AGREEMENT FOR SERVICES
EAST-WEST GATEWAY COUNCIL OF GOVERNMENTS
AND
CONSULTANT

THIS AGREEMENT ("Agreement") is made and entered into by East-West Gateway Council of Governments, the metropolitan planning organization and council of governments for the bi-state St. Louis region formed under and governed by the laws of the State of Missouri, located at 1 S. Memorial Dr., St. Louis, Missouri 63102 (the "Council") and ___, an ____ formed under the laws of the State of ___ and registered to do business in the States of Missouri and Illinois, located at ____ ("Consultant") (together the "Parties").

WITNESSETH:

WHEREAS, the Council is party to an Urban Area Security Initiative ("UASI") grant from the U.S. Department of Homeland Security ("DHS"), Federal Emergency Management Agency ("FEMA"), which is administered by the Missouri Office of Homeland Security ("MoOHS"); and

WHEREAS, under the UASI grant the Council assists the St Louis Urban Area to enhance its ability to respond to a potential emergency, criminal terrorist incident, and man-made or natural disaster that may occur anywhere within the St. Louis Urban Area. The St. Louis Urban Area is defined as: the Missouri Counties of: the City of St. Louis, Franklin, Jefferson, St. Charles, and St. Louis and the Illinois Counties of: Madison, Monroe, and St. Clair (the "Urban Area"); and

WHEREAS, the Council issues a solicitation to hire a consultant to assist and support a focused regional planning training, and exercise project project focused on the Complex Coordinated Terrorist Attack (CCTA) program and the role of the Intelligence Liaison Officer (ILO) program within the St. Louis Fusion Center (StLFC) for the UASI Program; and

WHEREAS, MoOHS will make funds from DHS available to the Council so that the Council can conduct these services; and

WHEREAS, on ____ Consultant provided a submittal in response to the Council's request for proposal to provide to assistance and support for a focused regional planning, training, and exercise project; and

WHEREAS, the Council accepted Consultant's proposal and desires to hire Consultant to provide these services for the Council.

NOW, THEREFORE, for good and valuable consideration the Parties agree as follows:

1. Engagement of Consultant & Scope of Work. The Council engages Consultant and Consultant shall perform the work as set forth in this Agreement and designated to Consultant in the Appendix I: Scope of Work ("Appendix I"), which is attached to this Agreement and is incorporated by reference and made a part of this Agreement. Consultant shall perform the work described in Appendix I in a professional and technical manner, consistent with lawful procedures and standards that govern persons performing similar work, and in compliance with applicable local, state, and federal laws.

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2. Performance Period.

a. The performance period for this Agreement begins upon ____ and ends no later than ____, unless:

i. the performance period is extended through mutual agreement of the Parties and the extension is requested and approved in accordance with Paragraph 9, or

ii. this Agreement is terminated.

b. Consultant understands that the Council's grant funding period imposes strict time constraints for the project and that Consultant's failure to make reasonable progress on the project during the performance period defined in Paragraph 2, Part (a) will be considered a material breach of this Agreement and the Council may suspend or terminate this Agreement without penalty to the Council.

c. Consultant shall notify the Council immediately if it will not complete its work within the performance period, but under no circumstances may Consultant notify the Council any later than thirty (30) calendar days before the expiration of the performance period. All notices provided under this Paragraph 2, Part (c) must be completed in accordance with Paragraph 15, Part (b).

d. Consultant shall liquidate all obligations incurred under this Agreement no later than fifteen (15) calendar days after Consultant receives final payment from the Council.

e. Consultant shall not incur costs or obligate federal funds after the performance period end date noted in Paragraph 2, Part (a) for any purpose without first obtaining the Council's express written consent.

3. Compensation, Audits & Taxes.

a. *Compensation.*

i. This is a firm fixed price, milestone payment based agreement; with payments to be made based upon milestone completion. The payments issued by the Council to Consultant will be as follows:

1. For Milestones described in Appendix II: Milestone Payment Schedule ("Appendix II"), which is attached to this Agreement and is incorporated by reference and made a part of this Agreement, the Council shall pay Consultant an amount not to exceed a total of ____ dollars ($___.00); with each milestone having a ceiling as specified in Appendix II. ***The payments issued by the Council under this Agreement will be for only completed milestones, and, except as stated in Paragraph 10, Part (c)(iv)(7), payments for partial milestones completed or percent work completed are not authorized.***

2. The payments made by the Council to Consultant for the services described in Appendix I will be made from the following sources:

a. A total of ____ dollars ($___.00) from the ___ grant, and

b. A total of ____ dollars ($____.00) from the ____ grant.

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3. **Optional Services.** The Council may, at its option, purchase additional ____ services for the project. If the Council decides to purchase the optional services, then the Council staff person designated in Paragraph 15, Part (a)(i)(1) will send Consultant a purchase order that indicates that additional services will be purchased. The costs for the additional services will not exceed a total of ____ dollars ($___.00).

ii. Unless approved by the Council in writing and in advance, Consultant is responsible for any or all of the costs noted in Paragraph 3, Parts (a)(ii)(1) – (3). The Council may take appropriate action against Consultant to ensure that ineligible costs, unallowable costs, or unauthorized costs are not continually incurred, including, but not limited to, suspending or terminating this Agreement. The Council is not obligated to pay for or to count toward the calculation of the completion of any milestone any of the following:

1. costs incurred for any reason after the performance period ends,
2. costs incurred for any reason for unauthorized tasks, milestones, work, services, etc., or
3. costs incurred for any reason by subcontractors, subconsultants, consultants, vendors, etc. when Consultant procured / purchased the services or goods without adhering to the requirements stated in Paragraph 4.

iii. Except as described in Paragraph 3, Part (a)(v), Consultant shall submit a written invoice to the Council no more often than once per month and by the fifteenth (15th) calendar day of each month. Consultant shall submit its invoice to the Council via mail to the address provided in Paragraph 3, Part (a)(vi). Consultant's invoice package must, at a minimum, include each of the following:

1. An invoice that includes all of the information shown on the Sample Invoice, attached to this Agreement as Attachment 1. Consultant may use its own invoice format; however, the invoice must include all of the required information and the format must be approved by the Council in advance of Consultant submitting its first bill.
2. If applicable, a "Subcontractor Payment Tracking Form," which will be provided to Consultant in an editable format and is attached to this Agreement. This form must be cumulative; meaning it must list every subcontractor invoice submitted to Consultant and payment made by Consultant throughout the course of the project.
3. A progress report, if the progress report has not already been submitted. The progress report must include the information specified in Paragraph 6, Part (c). ***If the Council has not received a progress report for each reporting period, then the Council will not process Consultant's invoice unless and until Consultant brings the progress reporting up to current.***

iv. The Council may, in its sole discretion, waive any of the requirements listed in

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Paragraph 3, Part (a)(iii) or may request additional back-up documentation or information.

v. **End of Calendar Year Billing.** If the performance period covers more than one (1) calendar year (defined as January 1st through December 31st), then, after the end of the calendar year, the Council may request that Consultant submit an invoice for any unbilled costs, milestones, etc. for the calendar year. Consultant must submit this invoice no later than thirty (30) calendar days after the end of the calendar year or other time frame indicated by the Council.

vi. Consultant shall submit each invoice to the address listed below. Unless specifically requested or authorized by the Council, the Council will not accept electronic, e-mailed, or faxed invoices.

Accounts Payable
East-West Gateway Council of Governments
1 S. Memorial Drive, Suite 1600
St. Louis, MO 63102

vii. ***Consultant shall submit a final invoice to the Council no later than ____. Consultant shall clearly mark the invoice with the words "Final Invoice".*** Along with the final invoice, Consultant shall submit the "Title VI Questionnaire Post-Contracting Stage – Third Party Contractor." Consultant understands that it is within the Council's sole discretion to pay the final invoice if it is received after the ____ deadline or if the required Title VI questionnaire is not submitted to the Council. If Consultant needs an extension of the final invoice submission deadline, then Consultant shall submit a written request to the Council's point of contact designated in Paragraph 15, Part (a)(i)(1). Consultant's request for an extension of the final invoice deadline must be submitted to the Council at least ten (10) business days in advance of the deadline. Consultant's request must be submitted in accordance with Paragraph 9.

viii. Consultant understands that its failure to submit timely invoices or its failure to submit the final invoice by the date stated in Paragraph 3, Part (a)(vii) may result in the Council:

1. withholding payments,
2. denying payment for the invoiced amount,
3. terminating this Agreement, or
4. seeking other remedies available to the Council.

ix. Upon receipt of a timely invoice from Consultant, the Council shall complete a review of the invoice and make a determination as to whether all of the work associated with the milestone(s) was completed. Upon completing its review, the Council will request payment from the funding agency. Promptly after receipt of funds from the funding agency for each invoice, the Council shall make payment to Consultant for the amount of the approved invoice. At a minimum, the Council will make payment to Consultant no later than thirty (30) calendar days after receipt of the funds from the funding agency.

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x. In no case will the Council make a payment to Consultant until the Council has reviewed the work completed and found it to be in conformance with the terms of this Agreement. The Council will not withhold payments to Consultant for the Council's failure to complete a timely review of Consultant's completion of the milestone(s). Consultant understands that its failure to submit the required progress report or its failure to submit the invoice in the proper format will delay the review process and the Council is not obligated to pay for any costs, tasks, milestones, work, services, etc. that are not substantiated by the progress report or any invoices that are not submitted in the proper format or submitted by the required due dates. Any payment to Consultant is contingent upon the Council receiving the funds from the funding agency for the performance of the work defined in Appendix I.

xi. Consultant understands that the review and payment period noted in Paragraph 3, Part (a)(x) is contingent upon Consultant and its subcontractors responding to the Council's request for additional information or documentation in a timely manner, and that if Consultant does not respond timely to the Council's requests, then the Council's review or payment process may be delayed and the Council will not suffer any penalty because of these types of delays.

xii. **Prompt Payment.**

1. If applicable, Consultant shall pay each subcontractor for the satisfactory performance of the subcontractor's contract no later than thirty (30) calendar days from Consultant's receipt of each subcontractor's invoice. Consultant may not delay or postpone payment to a subcontractor without good cause and without first obtaining the Council's prior written approval. This clause applies to both disadvantaged business enterprise and non-disadvantaged business enterprise subcontractors.

2. If applicable and as indicated in Paragraph 3, Part (a)(iii)(4), Consultant shall submit with each invoice the "Subcontractor Payment Tracking Form" that demonstrates when payments are made to subcontractors for the project.

3. If applicable and if Consultant fails or refuses to comply with the terms of Paragraph 3, Parts (a)(xii)(1) and (2), then the Council will issue an order stopping payment or an order stopping work under this Agreement until Consultant has made satisfactory corrective action. Consultant's failure to take corrective action will be considered a breach of contract and the Council may take appropriate action against Consultant up to and including terminating this Agreement for default.

b. *Audits / Project Review Findings.* In the event that an audit or a project review finds that any of Consultant's costs charged during the performance period are ineligible, unallowable, or both and these costs have been paid by the Council, Consultant shall return to the Council all dollar amounts paid to Consultant for the ineligible costs, the unallowable costs, or both, plus an amount due for any interest that is charged to the

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Council by the funding agency for the ineligible costs, the unallowable costs, or both.

c. *Taxes.* Consultant is responsible for ensuring that it, and any of its subcontractors, fully comply with all applicable federal, state, and local (i.e. St. Louis City) tax laws and Consultant will properly report all monies received under this Agreement and payments Consultant makes to any subcontractor with regard to the work performed under the terms of this Agreement. Consultant understands that if it performs work within the City of St. Louis, Missouri ("City") it may be subject to the City's earnings tax and agrees that it will take the steps necessary to track and report the amount (in dollars) of work Consultant provided in the City. Upon the Council's request, Consultant shall provide to the Council the information that the Council needs to complete Form E-6 (St. Louis City) that is due each year. Further, Consultant shall hold the Council harmless for any taxes, penalties, attorney's fees, or any other cost imposed upon Consultant or its subcontractor because of Consultant's failure to properly report payments received or payments made.

4. Personnel and Subcontracting & Purchases / Procurement.

a. *Personnel and Subcontracting.*

i. Consultant represents that it has, or will secure, all personnel required in performing the work described in Appendix I. Consultant shall either perform or supervise all of the required work. Consultant is responsible for the satisfactory completion of all work, including the work performed by Consultant's subcontractors.

ii. All of Consultant's personnel, including subcontracted personnel, engaged in the work must be fully qualified and must be authorized or permitted under state and local law to perform the work described in Appendix I.

iii. The Council has approved the assignment of the key personnel to complete the work described in Appendix I. The key personnel were identified in the proposal submitted by Consultant on ____. Consultant may not assign new or make any changes to the key personnel without first informing the Council in writing and securing the Council's written consent to the change. Consultant's written notification must be submitted as specified in Paragraph 15, Part (c)(i).

iv. The Council is not an employer of any personnel hired by Consultant to perform the services described in Appendix I. Consultant is fully responsible for:

1. paying any salaries, fringe benefits, unemployment insurance, or workers' compensation,

2. ensuring that any local taxes, state taxes, and federal taxes are properly withheld from its personnel's pay, and

3. complying with local, state, and federal reporting requirements that govern compensation and taxation.

v. The Council has approved the subcontractor(s) listed in Paragraph 4, Parts (a)(iv)(1) – (2). Other than these subcontractors, Consultant is prohibited from engaging any other subcontractor, subconsultant, or vendor to perform any

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services or provide any goods under this Agreement without first following the procedures described in Paragraph 4, Part (b).

1. _____.

vi. If applicable, prior to executing any subcontract, Consultant shall submit to the Council a copy of each subcontract so that the Council may review and approve the subcontract format and content. If a change in a subcontractor's services or compensation is needed, then Consultant shall submit a change request to the Council for review and approval. Consultant may not implement the change until the Council provides its express written approval. The procedures for requesting this type of change is described in Paragraph 9.

b. *Purchases / Procurement.*

i. **Definitions.** As used in Paragraph 4, Part (b), the terms described in Paragraph 4, Parts (b)(i)(1) and (2) have the meanings provided below.

1. "Purchase / procurement," in addition to its common meaning, also means the hiring of any individual or firm to complete any services or to provide any goods. The meaning of purchase / procurement does not include the hiring of employees to complete services under the Agreement.

2. "Employees" has the same meaning described in Section 285-500 *et seq.* RSMo.

ii. Except as noted in Paragraph 4, Part (b)(iii), Consultant may not undertake the purchase / procurement of any services or any goods without the Council's prior written approval. If Consultant needs to undertake a purchase / procurement, Consultant must contact the Council's designated point of contact in Paragraph 15, Part (a)(i)(1) and obtain prior written approval. The Council's point of contact will direct Consultant about the process that needs to be followed to purchase / procure goods or services and what documentation needs to be submitted to the Council, retained by Consultant, or both.

iii. In the case of printing, binding, or related services, Consultant is not required to obtain the Council's prior written approval, but Consultant shall retain the procurement documents (i.e. quotes, bids, etc.) and provide the Council with copies of these documents upon the Council's request.

iv. If an item of cost is not included in Consultant's approved budget, then Consultant may not engage in any purchase / procurement of that item of cost unless and until Consultant notifies the Council of its need to make a purchase / procurement and the Council modifies Consultant's budget. All budget changes must be requested and approved in accordance with Paragraph 9, and it is within the Council's sole discretion to approve any Consultant request for budget modifications.

v. If the Council authorizes Consultant to undertake a purchase / procurement, then Consultant (including any authorized subcontractors) shall use federally compliant, competitive procurement procedures to purchase any services or

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goods under this Agreement. These procedures are defined in the Federal Acquisition Regulations ("FAR") and MoOHS Guidelines.

vi. Except as noted in Paragraph 4, Part (b)(iii), all purchases / procurements, whether competitive or non-competitive, must be reviewed and approved by the Council in advance of the final selection and retention of a contractor or vendor to provide any services or goods for the project.

vii. Paragraph 4, Part (b) applies to purchases / procurement that are conducted by any one or combination of Consultant, Consultant's designees, or Consultant's subcontractors.

viii. Paragraph 4, Part (b) applies to Consultant purchases / procurement that are made with any type of purchasing method or mechanism.

c. If Consultant fails to adhere to the requirements in Paragraph 4, then the Council may undertake any one or combination of the actions noted in Paragraph 10, Part (b).

5. Liability, Defense, Indemnification, and Hold Harmless & Insurance Coverage.

a. *Liability and Defense, Indemnification, and Hold Harmless.*

i. **Liability.** Consultant shall be liable for any one or combination of the matters described in Paragraph 5, Part (a)(i)(1) that is brought against the Council or that is sustained by the Council or any other person or entity and that relates to, arises from, or is caused by any one or combination of the circumstances described in Paragraph 5, Part (a)(i)(2).

1. **Covered Matters.** The matters covered by Paragraph 5, Part (a), include (a) any: (i) claim, (ii) demand, (iii) suit, (iv) obligation, (v) settlement, (vi) judgment, (vii) damage, (viii) liability, (ix) loss, (xii) penalty, (xiii) interest, (xiv) or cost (including, but not limited to, reasonable attorney's fees and litigation expenses and any court costs) and (b) that is for any one or combination of: (i) economic injury, (ii) intellectual property infringement, (iii) property damage, (iv) property destruction, or (v) any bodily injury (including, but not limited to, death).

2. **Covered Circumstances.** The circumstances covered by Paragraph 5, Part (a) include: (a) any actual or alleged breach of or default in the terms of this Agreement by Consultant or its employees, affiliates, agents, or subcontractors, (b) the negligence, errors, omissions, or willful misconduct by Consultant or its employees, affiliates, agents, or subcontractors in the performance of the work described in or covered by this Agreement, or (c) a violation of applicable law by Consultant or its employees, affiliates, agents, or subcontractors.

ii. **Defense, Indemnification, and Hold Harmless.** To the extent allowed or imposed by law and except as described in Paragraph 5, Part (a)(ii)(1), Consultant shall defend, indemnify, and hold harmless the Council including its directors, officers, members, and employees, from and against any one or combination of the matters described in Paragraph 5, Part (a)(i)(1) that is brought against the Council or that is sustained by the Council or any other

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person or entity and that relates to, arises from, or is caused by any one or combination of the circumstances described in Paragraph 5, Part (a)(i)(2). Except as described in Paragraph 5, Part (a)(ii)(1), Consultant's obligation under this Paragraph 5, Part (a)(ii) applies whether or not a matter described in Paragraph 5, Part (a)(i)(1) has merit and applies to any matter that, if true or has merit, would be a breach of or default in the terms of this Agreement.

1. **Limitation.** Consultant's obligation to indemnify the Council for matters described in Paragraph 5, Part (a)(i)(1) does not apply if the matter relates to, arises from, or is caused by any one or combination of the following circumstances: (a) the Council's unauthorized change or modification to the Work Products provided by Consultant; (b) the Council's reuse of the Work Products for purposes not anticipated by this Agreement, or (c) the negligence, errors, omissions, or willful misconduct of the Council or its directors, officers, members, or employees in the performance of its obligations described in this Agreement. The term "Work Products" is defined in Paragraph 7, Part (a)(i).

2. **Notification and Cooperation.** Both Parties shall promptly notify each other upon the party's receipt of a notice of a matter described in Paragraph 5, Part (a)(i)(1). The party's notification must be provided in accordance with Paragraph 15, Part (b); however, Consultant's obligations described in Paragraph 5, Part (a)(ii) are not conditioned on the Council's notice. The Council shall cooperate with Consultant in Consultant's efforts to defend, indemnify, or hold harmless the Council as each is described in Paragraph 5, Part (a)(ii); however, the Council's cooperation does not preclude the Council from securing and undertaking its own defense if Consultant fails to promptly or properly defend the Council. Consultant shall not prohibit or otherwise prevent the Council from actively participating in the Council's defense. Any settlement of a matter described in Paragraph 5, Part (a)(i)(1) must be mutually agreed to by Consultant and the Council.

b. *Insurance Coverage.*

i. **Commercial and Auto Insurance.** Consultant shall carry, and shall cause its subcontractors to carry, commercial general liability insurance and commercial automobile liability insurance from a company authorized to issue insurance in Missouri, and shall name the Council as an additional insured. Consultant, and its subcontractors, may meet the coverage amounts through an umbrella policy and shall name the Council as an additional insured. The current minimum required insurance coverage amounts are as follows:

1. **Commercial General Liability Insurance (combined single limit):**

$3,100,000 aggregate limit and

$1,000,000 per occurrence

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2. **Commercial Automobile Liability Insurance, Hired and Non-Owned Vehicles (combined single limit):**

$1,000,000 each accident

ii. **Workers' Compensation Insurance.** Unless exempted under law, Consultant shall carry insurance in the amount stipulated by law to protect Consultant from claims under workers' compensation acts. If Consultant claims an exemption from this legal requirement, then Consultant shall submit to the Council proof that Consultant is exempt from this requirement under the law.

iii. Prior to beginning any work under this Agreement, Consultant shall, for both itself and for each of its subcontractors, provide the Council with written proof of insurance coverage and the additional insured status of the Council in the form of a certificate of liability insurance and the additional insured endorsement. Consultant shall also, upon written request, provide the Council written copies of its commercial general liability insurance (including any umbrella policy), and commercial automobile liability insurance policies.

iv. Consultant shall notify the Council in writing within seven (7) calendar days of receiving notices that any of its, or its subcontractors', insurance policies have been reduced, terminated, or cancelled (even in part) for any reason.

c. In no event will the language of Paragraph 5 constitute or be construed as a waiver or limitation for either party's, or their respective board members', officers', directors', servants', employees', agents', successors', or assigns', rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal or state constitution or by federal or state law.

6. Required Reports.

a. *Title VI Questionnaires.* Upon execution of this Agreement, Consultant shall submit to the Council the "Title VI Questionnaire: Pre-Contracting Stage, Third-Party Contractor." Consultant shall also submit to the Council the "Title VI Questionnaire: Post-Contracting Stage, Third-Party Contractor" along with Consultant's final invoice.

b. *D/S/W/MBE Participation Reporting Form.* If Consultant is a D/S/W/MBE or has hired a D/S/W/MBE to perform work as a subcontractor, then Consultant shall submit to the Council the D/S/W/MBE reporting form ("Appendix III"), which is attached to this Agreement. Consultant shall submit this form to the Council at two (2) points during the performance period. The due dates for these reports are no later than April 15th and October 15th, of each year during the performance period; however, if the performance period ends before one of these due dates, then Consultant shall submit the report with its final invoice.

c. *Monthly Progress Reports.* Consultant shall submit a progress report to the Council at least one (1) time per month and by the fifteenth (15th) calendar day of the month. Consultant shall submit its progress report via e-mail to both of the Council's points of contact designated in Paragraph 15, Part (a)(i). The information required for the progress report is shown in the example progress report that attached to this Agreement as Attachment 2. The Council will make Attachment 2 available to

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Consultant in an editable format. Consultant may use its own progress report format; however, the progress report must include all of the required information and the format must be approved by the Council in advance of Consultant submitting its first report. ***Note that the percent project completion, percent milestone completion, and the percent task completion reported must be based upon actual work completed and must not be based upon dollars expended or costs incurred.***

d. *Violations.* Consultant must report / disclose to the Council in writing all violations of federal or state criminal law involving fraud, bribery, or gratuity affecting this Agreement. Consultant's written report / disclosure must be provided to the Council no later than fourteen (14) calendar days after Consultant is made aware of the violation. Consultant must submit this report to the Council's point of contact designated in Paragraph 15, Part (a)(i)(1).

e. If Consultant fails to comply with the terms of Paragraph 6, then the Council may take action against Consultant as the actions are described in Paragraph 10, Part (b).

7. Ownership of Work Products & Intangible Property.

a. *Ownership of Work Products.* If Consultant is responsible for producing any reports, documents, or other materials as these are described in Appendix I, then the terms of Paragraph 7, Parts (a)(i) – (iv) will apply to any reports, documents, or other materials Consultant produces.

i. **Definitions.** As the term is used in this Agreement, "Work Product(s)" mean(s) each deliverable that is created by Consultant or any member of Consultant's team, when the deliverable is created under the terms of this Agreement, and includes draft deliverables and any component of a deliverable. This definition applies to deliverables in whatever form or format each may be created. The term "created," in addition to its common definition, means the production of Work Products by any method or mechanism.

ii. **The Council's Ownership of Work Products.** The making of payments by the Council to Consultant will vest in the Council title to the Work Products created by Consultant under this Agreement up through the time the Council makes the payment to Consultant. Consultant shall deliver these Work Products to the Council on schedule and each will become the sole property of the Council upon payment.

iii. **The Council's Use of Work Products.** All Work Products created under this Agreement will be available for use by the Council without restriction or limitation on its use, without further payments to Consultant. This use will include but is not limited to: displaying, reproducing, distributing, and permitting others (i.e. MoOHS, FEMA, DHS) to use the Work Products created under this Agreement. The Council shall credit Consultant in print when the Council uses the Work Products provided by Consultant (e.g., Report Produced by _____).

iv. **Consultant's Limited License to Work Products.** Consultant retains a limited license to use the Work Products created under this Agreement, to include, using the Work Products as examples of prior work (i.e. when Consultant is

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bidding on another contract) or to support other similar types of work. Consultant cannot undertake other uses without the Council's express written approval. Consultant's limited license expressly excludes the use of the Work Products for marketing or advertising purposes.

b. *Intangible Property.*

i. **Copyrights**. Under 2 CFR Part 200 § 200.315(b), DHS / FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to reproduce, publish, or use, for federal government purposes, the copyright in any work developed under this Agreement and any rights of copyright to which Consultant purchases ownership with the funds, whether in whole or in part, under this Agreement. Unless broader rights are granted elsewhere in this Agreement, the Council, at a minimum, reserves the same license that is granted to DHS / FEMA under this Paragraph 7, Part (b)(i).

ii. **Patents.** In the event that the work Consultant completes under this Agreement results in a discovery or an invention or a discovery or invention arises or is developed during the course of the Agreement, then Consultant shall comply with all relevant federal laws, regulations, executive orders, or memorandums that pertain to the federal government's rights with regard to inventions or discoveries that arise from, are developed during the course of, or are created under an agreement supported in whole or in part with federal funds. Specifically, Consultant will adhere to the Bayh-Dole Act, 35 U.S.C. §§ 200 *et seq.*, as amended, and implementing regulations at 37 CFR Part 401 and other federal regulations found at 2 CFR Part 200 § 200.315(c). Consultant shall promptly report inventions or discoveries to the Council, but in no event shall Consultant make this report later than seven (7) calendar days after a report is required; this report must be made in accordance with Paragraph 15, Part (b). Consultant shall cooperate fully with the Council, MoOHS, FEMA, or DHS as it pertains to the federal government determining it rights to any patentable materials or items. As stated in 37 CFR Part 401.14, at a minimum, DHS / FEMA reserves a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world. Unless broader rights are granted elsewhere in this Agreement, the Council, at a minimum, reserves the same license that is granted to DHS / FEMA under this Paragraph 7, Part (b)(ii).

iii. **Other Data.** DHS / FEMA has the right to obtain, reproduce, publish, or otherwise use the data produced under this Agreement and to authorize others to receive, reproduce, publish, or otherwise this data for federal government purposes. Unless broader rights are granted elsewhere in this Agreement, the Council, at a minimum, reserves the same right that is granted to DHS / FEMA under this Paragraph 7, Part (b)(iii). As described in 2 CFR Part 200 § 200.315 (e), Consultant is required to provide to the Council, DHS, FEMA, or any of these entities' duly authorized representatives a copy of research data produced under this Agreement.

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8. Disclosure of Project Information and Work Products & Publication Requirements.

a. *Disclosure of Project Information and Work Products.* Except for those Work Products intended for public consumption, Consultant shall not disclose in any way, or permit to be disclosed in any way: any information related to its work, the Work Products it created as part of the project, or the results of the work contemplated by this Agreement. If Consultant wishes to disclose any of these, then it shall first notify the Council and obtain the Council's express written consent. Consultant's notification must be submitted to the Council's point of contact designated in Paragraph 15, Part (a)(i)(1). This Paragraph 8, Part (a) is applicable only to disclosure of project information, Work Products, and results to any person who or entity that is not a part of the project. Members of the project team, the Council's staff, or members of the committee overseeing the project will be considered "part of the project team."

b. *Publication Requirements.* If Consultant is responsible for producing any Work Products as these are described in Appendix I, then the terms of Paragraph 8, Parts (b)(i) and (ii) will apply to any Work Products. If Consultant intends to issue statements, press releases, requests for proposals, bid invitations, or other documents describing projects or programs funded in whole or part with federal funds (each referred to as a "Public Notice"), then the terms of Paragraph 8, Parts (b)(i) and (ii) will apply to any Public Notice.

i. Consultant shall submit any and all Work Products or Public Notices to the Council in advance of any publication of a Work Product or Public Notice and shall obtain the Council's written approval of the Work Product or Public Notice before the Work Product or Public Notice is published for any purpose other than the Council's or project team's internal review of the item. Consultant shall seek the Council's approval by following the methods described in Paragraph 8, Part (d).

ii. **Disclaimer Required.** Disclaimers are required for each Work Product when the Work Products is intended for public consumption, as public consumption is defined in Paragraph 8, Part (d)(iii), and for any Public Notice. The Council will direct Consultant as to which disclaimers must be included in the Work Product or Public Notice and as to the content of the disclaimers; however, the disclaimers noted in Paragraph 8, Parts (b)(ii)(1) – (4) are examples of the types of language that Consultant must use.

1. "The work that provided the basis of this publication was supported by a grant provided from the Federal Emergency Management Agency's Grant Programs Directorate, a part of the U.S. Department of Homeland Security, through the Missouri Office of Homeland Security. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. These interpretations do not necessarily reflect the views of DHS, FEMA/GPD, or MoOHS."

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2. "This publication was funded through a grant from the U.S. Department of Homeland Security, Federal Emergency Management Agency's Grant Programs Directorate."

3. "East-West Gateway Council of Governments (EWG) hereby gives public notice that it is the policy of the agency to assure full compliance with Title VI of the Civil Rights Act of 1964, the Civil Rights Restoration Act of 1987, Executive Order 12898 on Environmental Justice, and related statutes and regulations in all programs and activities. Title VI requires that no person in the United States of America, on the grounds of race, color, or national origin, shall be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which EWG receives federal financial assistance. Any person who believes they have been aggrieved by an unlawful discriminatory practice under Title VI has a right to file a formal complaint with EWG. Any such complaint must be in writing and filed with EWG's Title VI Coordinator within one hundred eighty (180) calendar days following the date of the alleged discriminatory occurrence. For more information, or to obtain a Title VI Nondiscrimination Complaint Form, please see EWG's website at www.ewgateway.org/titlevi or call (314) 421-4220 or (618) 274-2750."

4. "EWG fully complies with Title VI of the Civil Rights Act of 1964 and related statutes and regulations in all programs and activities. For more information, or to obtain a Title VI Nondiscrimination Complaint Form, see www.ewgateway.org/titlevi or call (314) 421-4220 or (618) 274-2750."

c. The Council is not responsible for and will not pay for any costs associated with correcting, reproducing, re-printing a Work Product or Public Notice when the need for correcting, reproducing, or re-printing is caused by Consultant's failure to obtain the Council's written authorization before publishing the Work Product or Public Notice. Consultant shall, at Consultant's own expense, correct, reproduce, or re-print any Work Products or Public Notices that were publicized, produced, or printed without the Council's prior authorization.

d. *Approving Work Products and Public Notices.* In order to request the Council's approval of Work Products that are intended for public consumption or Public Notices, Consultant shall submit to the Council's point of contact designated in Paragraph 15, Part (a)(i)(1) both of the items listed in Paragraph 9 Parts (d)(i)(1) and (2). Consultant shall submit the request and items at least fourteen (14) calendar days in advance of the intended publication date.

i. **Items to Submit.**

1. A written request for approval, via e-mail.

2. A copy of the Work Product intended for public consumption or Public Notice, as applicable.

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ii. The Council will review Consultant's request and will notify Consultant, if the materials have been approved for publication. The Council's approval will be sent to Consultant in writing by letter, e-mail, or both. Consultant may not publish or otherwise publicize the materials without the Council's express written approval.

iii. For purposes of this Agreement, "public consumption" means distribution (by any means) of a Work Product or Public Notice for purposes other than review and edit of the materials to any:

1. individuals who are not employed by the Council,
2. individuals who are not part of the project team, or
3. entities that are not affiliated with the project.

e. The terms of Paragraph 8 will apply to all information, Work Products, Public Notices, and results of the work produced under this Agreement, in whatever form or format these items were created. The term "publication," including all tenses of this word, means making a Work Product or Public Notice available to any person or entity that is not part of the project team and for purposes other than review or edit. Publication applies to any type of disclosure or publication method including electronic methods. The terms "Work Products" and "created" have the meaning expressed in Paragraph 7, Part (a)(i).

f. There are no general public outreach activities anticipated for this project. In the event that these types of activities become necessary for the project, then the Council will provide Consultant additional information about the requirements that govern materials for public outreach activities.

9. Authorized Personnel, Changes & Other Requests. The Council has sole discretion to approve Consultant's request for changes or provide approvals or authorizations and Paragraph 9 does not obligate the Council to approve Consultant's requests. The persons who are authorized to initiate change requests, to approve Consultant's requests for changes, or to provide authorizations are described in Paragraph 9, Part (a). The process for requesting changes to this Agreement are described in Paragraph 9, Part (b) and the process for other types of requests are described in Paragraph 9, Part (c).

a. *Authorized Personnel.* The persons listed in Paragraph 9, Parts (a)(i) – (iv) are authorized by the Council to initiate change requests, to approve Consultant's requests for changes, or to provide authorizations.

i. The Council's point of contact designated in Paragraph 15, Part (a)(i)(1).

ii. The Council's Director of Administration.

iii. The Council's Executive Director.

iv. Other person authorized in writing by the persons listed in Paragraph 9, Parts (a)(ii) and (iii), when this other person is indicated in writing to Consultant as having this authority.

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The Council's project manager or any other person not described in Paragraph 9, Parts (a)(i) – (iv) are **not** authorized to initiate change requests, to approve Consultant's requests for changes, or provide authorizations.

b. *Changes.* Certain changes to the performance period, Appendix I, Appendix II, or other changes to this Agreement must be requested and approved as stated in Paragraph 9, Parts (b)(i) – (vi).

i. Except as noted in Paragraph 9, Part (b)(iii), any Consultant request for changes must be submitted to the Council in advance of the change taking effect. Changes include, but are not limited to: changing the scope of work; lengthening or shortening the performance period; or changing the budget for the project. The Council will consider Consultant's after-the-fact changes on a limited basis and it is within the Council's sole discretion whether to consider or approve Consultant's after-the-fact changes.

ii. In order to request a change to the performance period or scope of work Consultant shall submit to the Council's point of contact designated in Paragraph 15, Part (a)(i)(1), a written request that contains:

1. a clear description of the change requested and a rationale/justification for why the change is necessary,

2. the proposed effective date of the change, and

3. a copy of the revised scope of work, if applicable.

iii. Consultant must keep the Council's point of contact designated in Paragraph 15, Part (a)(i)(2) informed, in writing, about changes to the project schedule, including deliverable due dates. If a change to the project schedule will result in Consultant not completing its work within the performance period specified in Paragraph 2, Part (a), then Consultant shall follow the procedures described in Paragraph 9, Part (b)(ii).

iv. The Council will review Consultant's change request and will send Consultant a written notice of its decision and, if Consultant's request is denied, will include an explanation of the Council's decision.

v. Except as noted in Paragraph 9, Part (b)(vi), any one or combination of the changes in listed in Paragraph 9, Parts (b)(v)(1) – (3) must be effected through written amendments to this Agreement, signed by the duly authorized representative of each party.

1. Any change to the scope of work, except as noted in Paragraph 9, Part (b)(iii).

2. Any change to the performance period.

3. An increase in the total dollar amount to be paid to Consultant for the project work.

vi. The Council may initiate changes to terms of this Agreement including, but not limited to, the performance period, the amount budgeted for the project, or the

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scope of work. Except as noted in Paragraph 9, Parts (b)(vi)(1) and (2), the Council shall obtain Consultant's written assent to the change, either through a signed amendment or other written communication. Regardless of whether the Council has issued a signed amendment to Consultant or Consultant has provided a written communication to Council regarding its assent to the change, Consultant's assent to the change will be deemed given if, after the Council has communicated a change to Consultant, Consultant submits an invoice or other request for payment to the Council or Consultant accepts payment from the Council.

1. Certain minor changes to this Agreement may be initiated by the Council and do not require prior authorization or a written amendment to this Agreement. These changes include, but are not limited to: (a) shifting funds between milestones; (b) changes to the budget implemented by the Council during project close-out or processing final payment for the project; or (c) changing the funding source for the project. In the event that the Council needs to implement these types of changes, the Council does not have to obtain Consultant's written assent in advance; however, the Council will notify Consultant of the change so that Consultant has the information for its records. It is within the Council's sole discretion to determine which minor changes to this Agreement require an amendment and which can be effected as stated in Paragraph 9, Part (a)(vi). A change that will result in an increase in the total amount paid by the Council for the project is not a "minor change."

2. In the event that MoOHS or FEMA implement changes to the Council's grant agreement or grant budget, and these changes affect the terms of this Agreement, the Council will notify Consultant of the change and the change will take effect immediately upon the date provided in the Council's notification to Consultant. In the event of this type of change, the Council does not need to obtain Consultant's written assent to the change. The Council's notification will be in writing.

c. *Other Requests.* In the event that either party needs to seek approval for changes or request other changes or authorizations that are not specifically noted in Paragraph 9, the party shall submit its written request to the other party's point of contact designated in Paragraph 15, Part (a)(i)(1) or (a)(ii)(1), as applicable. The party's request must include both a detailed description of the change or other item for which approval is sought and a rationale/justification for the request. The party receiving the request will notify the party making the request in writing of its decision.

10. <u>Disputes, Remedies & Termination.</u>

a. *Disputes.* Any dispute concerning a question of fact arising under this Agreement that is not disposed of by the Parties' mutual agreement must be decided by the Executive Director, East-West Gateway Council of Governments, who shall mail or otherwise furnish a copy of its decision to Consultant. This decision will be final and conclusive unless Consultant mails or otherwise furnishes a written appeal concerning the question

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of fact to the Executive Director. Consultant shall submit its written appeal to the Council within thirty (30) calendar days of Consultant's receipt of a copy of the Executive Director's decision. The Executive Director shall arrange a formal hearing within fifteen (15) calendar days after the Executive Director's receipt of Consultant's appeal. The hearing officer must be a person mutually agreed upon by the Executive Director and Consultant. The hearing officer will send both Consultant and the Executive Director a notice that specifies the date, time, and place for the hearing. The hearing officer's notice must be sent not less than five (5) business days in advance of the hearing. At the hearing, Consultant and the Council will have the right to present witnesses and give evidence concerning the question of fact. The hearing officer shall give their decision to both Parties within five (5) business days of the close of the hearing. Pending final decision of an appeal to the Executive Director, Consultant shall proceed diligently with the performance of this Agreement. Nothing in this Paragraph 10, Part (a) will be construed as the Executive Director or hearing officer making final decisions regarding any questions of law. "Receipt" is defined in Paragraph 15, Part (c)(ii)(2).

b. *Remedies.* Where Consultant violates, breaches, or otherwise fails to comply with the terms of this Agreement, the Council, in its sole discretion, may:

i. terminate or suspend this Agreement, in whole or in part,

ii. order a stoppage of the work,

iii. disallow all or part of the cost of the activity or action (including matching funds contributed to the activity) not in compliance with this Agreement,

iv. suspend or withhold payments to Consultant pending Consultant's correction of any deficiency,

v. rescind payments made to Consultant if it is later determined that the payment was made for a cost or activity not in compliance with this Agreement,

vi. recommend that the funding agency initiate suspension or debarment proceedings against Consultant,

vii. deem Consultant ineligible to receive any further contract awards from the Council until the deficiency is corrected, or

viii. pursue any other available legal or equitable remedy.

c. *Termination.*

i. In accordance with Paragraph 10, Part (c), the Council may, in its sole discretion, terminate this Agreement for default or convenience. The termination may be of this Agreement in whole or in part.

1. Default means Consultant commits any one or combination of the actions described in Paragraph 10, Parts (c)(i)(1)(a) – (g).

a. Consultant has failed or is failing to perform. "Has failed or is failing to perform" means:

i. Consultant has not made or is not making progress in the work,

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ii. Consultant has not met or is not meeting project deadlines,

iii. Consultant has not complied or is not complying with the prompt payment requirements described in Paragraph 3, Part (a)(xii), or

iv. Consultant has not complied or is not complying with the reporting requirements defined in Paragraph 6.

b. Except for the provisions noted in Paragraph 10, Part (c)(i)(1)(g), Consultant has violated or is violating a provision of this Agreement.

c. Consultant has not complied or is not complying with any federal, state, or local laws or any regulations that are pertinent to this Agreement, as the noncompliance is determined by the Council, MoOHS, or DHS.

d. Consultant has engaged in or is engaging in the unauthorized use of funds which means that Consultant has used or is using the funds for any purpose other than that provided for in this Agreement.

e. Consultant engaged in or is engaging in a misrepresentation of any type during the procurement process, the contract negotiations, or invoicing / billing process, which if known to the Council, MoOHS, or DHS would have resulted in the Council not awarding the contract to Consultant or the Council not making payments to Consultant.

f. Consultant has failed or is failing to disclose a/an:

i. after-discovered conflict of interest,

ii. erroneous certification,

iii. violation described in Paragraph 6, Part (d), or

iv. debarment / suspension action initiated or instituted by any state or federal government entity.

g. Consultant has violated or is violating Paragraph 2, Part (b), any part of Paragraph 11, or any part of Paragraph 12.

2. Convenience means whenever it is in the best interest of the Council, including but not limited to:

a. at any time when MoOHS or DHS, including any of its agencies, cancels, rescinds, terminates, or otherwise modifies the agreement that it has with the Council whether in whole or in part,

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b. at any time when MoOHS or DHS does not have or does not provide funding for the project, or

c. at any time when the Council no longer needs or desires Consultant's services.

ii. **Cure Period.** Except as indicated in provisions of this Agreement that an immediate termination of this Agreement is permitted, upon Consultant's default of this Agreement, the Council will provide Consultant a cure period as follows:

1. For a default described in Paragraph 10, Part (c)(i)(1)(a), Consultant will have a cure period of forty-eight (48) hours (or a longer period as the Council may allow) after Consultant's receipt from the Council of a written notice specifying the default.

a. ***Exception.*** Upon Consultant's fourth (4th) failure to meet a project deadline, the Council may, in its sole discretion, immediately terminate this Agreement without providing Consultant any period to cure the default. This exception applies even if the Council has not previously provided Consultant a written notice of default. "Failure to meet a project deadline" means Consultant does not meet a project deadline and the Council has not provided an express written approval that extends the deadline. The Council's approval must be provided as stated in Paragraph 9.

2. For a default described in Paragraph 10, Parts (c)(i)(1)(b), Consultant will have a cure period of seven (7) business days (or a longer period as the Council may allow) after Consultant's receipt from the Council of a written notice specifying the default.

3. For a default described in Paragraph 10, Parts (c)(i)(1)(c) – (g), Consultant will not be provided a cure period, and the Council may, in its sole discretion, immediately terminate this Agreement without any penalty to the Council.

4. **Failure to Cure a Default.** If Consultant fails to cure a default within the cure period specified in Paragraph 10, Parts (c)(ii)(1) – (2), then the Council, in its sole discretion, may immediately terminate this Agreement without any penalty to the Council.

iii. Any termination must be effected by the Council's delivery to Consultant of a written notice specifying whether termination is for the default of Consultant or for the convenience of the Council and the extent to which this Agreement is terminated ("Termination Notice"). The termination will be effective upon Consultant's receipt of the Termination Notice. "Receipt" is defined in Paragraph 15, Part (c)(ii)(2).

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iv. **Termination of Project Work.** Immediately after receipt of a Termination Notice Consultant shall:

1. stop performance of work under this Agreement to the extent specified in the Termination Notice,

2. place no further subcontracts for services, except as may be necessary for completion of the portion of the work that was not terminated,

3. terminate all subcontracts to the extent that they relate to the performance of the services terminated by the Termination Notice,

4. assign to the Council in the manner and to the extent directed by the Council, all of Consultant's rights, title, and interest under the subcontracts that Consultant terminated because of the Termination Notice. The Council has the discretion to determine which claims arising out of the termination of these subcontracts the Council will pay or settle,

5. complete performance of the part of the work that was not terminated by the Termination Notice, and

6. deliver to the Council:

   a. all Work Products (in whatever format) created by Consultant under the terms of this Agreement up through the date of termination. The term "Work Product(s)" is defined in Paragraph 7, Part (a)(i), and

   b. any documents or materials furnished by the Council to Consultant or prepared by the Council for Consultant.

7. promptly submit to the Council a written claim for amounts due to Consultant (a "Termination Claim"). Consultant shall submit the Termination Claim in the form and with the certification prescribed by the Council and to the Council's point of contact designated in Paragraph 15, Part (a)(i)(1). Consultant's Termination Claim must include all amounts due to Consultant based upon the amount due to Consultant for the eligible, allowable, and actual costs incurred by Consultant through the effective date of the termination; one of the following: (a) in the event of a termination for default, the amount due to Consultant for the milestones completed by Consultant through the effective date of the termination; or (b) in the event of a termination for convenience, the amount due to Consultant for the milestones completed plus an amount for the percentage or proportion of other project milestones that were partially completed through the effective date of the termination; the amount due to Consultant for the work completed by Consultant or milestones completed by Consultant through the effective date of the termination; the amount due to Consultant for the work completed plus an amount for the percentage of indirect costs incurred by Consultant through the effective date of

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the termination. Except as noted in Paragraph 10, Part (c)(iv)(7)(a), Consultant shall submit its Termination Claim to the Council no later than sixty (60) calendar days from the effective date of termination.

a. **Extension.** Consultant may request a longer time period to submit its Termination Claim. In order to request an extension of the deadline for submitting a Termination Claim, Consultant shall submit a written request to the Council's point of contact designated in Paragraph 15, Part (a)(i)(1). Consultant's written request must be submitted to the Council within the original sixty (60) calendar day submission time frame. It is within the Council's sole discretion whether to approve Consultant's request for additional time to submit Consultant's Termination Claim. If the Council determines that the facts justify an extension, it may receive and act upon Consultant's Termination Claim at any time after the original sixty (60) calendar day submission or any extended submission period that was authorized by the Council.

b. **Payment.** The Council will pay the Termination Claim in accordance with one of the following:

i. If the Council concurs with the amounts claimed on Consultant's Termination Claim and the Council has received all of the items described in Paragraph 10, Part (c)(iv)(6), the Council shall proceed with payment. The Council's payment will be deemed the final settlement of all amounts due.

ii. If Consultant fails to submit its Termination Claim in the time allowed or fails to submit its Termination Claim with complete information, the Council may determine, based on the available information, the amount due to Consultant because of the termination and will pay to Consultant the amount determined by the Council. The Council's payment will be deemed the final settlement of all amounts due.

11. Conflicts of Interests & Gratuities.

a. *Conflicts of Interests.*

i. **Interest of Consultant.** Consultant covenants that it presently has no interest and shall not acquire any interest (direct or indirect) which would conflict in any manner or degree with the work Consultant must perform under this Agreement. In the performance of this Agreement, Consultant will not employ any person having these types of interests. Consultant will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of a personal or organizational conflict of interest or personal gain.

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ii. **Interest of Members of or Delegates to Congress.** Consultant shall not admit any members of or delegates to the Congress of the United States to any share or part of this Agreement or to any benefit arising from this Agreement.

b. *Gratuities.* If the Council finds that Consultant or any agent or representative of Consultant offered or gave gratuities (in the form of entertainment, gifts or otherwise) to any official, employee or agent of the Council (including the St. Louis Area Regional Response System or "STARRS"), MoOHS, FEMA, or DHS and the gratuities were given with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this Agreement, then the Council may immediately terminate this Agreement and may pursue other rights and remedies provided by law or under this Agreement. The Council's finding must be reached after the Council provides notice to Consultant and conducts a hearing on the matter.

12. Certifications.

a. *Lobbying Certification.*

i. Consultant certifies compliance with 31 U.S.C. § 1352, and implemented at 44 CFR Part 18 covering government-wide restrictions on lobbying, which provides that no federal appropriated funds have been paid or will be paid, by or on behalf of Consultant, to any person for influence or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.

ii. Consultant further certifies that if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, Consultant shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

iii. This certification is a material representation of fact upon which reliance was placed when the Council determined whether to enter into this transaction. Consultant's submission of this certification is a prerequisite for the Council making or entering into this transaction, as the requirement is imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each failure to file the required certification.

iv. Consultant shall include the language of Paragraph 12, Parts (a)(i) – (iii) in the contract documents for all subcontracts at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative Contracts) and that all subcontractors shall certify and disclose accordingly.

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v. **Prohibition on Lobbying.** Consultant shall not use any federal funds, either directly or indirectly in support of the enactment, repeal, modification or adoption of any law, regulation, or policy, at any level of government, without the express prior written approval of the Council, MoOHS, FEMA, or DHS.

b. *Debarment, Suspension and Other Responsibility Matters Certification.*

i. Consultant certifies that:

1. it will comply with Executive Order 12549, Executive Order 12689, and 2 CFR Part 180 as supplemented by 2 CFR Part 3000,

2. to the best of its knowledge and belief, it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency,

3. it shall not knowingly enter into any lower tier covered transaction with a person who is or entity that is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing, by the Council, and

4. it shall review the "Excluded Parties Listing System" at www.sam.gov/portal/public/SAM/ and the Missouri "Suspended Vendors List" at https://oa.mo.gov/sites/default/files/suspven.pdf to ensure that it does not enter into any lower tier covered transaction with a person who or firm that is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

ii. Consultant's certification is a material representation of fact upon which reliance was placed when the Council determined whether to enter into this transaction. If it is later determined that Consultant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the Council may terminate the Agreement for cause. Consultant shall provide immediate written notice to the Council if at any time Consultant learns that its certification was erroneous because of changed circumstances.

iii. Consultant shall include Paragraph 12, Parts (b)(i)(1) – (4) in all lower tier covered transactions and in all solicitations for lower tier covered transactions. Consultant may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless Consultant knows the certification is erroneous.

c. *Federal Debt Status Certification.* In order to be eligible to receive payments under this Agreement, Consultant must be non-delinquent in its repayment of any federal debt, including but not limited to, delinquent payroll and other taxes, audit disallowances, and

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benefits overpayments. Consultant certifies that it is not currently delinquent in its repayment of any federal debt and shall notify the Council immediately if Consultant will be in breach of this Paragraph 12, Part (c). The Council may immediately terminate this Agreement in the event that Consultant breaches this Paragraph 12, Part (c).

d. *Duplication of Benefits Certification.* Consultant is required to comply with FAR Part 31.2 and other federal rules and regulations, which provide that any cost allocable to a particular federal award or cost objective under the principles provided for in the FAR may not be charged to other federal awards in order to overcome fund deficiencies. Consultant certifies that it will comply with these requirements and acknowledges that, in the event that Consultant fails to so comply, the Council may immediately terminate this Agreement.

13. Inspections and Access to Records & Records Retention.

a. *Inspections and Access to Records.* Consultant shall allow the Council, MoOHS, FEMA, DHS, the Comptroller General of the United States, or any of these entities' duly authorized representatives, to review and inspect the services performed under this Agreement. Consultant shall also provide each entity access to Consultant's premises and all books, documents, papers, records, correspondence, instructions, receipts, vouchers, and memoranda of every description which are directly pertinent to this Agreement. Consultant will grant this access to each entity for purposes of the entity making audits, examination, excerpts, and transcriptions. This right of access also includes timely and reasonable access to Consultant's personnel for the purpose of interview and discussion related to the records. Each entity's inspection may occur at any time. The Council, if prior notice is warranted and possible, will notify Consultant in advance of the Council's intent to conduct an inspection. The right of access to conduct inspections, audits, examinations, etc. that is described in this Paragraph 13, Part (a) shall remain in place for as long as the records are retained by Consultant and does not expire at the end of the records retention period described in Paragraph 13, Part (b).

b. *Records Retention.*

i. Consultant shall retain all financial records, supporting documents, statistical records, and all other records pertinent to this Agreement. Consultant shall retain these records for at least five (5) years from the date provided by the Council in writing (e-mail notification is acceptable). Consultant's retention is required for purposes of state and federal examination and audit. Consultant may retain the records in an electronic, machine readable format.

ii. The retention requirement extends, but is not limited to, books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, cancelled checks, and related documents and records. Source documents include copies of this Agreement and Consultant's financial and narrative reports. Personnel and payroll records include the time and attendance reports for all individuals paid as part of the project, whether the individuals are employed full-time or part-time.

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iii. If any litigation, claim, negotiation, audit, or other action involving the records has started before the expiration of the five (5) year retention period described in Paragraph 13, Part (b)(i), then Consultant shall retain the records until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

iv. The records retention period may be extended if Consultant is notified in writing by the Council that the records retention period has been extended. The Council's written notice will specify the time frame for the extended records retention period.

v. Consultant shall adequately protect records against fire or other damage.

14. Administrative & Statutory and Regulatory Requirements.

a. *Administrative Requirements.*

i. **Council, MoOHS, and DHS Requirements.** Consultant shall at all times comply with all applicable MoOHS, DHS, FEMA, regulations, policies, procedures, and directives, including without limitation, administrative requirements of MoOHS's "Administrative Guide for Homeland Security Grants" and Information Bulletins, as each may be amended or updated from time-to-time and that are available at: dps.mo.gov/dir/programs/ohs/grantstraining; FAR Part 31.2, and any other regulations, policies, procedures, and directives that govern the project whether listed directly or by reference in this Agreement. Consultant acknowledges and understands that the administrative requirements of MoOHS **are effective upon issuance**, and that Consultant shall comply with the then-current requirements. Consultant's failure to so comply will constitute a material breach of this Agreement.

ii. **Incorporation of MoOHS Agreement.** All contractual provisions required by MoOHS, FEMA, or DHS are set forth in Appendix IV: Office of Homeland Security, Grant Award of Contract ("Appendix IV"). Consultant shall comply with Articles II through XIL of Appendix IV and shall include each of these provisions in any subcontract that Consultant enters into under the Agreement. Except when the Agreement provides more restrictive terms, all of the MoOHS, FEMA, or DHS mandated terms will be deemed to control in the event of a conflict with other provisions contained in the Agreement. Consultant shall not perform any act, fail to perform any act, or refuse to comply with any Council requests that would cause the Council to be in violation of Appendix IV.

iii. **Environmental and Historic Preservation ("EHP") Reviews.**

1. **EHP Approval Required.** The project anticipated by this Agreement includes work that is subject to EHP review and approval. Consultant may not begin any work at the Project Site(s) that may require an EHP review and approval until it has been notified in writing by the Council that the EHP approval has been obtained for the Project Site(s) or that an EHP approval is not required for the Project Sites(s). Consultant shall comply with all conditions placed on the project as a result of the EHP review or any subsequent EHP modification review.

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2. **Modifications.** Once Consultant has notified the Council of the Project Site(s) and MoOHS / FEMA has either provided its EHP approval for the Project Site(s) or has indicated that an EHP approval is not required for the Project Sites(s), any change to the approved project scope of work, as described in Appendix I, or the Project Site(s) will require re-evaluation for compliance with the EHP requirements.

   a. Consultant must not undertake any changes to the approved scope of work or the Project Site(s) without the prior written approval of one of the Council's authorized officials as designated in Paragraph 9, Part (a). Consultant shall notify the Council in writing, no less than seven (7) calendar days after Consultant becomes aware that a change to the approved scope of work or the Project Site(s) is required or needed. Consultant must submit its notification to the Council's point of contact designated in Paragraph 15, Part (a)(i)(1).

   b. In the event that changes to the scope of work or the Project Site(s) are required, Consultant must cease all work for the project until Consultant is notified in writing by the Council that an EHP modification has been provided by MoOHS / FEMA and that Consultant is authorized to continue the project work.

3. **Ground Disturbance.** Ground disturbance activities are not anticipated for the project and are not authorized. If ground disturbance activities occur during project implementation, Consultant must immediately cease project work in that area and notify the Council in writing. Consultant may not continue the project work unless and until it has received written authorization from the Council. Consultant must submit its notification to the Council's point of contact designated in Paragraph 15, Part (a)(i)(1).

4. **Ineligible Costs.** ***Any installation activities or ground disturbance activities that have been initiated before the full EHP review and approval or any installation activities or ground disturbance activities that have been initiated before any required EHP modification is obtained could result in a non-compliance finding. Additionally, the costs associated with the unauthorized / non-approved activities may be deemed ineligible for reimbursement. If the costs are deemed ineligible by the Council, MoOHS, FEMA, or DHS, these costs shall become the sole responsibility of Consultant. If the Council has reimbursed Consultant for any costs associated with the unauthorized / non-approved activities, then Consultant must return to the Council all amounts paid by the Council, plus an amount due for any interest that is charged to the Council by the funding agency for these ineligible costs.***

5. **Cooperation Required.** Consultant must cooperate fully with the Council, MoOHS, FEMA, DHS, or any combination of these entities

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during the EHP review or any EHP modification review process, including, but not limited to: providing all requested documentation and information, granting access to the Project Site(s), and fulfilling information requests in a timely manner.

iv. **Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment**. Consultant, and any of its subcontractors, subconsultants, consultants, vendors, etc., will comply with the Omni Circular, § 200.216, as amended, the prohibitions described in § 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, P.L. 115-232, and FEMA Policy #405-143-1 that prohibit contracting for covered telecommunications equipment or services. The terms expressed in Appendix A of FEMA Policy #405-143-1 are incorporated by reference into and made a part of this Agreement. Consultant shall include the language of Paragraph 14, Part (a)(iv) in the contract documents for all subcontracts at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative contracts). The full text of FEMA Policy #405-143-1 and Appendix A are available at: www.fema.gov/sites/default/files/documents/fema_prohibitions-expending-fema-award-funds-covered-telecommunications-equipment-services.pdf.

v. **Domestic Preferences for Procurements**. Consultant, and any of its subcontractors, subconsultants, consultants, vendors, etc., will comply with the Omni Circular, § 200.322, as amended, the "Build America, Buy America" provisions of the Infrastructure Investment and Jobs Act, and Executive Order 14005 which require that, to the extent appropriate and consistent with law and to the greatest extent practicable, Consultant, and any of its subcontractors, will purchase, acquire, or use goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufacture products) when procuring goods under the Agreement. Consultant shall include the language of Paragraph 14, Part (a)(v) in the contract documents for all subcontracts at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative contracts).

b. *Statutory and Regulatory Requirements.*

i. **Civil Rights.**

1. **Nondiscrimination Statutes, Orders, and Regulations.** As required by federal law, Consultant certifies that it will comply with all applicable federal and state statutes, executive orders, and regulations, relating to nondiscrimination and equal opportunity, including, but not limited to those described in Articles VIII, XV, XVII, XVIII, XXV, XXVIII, XXXV, and XXXXVIII of Appendix IV.

2. **Equal Employment Opportunity.** Consultant shall comply with the requirements of Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented by U.S. Department of

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Labor ("DOL") regulations (41 CFR Chapter 60).

3. **Small Businesses, Minority Owned Firms, and Women's Business Enterprises.**

a. It is the policy of DHS that minority business enterprises ("MBE") and women business enterprises ("WBE") have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds.

b. Consultant shall ensure that MBE and WBE have the maximum opportunity to participate in the performance of this Agreement. In this regard, Consultant shall take all necessary and reasonable steps, in accordance with 2 CFR Part 200 § 200.321, to ensure that MBE and WBE have the maximum opportunity to compete for and perform portions of this Agreement. In accordance with FEMA regulations, these steps include:

i. Placing qualified small minority businesses and WBE on solicitation lists for subcontracts or joint ventures.

ii. Assuring that small and minority businesses and WBE are solicited whenever they are potential sources of work or supplies.

iii. Dividing total project requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and WBE.

iv. Establishing delivery schedules, when the requirements permit, which encourage participation by small and minority businesses and WBE.

v. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

c. ***D/S/W/MBE Subcontractor Requirements.***

i. ***Participation Percentage.*** Consultant has agreed to provide D/S/W/MBE participation on the project as indicated in Paragraph 14, Parts (b)(i)(2)(d)(1) – (4); which means that, at a minimum, these percentages of the compensation allotted for this project must be provided to a certified D/S/W/MBE.

1. DBE – the minimum participation for certified DBEs is ____percent (__%).

2. SBE – the minimum participation for certified SBEs is ___percent (__%).

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3. WBE – the minimum participation for certified WBEs is ___percent (__%).

4. MBE – the minimum participation for certified MBEs is ___percent (__%).

ii. ***D/S/W/MBE Certification.*** A certified DBE is an entity that is so certified with the Missouri Department of Transportation ("MoDOT") or the Illinois Department of Transportation ("IDOT"). A certified W/MBE is an entity that is so certified with MoDOT, IDOT, or the Missouri Department of Equal Opportunity. A certified SBE is an entity that is so certified with the U.S. Small Business Administration. If a firm is not certified by the proper entity at the time of contract award, the Council will not count that firm's participation toward meeting the D/S/W/MBE percentages that are required for the project.

iii. ***Changes to D/S/W/MBE Participation.***

1. Consultant is not permitted to make any changes to the project or the services to be provided under this Agreement that will result in a reduction or other change in the D/S/W/MBE participation on the project without first obtaining the express written approval of the Council.

2. Consultant may not terminate, substitute, or otherwise reduce the work assigned to a D/S/W/MBE without good cause *and* without the express, advance written approval of the Council.

3. Consultant shall notify the Council in writing within five (5) calendar days of becoming aware of the need to make changes to the approved subcontractors for the project or the work assigned to a D/S/W/MBE.

4. If Consultant undertakes any changes to the work assigned to a D/S/W/MBE that results in a reduction in the D/S/W/MBE's participation in the project, without first obtaining the Council's express written approval, then the Council may implement a reduction in Consultant's compensation equal to the reduction in compensation to the D/S/W/MBE subcontractors on the project.

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d. Under Paragraph 6, Part (b), Consultant shall submit to the Council the required D/S/W/MBE participation reporting form.

4. **Nondiscrimination Assurances.**

a. Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, disability, or age of an individual in the performance of the Agreement. Consultant shall carry out the applicable requirements of 6 CFR Part 21 in the award and administration of DHS assisted contracts.

b. Consultant assures that, as a condition of receiving payments under the Agreement, it will not discriminate on grounds of race, color, national origin, religion, sex, disability, or age of an individual in the performance of any services under the Agreement, including the selection and retention of subcontractors and the procurement of materials and leases of equipment.

5. The terms of Paragraph 14, Part (b)(i) will apply to all of Consultant's solicitations, either by competitive bidding or negotiation, for work to be performed under a subcontract including procurement of materials or equipment, and Consultant shall notify each potential subcontractor, supplier, or lessor of Consultant's obligations under this Agreement.

6. Consultant shall include the provisions of Paragraph 14, Parts (b)(i)(1) – (4) in every subcontract, including procurement of materials or leases of equipment.

7. Consultant's failure to carry out the requirements set forth in Paragraph 14, Part (b)(i) will constitute a breach of contract and the Council may enforce certain remedies against Consultant including, but not limited to, those remedies expressed in Paragraph 10, Part (b).

ii. **Freedom of Information and Missouri Sunshine Act.** Consultant understands and acknowledges that the Missouri Sunshine Act ("Sunshine Act"), Section 610-010 *et seq.* RSMo, may apply to the information and documents, both paper and electronic, submitted to the Council regarding the work performed under this Agreement. All materials submitted to the Council that are related to the project work will become agency records and are or may be subject to the Sunshine Act and to public release through individual Sunshine Act requests, unless the Council determines that a valid exemption under the Sunshine Act applies. The Council has adopted a presumption of disclosure; therefore, the Council does not consent to honor any "routine" confidentiality statements that may appear on any printed or electronic documents or correspondence (e.g. letters, e-mails) that accompany the submission of project information, absent a requirement under federal or state law or regulation that the information must be kept confidential. Consultant shall clearly and specifically mark genuinely confidential or privileged information and shall justify the information as confidential or privileged. The Council will review the documents and

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information that are the subject of each Sunshine Act request, as permitted by federal or state law or regulation, and determine the extent to which the Council must or should exercise its discretion and withhold those documents. Further, Consultant understands and acknowledges that the applicability of the Sunshine Act or the Council's exercise of discretion to withhold a document does not affect MoOHS, FEMA, or DHS's right to make a separate determination about the disclosure of a document related to the project under the Sunshine Act or the Federal Freedom of Information Act ("FOIA"), 5 U.S.C. § 552; however, if MoOHS, FEMA, or DHS makes the determination that a document may be disclosed under the Sunshine Act or FOIA, the Council will presume that the document is subject to disclosure under the Sunshine Act unless Consultant demonstrates otherwise.

iii. **Clean Air Act and Federal Water Pollution Control Act.**

1. Consultant shall comply with all applicable standards, orders, and regulations issued under the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* and Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 *et seq.* Consultant shall report each recognized violation to the Council and understands and the Council will, in turn, report each recognized violation as required to assure notification to DHS or FEMA and the appropriate Environmental Protection Agency Regional Office.

2. Consultant shall include these requirements in each subcontract made under this Agreement that exceeds $150,000.

iv. **Labor Statutes and Regulations.** As applicable, Consultant shall comply and ensure compliance on behalf of its employees, with the the Davis-Bacon Act (40 U.S.C. §§ 3141-3148) as supplemented by U.S. DOL regulations (29 CFR Part 5), the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145 and 18 U.S.C. § 874) as supplemented by DOL regulations (29 CFR Part 3), and Sections 3702 and 3704 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708) as supplemented by DOL regulations (29 CFR Part 5).

15. Contact Information, Mailing Addresses & Notices.

a. *Contact Information.*

i. **The Council's Point of Contact**. The Council's points of contact are as follows:

1. The point of contact for questions regarding the provisions of the Agreement, budgeting, and approvals / authorizations is Staci Alvarez, East-West Gateway Council of Governments, 1 S. Memorial Drive, Suite 1600, St. Louis, MO 63102; staci.alvarez@ewgateway.org; 314-421-4220 (phone) or 314-231-6120 (fax).

2. The point of contact regarding the scope of work is _____.

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ii. **Consultant's Point of Contact.** Consultant's points of contact are as follows:

1. _____.

2. _____.

iii. **Changes to Points of Contact or Addresses.** The Parties shall inform each other of any changes in points of contact and contact information, including the organization's name, address, telephone number, and e-mail. This notice may be given by one or both of a fax or an e-mail to the point of contact identified in Paragraph 15, Part (a)(i)(2) or (ii)(1), respectively, or one of the methods noted in Paragraph 15, Part (c)(ii).

b. *Mailing Addresses.* The mailing addresses of the Council and Consultant are as follows:

i. **The Council:**

Executive Director
East-West Gateway Council of Governments
1 S. Memorial Drive, Suite 1600
St. Louis, MO 63102

ii. **Consultant:**

XXXX
XXXX
XXXX
XXXX

c. *Notices.*

i. **Faxed / E-mailed Notices Allowed.** Except as described in Paragraph 15, Part (c)(ii), any written notices, requests, or authorizations (together referred to as "Notices") that are described in this Agreement may be submitted and received via fax or e-mail. Notices described in this Paragraph 15, Part (c)(i) will be effective upon first receipt, unless otherwise specified in this Agreement. For Notices described in this Paragraph 15, Part (c)(i), "receipt" means when the Notice is received by the designated point of contact of either Consultant or the Council as evidenced by the date and time stamp electronically assigned to the fax or e-mail.

ii. **Mailed / Delivered Notices Required.**

1. Notices required by Paragraph 10, except for a Termination Claim described in Paragraph 10, Part (c)(iv)(7) and a request described in Paragraph 10, Part (c)(iv)(7)(a), will be deemed given only if given in writing, and delivered to the party's address noted in Paragraph 15, Part (b) by:

a. hand delivery,

b. Federal Express ("FedEx"), United Parcel Service ("UPS"), or similar service, or

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c. U.S. Postal Service registered or certified mail, postage prepaid and return receipt requested.

2. Notices described in Paragraph 15, Part (c)(ii)(1) will be effective upon first receipt, unless otherwise specified in this Agreement. For notices described in Paragraph 15, Part (c)(ii)(1), "receipt" means when the notice arrives at the address noted in Paragraph 15, Part (b), as indicated by the first of either one of: the signature of a person employed by or designated by the Council or Consultant, or the delivery date noted on mail/delivery service tracking receipt/slip/other tracking document including internet based or electronic documents (i.e. e-mail or information downloaded from a website).

16. General Terms.

a. *Flow Down Provisions.* Consultant shall include certain provisions of this Agreement, including the Appendices, in all subcontracts that Consultant enters into under this Agreement. Consultant will coordinate with the Council to ensure that all of the required flow-down provisions are properly included in any subcontract Consultant issues under this Agreement.

b. *Unique Entity Identifier ("UEI"), Assistance Listing Number ("ALN"), and Funding Sources.* Consultant's UEI is _____. The ALN for the ____ project is NN.NNN. A total of ____ dollars ($___.00) in funding for this project is provided from DHS through MoOHS from the ____ grant.

c. *Information Obtained Through Internet Links.* The Council does not guarantee the accuracy of the information accessed through the internet links provided in this Agreement. Consultant understands that any information it obtains through an internet link contained in this Agreement does not represent an official version of the federal law, state law, regulation, or directive and may be inaccurate; therefore, any information obtained through an internet link is neither incorporated by reference nor made a part of this Agreement, unless the information represents the official version of the law, regulation, or directive.

d. *Federal Changes.* The Council and Consultant understand that federal laws, regulations, and directives applicable on the date on that DHS awards federal assistance for this Agreement may be modified from time-to-time. In particular, new federal laws, regulations, and directives may become effective after the effective date of this Agreement. The most recent of the federal laws, regulations, and directives will apply to the administration of this Agreement at any particular time, except to the extent that DHS determines otherwise in writing.

e. *No Obligation by the Federal Government.*

i. The Council and Consultant acknowledge that, despite any concurrence by the federal government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the federal government, the

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federal government is not a party to this Agreement and will not be subject to any obligations or liabilities to the Council, Consultant, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying agreement.

ii. Consultant shall include Paragraph 16, Part (e)(i) in each subcontract financed in whole or in part with federal funds provided by DHS. Consultant shall not modify Paragraph 16, Part (e)(i), except to identify the subcontractor that will be subject to its provisions.

f. *Assignability.* Consultant shall not assign, transfer, or delegate any interest in this Agreement without the prior written consent of the Council.

g. *Governing Law.* This Agreement will be interpreted under and governed by the laws of the State of Missouri.

h. *Jurisdiction and Venue.* Any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, will be instituted only in the Circuit Court of St. Louis City, Missouri.

i. *Waiver.* No waiver by either party of any default will be deemed as a waiver of any prior or subsequent default of the same or other provisions of this Agreement, or of the Parties' right to insist on strict compliance with this Agreement after a waiver is given.

j. *Agreement Binding on Successors.* Unless otherwise prohibited by this Agreement, this Agreement will be binding upon and will inure to the benefit of the Parties of this Agreement, their heirs, administrators, and successors.

k. *Integration.* This Agreement constitutes the entire understanding of the Parties, and revokes and supersedes all prior agreements between the Parties and is intended as a final expression of their agreement. It may not be modified or amended except in writing and when accomplished in accordance with Paragraph 9.

l. *Survival of Terms.* All provisions of this Agreement which by their nature should survive termination or expiration of this Agreement will survive, including but not limited to: provisions regarding liability and insurance coverage, indemnification, defense, hold harmless, insurance, intangible property, audits, inspections, ownership of documents, access to records, and retention of records.

m. *Severability.* In the event that any of the terms or provisions of this Agreement are declared void or unenforceable for any reason, the remaining terms and provisions of this Agreement will remain in full force and effect and will not be affected by the declaration.

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n. *Order of Precedence.* This Agreement consists of the terms of this Agreement and Appendices I through IV. In the event that any conflict or inconsistency arises among the provisions of this Agreement and the provisions of the Appendices or among the provisions of the Appendices, the following order of precedence shall control:

i. The Agreement.

ii. Appendix I.

iii. Appendix II.

iv. Appendix IV.

IN WITNESS WHEREOF the Parties have caused this instrument to be executed by their respective proper officials and on the dates specified below:

Consultant	**East-West Gateway Council of Governments**
_____	_____
XXXX XXXX	James M. Wild Executive Director
_____	_____
Date	**Date**

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ABC Company, Inc.

123 ABC Way, St. Louis, MO 63102

Contact Person:
Jane Doe, Accounting Manager
(314) 555-5555
jane.doe@abccompany.com

Remit Payments To:
Accts. Receivable
ABC Company, Inc.
123 ABC Way, St. Louis, MO 63102

Project Name	CCTA ILO Project
Project No.	#####
Invoice No.	123456
Invoice Date	01/01/0000
Invoice Period	04/01/18 through 04/30/18

		Milestone Payments		
Milestones	**Total Milestone Amt.**	**Current Amt. Due**	**Previously Billed Amt.**	**Remaining Amt.**
Task 1 - Project Management				
	$0			$0
	$0			$0
Total Task A1 Milestones	**$0**	**$0**	**$0**	**$0**
Task 2 - New ILO and Outreach Products				
	$0			$0
	$0			$0
Total Task A2 Milestones		**$0**	**$0**	**$0**
Phase 1 Total	**$0**	**$0**	**$0**	**$0**

Total Amount Due this Invoice **$0**

Certification & Signature

"I certify that to the best of my knowledge and belief that the invoice is true, complete, and accurate, and the expenditures are for the purposes set forth in the Agreement that my firm has with the Council. I am aware that false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil, or administrative penalties for fraud, false statements, false claims, or otherwise under U.S. Code Title 18, Section 1001 and Title 31, Sections 3729 – 3730 and 3801 – 3812."

Signature of Authorized Official

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ABC Company, Inc.
123 ABC Way, St. Louis, MO 63102

Progress Report

Project Name	CCTA ILO Project
Report No.	1
Report Date	01/01/0000
Report Period	04/01/18 through 04/30/18

Note that the percent project completion, percent milestone completion, and the percent task completion reported must be based upon actual work completed and must not be based upon dollars expended or costs incurred.

% Overall Project Complete To-Date	**0%**
% Project Completed this Period	**0%**

Is the project on schedule to be completed by the performance period end date (Y/N)?	**XX**
If no, indicate how far behind schedule you are and the tasks involved, describe the issues causing the delays, and explain the steps you have taken to mitigate the project delays. If a schedule change is needed, please attach a proposed revised project schedule.	

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ABC Company, Inc.
123 ABC Way, St. Louis, MO 63102

Progress Report

Project Name	CCTA ILO Project
Report No.	1
Report Date	01/01/0000
Report Period	04/01/18 through 04/30/18

Note that the percent project completion, percent milestone completion, and the percent task completion reported must be based upon actual work completed and must not be based upon dollars expended or costs incurred.

Task 1 –Project Management

Deliverables:

-
-
-

Milestones	% Complete To-Date	Date Milestone Completed (100%)

% of Task Completed To-Date	

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ABC Company, Inc.
123 ABC Way, St. Louis, MO 63102

Progress Report

Project Name	CCTA ILO Project
Report No.	1
Report Date	01/01/0000
Report Period	04/01/18 through 04/30/18

Note that the percent project completion, percent milestone completion, and the percent task completion reported must be based upon actual work completed and must not be based upon dollars expended or costs incurred.

Brief Summary of Work Accomplished During Current Reporting Period

Summary of Work Accomplished During Prior Reporting Periods

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ABC Company, Inc.
123 ABC Way, St. Louis, MO 63102

Progress Report

Project Name	CCTA ILO Project
Report No.	1
Report Date	01/01/0000
Report Period	04/01/18 through 04/30/18

Note that the percent project completion, percent milestone completion, and the percent task completion reported must be based upon actual work completed and must not be based upon dollars expended or costs incurred.

Task 2 – New ILO and Outreach Products

Deliverables:

-
-
-

Milestones	% Complete To-Date	Date Milestone Completed (100%)

% of Task Completed To-Date	

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ABC Company, Inc.
123 ABC Way, St. Louis, MO 63102

Progress Report

Project Name	CCTA ILO Project
Report No.	1
Report Date	01/01/0000
Report Period	04/01/18 through 04/30/18

Note that the percent project completion, percent milestone completion, and the percent task completion reported must be based upon actual work completed and must not be based upon dollars expended or costs incurred.

Brief Summary of Work Accomplished During Current Reporting Period

Summary of Work Accomplished During Prior Reporting Periods

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_____ (Prime Contractor)
FY 2023 CCTA ILO Project
_____ to _____

Name of Subcontractor	Prime Contractor Invoice Number	Subcontractor Invoice Number	Subcontractor Invoice Date	Subcontractor Total Invoice Amt.	Date Payment Received from EWG	Date Payment Made to Subcontractor**	Amt. Paid to Subcontractor**	Notes

**EWG/_____ Agreement, Paragraph 3, Part (a)(xii) requires that payment to subcontractors be made within 30 calendar days of receipt of the subcontractor's invoice.

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D/S/W/MBE PARTICIPATION REPORTING FORM

1. Reporting Period
   - ☐ Oct. 1 - March 31
     Due April 15th
   - ☐ April 1 - Sept. 30
     Due October 15th
   - ☐ Final
     Due with final invoice
2. Name of Prime Contractor _____
3. Project Title/Contract _____
4. D/S/W/MBE Participation

Firm Name	Contract Amt.	Total Payments Received / Issued To-Date	Payments Pending Final Payment	Contract Amount Remaining
A.				$0.00
B.				$0.00
C.				***$0.00***
D.				$0.00
E.				***$0.00***
F.				$0.00
TOTAL	**$0.00**	**$0.00**	**$0.00**	**$0.00**
TOTAL DBE FIRMS (C+E)	***$0.00***	***$0.00***	***$0.00***	***$0.00***
TOTAL SBE FIRMS (n/a)				
TOTAL WBE FIRMS (n/a)				
TOTAL MBE FIRMS (n/a)				

	Contract Amt.	% to Date	% Pending	Remaining %
DBE Participation (%)	#DIV/0!	#DIV/0!	#DIV/0!	#DIV/0!
SBE Participation (%) - n/a				
WBE Participation (%) - n/a				
MBE Participation (%) - n/a				

By signing below, I certify that to the best of my knowledge this report is accurate and true.

5. Printed Name & Title of Person Submitting Report
   _____
6. Signature of Person Submitting Report
   _____
7. Phone Number
   _____
8. Email
   _____
9. Date
   _____

Appendix 2 - Draft Contract Terms & Conditions
FY 2023 CCTA ILO Project
Solicitation # 2022RFP8-CCTAILO

Missouri Department of Public Safety
Office of Homeland Security
Division of Grants
P.O. Box 749, Jefferson City, MO 65101
Telephone: 573-526-6125 Fax: 573-526-9012

SUBAWARD AGREEMENT

DATE 9/18/19	
FEDERAL IDENTIFICATION NUMBER EMW-2019-SS-00039	OHS CONTROL NUMBER U1

SUBRECIPIENT NAME East-West Gateway Council of Governments	DUNS NUMBER 071965933
ADDRESS 1 South Memorial Drive, Ste. 1600	
CITY St. Louis	STATE MO / ZIP CODE 63102
TOTAL AMOUNT OF THE FEDERAL AWARD $3,082,570.00	AMOUNT OF FEDERAL FUNDS OBLIGATED BY THIS ACTION $3,082,570.00
TOTAL AMOUNT OF FEDERAL FUNDS OBLIGATED TO THE SUBRECIPIENT $3,082,570.00	TOTAL APPROVED COST SHARING OR MATCHING $0
PROJECT PERIOD FROM 9/1/2019 / PROJECT PERIOD TO 8/31/2022	FEDERAL AWARD DATE 9/1/19
PROJECT TITLE St. Louis UASI FY 2019	FUNDED BY FY 2019 Homeland Security Grant Program
FEDERAL AWARDING AGENCY Department of Homeland Security / PASS THROUGH ENITITY MO Department of Public Safety/Office of Homeland Security	IS THIS AWARD R&D YES ☐ NO ☒ / INDIRECT COST RATE YES ☒ NO ☐ AMOUNT $290,615.50
CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) NUMBER 97.067	METHOD OF PAYMENT (Reimbursement -- Advanced) Reimbursement

CONTACT INFORMATION

OHS GRANT SPECIALIST	SUBRECIPIENT PROJECT DIRECTOR	
NAME Michelle Branson	NAME Nick Gragnani	
E-MAIL ADDRESS Michelle.Branson@dps.mo.gov	ADDRESS (If different from above) 1 South Memorial Drive, Ste. 1600	
TELEPHONE (573) 526-9014	CITY, STATE AND ZIP CODE St. Louis, MO 63102	
PROGRAM MANAGER Joni McCarter	TELEPHONE (314) 421-4220	E-MAIL ADDRESS Nick.grangnani@ewgateway.org

SUMMARY DESCRIPTION OF PROJECT

The purpose of the FY 2019 HSGP is to support state and local efforts to prevent terrorism and other catastrophic events and to prepare the Nation for the threats and hazards that pose the greatest risk to the security of the United States. The HSGP provides funding to implement investments that build, sustain, and deliver the 32 core capabilities essential to achieving the National Preparedness Goal (the Goal) of a secure and resilient Nation. The building, sustainment, and delivery of these core capabilities are not exclusive to any single level of government, organization, or community, but rather, require the combined effort of the whole community.

The UASI Program assists high-threat, high density Urban Areas in efforts to build and sustain the capabilities necessary to prevent, protect against, mitigate, respond to and recover from acts of terrorism.

AWARDING AGENCY APPROVAL		SUBRECIPIENT AUTHORIZED OFFICIAL APPROVAL	
TYPED NAME AND TITLE OF DPS OFFICIAL Sandra K. Karsten, Director		TYPED NAME AND TITLE OF SUBRECIPIENT AUTHORIZED OFFICIAL James Wild, Executive Director	
SIGNATURE OF APPROVING DPS OFFICIAL	DATE	SIGNATURE OF SUBRECIPIENT AUTHORIZED OFFICIAL	DATE 9-25-19

THIS SUBAWARD IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS SET FORTH ON THE ATTACHED SPECIAL CONDITION(S). BY SIGNING THIS SUBAWARD AGREEMENT THE SUBRECIPIENT IS AGREEING TO READ AND COMPLY WITH ALL SPECIAL CONDITIONS.

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GRANT PROGRAM St. Louis UASI FY 2019	SUBRECIPIENT East-West Gateway Council of Governments
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Article I – Summary Description of Award

The purpose of the FY 2019 HSGP is to support state and local efforts to prevent terrorism and other catastrophic events and to prepare the Nation for the threats and hazards that pose the greatest risk to the security of the United States. The HSGP provides funding to implement investments that build, sustain, and deliver the 32 core capabilities essential to achieving the National Preparedness Goal of a secure and resilient Nation. Among the five basic homeland security missions noted in the DHS Quadrennial Homeland Security Review, HSGP supports the goal to Strengthen National Preparedness and Resilience. The building, sustainment, and delivery of these core capabilities are not exclusive to any single level of government, organization, or community, but rather, require the combined effort of the whole community.

Article II – Procurement of Recovered Materials

Subrecipients must comply with section 6002 of the *Solid Waste Disposal Act*, Pub. L. No. 89-272 (1965), (codified 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.

Article III – Whistleblower Protection Act

Subrecipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C. § 2409, 41 U.S.C. 4712, and 10 U.S.C. § 2324, 41 U.S.C. §§ 4304 and 4310.

Article IV - Use of DHS Seal, Logo and Flags

Subrecipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

Article V - USA Patriot Act of 2001

Subrecipients must comply with requirements of Section 817 of the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001* (USA PATRIOT Act), which amends 18 U.S.C. §§ 175-175c.

Article VI – Universal Identifier and System of Award Management

Subrecipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A.

AUTHORIZED OFFICIAL INITIALS

Article VII – Reporting of Matters Related to Recipient Integrity and Performance

If the total value of the subrecipient's currently active grants, cooperative agreements, and procurement contracts from all federal assistance offices exceeds $10,000,000 for any period of time during the period of performance of this federal financial assistance award, you must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions

Article VIII – Rehabilitation act of 1973

Subrecipients must comply with the requirements of Section 504 of the *Rehabilitation Act of 1973*, Pub. L. No. 93-112 (1973) (codified as amended at 29 U.S.C. section 794), which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Article IX – Trafficking Victims Protection Act of 2000 (TVPA)

Subrecipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106(g) of the *Trafficking Victims Protection Act of 2000*, (TVPA), codified as amended by 22 U.S.C. § 7104. The award term is located at 2 C.F.R. § 175.15, the full text of which is incorporated here by reference.

Article X – Terrorist Financing

Subrecipients must comply with E.O. 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the subrecipients to ensure compliance with the Order and laws.

Article XI – SAFECOM

Subrecipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

Article XII – Reporting Subawards and Executive Compensation

Subrecipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation located at 2 C.F. R. Part 170, Appendix A, the full text of which is incorporated here by the reference in the award terms and conditions.

Appendix 2 - Draft Contract Terms & Conditions
FY 2023 CCTA IIO Project
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Article XIII – Debarment and Suspension

Subrecipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, which are at 2 C.F.R. Part 180, as adopted by DHS at 2 C.F.R. Part 3000. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs and activities.

Article XIV - Copyright

Subrecipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 and an acknowledgement of U.S. Government sponsorship (including award number) to any work first produced under federal financial assistance awards.

Article XV –Civil Rights Act of 1964 - Title VI

Subrecipients must comply with the requirements of Title VI of the *Civil Rights Act of 1964* (codified as amended at 42 U.S.C. §2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

Article XVI – Best Practices for Collection and Use of Personally Identifiable Information (PII)

Subrecipients who collect PII are required to have a publicly available privacy policy that describes standards on the usage and maintenance of PII they collect. DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Subrecipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy template as useful resources respectively.

Article XVII – Americans with Disabilities Act of 1990

Subrecipients must comply with the requirements of Titles, I, II and III of the *Americans with Disabilities Act*, Pub. L. No. 101-336 (1990) (codified as amended 42 U.S.C. §§ 12101-12231), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

Article XVIII – Age Discrimination Act of 1975

Subrecipients must comply with the requirements of the *Age Discrimination Act of 1975,* Pub. L. No. 94-135 (1975) (codified as amended at Title 42, U.S. Code, § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

Article XIX - Activities Conducted Abroad

Subrecipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

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GRANT PROGRAM St. Louis UASI FY 2019	SUBRECIPIENT East-West Gateway Council of Governments
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Article XX– Acknowledgement of Federal Funding from DHS

Subrecipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.

Article XXI – Assurances, Administrative Requirements, Cost Principles, Representations and Certifications

DHS financial assistance recipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances – Non-Construction Programs, or OMB Standard Form 424D Assurances – Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances applicable to their program as instructed by the awarding agency. Please contact the DHS FAO if you have any questions.

DHS/OHS financial assistance subrecipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2 Code of Federal Regulations (C.F.R.) Part 200 and adopted by DHS at 2 C.F.R. Part 3002.

Article XXII – Patents and Intellectual Property Rights

Unless otherwise provided by law, Subrecipients are subject to the *Bayh-Dole Act,* 35 U.S.C. § 200 et seq. Subrecipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14.

Article XXIII – Notice of Funding Opportunity Requirements

All of the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All subrecipients must comply with any such requirements set forth in the program NOFO.

Article XXIV - Non-supplanting Requirement

Subrecipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

Article XXV – Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is DHS/OHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS/OHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Subrecipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statues, regulations, and guidance governing the participations of faith-based organizations in individual DHS/OHS programs.

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Solicitation # 2022RFP8-CCFAUO

Article XXVI – National Environmental Policy Act

Subrecipients must comply with the requirements of the *National Environmental Policy Act of 1969*, Pub. L. No. 91-190 (1970) (codified as amended at 43 U.S.C. § 4321 et seq.) (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which requires recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

Article XXVII - Lobbying Prohibitions

Subrecipients must comply with 31 U.S.C. §1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to the federal award or contract, including any extension, continuation, renewal, amendment, or modification.

Article XXVIII- Limited English Proficiency (Civil Rights Act of 1964, Title VI)

Subrecipients must comply with the *Title V of the Civil Rights Act of 1964* (42 U.S.C. § 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningul-access-people-limited and additional resources on http://jwww.lep.gov.

Article XXIX - Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the *Hotel and Motel Fire Safety Act of 1990*, 15 U.S.C. §2225a, subrecipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the *Federal Fire Prevention and Control Act of 1974*, codified as amended at 15 U.S.C. § 2225.

Article XXX- Fly America Act of 1974

Subrecipients must comply with Preference for U.S. Flag Air Carriers: (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the *International Air Transportation Fair Competitive Practices Act of 1974,* 49 U.S.C. § 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

Article XXXI – Federal Leadership on Reducing Text Messaging while Driving

Subrecipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official Government business or when performing any work for or on behalf of the federal government.

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GRANT PROGRAM St. Louis UASI FY 2019	SUBRECIPIENT East-West Gateway Council of Governments
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Article XXXII - Federal Debt Status

All subrecipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)

Article XXXIII - *False Claims Act* and Program Fraud Civil Remedies

Subrecipients must comply with the requirements of the *False Claims Act*, 31 U.S.C. §§ 3729-3733, which prohibits the submission of false or fraudulent claims for payment to the federal government. (See 31 U.S.C. §§ 3801-3812, which details the administrative remedies for false claims and statements made.)

Article XXXIV - Energy Policy and Conservation Act

Subrecipients must comply with the requirements of the *Energy Policy and Conservation Act*, Pub. L. No. 94-163 (1975) (codified as amended at 42 U.S.C. § 6201 et seq.), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

Article XXXV – Education Amendments of 1972 (*Equal Opportunity in Education Act*) – Title IX

Subrecipients must comply with the requirements of Title IX of the *Education Amendments of 1972,* Pub. L. No. 92-318 (1972) (codified as amended at 20 U.S.C. § 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.

Article XXXVI - Duplication of Benefits

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude subrecipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

Article XXXVII - Drug-Free Workplace Regulations

Subrecipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the subrecipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the *Drug-Free Workplace Act of 1988* (41 U.S.C. §§ 8101-8106).

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Appendix 2 Draft Contract Terms & Conditions FY2023 CCTA ILO Project Solicitation #2022RFP8-CCTA ILO

Article XXXVIII - *Civil Rights Act of 1968*

Subrecipients must comply with Title VIII of the *Civil Rights Act of 1968*, Pub. L. No. 90-284, as amended through Pub. L. 113-4, which prohibits subrecipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. § 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

Article XXXIX – Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired under this award by the recipient or its subrecipient is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, you must request instructions from OHS to make proper disposition of the equipment pursuant to 2 C.F.R. § 200.313. See Article XLII, number 4.

Article XL – Environmental Planning and Historic Preservation

DHS/FEMA funded activities that may require an EHP review are subject to FEMA's Environmental Planning and Historic Preservation (EHP) review proves. This review does not address all federal, state, and local requirements. Acceptance of federal funding requires subrecipient to comply with all federal, state, and local laws. Failure to obtain all appropriate federal, state, and local environmental permits and clearances may jeopardize federal funding.

DHS/FEMA is required to consider the potential impacts to natural and cultural resources of all projects funded by DHS/FEMA grant funds, through its EHP Review process, as mandated by the National Environmental Policy Act; National Historic Preservation Act of 1966, as amended; Nation Flood Insurance Program regulation; and, any other applicable laws and Executive Orders. To access the FEMA's EHP screening form and instructions, go to the DHS/FEMA website at: https://www.fema.gov/media-library/assets/documents/90195. In order to initiate EHP review of your projects(s), you must complete all relevant sections of this form and submit it to the OHS, along with all other pertinent project information. Failure to provide requisite information could result in delays in the release of grant funds.

If ground disturbing activities occur during construction, applicant will monitor ground disturbance, and if any potential archeological resources are discovered, applicant will immediately cease work in that area and notify the pass-through entity, if applicable, and DHS/FEMA. See Article XLII, number 16

Article XLI – DHS/OHS Specific Acknowledgements and Assurances

All subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities and staff.

1. Subrecipients must cooperate with any compliance reviews or compliance investigations conducted by DHS/OHS.

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2. Subrecipients must give DHS/OHS access to, and the right to examine and copy, records, accounts and other documents and sources of information related to the award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.

3. Subrecipients must submit timely, complete and accurate reports to the appropriate DHS/OHS officials and maintain appropriate backup documentation to support the reports.

4. Subrecipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

5. Recipients of federal financial assistance from DHS/OHS must complete the *DHS Civil Rights Evaluation Tool* within thirty (30) days of receipt of the Notice of Award or, for State Administrating Agencies, thirty (30) days from receipt of the *DHS Civil Rights Evaluation Tool* from DHS or its awarding component agency. Recipients are required to provide this information once every two (2) years, not every time an award is made. After the initial submission for the first award under which this term applies, recipients are only required to submit the completed tool, including supporting materials, to CivilRightsEvaluation@hq.dhs.gov. This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS Standard Terms and Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool.

Article XLII – Office of Homeland Security, Specific

By accepting this award, the subrecipient agrees:

1. To participate in the development and submission of their Threat and Hazard Identification and Risk Assessment (THIRA).

2. To utilize standard resource management concepts, such as typing inventorying, organizing and tracking resources that facilitate the identification, dispatch, deployment and recovery of their resources.

3. To coordinate with their stakeholders to examine how they integrate preparedness activities across disciplines, agencies, and levels of government.

4. Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost, which equals or exceeds the lesser of the capitalization level established by the non-federal entity for financial statement purposes, or $1,000. Expenditures for equipment shall be in accordance with the approved budget. The subrecipient shall use and manage equipment in accordance with its procedures as long as the equipment is used for its intended purposes. When original or replacement equipment acquired under this award by the subrecipient is no longer needed for the original project or program or for other activities currently or previously supported by OHS, you must request instructions from OHS to make proper disposition of the equipment pursuant to 2 C.F.R. § 200.313 and the OHS Administrative Guide.

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5. Expenditures for supplies and operating expenses shall be in accordance with the approved budget and documentation in the form of paid bills and vouchers shall support each expenditure. Care shall be given to assure that all items purchased directly relate to the specific project objectives for which the contract was approved.

6. For Contractual Services the following general requirements will be followed when subcontracting for work or services contained in this grant award:

    a. All consultant and contractual services shall be supported by written contracts stating the services to be performed, rate of compensation and length of time over which the services will be provided, which shall not exceed the length of the grant period.

    b. As described in the OHS Administrative Guide for Homeland Security Grants, a copy of any contractual agreement made as a result of this award must be forwarded to OHS for review or be readily available for review prior to execution of the contract.

7. OHS reserves the right to terminate any contract entered into as a result of this grant award at its sole discretion and without penalty or recourse by giving a thirty (30) day written notice to the subrecipient of the effective date of termination. In the event of termination pursuant to this paragraph, all documents, data, and reports prepared by the subrecipient under the contract shall, at the option of the OHS, become property of the State of Missouri. The subrecipient shall be entitled to receive just and equitable compensation for that work completed prior to the effective date of termination.

8. It is understood and agreed upon that in the event funds from state and/or federal sources are not appropriated and continued at an aggregate level sufficient to cover the contract costs, or in the event of a change in federal or state laws relevant to these costs, the obligations of each party hereunder shall thereupon be terminated immediately upon receipt of written notice.

9. To follow the grant program guidelines as stated in the OHS *Administrative Guide for Homeland Security Grants*, as well as the Information Bulletins released by OHS to provide important updates, clarifications and policy statements related to homeland security grant programs.

10. To follow requirements of the DHS Grant Programs Directorate Information Bulletins.

11. In the event OHS determines that changes are necessary to the award document after an award has been made, including changes to period of performance or Articles of Agreement, the subrecipient will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate subrecipient acceptance of the changes to the award.

12. Prior written approval from OHS is required prior to making any change to the OHS approved budget for this award.

13. To complete and submit the Biannual Strategy Implementation Report (BSIR), through the Grants Reporting Tool (GRT) within 30 days after FEMA officially opens and makes the BSIR available, or within 30 days of the end of the reporting period, whichever comes later. All required attributes of each project must be included. Updated obligations, expenditures, and significant developments must be provided with

Appendix Z – Draft Contract Terms & Conditions FY2022 CCTA UD Project Solicitation # 2022RFP-CCTA/LO

The BSIR to show the progress of implementation for every project, as well as, how expenditures support Planning, Organization, Equipment, Training and Exercises (POETE). The first BSIR will be due by December 31 of each calendar year in which the grant is awarded. Subsequent BSIR reports will require the subrecipient to report on a project-by-project basis. Subrecipient is also responsible for completing and submitting a closeout BSIR. When an award's period of performance or the liquidation period ends in the middle of a reporting period, a 'regular' BSIR must be submitted with full accounting of actual project information/expenditures before a Closeout BSIR can be created/submitted.

14. All items that meet the OHS definition of equipment that are purchased with Homeland Security Grant Funds must be tagged "Purchased with U.S. Department of Homeland Security Funds."

15. If the subrecipient is a pass-through entity, copies of signed subaward agreements are due to the OHS prior to the start of any project.

16. Projects that involve changes to the natural or built environment require the completion and approval of an Environmental Historic Preservation Screening Form (EHP) prior to initiating any work on the project. Changes to the project after the approval of the EHP requires OHS review and approval. Changes to the project may require the submission and approval of an updated EHP Screening Form.

17. The purchase of any generator requires prior approval from the OHS, documentation must clearly depict the full scope of the project and prove the equipment is a deployable resource.

18. Purchases from a single feasible source must have prior approval from the OHS.

19. Subrecipient is required to complete the 2019 Nationwide Cybersecurity Review (NCSR), enabling agencies to benchmark and measure progress of improving their cybersecurity posture. The Chief Information Officer (CIO), Chief Information Security Officer (CISO), or equivalent for each recipient and subrecipient should complete the NCSR. If there is no CIO or CISO, the most senior cybersecurity professional should complete the assessment. The NCSR is available at no cost to the user and takes approximately 2-3 hours to complete. The 2019 NCSR will be open from October – December 2019. Each subrecipient must send verification to OHS that the NCSR has been completed no later than December 15, 2019.

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FY2022 CCTA LO Project
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AUTHORIZED OFFICIAL INITIALS

AW

GRANT PROGRAM St. Louis UASI FY 2019	SUBRECIPIENT East-West Gateway Council of Governments
AWARD NUMBER EMW-2019-SS-00039-U1	DATE 9/18/19

SUBAWARD AGREEMENT

ARTICLES OF AGREEMENT

Article XLIII - Special Conditions

Optional Conditions Use as needed

1. All funds are on hold until the project director has completed the FY 2019 State Homeland Security Program Compliance Workshop.

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FY 2023 CCTA ILO Project
Solicitation # 2022RFP8-CCTAILO

AUTHORIZED OFFICIAL INITIALS

QW

EAST-WEST GATEWAY COUNCIL OF GOVERNMENTS
TITLE VI QUESTIONNAIRE

PRE-CONTRACTING STAGE
THIRD-PARTY CONTRACTOR

Project Name	Contractor Name

As a recipient / sub-recipient of Federal grant funding, East-West Gateway ("EWG") is required to ensure that all of its third-party contractors on each of its projects are in compliance with Title VI of the Civil Rights Act of 1964 ("Title VI") and the rules, regulations, and executive orders that govern Title VI on federally funded projects. In order to ensure that third-party contractors receiving funding from EWG are in compliance with these requirements, your organization must complete the following questionnaire in its entirety. If you have any questions regarding this questionnaire please contact the EWG staff person listed below. *Please submit your completed questionnaire and all additional materials to Staci Alvarez, Director of Administration / Title VI Coordinator (contact information provided below).*

You should be aware that submitting this form is required by your agreement with EWG and that EWG will not approve payments under your agreement until this form and any required additional information is submitted.

Staff	Phone / Fax #s	Mailing Address
Staci Alvarez Director of Administration / Title VI Coordinator staci.alvarez@ewgateway.org	(314) 421-4220 (MO) (618) 274-2750 (IL) (314) 231-6120 (Fax)	East-West Gateway Council of Governments 1 S. Memorial Dr., Suite 1600 St. Louis, MO 63102

PART 1: TITLE VI COMPLAINTS

1. In the past three (3) years has your organization had a Title VI complaint filed against it? ☐ YES ☐ NO

You must provide information about EACH complaint, to include: (i) the date the complaint was filed, (ii) the nature of the complaint, (iii) who was involved, (iv) what action your organization has taken, and (v) the outcome. Please use page 3 of this questionnaire or equivalent to provide this information.

2. Is the information regarding each complaint attached to this questionnaire? ☐ YES ☐ NO ☐ N/A

PART 2: NON-DISCRIMATION POLICY & STATEMENT

1. Does your organization have a non-discrimination policy that is incorporated into a Statement of Non-Discrimination? ☐ YES ☐ NO

   (a) Is a copy of the policy attached to this questionnaire or is a link to an on-line version of the policy provided below? ☐ YES ☐ NO ☐ N/A

   ☐ **Attached** **Link to on-line version** _____

If your organization does not have its own non-discrimination policy / Statement of Non-Discrimination, then it is required to follow EWG's policy / statement.

2. Do you have a copy of EWG's non-discrimination policy / Statement of Non-Discrimination? ☐ YES ☐ NO ☐ N/A

You can find a copy of EWG's policy on its website at www.ewgateway.org/about-us/what-we-do/title-vi/ or by contacting the Grant/Contract Compliance Administrator listed above.

PART 3: CIVIL RIGHTS AND/OR TITLE VI COORDINATOR

1. Does your organization have a person employed for it that is responsible for handling civil rights issues or a Title VI Coordinator? ☐ YES ☐ NO

2. Please provide the following information about the Civil Rights or Title VI Coordinator:

Name _____ **Title** _____

Address _____

Phone # _____ **E-Mail** _____

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EAST-WEST GATEWAY COUNCIL OF GOVERNMENTS
TITLE VI QUESTIONNAIRE

PRE-CONTRACTING STAGE
THIRD-PARTY CONTRACTOR

Project Name _____ **Contractor Name** _____

PART 4: SUBCONTRACTING, LEASING & PURCHASING

1. Does your organization have a federally compliant, competitive procurement process? ☐ YES ☐ NO

   (a) Is a copy of your organization's procurement policy / procedures attached to this questionnaire or is a link to an on-line version of the policy / procedures provided below? ☐ YES ☐ NO ☐ N/A

   ☐ **Attached** **Link to on-line version** _____

If your organization does not have its own federally compliant procurement process, then it is required to follow EWG's procurement process.

2. Do you have a copy of EWG's procurement policy? ☐ YES ☐ NO ☐ N/A

You can obtain a copy of EWG's procurement policy by contacting the Grant/Contract Compliance Administrator listed on page 1.

3. Does your organization plan to enter into subcontracts for the project? ☐ YES ☐ NO

In the space provided below, please describe how your organization obtained or plans to obtain the subcontractor's services or goods. If the subcontractors will be hired at a later date, then you must describe how your organization will competitively procure those services or goods.

_____

You must submit to EWG a copy of EACH subcontract so that EWG may review and approve it. Please contact the Grant/Contract Compliance Administrator listed on page 1 for instructions about when and how to submit a subcontract for review and approval.

SIGNATURE OF AUTHORIZED REPRESENTATIVE

By signing below, I certify that I am authorized to sign this questionnaire on behalf of my organization and that the information contained in this report is accurate and complete to the best of my knowledge.

Name & Title _____ **Signature** _____ **Date** _____

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FY 2023 CCTA ILO Project
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EAST-WEST GATEWAY COUNCIL OF GOVERNMENTS
TITLE VI QUESTIONNAIRE

PRE-CONTRACTING STAGE
THIRD-PARTY CONTRACTOR

Project Name	Contractor Name

Use this page to provide information about any Title VI complaints filed against your organization. For EACH complaint, please provide the following information: (i) the date the complaint was filed, (ii) the nature of the complaint, (iii) who was involved, (iv) what action your organization has taken, and (v) the outcome.

Attach additional sheets as needed.

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EAST-WEST GATEWAY COUNCIL OF GOVERNMENTS
TITLE VI QUESTIONNAIRE

POST-CONTRACTING STAGE
THIRD-PARTY CONTRACTOR

Project Name	Contractor Name

As a recipient / sub-recipient of Federal grant funding, East-West Gateway ("EWG") is required to ensure that all of its third-party contractors on each of its projects are in compliance with Title VI of the Civil Rights Act of 1964 ("Title VI") and the rules, regulations, and executive orders that govern Title VI on federally funded projects. In order to ensure that third-party contractors receiving funding from EWG are in compliance with these requirements, your organization must complete the following questionnaire in its entirety. If you have any questions regarding this questionnaire please contact one the EWG staff person listed below. ***Please submit your completed questionnaire and all additional materials to Staci Alvarez, Director of Administration / Title VI Coordinator (contact information provided below).***

You should be aware that submitting this form is required by your agreement with EWG and that EWG will not approve payments under your agreement until this form and any required additional information is submitted.

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PART 1: TITLE VI COMPLAINTS

1. During the course of the project, did your organization have a Title VI complaint filed against it? ☐ YES ☐ NO

You must provide information about EACH complaint, to include: (i) the date the complaint was filed, (ii) the nature of the complaint, (iii) who was involved, (iv) what action your organization has taken, and (v) the outcome. Please use page 3 of this questionnaire or equivalent to provide this information.

2. Is the information regarding each complaint attached to this questionnaire? ☐ YES ☐ NO ☐ N/A

PART 2: PUBLIC ENGAGEMENT / OUTREACH

1. As part of your organization's agreement, did your organization conduct any public engagement, community outreach, or similar public events? ☐ YES ☐ NO

A public meeting report for EACH public event must be submitted to EWG. If these reports have not already been submitted, then please attach them to this questionnaire.

2. Did you submit to EWG all the public meeting reports required by your organization's agreement? ☐ YES ☐ NO ☐ N/A

3. Did your organization coordinate or conduct the public event(s) with a member of EWG's staff? ☐ YES ☐ NO ☐ N/A

   (a) Provide the name of the EWG staff person who assisted your organization with the public event(s). **Name** _____

PART 3: D/S/W/MBE PARTICIPATION

1. Was there a DBE goal established for the project? ☐ YES ☐ NO

2. Did your organization meet the DBE goal that was established for the project? ☐ YES ☐ NO ☐ N/A

3. If the DBE goal was **not** met, in the space provided below, please provide a detailed explanation of why your organization did not meet the DBE goal and the steps that your organization took in order to meet the DBE goal, including whether your organization notified EWG that it would not meet the goal and the date on which the notification was provided to EWG.

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EAST-WEST GATEWAY COUNCIL OF GOVERNMENTS
TITLE VI QUESTIONNAIRE

POST-CONTRACTING STAGE
THIRD-PARTY CONTRACTOR

Project Name	Contractor Name

PART 3: D/S/W/MBE PARTICIPATION, con't.

4. Did your organization enter into any subcontracts regarding the work completed under the agreement? ☐ YES ☐ NO

5. Were any of the subcontrators or subconsultants any of the following type of entity (*select all that apply*): ☐ DBE ☐ SBE ☐ WBE ☐ MBE ☐ None of these ☐ N/A

6. Please provide a detailed description of the steps that your organization took to verify the D/S/W/MBE status of any D/S/W/MBEs hired to complete work for the project. For example, did your organization check MoDOT's MRCC list of the MoOEO's list of D/S/W/MBEs? Or did your organization obtain a copy of the D/S/W/MBE's certification?

D/S/W/MBE reports may be required by your organization's agreement and these reports must be submitted to EWG. If these reports have not already been submitted, then please attach them to this questionnaire.

7. Did your organization complete and return its D/S/W/MBE reports? ☐ YES ☐ NO ☐ N/A

SIGNATURE OF AUTHORIZED REPRESENTATIVE

By signing below, I certify that I am authorized to sign this questionnaire on behalf of my organization and that the information contained in this report is accurate and complete to the best of my knowledge.

Name & Title _____ **Signature** _____ **Date** _____

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EAST-WEST GATEWAY COUNCIL OF GOVERNMENTS
TITLE VI QUESTIONNAIRE

POST-CONTRACTING STAGE
THIRD-PARTY CONTRACTOR

Project Name	Contractor Name

Use this page to provide information about any Title VI complaints filed against your organization. For EACH complaint, please provide the following information: (i) the date the complaint was filed, (ii) the nature of the complaint, (iii) who was involved, (iv) what action your organization has taken, and (v) the outcome.

Attach additional sheets as needed.

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