

**REQUEST FOR PROPOSALS (RFPs)
FOR DISASTER RECOVERY AND OTHER STATE AND FEDERAL FUNDING
GRANTS AND PROGRAM MANAGEMENT AND PORTS AND ECONOMIC
DEVELOPMENT ADVISORY SERVICES**

**for the
PORT OF VICTORIA (VICTORIA COUNTY NAVIGATION DISTRICT)**

PROPOSAL REQUIREMENTS

The **PORT OF VICTORIA (Victoria County Navigation District)** (hereinafter referred to as the “Port”) is seeking proposals from qualified vendors/consultants/contractors to provide consulting and contract services to support disaster recovery, other state and federal funding opportunities and ports and economic development advisory services. The selected provider will be responsible for the grant writing, delivery of requested administrative work, assistance with the interpretation and application of applicable laws, policies, rules, regulations, and guidance provided or mandated by the Federal Emergency Management Agency, Maritime Administration, Department of the Treasury, Texas Department of Emergency Management, and the PORT OF VICTORIA as defined in this Request for Proposals (RFP). It is the intent of the PORT OF VICTORIA to award the work defined in this RFP to one provider based on qualifications, experience, cost, and the ability of the responding entities to meet the needs of the PORT OF VICTORIA as specified in this RFP.

The PORT OF VICTORIA issues this Request for Proposal (RFP) for disaster recovery support, other federal funding and economic development advisory services as further specified in the scope of services. The selected Proposer will be responsible for delivery of services and support on an as needed basis, with the Port reserving the right to select the services needed for a task, program, or function, based on the capabilities of staff and the level of augmentation and support needed. Services must be requisitioned and agreed upon by the Port prior to rendering and invoiced as completed. Services for any new declared major disasters needs to be approved by the Port prior to any work beginning.

Submission Procedures

Firms or companies desiring to provide services, as described in the Scope of Services, shall submit sealed proposals with one (1) signed original, two (2) complete copies with all the information included, and one (1) electronic copy on a flash drive in .PDF format and shall be capable of being copied to other sources no later than **January 14, 2022, by 2:00 p.m.**

Central Standard Time. Hand deliveries must be during office hours of 8:00 a.m. to 4:30 p.m., Monday through Friday to the address below for the PORT OF VICTORIA.

Respondents are instructed NOT to fax or email their proposal. Faxed or emailed proposals will not be accepted. All proposals submitted must be marked with the RFP title, Firm or Company name and mailing address.

Proposals should be delivered or mailed to:

**Sean Stibich, Executive Director
PORT OF VICTORIA**

1934 FM 1432
Victoria, Texas 77905

Respondents are cautioned that they are solely responsible for delivery of their proposal. If your bid, proposal, or quotation is delivered by an express mail carrier, or hand delivered it is your responsibility to ensure delivery to the above address. This office will not be responsible for deliveries made to any place other than the specified address. Late proposals will not be opened. It is the sole responsibility of the bidder to ensure that his or her Proposal reaches the Port on time. The Port shall not be responsible for late deliveries or delays. All proposals will be opened publicly.

Proposals must be signed by an individual authorized to bind the Respondent to the provisions of the RFP and shall remain in full force and effect for ninety (90) days following the date of such opening.

The Port may, at its option, request formal presentations of one or more Respondents. Respondent shall be available for a formal presentation, if requested by the Port, at a time and place determined by the Port. The Port will assume no responsibility for any such costs incurred by the Respondent associated with the Respondent's attendance at a formal presentation.

Ownership of all data, materials, and documentation originated and prepared for the Port pursuant to the RFP shall belong exclusively to the Port and be subject to public inspection in accordance with State of Texas Public Information Act.

Inquiries and Questions

Inquiries and questions should be submitted by email only to Sean Stibich, Executive Director, at Sean@portofvictoria.com no later than **2:00 P.M., Central Standard Time, on Tuesday January 11, 2022.**

Contract Period

It is the intent of the PORT OF VICTORIA to award this contract for a twelve (12) calendar month period. However, the Port may, at their option and in agreement with the Successful Vendor, renew the contract for up to two (2) additional years, in twelve (12) month increments. The Port will, in writing, notify the Contractor thirty (30) days prior to expiration of the contract with its intent to extend the contract. The prices submitted in response to this RFP shall also apply to the resulting contract and any extensions.

Prime Vendor Responsibilities

Vendor will assume responsibility for delivery of services and application performance, regardless of whether the Vendor subcontracts any of these items and services. The Vendor will be the sole point of contact regarding contractual matters, including performance of services and the payment of all charges resulting from contract obligations. Vendor will be totally responsible for all obligations outlined under this RFP and any resulting services provided.

Hold Harmless Provision

The vendor shall at all times indemnify and save harmless the Port and its Departments, their Commissioners, officers and employees, against all liability, claim of liability, loss, cost or damage, including death, and loss of services, on account of any injury to persons or property, occurring from any cause whatsoever in the work involved in the contract, and will at his expense defend on behalf of the Port and its departments, their officers and employees, either or all, any suit brought against them or any of the arising from any such cause.

Service Provider Qualifications

All bidders, to the best of their knowledge and belief, must be in, and remain in compliance with all applicable Federal, State, County and Municipal laws, regulations, resolutions, and ordinances. All bidders should be prepared to timely submit to the Port non confidential evidence or documentation demonstrating that the fact they are presently licensed and permitted under Texas law. Such non-confidential evidence or documentation is encouraged to be submitted with the response to this RFP.

All vendors, contractors and grantees are must ensure that they are compliant with Texas House Bill 89, Title 10, Subtitle F, Chapter 2270 of the Texas Government Code (Israel boycotting prohibitions) and Senate Bill 252, Title 1, Subtitle F, Chapter 2252, Sections 152 and 153 of the Texas Government Code (prohibitions on conducting business with Iran, Sudan or any Foreign Terrorist Organization) and Title 5, Subtitle C, Chapter 176, Sections 001 and 006 of the Texas Local Government Code (conflict of interest) for the entire duration of the contract period.

Contractors and Subcontractors and Insurance

The Contractor shall not commence work under this contract until all the required insurance has been obtained. Such insurance has not been approved by the Port, nor shall the Contractor allow any Subcontractor to commence work on his subcontract until the insurance required of the Subcontractor has been so obtained and approved.

Compensation Insurance

The Contractor shall procure and shall maintain during the life of this contract Workers' Compensation Insurance for all of his employees to be engaged in work on the project under his Contract, and, in case of any such work sublet, the Contractor shall require the Subcontractor similarly to provide Workmen's compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Workmen's Compensation Insurance. In case a class of employees engaged in hazardous work on the project under this contract is not protected under the Workmen's Compensation Statute, the Contractor shall provide and shall cause each Subcontractor to provide adequate employer's general liability insurance for the protection of such of his employees as are not otherwise protected. The Port, its Departments and its employees shall be named as additional insured.

Consultant/Contractor's Public Liability and Property Damage Insurance

The Contractor shall procure and shall maintain during the life of this contract a Comprehensive Liability Policy providing bodily injury and property damage coverage on an occurrence basis including damages arising from blasting explosion or collapse, mechanical equipment digging in streets or highways, and including completed operations, independent contractors, and contractual general liability.

Insurance shall be contractual general liability \$500,000.00 per occurrence bodily injury and property damage; \$5,000 per person medical payments or medical expense; \$500,000.00 per occurrence bodily injury and property damage; \$5,000 per person medical payments or medical expense; \$500,000.00 personal and advertising injury; \$50,000.00 fire damage (any one firm); \$1,000,000.00. The Port, its' Departments and its employees shall be named as additional insured.

Proposal Format

Respondents must respond in the format described below. Failure to submit this information will render your proposal non-responsive.

1. Qualifications of the Firm

- The Respondent shall provide a narrative of the firm's qualities and capabilities that demonstrates how the firm will work with the Port to fulfill the requirements of the work and assistance described in this RFP.
- Recent experience demonstrating current capacity and expertise in assisting local governments in obtaining reimbursement from state and federal agencies following disaster events and managing other application, implementation, and closeout for other federal funding opportunities and economic development advisory services.
- Cost-center Tracking: The services provided under this contract may be eligible for reimbursement as administrative costs from FEMA. To maximize the Port's ability to recover the cost of services provided under this contract, the firm may be required to track time on a project-by-project basis. Invoices submitted to the Port for payment must reflect this project-by-project breakdown and must provide sufficient backup documentation to ensure reimbursement eligibility.

2. Qualifications of Staff

- Describe the composition and structure of the firm and include the organizational structure of the firm and the names of the executive leadership of the firm.
- Key Staff – The Respondent shall include a list of the proposed staff that will perform the work required if awarded this contract and a summary of staff qualifications. Provide resume representative of staff likely to be assigned to this project.
- An organizational chart and management plan should be included in this section.

3. Selected Project Experience

- Provide at least five (5) summaries of similarly aligned projects the firm(s) has been (past 10 years) or is currently engaged on.
- Provide at least three references for which the firm or its proposed staff has performed as prime that like the requirements in the Scope of Services. Provide the reference contact name, address, e-mail address, telephone numbers and date of the contract.

4. Technical Approach

- Provide a description specific to the Respondent’s approach to the disaster recovery grants management and other federal funding opportunities components of the requested scope of services.

5. Cost Proposal

- Each Respondent must complete and submit the Cost Proposal Form/Fee Schedule included herein. The Cost Proposal will be evaluated on the hourly rates submitted on the cost proposal form for the labor positions listed. All non-labor costs will be billed to the Port at cost without markup.

Selection Criteria

The following weighted criteria will be utilized to select the consultant awarded this contract:

CRITERION	POINTS
Firm experience on similar projects including references, addressing FEMA grants/program management, other federal funding grants/program management and ports and economic development advisory services. Port experience preferred.	30
Staff qualifications and experience including demonstration of knowledge of FEMA regulations and procedures, other federal funding opportunities and ports and economic development.	30
Project understanding and approach	30
Cost	10
TOTAL	100

Scope of Services

The consulting firm/contractor will provide experienced personnel and resources to complete the following activities:

FEMA

- Applicants Briefing and Scoping Meeting. Attend meetings with the State/Federal agencies including applicant briefings, kick-off meetings and project specific discussions.
- Technical Assistance. Provide general financial management advice and assistance including but not limited to:
 - Develop and support the ongoing activity of a disaster recovery team to aid the Port in the FEMA Public Assistance process.
 - Provide advice as to the disaster recovery team as appropriate and participate in meetings.
 - Provide advice as to the eligibility of facilities, work, and costs and develop justifications for presentation to the State and FEMA with regard to any issues which may arise; and
- Correspondence. Aid in the preparation of correspondence to the State agencies and FEMA on behalf of the Port as necessary.
- Assist with program management planning and periodic reports depicting the status of grant management progress and participate in status meetings, as necessary.
- Inspection/Damage Assessment. Inspect disaster related damage to eligible facilities, identify eligible emergency and permanent work (Categories A through G) and review records of emergency expenses incurred by the Port.
- Document. Ensure all eligible damages have been quantified and presented to Federal Inspectors/Project Officers.
- Financial Tracking. Categorize, record, track and document costs on approved forms in support of the financial reimbursement process.
- Financial Management. Assistance in requesting Immediate Needs Funding or Grants Based on Estimates; Development and tracking of plans for Cash flow management and disbursements by State/FEMA; Insurance evaluation, documentation adjusting and settlement services; Tracking project progress, expenditures, reimbursement requests and receipts.
- Project Worksheet. Prepare Project Worksheets for Categories A through G for review by FEMA and the State ensuring that the scope of work is accurate and comprehensive, estimates are accurate, expenses are eligible and documented, and that projects are categorized as small or large in a manner that ensures prompt and sufficient reimbursement to the Port; Attend all meetings with the Port, County, State and FEMA (and/or other Federal agencies) to assist in negotiating individual Project Worksheets as needed.
- Reporting. Compile and summarize in FEMA approved format Categories A through G costs for presentation to FEMA and the State and inclusion in project worksheets.
- Aid Port departments having difficulty with their claims.
- Ensure the Port meets all deadlines imposed by FEMA and/or the State for documentation, appeals, completion of work, etc.
- Appeal. If the Port disagrees with any FEMA determinations, make all reasonable efforts to resolve any such dispute and/or strategize and write appeals; Provide fully qualified counsel to the Port in support of any legal action required as the result of an appeal.
- Closeout. Aid in the preparation of documentation for, and represent the Port in, all

project closeout activities, Participate in exit conferences with the Port, State, and FEMA.

- Audit. Upon completion of all projects and drawn down reimbursement for all eligible costs, finalize preparations for State and FEMA final inspections and audits.
- Hazard Mitigation Services (including FEMA Stafford Act sections 403, 404, 406, and 428 sections and knowledge thereof): Assist in identifying, developing, and evaluating opportunities for hazard mitigation projects (Section 404 and 406). Develop hazard mitigation proposals, cost benefit analysis (BCA). Prepare other hazard mitigation services related to Hazard Mitigation Grant Program, Pre-Disaster Mitigation such as the Flood Mitigation Assistance (FMA) and Building Resilient Infrastructure in Communities (BRIC) programs, and other mitigation programs.
- Other Grant Management Assistance: Provide other state and federal grant management services as needed for declared disasters as approved by the Port. Assist the Port with the management and administration of other federal grant management programs not identified above such as Port Infrastructure Development Grants, Port Security Grants, Economic Development Administration Grants, etc.
- Assistance with Individual Assistance information, publications, advertising, and coordination of community knowledge.
- Assist Port in Threat and Hazard Identification and Risk Assessment (THIRA) Updates to include analysis and implementation of changes resulting in a comprehensive THIRA revision for the Port and/or Matagorda County.
- Assist the Port in implementing lessons learned from major disaster declarations, and other disaster knowledge and experience into a revision of the local Emergency Operations Plan(s).

OTHER STATE FEDERAL FUNDING OPPORUTNITIES

- Other Grant Management Assistance: Provide other state and federal grant management services as needed for declared disasters as approved by the Port. Assist the Port with the management and administration of other state and federal programs not identified above, these include, but are not limited to, all resources made available through the American Rescue Plan Act and potential future appropriations resulting from the Build Back Better Act (Reconciliation bill) and the Infrastructure Investment and Jobs Act (Infrastructure bill).
- Application Development and Submission: Provide all necessary technical services for application development and submission, including technical writing, preliminary scoping, feasibility, cost estimating, and other services required to successfully build content for state and federal grant programs.
- Award Management: Manage compliance as required for state and federal grants, including, but not limited to, request for information responses, procurement, records retention, change management, environmental clearance, reporting and monitoring and closeout.

PROGRAM MANAGEMENT FOR STATE AND FEDERAL GRANTS

- Overall program management services: the consultant shall be responsible for supporting the development and implementation of the overall program/project plan as required by the Port.
- Coordinate, conduct and record all project meetings throughout the application, implementation, and closeout stages.
- Identify all professional resources needed for state and federal grant award projects
- Management of the design phase for: The consultant shall be responsible for assisting the Port in the procurement of, and providing design management of, professional design services required to implement construction projects as required by the Port.
- Provide technical assistance to support issue resolution as needed during project implementation.
- Design and implement any beneficiary programs that may result from a federal or state award.
- Management of the construction phase: the consultant shall be responsible for management of the procurement of construction services and providing project construction management of the construction phase of all designated Port projects.
- Field inspection services: The consultant shall be responsible for providing field inspection services as necessary to ensure compliance to schedule, budget and quality contractual requirements.
- Project controls: The consultant shall be responsible for coordinating with the appropriate staff person to manage invoices contracts, change orders, and amendments to develop systems that result in the delivery of projects on time and within budget.
- Provide quality assurance of all deliverables prepared by professional services firms.
- Project close out: the consultant shall be responsible for preparing documentation for close-out. Close-out includes providing data to set up preventative maintenance and asset preservation programs for each project executed. It also includes management of warranty periods. The consultant shall be responsible for any financial reports or other documentation as required per the terms of the financial grants received to execute projects.
- Ensure all projects and programs satisfy grant compliance and schedule requirements.
- Provide regular reporting and real time tracking of project progress for the Port.

PORTS AND ECONOMIC DEVELOPMENT ADVISORY SERVICES

- Advise the Port on growth and strategic initiatives that support the Port's economic development objectives as required, including those related to site selection and business recruitment.
- Provide public-private partnership advisory for port operations, maintenance, and site development as required.
- Advise the Port regarding external resources available to support the Port's mission.

(END OF SCOPE OF SERVICES)

Cost Proposal Form

The hourly labor rates shall include all applicable overhead and profit. All non-labor related

project costs (including travel, lodging, and per diem) will be billed to the Port at cost without mark-up.

POSITIONS	HOURLY RATES
Program Executive	\$
Program Director	\$
Federal Grants Manager	\$
Project Manager	\$
Federal Grants Specialist	\$
Project Specialist	\$
Sr. Economic Development Subject Matter Expert	\$
Jr. Economic Development Subject Matter Expert	\$
Design Professional (Architect / Engineer)	\$
Planner	\$
Insurance Specialist	\$
Appeals Specialist	\$
Administrative Assistant	\$

REQUIRED TERMS AND CONDITIONS

The following mandatory contract terms and clauses shall be included in any contract awarded under this RFP:

****Ownership of documents/work: Any contract entered into as a result of this RFP will contain the following provision: The copyright provisions of 44 CFR Sec. 13.34 shall also extend to final documents produced for the PORT OF VICTORIA by the CONSULTANT, and the rights granted to FEMA by the provisions of 44 CFR Sec. 13.34 shall also extend to the Port. The Port reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, revise, publish, or otherwise use, and to authorize others to use for Port purposes the copyright in the work developed under this contract for services which is, or may be, funded by a federal (FEMA or otherwise) grant program(s). ****

STANDARD FEDERAL CONTRACTING CLAUSES

The Parties shall comply with all federal laws and regulations applicable to the receipt of FEMA grants, including, but not limited to the contractual procedures set forth in Title 2 of the Code of Federal Regulations, Part 200 (“2 CFR 200”), including Appendix II to such Part (“Appendix II”).

In addition, the Parties agree to following:

- 1) Client confirms that it is entitled to exercise all administrative, contractual, or other remedies permitted by law to enforce Consultant’s compliance with the terms of this Agreement, except to the extent expressly provided otherwise by this Agreement.
- 2) Client confirms that it may terminate this Agreement for cause or convenience in accordance with the procedures set forth in this Agreement.
- 3) Compliance with the Davis-Bacon Act and Copeland Anti-Kickback Act as applicable to the Services.
- 4) Consultant shall comply with 18 U.S.C. §874, 40 U.S.C. § 3145, and the requirements of 29 CFR Part 3 as may be applicable, which are incorporated by reference into this Agreement.
 - a) Subcontracts. Consultant and any subcontractors to Consultant shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontractors.
 - b) The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
 - c) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 CFR §5.12.
- 5) Compliance with the Clean Air Act and the Federal Water Pollution Control Act
 - a) Clean Air Act: Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. §7401 et seq.
 - i) Consultant agrees to report each violation to CLIENT and understands and agrees that Client will, in turn, report each violation as required to assure notification to FEMA and the appropriate Environmental Protection Agency Regional Office.
 - ii) Consultant agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.
 - b) Federal Water Pollution Control Act
 - i) Consultant 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.
 - ii) Consultant agrees to report each violation to Client and understands and agrees that Client will, in turn, report each violation as required to assure notification to FEMA and appropriate Environmental Protection Agency Regional Office.
 - iii) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.”
- 6) Suspension and Debarment
 - a) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, Consultant is required to verify that none of Consultant, 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).
- b) Consultant 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.
 - c) This certification is a material representation of fact relied upon by Client. If it is later determined that Consultant 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 Client, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
 - d) 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.
 - e) Compliance with Byrd Anti-Lobbying Amendment
 - f) Consultant hereby certifies to the best of its knowledge that:
 - i) No Federal appropriated funds have been paid or will be paid, by or on behalf of Consultant, 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.
 - ii) 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, Consultant shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - g) Consultant 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.
 - h) Contractors who apply or bid for an award of \$100,000 or more shall 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 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.
 - i) 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 31, U.S.C. § 1352(as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000and not more than \$100,000 for each such failure.

- i) By executing this Agreement, Consultant hereby certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Consultant understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.
- j) Procurement of Recovered Materials: In the performance of this contract, Consultant shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:
 - i) Competitively within a timeframe providing for compliance with the contract performance schedule.
 - ii) Meeting contract performance requirements; or
 - iii) At a reasonable price.
 - iv) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines website, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- 7) Access to Records: The following access to records requirements apply to this Agreement:
 - a) Consultant agrees to provide Client, the FEMA 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.
 - b) Consultant agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
 - c) Consultant agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- 8) Use of DHS Seal: Consultant shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval.
- 9) Compliance with Federal Law: This is an acknowledgement that FEMA financial assistance will be used to fund the Agreement only. Consultant will comply will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.
- 10) Non-Obligation of Federal Government: The Federal Government is not a party to this Agreement 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.
- 11) Program Fraud and False or Fraudulent Statements or Related Acts: Consultant 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.

HUD General Provisions

The following terms and conditions apply to any contract for which any portion of the funding is derived from a grant made by the United States Department of Housing and Urban Development ("HUD"). In addition, Subcontractor shall comply with the Federal Labor Standards Provisions set forth in Form HUD-4010, available at:

<http://www.hud.gov/offices/adm/hudclips/forms/files/4010.pdf>

Provisions Required by Law Deemed Inserted

Each and every provision of law and clause required by law to be inserted in this contract shall

be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.

Statutory and Regulatory Compliance

Contractor and Subcontractor shall comply with all laws and regulations applicable to the Community Development Block Grant-Disaster Recovery funds appropriated by the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2), including but not limited to the applicable Office of Management and Budget Circulars, which may impact the administration of funds and/or set forth certain cost principles, including the allowability of certain expenses.

Breach of Contract Items

The Port reserves its right to all administrative, contractual, or legal remedies, including but not limited to suspension or termination of this contract, in instances where the Contractor or any of its subcontractors violate or breach any contract term. If the Contractor or any of its subcontractors violate or breach any contract term, they shall be subject to such sanctions and penalties as may be appropriate. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

Reporting Requirements

The Contractor and Subcontractor shall complete and submit all reports, in such form and according to such schedule, as may be required by the Port to the Prime Contractor to be submitted to the Port. The Subcontractor shall cooperate with all Port efforts to comply with HUD requirements and regulations pertaining to reporting, including but not limited to 24 C.F.R. §§ 85.40-41 (or 84.50-52, if applicable) and 570.507.

Access to Records

The State, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives, shall have at any time and from time to time during normal business hours, access to any work product, books, documents, papers, and records of the Subcontractor which are related to this contract, for the purpose of inspection, audits, examinations, and making excerpts, copies and transcriptions.

Maintenance/Retention of Records

All records connected with this contract will be maintained in a central location and will be maintained for a period of at least four (4) years following the date of final payment and close-out of all pending matters related to this contract.

Small and Minority Firms, Women's Business Enterprises, and Labor Surplus Area Firm Rights to Inventions Made Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 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 HUD.

Energy Efficiency

The Contractor Subcontractor shall comply with mandatory standards and policies relating to energy efficiency issued in compliance with the Energy Policy and Conservation Act (Public Law 94- 163).

Title VI of the Civil Rights Act of 1964

The Contractor and Subcontractor shall comply with the provisions of Title VI of the Civil Rights Act of 1964. No person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Section 109 of the Housing and Community Development Act of 1974

The Contractor and Subcontractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Section 109 further provides that discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, is prohibited.

Section 504 of the Rehabilitation Act of 1973

The Contractor and Subcontractor shall comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 94), as amended, and any applicable regulations.

The Subcontractor agrees that no qualified individual with handicaps shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance from HUD.

Age of Discrimination Act of 1975

The Contractor and Subcontractor shall comply with the Age Discrimination Act of 1975 (42 U.S.C. § 6101 *et seq.*), as amended, and any applicable regulations. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial

assistance.

Debarment, Suspension, and Ineligibility

The Contractor and Subcontractor represents and warrants that it and its subcontractors are not debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs subject to 2 C.F.R. part 2424.

Conflicts of Interest

The Contractor and Subcontractor shall notify the Port as soon as possible if this contract or any aspect related to the anticipated work under this contract raises an actual or potential conflict of interest (as defined at 2 C.F.R. Part 215 and 24 C.F.R. § 85.36 (or 84.42, if applicable)). The Subcontractor shall explain the actual or potential conflict in writing in sufficient detail so that the State is able to assess such actual or potential conflict. The Subcontractor shall provide the Port any additional information necessary for the Port to fully assess and address such actual or potential conflict of interest. The Subcontractor shall accept any reasonable conflict mitigation strategy employed by the Port, including but not limited to the use of an independent subcontractor(s) to perform the portion of work that gives rise to the actual or potential conflict.

Assignability

The Contractor shall not assign any interest in this contract and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of the Port.

Indemnification

The Subcontractor shall indemnify, defend, and hold harmless the Port and its agents and employees from and against any and all claims, actions, suits, charges, and judgments arising from or related to the negligence or willful misconduct of the Subcontractor in the performance of the services called for in this contract.

Copeland “kickback” Act

Salaries of personnel performing work under this contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the Copeland “Anti-Kickback Act” of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. § 874; and Title 40 U.S.C. § 276c). The Subcontractor shall comply with all applicable “Anti-Kickback” regulations and shall insert appropriate provisions in all subcontracts covering work under this contract to ensure compliance by subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

Contract Work Hours and Safety Standards Act

(Applicable to construction contracts exceeding \$2,000 and contracts exceeding \$2,500 that involve the employment of mechanics or laborers)

The Contractor and Subcontractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-330) as supplemented by Department of Labor regulations (29 C.F.R. part 5).

All laborers and mechanics employed by contractors or subcontractors shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act, and the contractors and subcontractors shall comply with all regulations issued pursuant to that act and with other applicable Federal laws and regulations pertaining to labor standards.

Termination for Cause

If, through any cause, the Contractor and Subcontractor shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the Subcontractor 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 the subcontractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the subcontractor under this contract shall, at the option of the Port, become the Port's property and the subcontractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the subcontractor shall not be relieved of liability to the Port for damages sustained by the Port by virtue of any breach of the contract by the subcontractor, and the Port may withhold any payments to the subcontractor for the purpose of set-off until such time as the exact amount of damages due the Port from the Subcontractor is determined.

Termination for Convenience

The Port may terminate this contract at any time by giving at least ten (10) days' notices in writing to the Prime Contractor. If the contract is terminated by the Port as provided herein, the Prime Contractor will be paid for the time provided and expenses incurred up to the termination date.

Section 503 of the Rehabilitation Act of 1973 (Applicable to contracts exceeding \$10,000.00)

The Subcontractor shall comply with section 503 of the Rehabilitation Act of 1973 (29 U.S.C. § 793), as amended, and any applicable regulations

Equal Opportunity for Workers with Disabilities

The Prime will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Subcontractor agrees to take affirmative action to employ, advance

in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices.

Certification of Non-segregated Facilities

The Contractor and Subcontractor certifies that it does not maintain or provide for its establishments, and that it does not permit employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for employees any segregated facilities at any of its establishments, and it will not permit employees to perform their services at any location under its control where segregated facilities are maintained. The Subcontractor agrees that a breach of this certification is a violation of the equal opportunity clause of this contract.

As used in this certification, the term “segregated facilities” means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

The Subcontractor further agrees that (except where it has obtained for specific time periods) it will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the equal opportunity clause; that it will retain such certifications in its files; and that it will forward the preceding notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

Certification of Compliance with Clean Air and Water Acts

The Contractor and Subcontractor shall comply with the requirements of the Clean Air Act, as amended, 42 U.S.C. § 1857 *et seq.*, the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 *et seq.*, and the regulations of the Environmental Protection Agency with respect thereto, at 40 C.F.R. Part 15 and 32, as amended, Section 508 of the Clean Water Act (33 U.S.C. § 1368) and Executive Order 11738.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:

- 1) A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the Excluded Party Listing System pursuant to 40 C.F.R. 32 or on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 C.F.R. Part 15, as amended.
- 2) Agreement by the Subcontractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. § 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. § 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- 3) A stipulation that as a condition for the award of the contract, prompt notice will be given of

any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the Excluded Party Listing System or the EPA List of Violating Facilities.

- 4) Agreement by the Subcontractor that he will include, or cause to be included, the criteria and requirements in paragraph (A) through (D) of this section in every nonexempt subcontract and requiring that the Subcontractor will take such action as the government may direct as a means of enforcing such provisions.

Lobbying

The Contractor and Subcontractor 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 Subcontractor, 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 Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 3) The Subcontractor 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.