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Debra Crocker
COUNTY CLERK
VICTORIA COUNTY, TEXAS

NOTICE OF PUBLIC MEETING

NOTICE IS HEREBY GIVEN pursuant to Section 551.041 of the Texas Government Code, that the Navigation and Canal Commissioners of the VICTORIA COUNTY NAVIGATION DISTRICT (the "District") will meet on February 11, 2020, at 10:00 a.m. utilizing the GoToMeeting Video/Teleconference platform. The meeting will be accessible via computer, tablet, or smartphone at: <https://global.gotomeeting.com/join/323072349>. Dial-in access is also available, toll free, at 1-866-899-4679. Access Code: 323-07-2349.

The subjects of such meeting shall be:*

1. To receive, review, and consider approval of a proposed services agreement with CSRS, of Lake Charles, Louisiana, for the provision of project management and grant administration services in connection with the District's recently awarded EDC CARES Act grant and the planned Rail Loop Expansion Project at the Port of Victoria's North Industrial Site, and take appropriate action.

WHEREFORE, this Notice is executed this 8th day of February, 2021 by the undersigned, hereunto duly authorized.

VICTORIA COUNTY NAVIGATION DISTRICT

By: */s/ Duane G. Crocker*
Duane G. Crocker, Legal Counsel

*Any item on this agenda may be discussed in executive session as authorized by Texas law.

Robby Burdge
Chairman

Byron Burris, II
Vice-Chairman

Donald Pozzi
Secretary

Elton Calhoun
Commissioner

John H. Gilley, IV
Commissioner

Sean Stibich
Executive Director

Duane G. Crocker
Legal Counsel

VICTORIA COUNTY
NAVIGATION DISTRICT

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PROFESSIONAL GRANT MANAGEMENT SERVICES

PART I – AGREEMENT

THIS AGREEMENT, entered into this _____ day of February, 2021, by and between the Victoria County Navigation District, owner and operator of the Port of Victoria hereinafter called the "Port", acting herein by Sean Stibich, the Port's Executive Director, hereunto duly authorized, and VENDOR hereinafter called "VENDOR," acting herein
by _____.

WITNESSETH THAT:

WHEREAS, the Port desires to engage VENDOR to render certain services in connection with its EDA Grant Administration.

NOW THEREFORE, the parties do mutually agree as follows:

1. Scope of Services

Part II, Scope of Services, is hereby incorporated by reference into this Agreement.

2. Time of Performance - The services of VENDOR shall commence upon full execution of this contract. In any event, all of the services required and performed hereunder shall be completed no later than 4 years from date of this contract.

3. Access to Information - It is agreed that all information, data, reports and records and maps as are existing, available and necessary for the carrying out of the work outlined above shall be furnished VENDOR by the Port and its agencies. No charge will be made to VENDOR for such information and the Port and its agencies will cooperate with VENDOR in every way possible to facilitate the performance of the work described in the Agreement.

4. Compensation and Method of Payment - The maximum amount of compensation and reimbursement to be paid hereunder shall not exceed \$80,000 unless authorized by the Port in writing as an amendment to this agreement. Payment to VENDOR shall be based on satisfactory completion of identified milestones in Part III - Payment Schedule of this Agreement, which is hereby incorporated by reference into this Agreement.

5. Indemnification – VENDOR shall comply with the requirements of all applicable laws, rules and regulations, and shall exonerate, indemnify, and hold harmless the Port, its employees, commissioners, consultants, contractors, and its agency members from and against any violation thereof, and shall assume full responsibility for payments of Federal, State and local taxes-on contributions imposed or required under the Social Security, workers compensation and income tax laws. VENDOR shall comply with applicable provisions of Appendix II to 2 CFR Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. (Appendix II attached hereto and Sections A-K if applicable are incorporated by reference herein.)

6. Miscellaneous Provisions

a... This Agreement shall be construed under and accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Victoria County, Texas.

b. This Agreement shall be binding upon and insure to the benefit of the parties hereto and heir respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Agreement.

c. If one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability, shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein. All other terms hereof shall remain in full force and effect.

d. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.

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

f. Termination for Cause and Convenience

Termination of Contract. If, through any cause, VENDOR shall fail to fulfill in a timely and proper manner its obligation under this contract, or if VENDOR shall violate any of the covenants, agreements, or stipulations of this Contract, the Port shall thereupon have the right to terminate this Contract by giving written notice to VENDOR of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. If the Contract is terminated by the Port as provided herein, VENDOR will be paid for the time provided and expenses incurred up to the termination date.

If the Contract is terminated by the Port as provided herein, all finished or unfinished documents, information or reports prepared by VENDOR under this Contract shall, at the option of the Port, become its property and VENDOR shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, VENDOR shall not be relieved of liability to the Port for damages sustained by the Port by virtue of any breach of the Contract by VENDOR, and the Port may withhold any payments to VENDOR for the purpose of set-off until such time as the exact amount of damages due the Port from VENDOR is determined.

Termination for Convenience of the Port. The Port may terminate this Contract at any time by giving at least ten (10) days notice in writing to VENDOR. If the Contract is terminated by the Port as provided herein, VENDOR will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of VENDOR, Paragraph (Termination of Contract) hereof relative to termination shall apply.

g. VENDOR shall not assign, transfer, delegate, or subcontract any of its rights or obligations under this Contract without the prior written consent of the Port.

h. This Contract may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement.

i. No waiver by any party of any provision of this Contract shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth herein, no failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Contract shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege

7. Terms and Conditions - This Agreement is subject to the provisions titled, "Part IV Terms and Conditions" and attached hereto and incorporated by reference herein.

IN WITNESSETH HEREOF, the parties have hereunto set their hands and seals.

VICTORIA COUNTY NAVIGATION DISTRICT

VENDOR _____

BY: _____

BY: _____

PART II
PROFESSIONAL MANAGEMENT SCOPE OF SERVICES

VENDOR shall provide the following scope of services:

A. Project Management

1. Develop a recordkeeping and filing system consistent with program guidelines.
2. Maintenance of filing system.
3. Provide general advice and technical assistance to Port personnel on implementation of the project and regulatory matters pertaining thereto.
4. Assist in the procurement of professional consulting engineering services through the request for proposal process, if applicable, and as required by the Department/Agency regulations.
5. Furnish Port with necessary forms and procedures required for implementation of project.
6. Assist the Port in meeting any special award condition requirements that may be stipulated in the Financial Assistance Award between the Port and Department/Agency.
7. Prepare and submit to Department/Agency documentation necessary for amending the Contract.
8. Prepare and submit quarterly progress reports.
9. Prepare Recipient Disclosure Report form for Port signature and submittal.

B. Financial Management

1. Review invoices received for payment and file back-up documentation.
2. Provide general advice and technical assistance to Port personnel on implementation of project and regulatory matters

E. Construction Management

1. Assist Port in documenting compliance with all federal and state requirements related to equal employment opportunity.
2. Assist Port in documenting compliance with all federal and state requirements related to minimum wage and overtime pay requirements.
3. Provide assistance to or act as local labor standards officer.
4. Notify Department/Agency in writing of name, address, and phone number of appointed labor standards compliance officer.
5. Request wage rates from Department/Agency.

6. Provide all applicable equal opportunity provisions and certifications for inclusion in bid packet.
7. Verify construction contractor eligibility with Department/Agency.
8. Review construction contract.
9. Conduct pre-construction conference in coordination with engineer and prepare minutes.
10. Submit any reports of additional classification and rates to Department/Agency.
11. Issue Notice of Start of Construction to Department/Agency.
12. Review weekly payrolls, including compliance follow-ups.
13. Conduct random employee interviews.
14. Process and submit change orders to Department/Agency prior to execution.
15. Obtain Certificate of Construction Completion/Final Wage Compliance Report and submit to Department/Agency.
16. Provide general advice and technical assistance to Port personnel on implementation of project and regulatory matters.

G. Audit / Closeout Procedures

1. Prepare the Final Acceptance Report for appropriate signatures to submit to the Department/Agency.
2. Assist Port in resolving any monitoring and audit findings.
3. Provide auditor with Department/Agency audit guidelines.

PART III
PAYMENT SCHEDULE
PROFESSIONAL MANAGEMENT SERVICES

Port shall reimburse VENDOR for management services provided for completion of the following project milestones per the following percentages of the maximum contract amount:

<u>Milestone</u>	<u>% of</u>	<u>Contract Fee</u>
• Establishment of recordkeeping system		10%
• Project advertises for bid		10%
• Billed per/month of construction*		70%
• Filing of all required closeout information		10%
	Total	100%

*Example – construction is estimated at 10 months. Therefore, VENDOR would bill 7% per month until 70% of entire contract is reached.

PART IV
TERMS & CONDITIONS - ADDITIONAL SERVICES

The following financial management scope will be administered directly by the Port. VENDOR can provide as an additional service at hourly rates:

1. Assist the Port in proving its ability to manage the Department/Agency financial assistance funds to the state's audit division
2. Assist the Port in establishing and maintaining a bank account (Direct Deposit account) and/or separate local bank account, journals and ledgers.
3. Assist the Port in submitting the required Accounting System Certification letter, Direct Deposit Authorization Form (if applicable), and/or Depository/Authorized Signatory form to Department/Agency.
4. Prepare all fund drawdowns on behalf of the Port in order to ensure orderly, timely payments to all contracting parties within the allotted time period.
5. Assist the Port in establishing procedures to handle the use of any Department/Agency program income.

The following environmental management scope is understood to be complete and not part of this contract. VENDOR can provide as an additional service at hourly rates.

1. Prepare appropriate environmental review document, including possibly an environmental assessment.
2. Coordinate environmental clearance procedures with other federal or state agencies and interested parties responsible for implementing applicable laws.
3. Document consideration of any public comments.
4. Prepare any required re-assessment of environmental review document.
5. Ensure compliance with Executive Order 11988 for projects in the flood plains, as amended by Executive Order 13690.

Fee proposal is based on a construction during lasting no longer than 11 months (Notice to Proceed to Substantial Completion). Any construction duration extending beyond 11 months will be considered additional grant administration services and billed at hourly rates until construction is complete.

Services not listed in Part II may be requested by the Port. Those additional services, authorized in writing will be billed at hourly rates.

APPENDIX II TO PART 200—CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be 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. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week 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 work week. 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.

(F) 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.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 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 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—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 non-Federal award.

(J) See §200.322 Procurement of recovered materials.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014]