THE CITY OF GRASS VALLEY

Request for Qualifications *for*
Environmental Consultant Services *to assist in a*
US EPA Brownfields Multipurpose Grant

November 4, 2026

INTRODUCTION

The City of Grass Valley "City" requests written Request for Qualifications (RFQs) from qualified environmental firms with experience in brownfield assessment and cleanup grants. The City is soliciting RFQs for environmental services to implement its 2026 Brownfield Multipurpose Grant #97T67901 awarded by United States Environmental Protection Agency ("EPA"). The City seeks a highly qualified environmental assessment consultant that has the capacity and expertise to complete the tasks approved by the EPA in the City's grant application.

The grant has a budget of $1,000,000 and will continue assessment work associated with past grants, which have identified extensive alluvial transport of hundreds of thousands of cubic yards of mine tailings which have resulted in contaminated sites within the City of Grass Valley. As with previous Brownfield Grants, the overall objective is to put contaminated mine-scarred properties in a better position for the safe reuse of the land, and also to cleanup a minimum two sites. The Multipurpose Grant budget allocates $288,300 for contract work by a Qualified Environmental Professional (QEP) to conduct assessment work and to help in the procurement of qualified cleanup contractors.

BACKGROUND

This grant represents the sixth (6th) EPA Assessment grant, and the second (2nd) cleanup grant received and managed by the City of Grass Valley. Most recently, the EPA awarded a FY22 Community-wide Assessment grant to the City of Grass Valley. The assessment identified extensive alluvial transport of hundreds of thousands of cubic yards of mine tailings. These impacts are a legacy of large-scale historical mining activity associated with the area's major mining complexes and numerous smaller historical mining and ore processing operations.

The purpose of this Multipurpose Grant is to put contaminated infill properties back to use and to continue the City's strategic planning for acquisition and revitalization of mine-scarred properties in Grass Valley. The target area of assessment includes six key sites, which were selected based on their alignment with the *Wolf Creek Community and Connectivity Project* and the City's broader land use and revitalization plans and priorities, as well as community input. The Grass Valley *Wolf Creek Community and Connectivity Project* links the downtown core with residential and commercial areas to promote accessibility and connectivity across the community. The City has already constructed the southern, 1.2-mile segment of the Wolf Creek Trail extending from the North Star Mining Museum to River Otter Road. By 2029, the City will complete the 1.75-mile northern trail segment, with trailhead access at Key Site #1 downtown and extending upstream to Key Site #6 and residential areas beyond.

SCOPE OF SERVICES

For this RFQ, the term "Staff" refers to City staff. All activities conducted with grant funds must comply with the EPA's Cooperative Agreement, which is included with this RFQ as ***Attachment 1***. The QEP consultant's budget is set at $288,300 but could possibly be adjusted as the project evolves.

The City plans to remediate at least two sites, complete at least three site assessments and cleanup plans, and develop an overall plan for revitalization of the Brownfield sites in the target area, including feasible reuse strategies for four of the six key sites (the other two already have reuse plans).

If budget and schedule permit, additional sites in the target area will be selected for assessment and/or strategic planning based on (A) the ability to leverage private or public funding for redevelopment, (B) the relative difficulty of revitalization without funding for assessment and strategic planning, and (C) public input regarding cleanup and redevelopment priorities. Priority will be given to sites in the South Auburn Street Corridor, which is recognized as disadvantaged by designation as a federal and state opportunity zone and has the highest CalEnviroScreen rankings for poverty and number of cleanup sites

Grass Valley will select a Qualified Environmental Professional (QEP) to perform the following tasks:

- Eligibility applications
- Regulatory agency oversight agreements
- Quality Assurance Project Plan (QAPP)
- Sampling and Analysis Plans (SAPs)
- Phase I Environmental Site Assessments (ESAs)
- Phase II ESAs and Human and Ecological Risk Assessments (HERAs)
- Cleanup Plans / Assessments of Brownfield Cleanup Alternatives (ABCAs)
- Quality assurance testing and reporting during site cleanup
- Assisting the Planning Department with strategic planning
- Assisting with Community Engagement
- Assisting the Planning Department with ACRES reporting

SUBMITTAL FORMAT AND CONTENT

The contents of the submittal must be clear, concise, and complete. Each section of the submittal shall include a tab consistent with the numbering system shown below. A table of contents should be included. Total sheet count for the submittal should not exceed 15 sheets (30 double-sided pages), not including covers and dividers. Please print on double-sided paper.

1. Executive Summary (3 pages maximum, included in 30-page limit)

The submittal shall include an executive summary, which includes the name, address, telephone number, website address firm, and list of any subconsultants you plan to use for this project. The summary should be brief and explain any omissions of requested materials.

Describe how the firm will deliver environmental consulting services to the City, the location of the firm's offices, and the anticipated response time to the City's requests. If the firm is proposing to co-respond with another firm, the cover letter must specify the type of services provided by each firm and the proposed percentage allocated to that phase or function of the service.

The summary shall also include:

- An overview of the firm: how long the firm has been in business, size of the firm, the average number of clients within the firm's portfolio, the type(s) of clients within the firm's portfolio and any commonalities that exist among clients.
- Firm's area(s) of expertise.
- Identification, background and contact information of lead person(s) that will serve as the City's primary contact.

2. Qualifications and Experience

Include a concise description of the company's experience, and primary team members' experience, providing environmental consulting services for public entities, and/or the private sector. Then include a detailed description of the experience of the project team, including the team's project manager and other key staff members. Descriptions of experience should include, but not be limited to, experience in projects with oversight under the State of California Environmental Protection Agency (CalEPA), Department of Toxic Substances Control (DTSC), Regional Water Quality Control Board, and Nevada County, or other California counties, Environmental Health Departments, and cleanup grant programs available from the U.S. EPA and the State of California. This section should reflect experiences that the firm and assigned individuals have in completing tasks as outlined under the Scope of Services. Also, identify your firm's ability to adapt to adjusted priority sites or work tasks as the grant evolves (e.g., the City or community identifies another site of higher priority).

3. Project Approach

Include any unique approaches to completing tasks outlined in the Scope of Services, particularly as it pertains to working with mine-scarred lands and with DTSC. Include your firm's approach to Quality Assurance and Quality Control as it pertains to completing tasks for City/DTSC review. Since EPA requires quarterly reporting though ACRES, the City will rely heavily on the consultant to assist in this reporting. Also include any proposed MBE/WBE firms that will assist in the implementation of any tasks.

4. Client List and Three References (included in 15-page limit)

Provide a list of current or recent clients and contact information for three references.

5. Cost Schedule (1 page, excluded from 15-page limit)

Provide a statement that your firm can complete the tasks listed in the Scope of Services within the budget allocated for the QEP and provide an itemized cost proposal for the various services performed. The cost breakdown shall identify:

- Estimated task charge and estimated hours to be assigned for staff members and sub-consultants.
- All other direct costs, such as mileage, materials, and reproduction costs.

<u>QUESTIONS AND CLARIFICATIONS</u>

Questions pertaining to this RFQ must be sent by email to awolfson@grassvalleyca.gov. The last day to submit questions / inquiries is **Friday, November 20, 2026.**

Staff will respond to any questions via email by **Wednesday, November 25, 2026**.

SUBMITTAL TIME AND PLACE

The RFQ submittal shall be delivered no later than **4:00 P.M**. Pacific Standard Time on **Tuesday, December 8, 2026. The envelope should be clearly marked as "EPA Grant– Request for Qualifications"** and submitted to:

City of Grass Valley
Attn: Amy Wolfson
125 E. Main Street
Grass Valley, CA 95945

The submittal shall include five (5) stapled, binder-clipped or comb bound copies and one USB drive copy of the submittal.

EVALUATION CRITERIA

The City will establish a committee to evaluate all proposals. Committee members will evaluate all submittals according to the following criteria:

- Understanding of the requested work and responsiveness to the RFQ.
- Conformance to the specified format.
- Organization, presentation, and content of the submittal.
- Specialized experience and technical competence of the firm, including Principal firms, joint venture-partners, and sub-consultants considering the types of service required, and the complexity of the project.
- Capacity to perform tasks and activities in the grant.
- Qualifications of key personnel.
- Knowledge and understanding of the local area.
- Experience with federally funded projects and their compliance requirements.
- Ability to meet the insurance requirements as stated in the Terms and Conditions of the RFQ.

Note: Incomplete submittals, incorrect information, or late submittals may be cause for immediate disqualification.

SUBMITTAL SELECTION PROCESS

The City's committee will first review submittals that meet the requirements in the *Evaluation Criteria* section above. After this, the committee may interview the top candidates, or recommend the City select one of the candidates based on the merits of the submittal. If interviews are needed, each consultant shall have one (1) hour with the committee. If an interview is required, it is mandatory that representatives of the firm attend the interview including the primary firm contact. Interviews are tentatively scheduled to occur the week of **December 14, 2026.**

DETERMINATION OF SELECTION

Staff will inform all firms that submit an RFQ of the selected or top-ranked firm by email. Staff will negotiate with the selected firm and will provide a recommendation to the City Council. The City Council will authorize a *Professional Services Agreement* between the consultant and the City of Grass Valley **(Current approved agreement format in Attachment 3)**.

SUMMARY OF SCHEDULE

The City will make every effort to accommodate this schedule; however, it is subject to change.

Issue Date:	November 4, 2026
Submitting Inquiries:	November 20, 2026
RFQ Submittal Deadline:	December 8, 2026
Interview Date if needed:	Week of September 14, 2026
Anticipated Selection Approval Date:	January 12, 2027*
Contract Effective Date:	January 15, 2027

*** This represents the date staff will make a recommendation of selected consultant to the City Council.**

TERMS AND CONDITIONS

Issuance of this RFQ does not commit the City to award a contract, to pay any costs incurred in the preparation of a response to this request, or to procure a contract for services. All respondents should note that the execution of any contract pursuant to this RFQ is dependent upon the approval of the City.

The City retains the right to reject all submittals and to waive informalities and minor irregularities in any proposal reviewed. Furthermore, the City may reject any RFQ, which does not conform to the instructions herewith. Additionally, the City reserves the right to negotiate all final terms and conditions of any agreement entered into. Selection is also dependent upon the negotiation of a mutually acceptable contract with the successful respondent. Each submittal shall be valid for not less than sixty (60) days from the date of RFQ submittal deadline.

The firm(s) selected to perform the work described in this RFQ will be required to provide evidence of public liability and property damage insurance with limits of not less than $1 million for injury to, or death of, one of more persona and/or property damage arising out of a single accident or occurrence insuring against all liability of the City, selected consultant, its subcontractor(s), and its authorized representatives, arising out of, or in connection with, the performance of work under the contract with the City. Professional liability insurance (errors and omissions) shall be required of said firm in the minimum amount of $1 million per occurrence. Said insurance shall be provided at the sole cost and expense of the firm selected unless the requirement is modified or waived by the City. In addition, the selected firm will be expected to comply with Section 3700 of the Labor Code, which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code.

The City reserves the right to amend this RFQ prior to the due date. The cost for the RFQ preparation is the sole responsibility of the submitter. All RFQs submitted shall become the property of the City of Grass Valley.

ATTACHMENTS

Attachment 1 - EPA's Cooperative Agreement

Attachment 2 - Standard City Contract for Services Agreement

ATTACHMENT 1

EPA's Cooperative Agreement

U.S. ENVIRONMENTAL PROTECTION AGENCY

Cooperative Agreement

GRANT NUMBER (FAIN): 97T67901 **MODIFICATION NUMBER:** 0 **PROGRAM CODE:** 4B	**DATE OF AWARD** 09/23/2026
TYPE OF ACTION: New	**MAILING DATE** 09/28/2026
PAYMENT METHOD: ASAP	**ACH#** 90656

RECIPIENT TYPE: Municipal	**Send Payment Request to:** Contact EPA RTPFC at: rtpfc-grants@epa.gov
RECIPIENT: CITY OF GRASS VALLEY 125 E MAIN GRASS VALLEY, CA 95945-6505 **EIN:** 94-6000342	**PAYEE:** CITY OF GRASS VALLEY 125 E MAIN GRASS VALLEY, CA 95945-6505

PROJECT MANAGER	EPA PROJECT OFFICER	EPA GRANT SPECIALIST
Amy Kesler-Wolfson 125 East Main Street Grass Valley, CA 95945 **Email:** awolfson@cityofgrassvalley.com **Phone:** 530-274-4711	Stephanie Steinbrecher 75 Hawthorne Street, LND-2-1 San Francisco, CA 94534 **Email:** Steinbrecher.Stephanie@epa.gov **Phone:** 415-947-4256	Karla CarrilloCastillo Grants Branch, MSD-6 75 Hawthorne Street San Francisco, CA 94105 **Email:** carrillocastillo.karla@epa.gov **Phone:** 415-972-3372

PROJECT TITLE AND DESCRIPTION

Brownfields Multipurpose Cooperative Agreement - BIL

See Attachment 1 for project description.

BUDGET PERIOD	PROJECT PERIOD	TOTAL BUDGET PERIOD COST	TOTAL PROJECT PERIOD COST
08/01/2026 - 07/31/2031	08/01/2026 - 07/31/2031	$ 1,000,000.00	$ 1,000,000.00

NOTICE OF AWARD

Based on your Application dated 01/22/2026 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards $ 1,000,000.00. EPA agrees to cost-share 100.00% of all approved budget period costs incurred, up to and not exceeding total federal funding of $ 1,000,000.00. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.

ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)	AWARD APPROVAL OFFICE
ORGANIZATION / ADDRESS	**ORGANIZATION / ADDRESS**
U.S. EPA, Region 9, U.S. EPA, Region 9 Grants Branch, MSD-6 75 Hawthorne Street San Francisco, CA 94105	U.S. EPA, Region 9, Land, Chemicals and Redevelopment, LND-1 R9 - Region 9 75 Hawthorne Street San Francisco, CA 94105

THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY

Digital signature applied by EPA Award Official Morgan Capilla - Grants Management Officer	**DATE** 09/23/2026

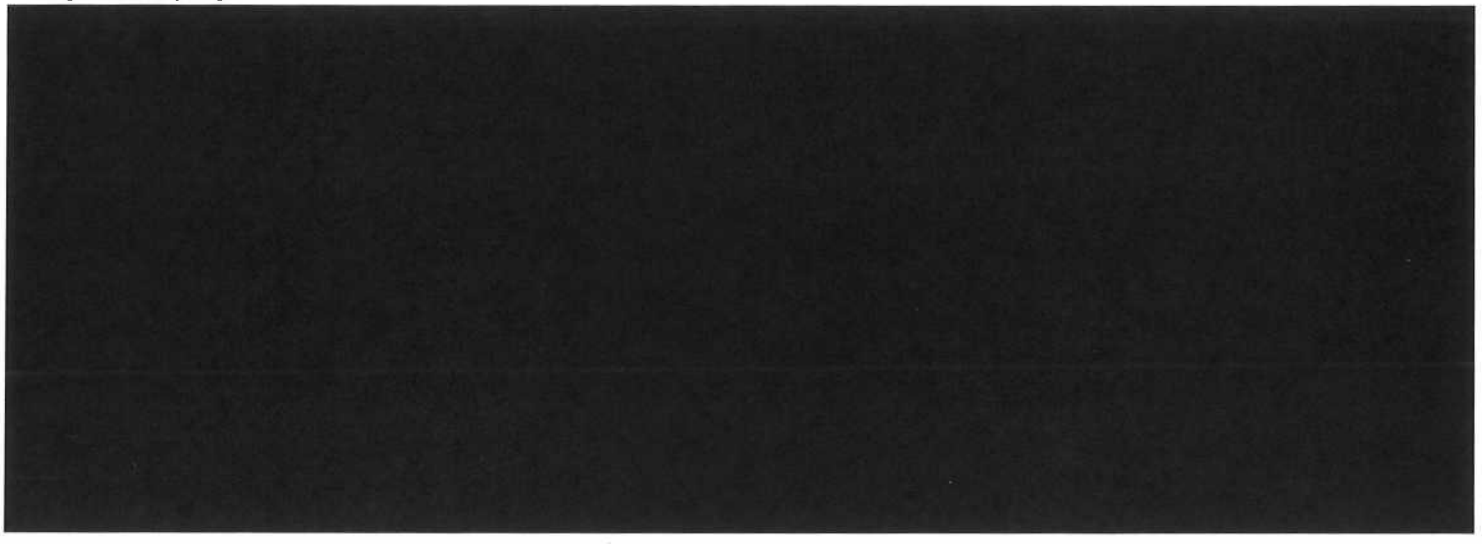
EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	$ 0	$ 1,000,000	$ 1,000,000
EPA In-Kind Amount	$ 0	$ 0	$ 0
Unexpended Prior Year Balance	$ 0	$ 0	$ 0
Other Federal Funds	$ 0	$ 0	$ 0
Recipient Contribution	$ 0	$ 0	$ 0
State Contribution	$ 0	$ 0	$ 0
Local Contribution	$ 0	$ 0	$ 0
Other Contribution	$ 0	$ 0	$ 0
Allowable Project Cost	$ 0	$ 1,000,000	$ 1,000,000

Assistance Program	Statutory Authority	Regulatory Authority
66.818 - Brownfields Multipurpose, Assessment, Revolving Loan Fund, and Cleanup Cooperative Agreements	CERCLA: Secs. 104(k)(4) & 104(k)(5)(E) & Infrastructure Investment and Jobs Act (IIJA) (PL 117-58)	2 CFR 200, 2 CFR 1500 and 40 CFR 33

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	2609QE0101	26	E4SD	0900AG7	000D79X89	4113	-	-	$ 1,000,000
									$ 1,000,000

Budget Summary Page



Attachment 1 - Project Description

Brownfields are real property, the expansion, development, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. This cooperative agreement will provide funding under the Infrastructure Investment and Jobs Act (IIJA) for the City of Grass Valley to conduct eligible planning, assessment, and remediation activities as authorized by CERCLA 104(k)(4) in Grass Valley, California.

This assistance agreement provides full federal funding in the amount of $1,000,000. Preaward costs are approved back to 08/01/2026. See terms and conditions. Specifically, this agreement will provide funding to the recipient to plan, inventory, characterize, assess, conduct cleanup planning and community involvement activities, and remediate sites. Additionally, the recipient will competitively procure (as needed) and direct a qualified environmental professional to conduct environmental site activities, will create a community involvement plan and administrative record for each site that is remediated, and will report on interim progress and final accomplishments by completing and submitting relevant portions of the Property Profile Form using EPA’s Assessment, Cleanup and Redevelopment Exchange System (ACRES).

Further, the recipient anticipates conducting 5 Phase I and II environmental site assessments, remediating 2 brownfield site(s), holding 5 community meetings, developing 3 site-specific cleanup plans/analysis of brownfield cleanup alternatives, developing 1 overall plan for revitalization, developing reuse strategies for 4 priority sites, and submitting 20 quarterly reports. Work conducted under this agreement will benefit the residents, business owners, and stakeholders in and near Grass Valley, California.

No subawards are included in this assistance agreement.

Administrative Conditions

General Terms and Conditions

The recipient agrees to comply with the current EPA general terms and conditions available at: https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2025-or-later

These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at: https://www.epa.gov/grants/grant-terms-and-conditions#general

A. Federal Financial Reporting (FFR)

For awards with cumulative project and budget periods greater than 12 months, the recipient will submit an annual FFR (SF 425) covering the period from "project/budget period start date" to **September 30** of each calendar year to the EPA Finance Center in Research Triangle Park, NC. The annual FFR will be submitted electronically to rtpfc-grants@epa.gov no later than **December 30** of the same calendar year. Find additional information at https://www.epa.gov/financial/grants. (Per 2 CFR § 200.344(b), the recipient must submit the Final FFR to rtpfc-grants@epa.gov within 120 days after the end of the project period.)

B. Procurement

The recipient will ensure all procurement transactions will be conducted in a manner providing full and open competition consistent with 2 CFR § 200.319. In accordance with 2 CFR § 200.324, the recipient and subawardee(s) must perform a cost or price analysis in connection with applicable procurement actions, including contract modifications. ***State and Tribal government entities must follow procurement standards as outlined in 2 CFR § 200.317.***

C. Indirect Costs

The Cost Principles under 2 CFR Part 200, Subpart E apply to this award. Since there are no indirect costs included in the assistance budget, they are not allowable under this Assistance Agreement.

Programmatic Conditions

I. GENERAL FEDERAL REQUIREMENTS

NOTE: For the purposes of these Terms and Conditions, the term "assessment" includes eligible activities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) § 104(k)(2)(A)(i) such as activities involving the inventory, characterization, assessment, and planning relating to brownfield sites as described in the EPA-approved workplan.

A. Federal Policy and Guidance

1. Cooperative Agreement Recipients: By awarding this cooperative agreement, the

Environmental Protection Agency (EPA) has approved the application for the Cooperative Agreement Recipient (CAR) submitted in the Fiscal Year 2026 competition for Brownfield Multipurpose cooperative agreements.

2. In implementing this agreement, the CAR shall ensure that work done with cooperative agreement funds complies with the requirements of CERCLA § 104(k). The CAR shall also ensure that assessment and cleanup activities supported with cooperative agreement funding comply with all applicable Federal and state laws and regulations. The CAR must ensure cleanups are protective of human health and the environment.

3. The CAR must consider whether it is required to conduct cleanups through a State or Tribal response program. If the CAR chooses not to participate in a State or Tribal response program, then the CAR is required to consult with the EPA Project Officer to ensure the proposed cleanup is protective of human health and the environment.

If the State or Tribe does not have a promulgated response program that is applicable to the planned brownfield activity, then the CAR is required to consult with the EPA Project Officer to ensure the protectiveness of human health and the environment.

4. A term and condition or other legally binding provision shall be included in all subawards entered into with the funds awarded under this agreement, or when funds awarded under this agreement are used in combination with non-Federal sources of funds, to ensure that the CAR complies with all applicable Federal and state laws and requirements. In addition to CERCLA § 104(k), applicable Federal laws and requirements include 2 CFR Part 200.

5. The CAR must comply with Federal cross-cutting requirements. These requirements include, but are not limited to, Participation by Disadvantaged Business Enterprises (DBE) requirements found at 40 CFR Part 33 (as applicable); OSHA Worker Health & Safety Standard 29 CFR § 1910.120; Uniform Relocation Act (40 USC § 61); National Historic Preservation Act (16 USC § 470); Endangered Species Act (P.L. 93-205); Permits required by Section 404 of the Clean Water Act; Contract Work Hours and Safety Standards Act, as amended (40 USC §§ 327-333); the Anti-Kickback Act (40 USC § 3145); and Section 504 of the Rehabilitation Act of 1973, 29 USC §§ 793 and 794; 40 CFR Part 7, Subpart C. For additional information on cross-cutting requirements visit https://www.epa.gov/grants/epa-subaward-cross-cutter-requirements.

6. The CAR must comply with Davis-Bacon Related Act (DBRA) prevailing wage requirements and

associated U.S. Department of Labor (DOL) regulations for all construction, alteration, and repair contracts and subcontracts awarded with funds provided under this agreement by operation of CERCLA § 104(g). Assessment activities generally do not involve construction, alteration, and repair within the meaning of DBRA. However, the recipient must contact the EPA Project Officer if there are unique circumstances (e.g., removal of an underground storage tank or another structure and restoration of the site) that indicate that DBRA requirements apply to an activity the CAR intends to carry out with funds provided under this agreement. EPA will provide guidance on DBRA compliance if necessary. Cleanup activities are likely to require Davis-Bacon compliance. For more detailed information on complying with DBRAs, please see the Contract Provisions for Davis-Bacon and Related Acts and the Brownfields Davis-Bacon terms and conditions.

7. Refer to the General Term & Conditions for Buy America Sourcing requirements under the Build America, Buy America (BABA) provisions of the Infrastructure Investment and Jobs Act (IIJA; also known as Bipartisan Infrastructure Law or BIL) (P.L. 117-58, §§70911-70917).

8. The recipient agrees to have financial management and programmatic management systems in place to:

a. Track and report on expenditures of IIJA funds.

b. Track and report outputs and outcomes achieved with IIJA funds.

II. SITE ELIGIBILITY REQUIREMENTS

All brownfield sites that will be addressed using funds from the cooperative agreement must be located within the geographic boundary (i.e., the target area discussed in the FY26 application) and described in the scope of work for this cooperative agreement (i.e., the EPA-approved workplan).

A. Eligible Brownfield Site Determinations

1. Prior to performing site work, the CAR must provide information to the EPA Project Officer about each site that will be addressed under this cooperative agreement. The CAR may use cooperative agreement funds to prepare information that is provided to the EPA Project Officer. The information that must be provided includes whether the site meets the definition of a brownfield site as defined in CERCLA § 101(39), and whether the CAR is a potentially responsible party under CERCLA § 107, is exempt from CERCLA liability and/or has a defense to CERCLA liability, and documentation that the CAR owns the site it intends to clean up.

2. The CAR may only clean up sites it solely owns that are within the target area specified in the workplan for this cooperative agreement. The CAR must retain ownership of the site(s) while Brownfield Multipurpose Grant funds are disbursed for the cleanup of the site(s) and must consult with the EPA Project Officer prior to transferring title or otherwise conveying the real property comprising the site. For the purposes of this agreement, the term “owns” means fee simple title unless EPA approved a different ownership arrangement at the time of award or the EPA Project Officer advises the CAR that a different ownership is acceptable to EPA for a site after the award.

3. If the site is excluded from the general definition of a brownfield, but is eligible for a property-specific funding determination, then the CAR may request a property-specific funding determination from the

EPA Project Officer. In its request, the CAR must provide information sufficient for EPA to make a property-specific funding determination on how financial assistance will protect human health and the environment, and either promote economic development or enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for nonprofit purposes. The CAR must not incur costs for assessing sites requiring a property-specific funding determination by EPA until the EPA Project Officer has advised the CAR that EPA has determined that the property is eligible.

4. Brownfield Sites Contaminated with Petroleum

a. For any petroleum-contaminated brownfield site that is not included in the CAR's EPA-approved workplan, the CAR shall provide sufficient documentation to EPA prior to incurring costs under this cooperative agreement which documents that:

i. the State determines there is “no viable responsible party” for the site;

ii. the State determines that the person addressing the site is a person who is not potentially liable for cleaning up the site; and

iii. the site is not subject to any order issued under Section 9003(h) of the Solid Waste Disposal Act.

This documentation must be prepared by the CAR or the State, following contact and discussion with the appropriate state petroleum program official. Please contact the EPA Project Officer for additional information.

b. Documentation must include:

i. the identity of the State program official contacted;

ii. the State official's telephone number;

iii. the date of the contact; and

iv. a summary of the discussion relating to the State's determination that there is no viable responsible party and that the person addressing the site is not potentially liable for cleaning up the site.

Other documentation provided by a State to the recipient relevant to any of the determinations by the State must also be provided to the EPA Project Officer.

c. If the State chooses not to make the determinations described in Section II.A.4. above, the CAR must contact the EPA Project Officer and provide the necessary information for EPA to make the requisite determinations.

d. EPA will make all determinations on the eligibility of petroleum-contaminated brownfield sites located on Tribal lands (i.e., reservation lands or lands otherwise in Indian country, as defined at 18 U.S.C. § 1151). Before incurring costs for these sites, the CAR must contact the EPA Project Officer and provide the necessary information for EPA to make the determinations.

B. Continuing Obligations for CARs

1. The CAR shall not use cooperative agreement funds to pay for a response cost at the site for which the CAR was potentially liable under CERCLA § 107. The CAR must demonstrate that it meets the requirements for one of the Landowner Liability Protections as either a Bona Fide Prospective Purchaser (BFPP), Contiguous Property Owner (CPO), or Innocent Landowner (ILO). These requirements include certain threshold criteria and continuing obligations that must be met in order for the CAR to maintain its eligible status. If the CAR fails to meet these obligations, EPA may disallow the costs incurred under this cooperative agreement for cleaning up the site under CERCLA § 104(k)(8)(C). The Landowner Liability Protection requirements include:

a. Performing “all appropriate inquiries” into the previous ownership and uses of the property before acquiring the property.

b. Not being potentially liable or affiliated with any other person who is potentially liable for response costs at the site through any direct or indirect familial relationship, any contractual, corporate, or financial relationship, or through the result of a reorganization of a business entity that was potentially liable.

While not necessary to obtain ILO protection, the CAR must still establish by a preponderance of the evidence that the act or omission that caused the release or threat of release of hazardous substances and any resulting damages were caused by a third party with whom the person does not have an employment, agency, or contractual relationship.

c. Demonstrating that no disposal of hazardous substances occurred at the facility after acquisition by the landowner (does not specifically apply for the CPO protection).

d. Taking “reasonable steps” with respect to hazardous substance releases by stopping any continuing releases, preventing any threatened future releases, and preventing or limiting human, environmental, or natural resource exposure to any previously released hazardous substance.

e. Complying with any land use restrictions established or relied on in connection with the response action at the site and not impeding the effectiveness or integrity of institutional controls employed in connection with the response action.

f. Providing full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration at the site from which there has been a release or threatened release.

g. Complying with information requests and administrative subpoenas (does not specifically apply for the ILO protection).

h. Providing all legally required notices with respect to the discovery or release of any hazardous substances at the site (does not specifically apply for the ILO protection).

Notwithstanding the CAR's continuing obligations under this agreement, the CAR is subject to the applicable liability provisions of CERCLA governing its status as a BFPP, CPO, or ILO. CERCLA requires additional obligations to maintain the liability limitations for BFPP, CPO, and ILO; the relevant provisions for these obligations include §§ 101(35), 101(40), 107(b), 107(q) and 107(r).

CARs that are exempt from CERCLA liability or do not have to meet the requirements for asserting an affirmative defense to CERCLA liability must also comply with continuing obligation items c.-h.

III. GENERAL COOPERATIVE AGREEMENT ADMINISTRATIVE REQUIREMENTS

A. Sufficient Progress

1. This condition supplements the requirements of the Termination and Sufficient Progress Conditions in the General Terms and Conditions.

The EPA Project Officer will assess whether the recipient is making sufficient progress in implementing the cooperative agreement 18 months and 36 months from the date of award. If EPA determines that the CAR has not made sufficient progress in implementing the cooperative agreement, the CAR, if directed to do so, must implement a corrective action plan concurred on by the EPA Project Officer and approved by the Grants Management Officer or Award Official. Alternatively, EPA may terminate this agreement under 2 CFR § 200.340 either for material non-compliance with its terms or with the consent of the CAR, depending on the circumstances.

Sufficient progress at 18 months is indicated when:

- at least 15% of funds have been drawn down and disbursed for eligible activities;
- a Qualified Environmental Professional(s) has been procured;
- assessment or cleanup activities have been initiated;
- community engagement activities have been initiated; and/or
- other documented activities have occurred that demonstrate to EPA's satisfaction that the CAR will successfully perform the cooperative agreement.

Sufficient progress at 36 months is indicated when:

- at least 45% of funds have been drawn down and disbursed for eligible activities;
- Phase II environmental site assessment and cleanup activities are ongoing at least one site; and/or
- other documented activities have occurred that demonstrate to EPA's satisfaction that the CAR will successfully perform the cooperative agreement.

Other documented activities may include, but are not limited to, sites are prioritized or an inventory has been initiated, relevant state or Tribal pre-cleanup requirements are being addressed, an appropriate remediation plan is in place for at least one eligible brownfield site, institutional control development has commenced, a feasible reuse strategy for one site has been developed, and/or an overall plan for revitalization has been developed.

B. Substantial Involvement

1. The EPA Project Officer will be substantially involved in overseeing and monitoring this cooperative agreement. Substantial involvement, includes, but is not limited to:

a. Close monitoring of the CAR's performance to verify compliance with the EPA-approved workplan and achievement of environmental results.

b. Participation in periodic telephone conference calls to share ideas, project successes and challenges, etc., with EPA.

c. Reviewing and commenting on quarterly and annual reports prepared under the cooperative agreement (the final decision on the content of reports rests with the recipient or subrecipient(s) receiving pass-through award(s)).

d. Verifying sites meet applicable site eligibility criteria (including property-specific funding determinations described in Section II.A.2. and II.A.3.), including when the CAR awards a subaward for site assessment. The CAR must obtain technical assistance from the EPA Project Officer, or his/her designee, on which sites qualify as a brownfield site and determine whether the statutory prohibitions found in CERCLA § 104(k)(5)(B)(i)-(iv) apply. (Note, the prohibition does not allow a subrecipient to use EPA cooperative agreement funds to assess a site for which the subrecipient is potentially liable under CERCLA § 107.)

e. Reviewing and approving Quality Assurance Project Plans and related documents or verifying that appropriate Quality Assurance requirements have been met where quality assurance activities are being conducted pursuant to an EPA-approved Quality Assurance Management Plan.

Substantial involvement may also include, depending on the direction of the EPA Project Officer:

f. Collaboration during the performance of the scope of work including participation in project activities, to the extent permissible under EPA policies. Examples of collaboration include:

i. Consultation between EPA staff and the CAR on effective methods of carrying out the scope of work provided the CAR makes the final decision on how to perform authorized activities.

ii. Advice from EPA staff on how to access publicly available information on EPA or other Federal agency websites.

iii. With the consent of the CAR, EPA staff may provide technical advice to the CAR's contractors or subrecipients provided the CAR approves any expenditures of funds necessary to follow advice from EPA staff. (The CAR remains accountable for performing contract and subaward management as specified in 2 CFR § 200.318 and 2 CFR § 200.332 as well as the terms of the EPA cooperative agreement.)

iv. EPA staff participation in meetings, webinars, and similar events upon the request of the CAR or in connection with a co-sponsorship agreement.

g. Reviewing and approving that the Analysis of Brownfield Cleanup Alternatives (ABCA), or equivalent state Brownfields program document, meets the Brownfields Program's requirements for an ABCA.

h. Reviewing proposed procurements in accordance with 2 CFR § 200.325, as well as the substantive terms of proposed contracts or subawards as appropriate. This may include reviewing requests for proposals, invitations for bids, scopes of work, and/or plans and specifications for contracts over the simplified acquisition threshold as defined in 2 CFR § 200.1 prior to advertising for bids.

i. Reviewing the qualifications of key personnel. (EPA does not have the authority to select employees or contractors, including consultants, employed by the CAR or subrecipients receiving pass-through awards.)

j. Reviewing information in performance reports to ensure all costs incurred by the CAR and/or its contractor(s) if needed to ensure appropriate expenditure of grant funds.

EPA may waive any of the provisions in Section III.B.1., except for property-specific funding determinations. The EPA Project Officer will provide waivers to provisions a. – e. in Section III.B.1. in writing.

2. Effects of EPA's substantial involvement include:

a. EPA's review of any project phase, document, or cost incurred under this cooperative agreement will not have any effect upon CERCLA § 128 *Eligible Response Site* determinations or rights, authorities, and actions under CERCLA or any Federal statute.

b. The CAR remains responsible for ensuring that all assessments and cleanups are protective of human health and the environment and comply with all applicable Federal and state laws. If changes to the expected cleanup become necessary based on public comment or other reasons, the CAR must consult with the EPA Project Officer and the State.

c. The CAR and its subrecipients remain responsible for ensuring costs are allowable under 2 CFR Part 200, Subpart E.

C. Cooperative Agreement Recipient Roles and Responsibilities

1. Funds expended under this cooperative agreement must be used to complete at least one Phase II environmental site assessment, to conduct cleanup activities at one or more brownfield sites within the target area, and to produce one overall plan for revitalization of one or more sites in the target area (if a plan does not already exist), as specified in the workplan. The overall plan for revitalization must include a feasible reuse strategy for at least one site. If a CAR is not making sufficient progress and appears unlikely to complete these cooperative agreement requirements, EPA may terminate this agreement under 2 CFR § 200.340 for material non-compliance with its terms, or with the consent of the CAR as provided at 2 CFR § 200.340, depending on the circumstances, as referenced in Section III.A.

2. All additional sites selected for eligible activities throughout the period of performance (i.e., sites that were not identified in the workplan) must be located within the geographic boundary identified by the CAR in the workplan.

Criteria for selecting additional sites should consider the prioritization criteria identified in the FY26 application, the workplan, or developed during implementation of the workplan. Note, criteria developed during the implementation of the workplan should lead to the CAR addressing sites in areas with similar characteristics to the areas discussed in the FY26 application.

3. If the CAR's workplan includes eligible planning activities to prepare a brownfield site for reuse (see https://www.epa.gov/brownfields/information-eligible-planning-activities for eligible planning activities), the CAR must demonstrate meaningful community engagement in the reuse planning of brownfield sites assessed under the grant. Meaningful community engagement is demonstrated by actively including

local nonprofit organizations, citizen leaders, or similar local groups/entities in brownfield reuse planning.

4. CARs, other than state or Tribal entities with their own procurement policies and procedures, that procure a contractor(s) (including individual consultant(s)) must follow the procurement standards 2 CFR §§ 200.318 through 200.327 (including the requirements for full and open competition). Consistent with 2 CFR § 200.317, state and Tribal CARs with their own procurement policies and procedures, must also comply with the requirements in 2 CFR §§ 200.321, 200.322, 200.323, and 200.327. Additionally, all CARs (including state and Tribal entities), regardless of the contract amount, must comply with EPA's DBE regulations at 40 CFR Part 33 as applicable and 2 CFR Part 1500. For additional information on EPA's DBE requirements, see Recipient/Applicant Information Notice (RAIN) 2025-G02 available at https://www.epa.gov/grants/rain-2025-g02 and the "Utilization of Disadvantaged Business Enterprises" General Term and Condition of this agreement. These requirements also apply to procurement processes that were completed before the award of this cooperative agreement, to include if the CAR intends to submit payment requests for pre-award costs. See EPA's Best Practice Guide for Procuring Services, Supplies, and Equipment Under EPA Assistance Agreements and the *Brownfields Grants: Guidance on Competitively Procuring a Contractor* for additional information.

CARs may procure multiple contractors to ensure the appropriate expertise is in place to perform work under the agreement (e.g., expertise to conduct site remediation activities vs. community engagement) and to allow the ability for work be performed concurrently at multiple sites within the defined and approved geographic boundary.

5. The CAR must acquire the services of a Qualified Environmental Professional(s) as defined in 40 CFR § 312.10, if it does not have such a professional on staff to coordinate, direct, and oversee the brownfield site assessment and cleanup activities at a given site.

6. Cybersecurity – The recipient agrees that when collecting and managing environmental data under this cooperative agreement, it will protect the data by following all applicable State or Tribal law cybersecurity requirements.

a. EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement are secure. For purposes of this section, a connection is defined as a dedicated persistent interface between an Agency Information Technology (IT) system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer no later than 90 days after the date of this award and work with the designated Regional/ Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

b. The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in Cybersecurity Section a. above if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and

during subrecipient monitoring deemed necessary by the recipient under 2 CFR § 200.332(e), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

7. All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at www.fgdc.gov.

D. Quarterly Performance Reports

1. In accordance with the regulations at 2 CFR Parts 200 and 1500 (specifically, 2 CFR § 200.329, *Monitoring and Reporting Program Performance*), the CAR agrees to submit quarterly performance reports to the EPA Project Officer within 30 days after each reporting period. Initially, quarterly performance reports will be submitted via email or via the optional Quarterly Reporting function tool within the Assessment, Cleanup and Redevelopment Exchange System (ACRES). The EPA Project Officer will notify the CAR when use of the Quarterly Reporting tool within ACRES is required. Once the EPA Project Officer notifies the CAR of required use, the CAR agrees to use this tool to input quarterly performance reports directly into ACRES within 30 days after each reporting period. The reporting periods are October 1 – December 31 (1st quarter); January 1 – March 31 (2nd quarter); April 1 – June 30 (3rd quarter); and July 1 – September 30 (4th quarter). If a due date falls on a weekend or holiday, the report will be due on the next business day.

These reports shall cover work status, work progress, difficulties encountered, preliminary data results, and a statement of activity anticipated during the subsequent reporting period, including a description of equipment, techniques, and materials to be used or evaluated. A discussion of expenditures and financial status for each workplan task, along with a comparison of the percentage of the project completed to the project schedule and an explanation of significant discrepancies from the EPA-approved workplan and budget shall be included in the report. The report shall also include any changes of key personnel concerned with the project that were approved by the EPA Grants Management Officer or Award Official. (Note, as provided at 2 CFR § 200.308, *Revision of budget and program plans*, the CAR must seek prior approval from the EPA Grants Management Officer or Award Official for a change in a key personnel (including employees and contractors) that are identified by name or position in the workplan. Prior approval means the written approval obtained in advance of a recipient taking an action by an authorized official of a Federal agency or pass-through entity of certain costs or programmatic decisions.)

Note: ACRES reporting requirements may change over time, based on expansion of EPA's information collection authority, and the CAR is responsible for complying with the latest ACRES reporting requirements at the time of each quarterly performance report.

2. The CAR must submit performance reports on a quarterly basis in ACRES using the Multipurpose Quarterly Report function or to the EPA Project Officer. Quarterly performance reports must include:

a. A summary that clearly differentiates between activities completed with EPA funds provided under the Brownfield Multipurpose cooperative agreement and related activities completed with other sources of leveraged funding.

b. A summary and status of approved activities performed during the reporting quarter; a summary of the performance outputs/outcomes achieved during the reporting quarter; and a description of problems

encountered during the reporting quarter that may affect the project schedule.

c. A comparison of actual accomplishments to the anticipated outputs/outcomes specified in the EPA-approved workplan and reasons why anticipated outputs/outcomes were not met.

d. An update on the project schedule and milestones, including an explanation of any discrepancies from the EPA-approved workplan.

e. A list of the properties where assessment and cleanup activities (and planning activities, if applicable) were performed and/or completed during the reporting quarter.

f. A budget summary table with the following information: current approved project budget; EPA funds drawn down during the reporting quarter; costs drawn down to date (cumulative expenditures); program income generated and used (if applicable) (i.e., program income received and disbursed during the reporting quarter and during the entire cooperative agreement, and the amount of program income remaining); and total remaining funds. The budget summary table must include costs that are charged to the “other” budget object class category (e.g., participant support costs, subawards, etc.).

The CAR shall include an explanation of any discrepancies in the budget from the EPA-approved workplan, cost overruns or high unit costs, and other pertinent information. If significant developments occur that negatively impact the Federal Award, the CAR shall include information on their plan for corrective action and any assistance needed to resolve the situation. The CAR shall include a statement on funding transfers among direct budget categories or programs, functions, and activities that occurred during the quarter and cumulatively during the period of performance. For the purposes of EPA's “Transfer of Funds” General Term and Condition, the term “activities” includes assessment, planning, and cleanup. The CAR must obtain prior approval from the EPA Grants Management Officer or Award Official for cumulative transfers of funds in excess of 10% of the total budget among these activities.

g. For local governments that are using cooperative agreement funds for health monitoring, the quarterly report must also include the specific budget, the quarterly expenditure, and cumulative expenditures to demonstrate that 10% of Federal funding is not exceeded.

Note: Each property where assessment and cleanup activities were performed and/or completed must have its corresponding information updated in ACRES (or via the Property Profile Form with prior approval from the EPA Project Officer) prior to submitting the quarterly performance report (see Section III.E. below).

3. The CAR must maintain records that will enable it to report to EPA on the amount of funds disbursed by the CAR to assess and clean up the specific properties under this cooperative agreement.

4. In accordance with 2 CFR § 200.329(e), the CAR agrees to inform the EPA Project Officer as soon as problems, delays, or adverse conditions become known which will materially impair the CAR's ability to meet the outputs/outcomes specified in the EPA-approved workplan.

E. Property Profile Submission

1. The CAR must report on interim progress (e.g., assessments started, clean up started, reuse planning activities started) and any final accomplishments (e.g., assessments completed, clean up required, clean up completed, contaminants found, contaminants removed, institutional controls required,

engineering controls required, leveraged dollars and/or jobs) by completing and submitting relevant portions of the electronic Property Profile Form using the Assessment, Cleanup and Redevelopment Exchange System (ACRES). The CAR must enter the data in ACRES as soon as the interim action or final accomplishment has occurred, or within 30 days after the end of each reporting quarter. The CAR must enter any new data into ACRES prior to submitting the quarterly performance report to the EPA Project Officer. The CAR must utilize the electronic version of the Property Profile Form in ACRES unless approval is obtained from the EPA Project Officer to use the hardcopy version of the Property Profile Form or its use is included in the approved workplan.

F. Final Cooperative Agreement Performance Report with Environmental Results

1. In accordance with the regulations at 2 CFR Parts 200 and 1500 (specifically, § 200.329 *Monitoring and Reporting Program Performance* and 2 CFR § 200.344(b), *Closeout*), the CAR agrees to submit to the EPA Project Officer within 120 days after the expiration or termination of the approved project period a final performance report on the cooperative agreement via email; unless the EPA Project Officer agrees to accept a paper copy of the report. The final performance report shall document and summarize the elements listed in Section III.D.2., as appropriate, for activities that occurred over the entire project period.

IV. FINANCIAL ADMINISTRATION REQUIREMENTS

A. Eligible Uses of the Funds for the Cooperative Agreement Recipient

1. To the extent allowable under the EPA-approved workplan, cooperative agreement funds may be used for eligible programmatic expenses to inventory, characterize, assess, and clean up sites; conduct site-specific planning, general brownfield-related planning activities around one or more brownfield sites in the target area; conduct outreach and community engagement; and for reasonable participant support costs. Refer to the EPA Guidance on Participant Support Costs for information regarding reasonable stipend amounts and requirements for the use of participant support costs. Eligible programmatic expenses include activities described in Section V. of these Terms and Conditions. In addition, eligible programmatic expenses may include:

a. Determining whether assessment and cleanup activities at a particular site are authorized by CERCLA § 104(k).

b. Ensuring that an assessment and cleanup complies with applicable requirements under Federal and state laws, as required by CERCLA § 104(k).

c. Limited Site characterization to confirm the effectiveness of the proposed cleanup design or the effectiveness of a cleanup once an action has been completed.

d. Preparing and updating an Analysis of Brownfield Cleanup Alternatives (ABCA) which will include information about the site and contamination issues, cleanup standards, applicable laws, alternatives considered, and the proposed cleanup.

e. Ensuring that public participation requirements are met. This includes preparing a Community Involvement Plan which will include reasonable notice, opportunity for public involvement and comment on the proposed cleanup, and response to comments.

f. Establishing an Administrative Record for each site.

g. Developing a Quality Assurance Project Plan (QAPP) as required by 2 CFR § 1500.12. The specific requirement for a QAPP is outlined in *Implementation of Quality Assurance Requirements for Organizations Receiving EPA Financial Assistance* available at https://www.epa.gov/grants/implementation-quality-assurance-requirements-organizations-receiving-epa-financial.

h. Using a portion of the cooperative agreement funds to purchase environmental insurance for the characterization or assessment, or remediation of the site. [Funds shall not be used to purchase insurance intended to provide coverage for any of the ineligible uses under Section IV.B., *Ineligible Uses of the Funds for the Cooperative Agreement Recipient*.]

i. Any other eligible programmatic costs, including direct costs incurred by the recipient in reporting to EPA; procuring and managing contracts; awarding, monitoring, and managing subawards to the extent required to comply with 2 CFR § 200.332 and the "Establishing and Managing Subawards" General Term and Condition; and carrying out community engagement pertaining to the assessment and cleanup activities.

2. Under CERCLA § 104(k)(5)(E), CARs and subrecipients may use up to 5% of the amount of Federal funding for this cooperative agreement for administrative costs, including indirect costs under 2 CFR § 200.414. The limit on administrative costs for the CAR under this agreement is **$50,000**. The total amount of indirect costs and any direct costs for cooperative agreement administration by the CAR paid for by EPA under the cooperative agreement shall not exceed this amount. Subrecipients may use up to 5% of the amount of Federal funds in their subawards for administrative costs. As required by 2 CFR § 200.403(d), the CAR and subrecipients must classify administrative costs as direct or indirect consistently and shall not classify the same types of costs in both categories. The term "administrative costs" does not include:

a. Investigation and identification of the extent of contamination of a brownfield site;

b. Design and performance of a response action; or

c. Monitoring of a natural resource.

Eligible cooperative agreement and subaward administrative costs subject to the 5% limitation include direct costs for:

d. Costs incurred to comply with the following provisions of the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* at 2 CFR Parts 200 and 1500 other than those identified as programmatic.

i. Record-keeping associated with equipment purchases required under 2 CFR § 200.313;

ii. Preparing revisions and changes in the budgets, scopes of work, program plans, and other activities required under 2 CFR § 200.308;

iii. Maintaining and operating financial management systems required under 2 CFR § 200.302;

iv. Preparing payment requests and handling payments under 2 CFR § 200.305;

v. Financial reporting under 2 CFR § 200.328;

vi. Non-Federal audits required under 2 CFR Part 200, Subpart F; and

vii. Closeout under 2 CFR § 200.344 with the exception of preparing the recipient's final performance report. Costs for preparing this report are programmatic and are not subject to the 5% limitation on direct administrative costs.

e. Pre-award costs for preparation of the proposal and application for this cooperative agreement (including the final workplan) or applications for subawards are not allowable as direct costs but may be included in the CAR's or subrecipient's indirect cost pool to the extent authorized by 2 CFR § 200.460.

3. **Local Governments Only –** If authorized in the EPA-approved workplan and budget narrative, up to 10% of the funds awarded by this agreement may be used by the CAR itself as a programmatic cost for Brownfield Program development and implementation of monitoring health conditions and institutional controls. The health monitoring activities must be associated with brownfield sites at which at least a Phase II environmental site assessment is conducted and is contaminated with hazardous substances. The CAR must maintain records on funds that will be used to carry out this task to ensure compliance with this requirement.

B. Ineligible Uses of the Funds for the Cooperative Agreement Recipient

1. Cooperative agreement funds shall not be used by the CAR for any of the following activities:

a. Monitoring and data collection necessary to apply for, or comply with, environmental permits under other Federal and state laws, unless such a permit is required as a component of the cleanup action;

b. Construction, demolition, and post-cleanup site development activities that are not brownfield assessment activities or cleanup actions (e.g., marketing of property (activities or products created specifically to attract buyers or investors), construction of a new facility, or addressing public or private drinking water supplies that have deteriorated through ordinary use);

c. General community visioning, area-wide zoning updates, design guideline development, master planning, green infrastructure, infrastructure service delivery, and city-wide or comprehensive planning/plan updates – these activities are all ineligible uses of grant funds if unrelated to advancing cleanup and reuse of brownfield sites within the target area. Note: for these types of activities to be an eligible use of grant funds, there must be a specific nexus between the activity and how it will help further cleanup and reuse of the priority brownfield site(s). This nexus must be clearly described in the workplan for the project;

d. Job training activities unrelated to performing a specific assessment or cleanup at a site (i.e., on the job training) covered by the cooperative agreement;

e. To pay for a penalty or fine;

f. To pay a Federal cost share requirement (e.g., a cost share required by another Federal grant) unless there is specific statutory authority;

g. To pay for a response cost at a brownfield site for which the CAR or subaward recipient is potentially

liable under CERCLA § 107;

h. To pay a cost of compliance with any Federal law, excluding the cost of compliance with laws applicable to the assessment or cleanup; and

i. Unallowable costs (e.g., lobbying and purchases of alcoholic beverages) under 2 CFR Part 200, Subpart E.

2. Cooperative agreement funds shall not be used for any of the following properties:

a. Facilities listed, or proposed for listing, on the National Priorities List (NPL);

b. Facilities subject to unilateral administrative orders, court orders, and administrative orders on consent or judicial consent decree issued to or entered by parties under CERCLA;

c. Facilities that are subject to the jurisdiction, custody or control of the United States government except for land held in trust by the United States government for an Indian Tribe; or

d. A site excluded from the definition of a brownfield site for which EPA has not made a property-specific funding determination.

V. MULTIPURPOSE REQUIREMENTS

A. Authorized Activities

1. Prior to conducting or engaging in any on-site activity with the potential to impact historic properties (such as invasive sampling or cleanup), the CAR shall consult with the EPA Project Officer regarding potential applicability of the National Historic Preservation Act (NHPA) (16 USC § 470) and, if applicable, shall assist EPA in complying with any requirements of the NHPA and implementing regulations.

2. The CAR shall prepare an Analysis of Brownfield Cleanup Alternatives (ABCA), or equivalent state Brownfields program document, which will include information about the site and contamination issues (i. e., exposure pathways, identification of contaminant sources, etc.); cleanup standards; applicable laws; alternatives considered; and the proposed cleanup. The evaluation of alternatives must include effectiveness, ability to implement, and the cost of the response proposed. The evaluation of alternatives must also consider the resilience of the remedial options to address potential adverse impacts caused by extreme weather events (e.g., sea level rise, drought, increased frequency and intensity of flooding, etc.). The alternatives may additionally consider the degree to which they reduce greenhouse gas discharges, reduce energy use or employ alternative energy sources, reduce volume of wastewater generated/disposed of, reduce volume of materials taken to landfills, and recycle and re-use materials generated during the cleanup process to the maximum extent practicable. The evaluation will include an analysis of reasonable alternatives including no action. The cleanup method chosen must be based on this analysis and documented in a decision document upon completion of the public comment period. The CAR must consult with the relevant state program (or EPA if there is not a state program that covers the site) to determine if the selected cleanup requires formal modification based on public comments or new information.

B. Quality Assurance (QA) Requirements

Authority: Quality Assurance applies to all assistance agreements involving environmental information as defined in 2 C.F.R. § 1500.12 Quality Assurance.

When environmental data are collected as part of the brownfield assessment and cleanup (e.g., cleanup verification sampling, post-cleanup confirmation sampling), the CAR shall comply with 2 CFR § 1500.12 requirements to develop and implement quality assurance practices sufficient to produce data adequate to meet project objectives and to minimize data loss. State law may impose additional QA requirements.

The recipient shall ensure that subawards involving environmental information issued under this agreement include appropriate quality requirements for the work. The recipient shall ensure sub-award recipients develop and implement Quality Assurance (QA) planning documents in accordance with this term and condition; and/or ensure sub-award recipients implement all applicable approved QA planning documents.

1. Quality Assurance Project Plan (QAPP)

a. Prior to beginning environmental information operations, the recipient must:

i. Develop a QAPP (The QAPP is the document that provides comprehensive details about the quality assurance, quality control, and technical activities that must be implemented to ensure that project objectives are met. Environmental programs include direct measurements or data generation, environmental modeling, compilation of data from literature or electronic media, and data supporting the design, construction, and operation of environmental technology.),

ii. Prepare QAPP in accordance with the current version of EPA's Quality Assurance Project Plan (QAPP) Standard,

iii. Submit the document for EPA review, and

iv. Obtain EPA Quality Assurance Manager or designee (hereafter referred to as QAM) approval.

b. The recipient must submit the QAPP no more than 180 days after grant award.

c. The recipient shall notify the EPA Project Officer and the EPA Quality Assurance Manager or designee (hereafter referred to as QAM) when substantive changes are needed to the QAPP. EPA may require the QAPP be updated and re-submitted for approval.

d. The recipient must review their approved QAPP at least annually. The results of the QAPP review and any revisions must be submitted to the EPA Project Officer and the QAM at least annually and may also be submitted when changes occur.

For Reference:

- Quality Management Plan (QMP) Standard and EPA's Quality Assurance Project Plan (QAPP) Standard; contain quality specifications for EPA and non-EPA organizations and definitions applicable to these terms and conditions.
- Quality Assurance Project Plan Guidance.
- EPA's Quality Program website has a list of QA managers, and Specifications for EPA and Non-

EPA Organizations.

- mplementation of Quality Assurance Requirements for Organizations Receiving EPA Financial Assistance.

3. **Competency of Organizations Generating Environmental Measurement Data:** In accordance with Agency Policy Directive Number FEM-2012-02, *Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements*, the CAR agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable, the CAR agrees to demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. The CAR shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy is available online at https://www.epa.gov/measurements-modeling/documents-about-measurement-competency-under-assistance-agreements or a copy may also be requested by contacting the EPA Project Officer for this award.

C. Public Involvement and Community Outreach

1. All cleanup activities require a site-specific Community Involvement Plan. The plan must include providing reasonable notice to the community and opportunity for public involvement and comment on the proposed cleanup options under consideration for the site. All information, including responses to public comments and administrative records, may be made available to the public to the extent consistent with 2 CFR § 200.338 and applicable state, Tribal, or local law.

D. Public Awareness

1. The CAR agrees to clearly reference EPA investments in the project during all phases of community outreach outlined in the EPA-approved workplan which may include the development of post-project summary or success materials that highlight achievements to which this project contributed.

a. If any documents, fact sheets, and/or web materials are developed as part of this cooperative agreement, then they shall comply with the *Acknowledgement Requirements for Non-Research Assistance Agreements* in the General Terms and Conditions of this agreement.

b. If a sign is developed as part of a project funded by this cooperative agreement, then the sign shall include either a statement (e.g., this project has been funded, wholly or in part, by EPA) and/or EPA's logo acknowledging that EPA is a source of funding for the project. The EPA logo may be used on project signage when the sign can be placed in a visible location with a direct linkage to site activities. Use of the EPA logo must follow the sign specifications available at https://www.epa.gov/aboutepa/using-epa-seal-and-logo. To obtain the appropriate EPA logo or seal graphic file, the CAR should send a request directly to the EPA Office of External Affairs (OEA) and include the EPA Project Officer in the communication. Instructions for contacting OEA are available at https://www.epa.gov/aboutepa/using-epa-seal-and-logo.

c. EPA Logo: If the EPA logo is displayed along with logos from other participating entities on signage, websites, outreach materials, or reports, it must **not** be prominently displayed to imply that any of the recipient's or subrecipient's activities are being conducted by the EPA. Instead, the EPA logo must be accompanied with a statement indicating that the [Insert CAR or subrecipient NAME] received Federal

financial assistance from EPA for the project. The recipient will ensure compliance with the sign specifications provided by the OEA available at https://www.epa.gov/stylebook/using-epa-seal-and-logo. As provided in the sign specifications from OEA, the EPA logo is the preferred identifier for assistance agreement projects and use of the EPA seal requires prior approval from the EPA.

d. Procuring Signs: Consistent with section 6002 of RCRA, 42 U.S.C. 6962, and 2 CFR 200.323, recipients are encouraged to use recycled or recovered materials when procuring signs. Signage costs are considered an allowable cost under this assistance agreement provided that the costs associated with signage are reasonable.

2. The CAR agrees to notify the EPA Project Officer listed in this award document of public or media events publicizing the accomplishment of significant events related to construction and/or site reuse projects as a result of this agreement, and provide the opportunity for attendance and participation by Federal representatives with at least ten (10) business days' notice.

3. To increase public awareness of projects serving communities where English is not the predominant language, CARs are encouraged to include in their outreach strategies communication in non-English languages. This includes translating the language on signs (excluding the EPA logo or seal) into the appropriate non-English language(s). Translation costs for this purpose are allowable, provided the costs are reasonable.

4. All public awareness activities conducted with EPA funding are subject to the provisions in the General Terms and Conditions on compliance with section 504 of the Americans with Disabilities Act.

E. All Appropriate Inquiries

1. As required by CERCLA § 104(k)(2)(B)(ii) and CERCLA § 101(35)(B), the CAR shall ensure that a Phase I site characterization and assessment carried out under this agreement will be performed in accordance with EPA's all appropriate inquiries regulation (AAI). The CAR shall utilize the practices in ASTM standard E1527-21 *"Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process,"* or ASTM E2247-23 "*Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property*" (or the latest recognized ASTM standard at the time the assessment is performed), or EPA's All Appropriate Inquiries Final Rule (40 CFR Part 312). A suggested outline for an AAI final report is provided on EPA's website at https://www.epa.gov/brownfields/brownfields-all-appropriate-inquiries#format-for-reporting-the-results-of-all-appropriate-inquiries. This does not preclude the use of cooperative agreement funds for additional site characterization and assessment activities that may be necessary to characterize the environmental impacts at the site or to comply with applicable state standards.

2. AAI final reports produced with funding from this agreement must comply with 40 CFR Part 312 and must, at a minimum, include the information below. All AAI reports submitted to the EPA Project Officer as deliverables under this agreement must be accompanied by a completed *"All Appropriate Inquiries: Reporting Requirements Checklist for Assessment and Multipurpose Grant Recipients"* (Publication Number: EPA 560-F-23-017 (or the latest available publication)) that the EPA Project Officer will provide to the recipient. The checklist is available to CARs on EPA's website at https://www.epa.gov/brownfields/brownfields-all-appropriate-inquiries. The completed checklist must include:

a. An ***opinion*** as to whether the inquiry has identified conditions indicative of releases or threatened releases of hazardous substances, and as applicable, pollutants and contaminants, petroleum or

petroleum products, or controlled substances, on, at, in, or to the subject property.

b. An identification of ***"significant" data gaps*** (as defined in 40 CFR § 312.10), if any, in the information collected for the inquiry. Significant data gaps include missing or unattainable information that affects the ability of the environmental professional to identify conditions indicative of releases or threatened releases of hazardous substances, and as applicable, pollutants and contaminants, petroleum or petroleum products, or controlled substances, on, at, in, or to the subject property. The documentation of significant data gaps must include information regarding the significance of these data gaps.

c. ***Qualifications*** and ***signature*** of the environmental professional(s). The environmental professional must place the following statements in the document and sign the document:

- *"[I, We] declare that, to the best of [my, our] professional knowledge and belief, [I, we] meet the definition of Environmental Professional as defined in 40 CFR § 312.10 of this part."*
- *"[I, We] have the specific qualifications based on education, training, and experience to assess a property of the nature, history, and setting of the subject property. [I, We] have developed and performed the all appropriate inquiries in conformance with the standards and practices set forth in 40 CFR Part 312."*

Note: Please use either "I/my" or "We/our."

d. In compliance with 40 CFR § 312.31(b), the environmental professional must include in the final report an ***opinion regarding additional appropriate investigation***, if the environmental professional has such an opinion.

3. EPA may review checklists and AAI final reports for compliance with the AAI regulation documentation requirements at 40 CFR Part 312 (or comparable requirements for those using ASTM Standard 1527-21 or the latest recognized ASTM standard at the time the assessment is performed). Any deficiencies identified during an EPA review of these documents must be corrected by the recipient within 30 days of notification. Failure to correct any identified deficiencies may result in EPA disallowing the costs for the entire AAI report as authorized by 2 CFR § 200.339. If a recipient willfully fails to correct the deficiencies, EPA may consider other available remedies, including under 2 CFR § 200.339 and 2 CFR § 200.340.

F. Administrative Record

1. The CAR shall establish an Administrative Record that contains the documents that form the basis for the selection of a cleanup plan. Documents in the Administrative Record shall include the ABCA; site investigation reports; the cleanup plan; cleanup standards used; responses to public comments; and verification that shows that cleanup is complete. The CAR shall keep the Administrative Record available at a location convenient to the public and make it available for inspection. The Administrative Record must be retained for three (3) years after the termination of the cooperative agreement subject to any requirements for maintaining records of site cleanups ongoing at the time of termination.

G. Implementation of Cleanup Activities

1. The CAR shall ensure the adequacy of each cleanup in protecting human health and the environment as it is implemented.

2. If the CAR is unable or unwilling to complete the cleanup, the CAR shall ensure that the site is secure. The CAR shall notify the appropriate state or Tribal agency and EPA to ensure an orderly transition should additional activities become necessary.

H. Completion of Assessment and Cleanup Activities

1. The CAR shall properly document the completion of all activities described in the EPA- approved workplan. This must be done through a final report or letter from a Qualified Environmental Professional, or other documentation provided by a State or Tribe that shows assessments and cleanups are complete. Documentation of the completed cleanups must be included as part of the Administrative Record.

I. Inclusion of Additional Terms and Conditions

1. In accordance with 2 CFR § 200.334, the CAR shall maintain records pertaining to the cooperative agreement for a minimum of three (3) years following submission of the final financial report unless one or more of the conditions described in the regulation applies. The CAR shall provide access to records, including subrecipients' records, relating to assessments and cleanups supported with Multipurpose cooperative agreement funds to authorized representatives of the Federal government as required by 2 CFR § 200.337.

2. The CAR has an ongoing obligation to advise EPA if it assessed any penalties resulting from environmental noncompliance at sites subject to this agreement.

VI. PAYMENT AND CLOSEOUT

For the purposes of these Terms and Conditions, the following definitions apply: “payment” is EPA's transfer of funds to the CAR; “closeout” refers to the process EPA follows to ensure that all administrative actions and work required under the cooperative agreement have been completed.

A. Payment Schedule

1. The CAR may request advance payment from EPA pursuant to 2 CFR § 200.305(b)(1) and the prompt disbursement requirements of the General Terms and Conditions of this agreement. The CAR must pay subrecipients in advance provided the subrecipient complies with the requirements of 2 CFR § 200.305(b)(1).

This requirement does not apply to states which are subject to 2 CFR § 200.305(a).

B. Schedule for Closeout

1. Closeout will be conducted in accordance with 2 CFR § 200.344. EPA will close out the award when it determines that all applicable administrative actions and all required work under the cooperative agreement have been completed.

2. The CAR, within 120 days after the expiration or termination of the cooperative agreement, must submit all financial, performance, and other reports required as a condition of the cooperative agreement.

a. The CAR must submit the following documentation:

i. The Final Cooperative Agreement Performance Report as described in Section III.F. of these Terms and Conditions.

ii. Administrative and Financial Reports as described in the General Terms and Conditions of this agreement.

b. The CAR must ensure that all appropriate data have been entered into ACRES or all hardcopy Property Profile Forms are submitted to the EPA Project Officer.

c. As required by 2 CFR § 200.344, the CAR must immediately refund to EPA any balance of unobligated (unencumbered) advanced cash or accrued program income that is not authorized to be retained for use on other cooperative agreements.

VII. DAVIS-BACON

1. Program Applicability

a. Program Name: Brownfields Program

b. Statute: Brownfields Direct Cleanup and Revolving Loan Fund Grants authorized by 42 U.S.C. 9604 (k) are subject to Davis-Bacon and Related Acts (DBRA) as provided in 42 U.S.C. 9604(g)

c. Activities subject to Davis-Bacon:

i. **Brownfield Sites Contaminated with Hazardous Substances:** All construction, alteration, and repair activity involving the remediation of hazardous substances is subject to DBRA. This includes:

- Excavation of contaminated soil;
- Construction of caps, barriers, and structures which permanently house treatment equipment;
- Installation of water supply wells/piping/connections;
- Abatement of contamination in buildings; and
- Demolition (if followed by new construction).

ii. **Brownfield Sites Contaminated with Petroleum:** DBRA prevailing wage requirements apply when the project includes:

- Excavation of contaminated soil and/or tank removal if followed by paving and concrete replacement, or if it is an extensive soil excavation project;
- Construction of caps, barriers, and structures which permanently house treatment equipment; and
- Installation of water supply wells/piping/connections and related excavation and replacement of contaminated soil.

d. Prevailing Wage Classification (e.g., Heavy Construction, Residential, Commercial) (optional):

- **Heavy Construction:** EPA has determined the “Heavy Construction” classification should be

used when soliciting competitive contracts or issuing ordering instruments to existing contractors for:

- Excavation and removal of contaminated soil;
- Construction of caps or barriers;
- Replacement of paving and concrete; and
- Installation of water supply wells/piping/connections.

- **Building Construction:** EPA has determined the "Building Construction" classification should be used when soliciting competitive contracts or issuing ordering instruments for the construction of:
  - Demolition (if followed by new construction);
  - Construction of structures which permanently house treatment equipment; and
  - Abatement of contamination in buildings (other than residential structures less than 4 stories in height).
- **Residential Construction:** EPA has determined the "Residential Construction" classification should be used when soliciting competitive contracts or issuing ordering instruments for the abatement of contamination in residential structures less than 4 stories in height.

2. Davis-Bacon and Related Acts

DBRA is a collection of labor standards provisions administered by the Department of Labor, that are applicable to grants involving construction. These labor standards include the:

- Davis-Bacon Act, which requires payment of prevailing wage rates for laborers and mechanics on construction contracts of $2,000 or more
- Copeland "Anti-Kickback" Act, which prohibits a contractor or subcontractor from inducing an employee into giving up any part of the compensation to which he or she is entitled; and
- Contract Work Hours and Safety Standards Act, which requires overtime wages to be paid for over 40 hours of work per week, under contracts in excess of $100,000.

3. Recipient Responsibilities When Entering Into and Managing Contracts

a. Solicitation and Contract Requirements:

i. **Include the Correct Wage Determinations in Bid Solicitations and Contracts:** Recipients are responsible for complying with the procedures provided in 29 CFR 1.6 when soliciting bids and awarding contracts.

ii. **Include DBRA Requirements in All Contracts:** Include the following text on all contracts under this grant:

"By accepting this contract, the contractor acknowledges and agrees to the terms provided in the DBRA Requirements for Contractors and Subcontractors Under EPA Grants."

b. After Award of Contract:

i. **Approve and Submit Requests for Additional Wages Rates:** Work with contractors to

request additional wage rates if required for contracts under this grant, as provided in 29 CFR 5.5 (a)(1)(iii).

ii. **Provide Oversight of Contractors to Ensure Compliance with DBRA Provisions:** Ensure contractor compliance with the terms of the contract, as required by 29 CFR 5.6.

4. Recipient Responsibilities When Establishing and Managing Additional Subawards

a. Include DBRA Requirements in All Subawards (including Loans):

Include the following text on all subawards under this grant:

"By accepting this award, the EPA subrecipient acknowledges and agrees to the terms and conditions provided in the DBRA Requirements for EPA Subrecipients."

b. Provide Oversight to Ensure Compliance with DBRA Provisions: Recipients are responsible for oversight of subrecipients, and must ensure subrecipients comply with the requirements in 29 CFR 5.6.

5. The contract clauses set forth in this Term and Condition, along with the correct wage determinations, will be considered to be a part of every prime contract covered by Davis-Bacon and Related Acts (see 29 CFR5.1), and will be effective by operation of law, whether or not they are included or incorporated by reference into such contract, unless the Department of Labor grants a variance, tolerance, or exemption. Where the clauses and applicable wage determinations are effective by operation of law under this paragraph, the prime contractor must be compensated for any resulting increase in wages in accordance with applicable law.

***** END OF DOCUMENT *****

ATTACHMENT 2

Standard City Contract for Services Agreement

CITY OF GRASS VALLEY

PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES (with federal funding provisions)

Use the following form agreement for contracts with non-professional consultants that include federal funding requirements.

Do not use this form agreement for contracts with Design Professionals. A Design Professional is any individual satisfying one or more of the following: (1) licensed as an architect pursuant to Business and Professions Code 5500 et seq., (2) licensed as a landscape architect pursuant to Business and Professions Code 5615 et seq., (3) licensed as a professional land surveyor pursuant to Business and Professions Code 8700 et seq., or (4) registered as a professional engineer pursuant to Business and Professions Code 6700 et seq.

PROFESSIONAL SERVICES AGREEMENT
FOR CONSULTANT SERVICES

(City of Grass Valley / *[Company or Individual]*)

1. IDENTIFICATION

This PROFESSIONAL SERVICES AGREEMENT ("Agreement") is entered into by and between the City of Grass Valley, a California municipal corporation ("City"), and _____, a **[state the consultant's form of business entity and state of formation (i.e., a California limited liability company)]**_____ ("Consultant").

2. RECITALS

2.1. City has determined that it requires the following professional services from a consultant: **[enter description of consultant's services]**

2.2. Consultant represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.

2.3. Consultant represents that it has no known relationships with third parties, City Council members, or employees of City which would (1) present a conflict of interest with the rendering of services under this Agreement under Government Code Section 1090, the Political Reform Act (Government Code Section 81000 *et seq.*), or other applicable law, (2) prevent Consultant from performing the terms of this Agreement, or (3) present a significant risk of the disclosure of confidential information.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, City and Consultant agree as follows:

3. DEFINITIONS

3.1. "Scope of Services": Such professional services as are set forth in Consultant's **[enter consultant's proposal date]** proposal to City attached hereto as Exhibit A and incorporated herein by this reference.

3.2. "Agreement Administrator": The Agreement Administrator for this project is [Name and title]. The Agreement Administrator shall be the principal point of contact at the City for this project. All services under this Agreement shall be performed at the request of the Agreement Administrator. The Agreement Administrator will establish the timetable for completion of services and any interim milestones. City reserves the right to change this designation upon written notice to Consultant

3.3. "Approved Fee Schedule": Consultant's compensation rates are set forth in the fee schedule attached hereto as Exhibit B and incorporated herein by this reference. This fee schedule shall remain in effect for the duration of this Agreement unless modified in writing by mutual agreement of the parties.

3.4. "Maximum Amount": The highest total compensation and costs payable to Consultant by City under this Agreement. The Maximum Amount under this Agreement is _____ Dollars ($_____).

3.5. "Commencement Date": [date].

3.6. "Termination Date": [date]

4. CAMPAIGN CONTRIBUTIONS

This Agreement is subject to Government Code Section 84308, as amended by SB 1439. That statute requires Consultant to disclose any campaign contribution by the Consultant or the Consultant's agent to City Councilmembers or other City officials of more than $250 in the aggregate within the preceding 12 months. If such contributions have been made, Consultant shall provide a signed copy of the attached Campaign Contribution Disclosure Form with Consultant's execution of this Agreement. If not, the Campaign Disclosure Form need not be completed and returned to the City.

5. TERM

The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall expire at 11:59 p.m. on the Termination Date unless extended by written agreement of the parties or terminated earlier under Section 17 ("Termination") below. Consultant may request extensions of time to perform the services required hereunder. Such extensions shall be effective if authorized in advance by City in writing and incorporated in written amendments to this Agreement.

6. CONSULTANT'S DUTIES

6.1. **Services**. Consultant shall perform the services identified in the Scope of Services. City shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement.

6.2. **Coordination with City**. In performing services under this Agreement, Consultant shall coordinate all contact with City through its Agreement Administrator.

6.3. **Budgetary Notification**. Consultant shall notify the Agreement Administrator, in writing, when fees and expenses incurred under this Agreement have reached eighty percent (80%) of the Maximum Amount. Consultant shall concurrently inform the Agreement Administrator, in writing, of Consultant's estimate of total expenditures required to complete its current assignments before proceeding, when the remaining work on such assignments would exceed the Maximum Amount.

6.4. **Business License.** Consultant shall obtain and maintain in force a City business license for the duration of this Agreement.

6.5. **Professional Standards.** Consultant shall perform all work to the standards of Consultant's profession and in a manner reasonably satisfactory to City. Consultant shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules, and regulations in any manner affecting the performance of this Agreement, including all Cal/OSHA requirements, the conflict-of-interest provisions of Government Code § 1090 and the Political Reform Act (Government Code § 81000 et seq.).

6.6. **Avoid Conflicts.** During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working at the Commencement Date if such work would present a conflict interfering with performance under this Agreement. However, City may consent in writing to Consultant's performance of such work.

6.7. **Appropriate Personnel.** Consultant has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. [Name of Project Manager] shall be Consultant's project administrator and shall have direct responsibility for management of Consultant's performance under this Agreement. No change shall be made in Consultant's project administrator without City's prior written consent.

6.8. **Substitution of Personnel.** Naming any persons in the proposal or Scope of Services constitutes a promise to the City that those persons will perform and coordinate their respective services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of City. If City and Consultant cannot agree as to the substitution of key personnel, City may terminate this Agreement for cause.

6.9. **Permits and Approvals.** Consultant shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary for Consultant's performance of this Agreement. This includes, but shall not be limited to, professional licenses, encroachment permits, and building and safety permits and inspections.

6.10. **Notification of Organizational Changes.** Consultant shall notify the Agreement Administrator, in writing, of any change in name, ownership or control of Consultant's firm or of any subcontractor. Change of ownership or control of Consultant's firm may require an amendment to this Agreement.

6.11. **Records.** Consultant shall maintain all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such documents shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. In addition, pursuant to Government Code § 8546.7, if the amount of public funds expended under

this Agreement exceeds $10,000, all such documents and this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under this Agreement.

6.12. **Federal Requirements.** FEMA financial assistance may be used to fund all or a portion of this contract. Consultant shall comply with all federal requirements including, but not limited to, the following:

- 2 C.F.R. Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which is expressly incorporated herein by reference.
- Federal Contract Provisions attached hereto as Exhibit C and incorporated herein by reference.

Subcontracts, if any, shall contain a provision making them subject to all terms of this contract, including but not limited to, 2 C.F.R. Part 200 and the Federal Contract Provisions attached hereto as Exhibit C.

With respect to any conflict between such federal requirements and the terms of this Agreement and/or the provisions of state law, and except as otherwise required under federal law or regulation, the more stringent requirement shall control.

7. SUBCONTRACTING

7.1. **General Prohibition.** This Agreement covers professional services of a specific and unique nature. Except as otherwise provided herein, Consultant shall not assign or transfer its interest in this Agreement or subcontract any services to be performed other than by an amendment to this Agreement.

7.2. **Consultant Responsible.** Consultant shall be responsible to City for all services to be performed under this Agreement.

7.3. **Identification in Fee Schedule.** All subcontractors shall be specifically listed, and their billing rates identified in the Approved Fee Schedule, Exhibit B. Any changes must be approved by the Agreement Administrator in writing.

7.4. **Compensation for Subcontractors.** City shall pay Consultant for work performed by its subcontractors, if any, only at Consultant's actual cost plus an approved mark-up as set forth in the Approved Fee Schedule, Exhibit B. Consultant shall be liable and accountable for all payments, compensation, and federal and state taxes to all subcontractors performing services under this Agreement. City shall not be liable for any payment, compensation, or federal and state taxes to or for any subcontractors.

8. COMPENSATION

8.1. **General.** City agrees to compensate Consultant for the services provided under this Agreement, and Consultant agrees to accept payment in accordance with the Fee Schedule in full satisfaction for such services. Compensation shall not exceed the Maximum Amount.

Consultant shall not be reimbursed for any expenses unless provided for in this Agreement or authorized in writing by the Agreement Administrator in advance.

8.2. **Invoices.** Consultant shall submit to City an invoice, on a monthly basis or as otherwise agreed to by the Agreement Administrator, for services performed pursuant to this Agreement. Each invoice shall identify the Maximum Amount, the services rendered during the billing period, the amount due for the invoice, and the total amount previously invoiced. All labor charges shall be itemized by employee name and classification or position with the firm, the corresponding hourly rate, the hours worked, a description of each labor charge, and the total amount due for labor charges.

8.3. **Taxes.** City shall not withhold applicable taxes or other payroll deductions from payments made to Consultant except as otherwise required by law. Consultant shall be solely responsible for calculating, withholding, and paying all taxes.

8.4. **Disputes.** The parties agree to meet and confer at mutually agreeable times to resolve any disputed amounts in an invoice submitted by Consultant.

8.5. **Additional Work.** Consultant shall not be reimbursed for any expenses incurred for work performed outside the Scope of Services unless prior written approval is given by the City through a fully executed written amendment to this Agreement. Consultant shall not undertake any such work without prior written approval of the Project Administrator.

8.6. **City Satisfaction as Precondition to Payment.** Notwithstanding any other terms of this Agreement, no payments shall be made to Consultant until City is satisfied that the services are satisfactory.

8.7. **Right to Withhold Payments.** If Consultant fails to provide a deposit or promptly satisfy an indemnity obligation described in Section 12, City shall have the right to withhold payments under this Agreement to offset that amount.

9. PREVAILING WAGES

Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. This Agreement is subject to Prevailing Wage Laws, for all work performed under this Agreement for which the payment of prevailing wage is required by those laws. Consultant shall defend, indemnify, and hold the City, its elected officials, officers, employees, and agents free and harmless from any claim or liability arising out of any failure or alleged failure of Consultant to comply with the Prevailing Wage Laws.

10. OWNERSHIP OF WRITTEN PRODUCTS

All reports, documents or other written material, and all electronic files, including computer-aided design files, developed by Consultant in the performance of this Agreement (such written material and electronic files are collectively known as "written products") shall be and remain the property of City

without restriction or limitation upon its use or dissemination by City except as provided by law. Consultant may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Consultant.

11. RELATIONSHIP OF PARTIES

11.1. **General.** Consultant shall be a wholly independent contractor as to the City under this Agreement.

11.2. **No Agent Authority.** Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or to otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not represent in any manner that it is, or that any of its agents or employees are, employees of City.

11.3. **Independent Contractor Status.** Under no circumstances shall Consultant or its employees look to the City as an employer. Consultant shall not be entitled to any benefits. City makes no representation as to the effect of this independent contractor relationship on Consultant's previously earned California Public Employees Retirement System ("CalPERS") retirement benefits, if any, and Consultant specifically assumes the responsibility for making such a determination. Consultant shall be responsible for all reports and obligations including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation, and other applicable federal and state taxes.

11.4. **Indemnification of CalPERS Determination.** If Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

12. INDEMNIFICATION

12.1. **Definitions.** For purposes of this Section, "Consultant" shall include Consultant, its officers, employees, servants, agents, or subcontractors, or anyone directly or indirectly employed by either Consultant or its subcontractors, in the performance of this Agreement. "City" shall include City, its officers, agents, employees and volunteers.

12.2. **Consultant to Indemnify City.** To the fullest extent permitted by law, Consultant shall indemnify, hold harmless, and defend City from and against all claims, losses, costs or expenses for any personal injury or property damage arising out of or in connection with Consultant's alleged negligence, recklessness or willful misconduct or other wrongful acts, errors or omissions of Consultant or failure to comply with any provision in this Agreement.

12.3. **Scope of Indemnity.** Personal injury shall include injury or damage due to death or injury to any person, whether physical, emotional, consequential or otherwise. Property damage shall

include injury to any personal or real property. Consultant shall not be required to indemnify City for such loss or damage as is caused by the sole active negligence or willful misconduct of the City.

12.4. **Attorney Fees.** Such costs and expenses shall include reasonable attorney' fees for counsel of City's choice, expert fees, and all other costs and fees of litigation. Consultant shall not be entitled to any refund of attorney' fees, defense costs, or expenses if it is adjudicated to have been non-negligent.

12.5. **Defense Deposit.** The City may request a deposit for defense costs from Consultant with respect to a claim. If the City requests a defense deposit, Consultant shall provide it within 15 days of the request.

12.6. **Waiver of Statutory Immunity.** The obligations of Consultant under this Section are not limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City.

12.7. **Indemnification by Subcontractors.** Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section from every subcontractor or any other person or entity involved in the performance of this Agreement on Consultant's behalf.

12.8. **Insurance Not a Substitute.** City does not waive any indemnity rights by accepting any insurance policy or certificate required pursuant to this Agreement. Consultant's indemnification obligations apply whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

13. INSURANCE

13.1. **Insurance Required.** Consultant shall maintain insurance as described in this Section and shall require all its subcontractors, consultants, and other agents to do the same. Approval of the insurance by the City shall not relieve or decrease any liability of Consultant. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

13.2. **Documentation of Insurance.** City will not execute this Agreement until it has received a complete set of all required documentation of insurance coverage. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. Consultant shall file with City:

- Certificate of Insurance, indicating companies acceptable to City, with a Best's Rating of no less than A:VII showing. The Certificate of Insurance must include the following reference: [insert project name]
- Documentation of Best's rating acceptable to the City.
- Original endorsements effecting coverage for all policies required by this Agreement.
- Complete, certified copies of all required insurance policies, including endorsements affecting the coverage.

13.3. **Coverage Amounts.** Insurance coverage shall be at least in the following minimum amounts:

- Professional Liability Insurance: $1,000,000 per occurrence, $2,000,000 aggregate

- General Liability:
  - General Aggregate: $2,000,000
  - Products Comp/Op Aggregate $2,000,000
  - Personal & Advertising Injury $1,000,000
  - Each Occurrence $1,000,000
  - Fire Damage (any one fire) $ 50,000
  - Medical Expense (any 1 person) $ 5,000

- Workers' Compensation:
  - Workers' Compensation Statutory Limits
  - EL Each Accident $1,000,000
  - EL Disease - Policy Limit $1,000,000
  - EL Disease - Each Employee $1,000,000

- Automobile Liability
  - Any vehicle, combined single limit $1,000,000

Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured.

13.4. **General Liability Insurance.** Commercial General Liability Insurance shall be no less broad than ISO form CG 00 01. Coverage must be on a standard Occurrence form. Claims-Made, modified, limited or restricted Occurrence forms are not acceptable.

13.5. **Worker's Compensation Insurance.** Consultant is aware of the provisions of Section 3700 of the Labor Code which requires every employer to carry Workers' Compensation (or to undertake equivalent self-insurance), and Consultant will comply with such provisions before commencing the performance of the work of this Agreement. If such insurance is underwritten by any agency other than the State Compensation Fund, such agency shall be a company authorized to do business in the State of California. If Consultant is an individual and has no employees, the Project Administrator may accept an affirmation of that fact in lieu of proof of workers compensation insurance.

13.6. **Automobile Liability Insurance.** Covered vehicles shall include owned, if any, non-owned, and hired automobiles and trucks.

13.7. **Professional Liability Insurance or Errors & Omissions Coverage.** The deductible or self-insured retention may not exceed $50,000. If the insurance is on a Claims-Made basis, the

retroactive date shall be no later than the commencement of the work. Coverage shall be continued for two years after the completion of the work by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.

The Project Administrator may, in his or her sole discretion, waive the requirement for Professional Liability Insurance by initialing here:

Initials: _____

Name: _____

13.8. **Claims-Made Policies.** If any of the required policies provide coverage on a claims-made basis, the Retroactive Date must be shown and must be before the date of this Agreement or the beginning of work under this Agreement. Claims-Made Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of work under this Agreement. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the effective date of this Agreement, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work under this Agreement.

13.9. **Additional Insured Endorsements.** The City, its City Council, Commissions, officers, and employees must be endorsed as additional insureds for each policy required herein, other than Professional Errors and Omissions and Worker's Compensation, for liability arising out of ongoing and completed operations by or on behalf of the Consultant. Consultant's insurance policies shall be primary as respects any claims related to or as the result of the Consultant's work. Any insurance, pooled coverage or self-insurance maintained by the City, its elected or appointed officials, officers, agents, employees, volunteers, or consultants shall be non-contributory. All endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. General liability coverage can be provided using an endorsement to the Consultant's insurance at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37.

13.10. **Failure to Maintain Coverage.** In the event any policy is canceled prior to the completion of work under this Agreement and the Consultant does not furnish a new certificate of insurance prior to cancellation, City has the right, but not the duty, to obtain the required insurance and deduct the premium(s) from any amounts due the Consultant under this Agreement. Failure of the Consultant to maintain the insurance required by this Agreement, or to comply with any of the requirements of this Section, shall constitute a material breach of this Agreement.

13.11. **Notices.** Consultant shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self-insured retention is increased. Consultant shall provide no less than 30 days' notice of any cancellation or material change to policies required by this Agreement. Consultant shall provide proof that cancelled or expired policies of insurance

have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks before expiration of the coverages. The name and address for Additional Insured Endorsements, Certificates of Insurance and Notices of Cancellation is: City of Grass Valley, Attn: [insert department or individual], 125 East Main Street, Grass Valley, CA 95945.

13.12. **Consultant's Insurance Primary.** The insurance provided by Consultant, including all endorsements, shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City and/or its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

13.13. **Waiver of Subrogation.** Consultant hereby waives all rights of subrogation against the City. Consultant shall additionally waive such rights either by endorsement to each policy or provide proof of such waiver in the policy itself.

13.14. **Report of Claims to City.** Consultant shall report to the City, in addition to the Consultant's insurer, all insurance claims submitted to Consultant's insurer in connection with the services under this Agreement.

13.15. **Premium Payments and Deductibles.** Consultant must disclose all deductibles and self-insured retention amounts to the City. The City may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within retention amounts. Ultimately, City must approve all such amounts before execution of this Agreement.

City has no obligation to pay any premiums, assessments, or deductibles under any policy required in this Agreement. Consultant shall be responsible for all premiums and deductibles in all of Consultant's insurance policies.

13.16. **Duty to Defend and Indemnify.** Consultant's duties to defend and indemnify City under this Agreement shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement or its early termination.

14. MUTUAL COOPERATION

14.1. **City Cooperation in Performance.** City shall provide Consultant with all pertinent data, documents and other requested information as are reasonably available for the proper performance of Consultant's services under this Agreement.

14.2. **Consultant Cooperation in Defense of Claims.** If any claim or action is brought against City relating to Consultant's performance in connection with this Agreement, Consultant shall render any reasonable assistance that City may require in the defense of that claim or action.

15. NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Consultant's and City's

regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to City:

[Name]
City of Grass Valley
[Department/Division]
125 E Main Street
Grass Valley, CA 95945
Telephone: (530) 274-[XXXX]
Facsimile: (530) 274-4399

If to Consultant:

[Name]
[Address]
[Address]
Telephone:
Facsimile:

With courtesy copy to:

Michael G. Colantuono, Esq.
Grass Valley City Attorney
Colantuono, Highsmith & Whatley, PC
420 Sierra College Drive, Suite 140
Grass Valley, CA 95945
Telephone: (530) 432-7357
Facsimile: (530) 432-7356

16. SURVIVING COVENANTS

The parties agree that the covenants contained in Section 6.11 (Records), Section 11.4 (Indemnification of CalPERS Determination), Section 12 (Indemnification), Section 13.8 (Claims-Made Policies), Section 14.2 (Consultant Cooperation in Defense of Claims), and Section 19.1 (Confidentiality) of this Agreement shall survive the expiration or termination of this Agreement.

17. TERMINATION

17.1. **City Termination.** City may terminate this Agreement for any reason on five calendar days' written notice to Consultant. Consultant agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All City data, documents, objects, materials or other tangible things shall be returned to City upon the termination or expiration of this Agreement.

17.2. **Consultant Termination.** Consultant may terminate this Agreement for a material breach of this Agreement upon 30 days' notice to allow City time to procure replacement services.

17.3. **Compensation Following Termination.** Upon termination, Consultant shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the services required by this Agreement. The City shall have the benefit of such work as may have been completed up to the time of such termination.

17.4. **Remedies.** City retains all available legal and equitable remedies for Consultant's breach of this Agreement.

18. INTERPRETATION OF AGREEMENT

18.1. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of California.

18.2. **Integration of Exhibits.** All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the provisions of this Agreement and its exhibits, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between City and Consultant with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments hereto or deviations from this Agreement shall be effective and binding only if made in writing and executed by City and Consultant.

18.3. **Headings.** The headings and captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are for convenience of reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the language of the section or paragraph shall govern in the construction of this Agreement.

18.4. **Pronouns.** Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).

18.5. **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to the extent necessary to, cure such invalidity or unenforceability, and shall be enforceable in its amended form. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

18.6. **No Presumption Against Drafter.** Each party had an opportunity to consult with an attorney in reviewing and drafting this agreement. Any uncertainty or ambiguity shall not be construed for or against any party based on attribution of drafting to any party.

19. GENERAL PROVISIONS

19.1. **Confidentiality.** All data, documents, discussion, or other information developed or received by Consultant for performance of this Agreement are deemed confidential and Consultant shall not disclose them without prior written consent by the Project Administrator. City shall grant such consent if disclosure is legally required. Consultant shall return all City data to City upon the termination or expiration of this Agreement.

19.2. **Conflicts of Interest.** Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid, nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subcontractors to file, a Statement of Economic Interest under the Political Reform Act with the City's Filing Officer if required under state law in the performance of the services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. No City Councilmember, officer, or employee of City, during the term of his or her service to City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising from it.

19.3. **Non-assignment.** Consultant shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City's prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any party other than Consultant.

19.4. **Binding on Successors.** This Agreement shall be binding on the successors and permitted assigns of the parties.

19.5. **No Third-Party Beneficiaries.** Except as expressly stated herein, there is no intended third-party beneficiary of any right or obligation assumed by the parties under this Agreement.

19.6. **Time of the Essence.** Time is of the essence for each and every provision of this Agreement.

19.7. **Non-Discrimination.** Consultant shall not discriminate against any employee or applicant for employment because of race, sex (including pregnancy, childbirth, or related medical condition), creed, national origin, color, disability as defined by law, disabled veteran status, Vietnam veteran status, religion, age (40 and above), medical condition (cancer-related), marital status, ancestry, or sexual orientation or any other unlawful basis. Employment actions to which this provision applies 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; or in terms, conditions or privileges of employment, and selection for training. Consultant shall post this nondiscrimination clause in conspicuous places, available to employees and applicants for employment.

19.8. **Waiver.** No provision, covenant, or condition of this Agreement shall be deemed to have been waived by City or Consultant unless in writing signed by one authorized to bind the party asserted to have consented to the waiver. The waiver by City or Consultant of any breach of any provision, covenant, or condition of this Agreement shall not be deemed to be a waiver of any subsequent breach of the same or any other provision, covenant, or condition.

19.9. **Excused Failure to Perform.** Consultant shall not be liable for any failure to perform if Consultant presents acceptable evidence, in City's sole judgment, that such failure was due to causes beyond the control and without the fault or negligence of Consultant.

19.10. **Remedies Non-Exclusive.** Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance from the exercise by either party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any or all such other rights, powers or remedies.

19.11. **Attorneys' Fees.** If legal action shall be necessary to enforce any term, covenant or condition contained in this Agreement, the prevailing party shall be entitled to an award of reasonable and actual attorneys' fees and costs expended in the action.

19.12. **Venue.** The venue for any litigation shall be Nevada County, California and Consultant hereby consents to jurisdiction there for purposes of resolving any dispute or enforcing any obligation arising under this Agreement.

19.13. **Counterparts; Electronic Signatures**. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same instrument. The parties acknowledge and agree that this Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes. Without limitation, "electronic signature" shall include faxed or emailed versions of an original signature, electronically scanned and transmitted versions (e.g., via pdf) of an original signature, or a digital signature.

[Signature Page Follows]

TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

[Two signatures are required to bind a corporation]

"City"
City of Grass Valley

By:_____
Signature

Printed:_____

Title:_____

Date:_____

"Consultant"
[Name of Company or Individual]

By:_____
Signature

Printed:_____

Title:_____

Date:_____

By:_____
Signature

Printed:_____

Title:_____

Date:_____

Attest:

By:_____
Taylor Day, City Clerk

Date:_ _____

Approved as to form:

By:_____
Michael G. Colantuono, City Attorney

Date:_____

EXHIBIT A
SCOPE OF SERVICES

EXHIBIT B

FEE SCHEDULE

EXHIBIT C

FEDERAL CONTRACT PROVISIONS

During the performance of this contract, Consultant shall comply with all applicable federal laws and regulations including but not limited to the federal contract provisions in this Exhibit. In this Exhibit, the term "Agency" shall mean the local agency entering into this contract with Consultant.

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

(A) Consultant 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.

Consultant shall submit evidence of compliance with the foregoing affirmative steps when requested by the Agency.

Notwithstanding the foregoing, the affirmative steps requirements detailed above do not apply in the case of a noncompetitive procurement made under the emergency exception/exigency exception to competitive procurements.

2. COST PRINCIPLES (2 C.F.R. PART 200, SUBPART E)

(A) If any indirect costs will be charged to the Agency under this contract, such costs must conform to the cost principles set forth under the Uniform Rules at 2 C.F.R. Part 200, subpart E ("Cost Principles"). In general, costs must (i) be necessary and

reasonable; (ii) allocable to the grant award; (iii) conform to any limitations or exclusions set forth in the Cost Principles; (iv) be adequately documented; and (v) be determined in accordance with generally accepted accounting principles ("GAAP"), except, for state and local governments and Indian tribes only, as otherwise provided for in 2 C.F.R. Part 200, subpart E. 2 C.F.R. § 200.403. Costs that are determined unallowable pursuant to a federal audit are subject to repayment by Consultant.

3. ACCESS TO RECORDS & RECORD RETENTION (2 C.F.R. 200.336)

(A) Consultant shall comply with 2 C.F.R. § 200.336 and provide the Federal Agency, Inspectors General, the Comptroller General of the United States, Agency, and the State of California or any of their authorized representatives access, during normal business hours, to documents, papers, books and records which are directly pertinent to this contract for the purposes of making and responding to audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Consultant's personnel for the purpose of interview and discussion related to the books and records.

(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 Federal Agency or its authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

4. 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. § 200.326)

(A) Appendix II to Part 200 (A); Appendix II to Part 200 (B): Remedies for Breach; Termination for Cause/Convenience. If the contract is in excess of $10,000 and the contract does not include provisions for both termination for cause and termination for convenience by the Agency, including how it will be effected and the basis for settlement, then the following termination clauses shall apply. If the contract is for more than the simplified acquisition threshold (see 2 C.F.R. § 200.88) at the time the contract is executed and does not provide for administrative, contractual, or legal remedies in instances where Consultant violates or breaches the terms of the contract, then the following termination clauses shall apply and have precedence over the contract. Otherwise, the following termination clauses shall not be applicable to the contract.

(i) Termination for Convenience. The Agency may, by written notice to Consultant, terminate this contract for convenience, in whole or in part, at any time by giving written notice to Consultant of such termination, and specifying the effective date thereof ("Notice of Termination for Convenience"). If the termination is for the convenience of the Agency, the Agency shall compensate

Consultant for work or materials fully and adequately provided through the effective date of termination. No amount shall be paid for unperformed work or materials not provided, including anticipated profit. Consultant shall provide documentation deemed adequate by the Agency to show the work actually completed or materials provided by Consultant prior to the effective date of termination. This contract shall terminate on the effective date of the Notice of Termination.

(ii) Termination for Cause. If Consultant fails to perform pursuant to the terms of this contract, the Agency shall provide written notice to Consultant specifying the default ("Notice of Default"). If Consultant does not cure such default within ten (10) calendar days of receipt of Notice of Default, the Agency may terminate this contract for cause. If Consultant fails to cure a default as set forth above, the Agency may, by written notice to Consultant, terminate this contract for cause, in whole or in part, and specifying the effective date thereof ("Notice of Termination for Cause"). If the termination is for cause, Consultant shall be compensated for that portion of the work or materials provided which has been fully and adequately completed and accepted by the Agency as of the date the Agency provides the Notice of Termination. In such case, the Agency shall have the right to take whatever steps it deems necessary to complete the project and correct Consultant's deficiencies and charge the cost thereof to Consultant, who shall be liable for the full cost of the Agency's corrective action, including reasonable overhead, profit and attorneys' fees.

(iii) Reimbursement; Damages. The Agency shall be entitled to reimbursement for any compensation paid in excess of work rendered or materials provided and shall be entitled to withhold compensation for defective work or other damages caused by Consultant's performance of the work.

(iv) Additional Termination Provisions. Upon receipt of a Notice of Termination, either for cause or for convenience, Consultant shall promptly discontinue the work unless the Notice directs to the contrary. Consultant shall deliver to the Agency and transfer title (if necessary) to all provided materials and completed work, and work in progress including drafts, documents, plans, forms, maps, products, graphics, computer programs and reports. The rights and remedies of the parties provided in this Section are in addition to any other rights and remedies provided by law or under this contract. Consultant acknowledges the Agency's right to terminate this contract with or without cause as provided in this Section, and hereby waives all claims for damages that might arise from the Agency's termination of this contract. The Agency shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed work or materials not provided, and shall not be entitled to damages or compensation for termination of work or supply of materials. If Agency terminates this contract for cause, and it is later determined that the termination for cause was wrongful, the termination shall automatically be converted to and treated as a termination for convenience. In such event, Consultant shall be entitled to receive only the

amounts payable under this Section, and Consultant specifically waives any claim for any other amounts or damages, including, but not limited to, any claim for consequential damages or lost profits. The rights and remedies of the Agency provided in this Section shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under this contract including, but not limited to, the right to specific performance.

(B) Appendix II to Part 200 (C) – Equal Employment Opportunity: Except as otherwise provided under 41 C.F.R. Part 60, Consultant 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) Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Consultant will take affirmative action to ensure applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment upgrading, demotion, transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.

(ii) Consultant will, in all solicitations or advertisements for employees placed by or on behalf of Consultant, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, sex, or national origin.

(iii) Consultant 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 Consultant's legal duty to furnish information.

(iv) Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer,

advising the labor union or workers' representative of the Consultant's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(v) Consultant 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) Consultant will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(vii) In the event of Consultant's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No.11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No.11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(viii) Consultant will include the provisions of paragraphs (i) through (viii) 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 No. 11246 of September 24,1965, so that such provisions will *be* binding upon each subcontractor or Consultant. Consultant will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* that in the event Consultant becomes involved in, or is threatened with, litigation with a subcontractor or Consultant as a result of such direction, Consultant may request the United States to intervene in such litigation to protect the interests of the United States.

(C) Appendix II to Part 200 (D) – Davis-Bacon Act; Copeland Act: Not applicable to this contract.

(D) 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, Consultant 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 based on 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.

(ii) 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) In the event of any violation of the clause set forth in paragraph (ii) of this section the Consultant and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Consultant 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) The Agency 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 Consultant 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) Consultant or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (ii) through (v) of this Section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Consultant 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.

(E) 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 Agency.

(ii) The regulation at 37 C.F.R. § 401.2(a) currently defines "funding agreement" as any contract, grant, or cooperative agreement made 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 made for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

(iii) This requirement does not apply to the Public Assistance, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of "funding agreement."

(F) Appendix II to Part 200 (G) – Clean Air Act and Federal Water Pollution Control Act: If this contract is in excess of $150,000, Consultant 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) Consultant 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) Consultant agrees to report each violation to the Agency and understands and agrees that the Agency 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) Consultant agrees to include these requirements in each subcontract exceeding $150,000.

(ii) Pursuant to the Federal Water Pollution Control Act, (1) 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., (2) Consultant agrees to report each violation to the Agency and understands and agrees that the Agency 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) Consultant agrees to include these requirements in each subcontract exceeding $150,000.

(G) 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 Consultant is required to verify that none of the 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).

(ii) 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 makes.

(iii) This certification is a material representation of fact relied upon by Agency. 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 the Agency, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(iv) Consultant warrants that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in any federal programs. Consultant 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. Consultant further agrees to notify the Agency in writing immediately if Consultant or its subcontractors are not in compliance during the term of this contract.

(H) Appendix II to Part 200 (I) – Byrd Anti-Lobbying Act: If this contract is in excess of $100,000, Consultant shall have submitted and filed the required certification pursuant to the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352). If at any time during the contract term funding exceeds $100,000.00, Consultant shall file with the Agency the Federal Standard Form LLL titled "Disclosure Form to Report

Lobbying." Consultants 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.

(I) Appendix II to Part 200 (J) – Procurement of Recovered Materials:

(i) Consultant shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. § 6962). 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, Consultant 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.

5. MISCELLANEOUS PROVISIONS

(A) Consultant shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA preapproval.

(B) This is an acknowledgement that FEMA financial assistance may be used to fund the contract only. Consultant will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

(C) Consultant acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to Consultant's actions pertaining to this contract.

(D) The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the Agency, Consultant, any subcontractors or any other party pertaining to any matter resulting from the contract.

(E) General and Administrative Expenses And Profit For Time And Materials Contracts/Amendments.

(i) General and administrative expenses shall be negotiated and must conform to the Cost Principles.

(ii) Profit shall be negotiated as a separate element of the cost. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by Consultant, Consultant's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(iii) Any agreement, amendment or change order for work performed on a time and materials basis shall include a ceiling price that Consultant exceeds at its own risk.

CAMPAIGN CONTRIBUTION DISCLOSURE PROVISIONS

Cities are subject to the campaign disclosure provisions detailed in Government Code Section 84308.

Please carefully read the following information to determine if the provisions apply to you. If you determine that the provisions are applicable, the Campaign Disclosure Form must be completed and returned to the City with your application.

No City Councilmember or other City official shall accept, solicit, or direct a campaign contribution of more than $250 from any party[1] or agent[2] for 12 months before or after a final decision is rendered by the City. This prohibition commences when an application has been filed, or the proceeding is otherwise initiated and ends 12 months after contract approval.

A party to a City proceeding shall disclose on the record of the proceeding any contribution of more than $250 made to any City Councilmember or other City official by the party, or agent, during the preceding 12 months. No party to a City proceeding, or agent, shall make a campaign contribution to a City Councilmember or other City official during the proceeding and for 12 months after the City approves the contract.

A City Councilmember or other city official who received a campaign contribution of more than $250 within the preceding 12 months from any party, or agent, to a proceeding shall disclose that fact on the record of the proceeding, and shall be abstain from participating in the proceeding. However, if any City Councilmember or other City who receives such a campaign contribution who returns the portion in excess of $250 within 30 days of knowing about the contribution and the relevant proceeding, he or she may participate in the proceeding.

[1] "Party" is defined as any person who files an application for, or is the subject of, a proceeding.

[2] "Agent" is defined as a person who represents a party in connection with a proceeding. If an individual acting as an agent also is acting as an employee or member of a law, architectural, engineering, or consulting firm, or a similar entity or corporation, both the individual and the entity or corporation are agents. When a closed corporation is a party to a proceeding, the majority shareholder is subject to these provisions.

To determine whether you or your agent have made a campaign contribution of more than $250 to a City Councilmember or other City official within the preceding 12 months, all contributions made by you or your agent during that period must be aggregated.

Names of current City Councilmembers and other City officials are available on the City's website. If you have questions about Government Code Section 84308, FPPC regulations, or the Campaign Disclosure Form, please contact the City Clerk.

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

(a) Document:

□ License
□ Lease
□ Permit
□ Franchise
□ Other Contract
□ Other Entitlement

Name and address of any party, or agent, who contributed more than $250 to any City Councilmember or other City official within the preceding 12 months:

1. _____
2. _____
3. _____

(b) Date and amount of contribution:

Date _____ Amount $ _____

Date _____ Amount $ _____

(c) Name of City Councilmember or other City official to whom contribution was made:

1. _____
2. _____
3. _____

(d) I certify that the above information is provided to the best of my knowledge.

Printed Name _____

Signature _____

Date _____ Phone _____