 | | | | | | |

| | Project Manager \$160/hr | Project Engineer \$130/hr | Engineering Tech \$95/hr | Public Work Inspector \$125/hr | Administrative \$70/hr | Total Fee |
|--|-----------------------------|------------------------------|-----------------------------|-----------------------------------|---------------------------|-------------|
| Construction Management Services | | | | | | |
| 1 Control, Coordinate, Process and Perform Work/Project | 550 | 95 | 70 | 1440 | 25 | |
| Subtotal Hours | 550 | 95 | 70 | 1440 | 25 | |
| Subtotal Fee | \$ 88,000 | \$ 12,350 | \$ 6,650 | \$ 180,000 | \$ 1,750 | \$ 288,750 |
| Post Construction Services | | | | | | |
| 2 Warranty Coordination | 40 | 20 | | | | |
| Subtotal Hours | 40 | 20 | 0 | 0 | 0 | |
| Subtotal Fee | \$ 6,400 | \$ 2,600 | \$ - | \$ - | \$ - | \$ 9,000 |
| Other Services | | | | | | |
| 3 Approach to Scope, Projects Approach, and Construction Management Approach | 40 | 20 | 10 | | | |
| 4 Weekly Status Report | 39 | 20 | 10 | | | |
| Subtotal Hours | 79 | 40 | 20 | 0 | 0 | |
| Subtotal Fee | \$ 12,640 | \$ 5,200 | \$ 1,900 | \$ - | \$ - | \$ 19,740 |
| Total Fee | \$ 107,040 | \$ 20,150 | \$ 8,550 | \$ 180,000 | \$ 1,750 | \$ 317,490 |
| A Optional Deduction Tasks* | | | | | | |
| A-1 Control, Coordinate, Process and Perform Work/Project | | | | -720 | | |
| Subtotal Deduction Hours | 0 | 0 | 0 | -720 | 0 | |
| Subtotal Deduction Fee | \$ - | \$ - | \$ - | \$ (90,000) | \$ - | \$ (90,000) |

*NOTE: These tasks are included in the total fee indicated above in accordance with the RFP's requirements. Should the City wish to reduce expenses, these items can be adjusted or removed from the scope.

Exhibit “C”**EXECUTIVE ORDER N-6-22 CERTIFICATION**

Executive Order N-6-22 issued by Governor Gavin Newsom on March 4, 2022, directs all agencies and departments that are subject to the Governor’s authority to (a) terminate any contracts with any individuals or entities that are determined to be a target of economic sanctions against Russia and Russian entities and individuals; and (b) refrain from entering into any new contracts with such individuals or entities while the aforementioned sanctions are in effect.

Executive Order N-6-22 also requires that any contractor that: (1) currently has a contract with the City of Pomona funded through grant funds provided by the State of California; and/or (2) submits a bid or proposal or otherwise proposes to or enter into or renew a contract with the City of Pomona with State of California grant funds, certify that the person is not the target of any economic sanctions against Russia and Russian entities and individuals.

The contractor hereby certifies, SUBJECT TO PENALTY FOR PERJURY, that a) the contractor is not a target of any economic sanctions against Russian and Russian entities and individuals as discussed in Executive Order N-6-22, and b) the person signing below is duly authorized to legally bind the Contractor. This certification is made under the laws of the State of California.

Signature: _____

Printed Name: _____

Title: _____

Firm Name: _____

Date: _____

Exhibit “D”

FEDERAL CONTRACT PROVISIONS

During the performance of this Contract, the Contractor shall comply with all applicable federal laws and regulations including, but not limited to, the federal contract provisions in this Exhibit.

1. REQUIRED CONTRACT PROVISIONS IN ACCORDANCE WITH APPENDIX II TO PART 200 – CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.327)

- a. Appendix II to Part 200 (A); Appendix II to Part 200 (B): Remedies for Breach; Termination for Cause/Convenience. The Contract Documents include remedies for breach and termination for cause and convenience.
- b. Appendix II to Part 200 (C) – Equal Employment Opportunity: Except as otherwise provided under 41 C.F.R. Part 60, if this Contract meets the definition of a “federally assisted construction contract” in 41 C.F.R. § 60-1.3, then Contractor shall comply with the following equal opportunity clause, in accordance with Executive Order 11246 of September 24, 1965 entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967 and implementation regulations at 41 C.F.R. Chapter 60:
 - (i) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - (ii) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor; state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 - (iii) 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.

- (iv) 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.
- (v) 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.
- (vi) 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.
- (vii) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (viii) The Contractor will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (vii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The 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.

- c. Appendix II to Part 200 (D) – Davis-Bacon Act: Not applicable to this Contract since it is funded by the CLFRF.
- d. Appendix II to Part 200 (D) – Copeland “Antti-Kickback” Act: Not applicable to this Contract since it is funded by the CLFRF.
- e. Appendix II to Part 200 (E) – Contract Work Hours and Safety Standards Act:
 - (i) If this Contract is in excess of \$100,000 and involves the employment of mechanics or laborers, Contractor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Under 40 U.S.C. 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
 - (ii) 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.

- (iii) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (ii) 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 (ii) of this section, in the sum of \$10 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 (ii) of this section.
 - (iv) Withholding for unpaid wages and liquidated damages. 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 (iii) of this section.
 - (v) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (ii) through (v) of this Section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (ii) through (v) of this Section.
- f. Appendix II to Part 200 (F) – Rights to Inventions Made Under a Contract or Agreement:
- (i) If the Federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the non-Federal entity 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 non-Federal entity must comply with the requirements of 37 C.F.R. 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 Federal awarding agency.
 - (ii) The regulation at 37 C.F.R. § 401.2(a) currently defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or

subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

- g. Appendix II to Part 200 (G) – Clean Air Act and Federal Water Pollution Control Act: If this Contract is in excess of \$150,000, Contractor shall comply with all applicable standards, orders, or requirements issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).
 - (i) Pursuant to the Clean Air Act, (1) 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) 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 awarding agency and the appropriate Environmental Protection Agency Regional Office, and (3) Contractor agrees to include these requirements in each subcontract exceeding \$150,000.
 - (ii) Pursuant to the Federal Water Pollution Control Act, (1) 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) 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 awarding agency and the appropriate Environmental Protection Agency Regional Office, and (3) Contractor agrees to include these requirements in each subcontract exceeding \$150,000.
- h. Appendix II to Part 200 (H) – Debarment and Suspension: A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 C.F.R. part 1986 Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
 - (i) This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such Contractor is required to verify 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).
 - (ii) 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.
 - (iii) This certification is a material representation of fact relied upon by City. If it is later determined that 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 City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

- (iv) Contractor warrants that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in any federal programs. Contractor also agrees to verify that all subcontractors performing work under this Contract are not debarred, disqualified, or otherwise prohibited from participation in accordance with the requirements above. Contractor further agrees to notify the City in writing immediately if Contractor or its subcontractors are not in compliance during the term of this Contract.
- i. Appendix II to Part 200 (I) – Byrd Anti-Lobbying Act: If this Contract is in excess of \$100,000, Contractor shall have submitted and filed the required certification pursuant to the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1353). If at any time during the Contract term funding exceeds \$100,000.00, Contractor shall file with the City the Federal Standard Form LLL titled “Disclosure Form to Report Lobbying.” Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. 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 must 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.
- j. Appendix II to Part 200 (J) – §200.323 Procurement of Recovered Materials:
 - (i) Contractor shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement.
 - (ii) 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.
 - (iii) Information about this requirement, along with the list of EPA-designate items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
 - (iv) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

k. Appendix II to Part 200 (K) – §200.216 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment:

- (i) Contractor shall not 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 funded under this Contract. 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).
 - (1) 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).
 - (2) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (3) 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.
- (ii) See Public Law 115-232, section 889 for additional information.

l. Appendix II to Part 200 (L) – §200.322 Domestic Preferences for Procurement:

- (i) Contractor shall, to the greatest extent practicable, purchase, acquire, or use goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontracts
- (ii) For purposes of this section:
 - (1) “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.
 - (2) “Manufactured products” means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

2. CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISE AND LABOR SURPLUS AREA FIRMS (2 C.F.R. § 200.321)

- a. Contractor shall be subject to 2 C.F.R. § 200.321 and will take affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible and will not be discriminated against on the grounds of race, color, religious creed, sex, or national origin in consideration for an award.
- b. Affirmative steps shall include:
 - (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
 - (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
 - (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
 - (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and
 - (v) Using the services/assistance of the Small Business Administration (SBA), and the Minority Business Development Agency (MBDA) of the Department of Commerce.

Contractor shall submit evidence of compliance with the foregoing affirmative steps when requested by the City.