**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 _____, a _____ formed under the laws of the State _____ and registered to do business in the States of Missouri and Illinois, located at _____ ("_____ ") (together the "Parties").

WITNESSETH:

WHEREAS, the Council is party to a Safe Streets for All ("SS4A") grant from the U.S. Department of Transportation ("DOT") through the Federal Highway Administration ("FHWA"); and

WHEREAS, under this grant the Council will develop a Comprehensive Safety Action Plan for the St. Louis region ("Action Plan"); and

WHEREAS, FHWA will make funds available to the Council so that the Council can conduct this work; and

WHEREAS, on _____ Consultant provided a submittal in response to the Council's request for proposals to develop the Action Plan; and

WHEREAS, the Council accepted Consultant's _____ 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.

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.

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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 (c)(i).

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)(b), payments for partial milestones completed or percent work completed are not authorized.***

2. **Optional Services.** The Council may, at its option, purchase additional _____ for the project. If the Council decides to purchase these services, then the Council staff person designated in Paragraph 15, Part (a)(i)(1) will send Consultant a purchase order that indicates that the 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

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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:

1. An invoice that includes all of the information shown on the Sample Invoice, attached to this Agreement as Attachment 1, including the signature and certification language. 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 copy of a signed, certified invoice from each subcontractor that includes: the billing period, the milestone(s) being billed, and the amount for each milestone.

3. 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.

4. 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 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 following email address: __.

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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.

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)(ix) 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

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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)(2), 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. *Pre-Contract Costs Authorized.* Consultant may seek payment for costs incurred on or after ____ and prior to the execution of this Agreement provided that the incurred costs were directly pursuant to the negotiation and in anticipation of this Agreement, were necessary to comply with the proposed delivery schedule, and the costs would have been allowable if they were incurred after the effective date of this Agreement.

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

d. *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

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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 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 work 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 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.

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

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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 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

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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 (c); 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):**

*$3,300,000 aggregate limit and*

*$1,000,000 per occurrence*

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

*$1,000,000 each accident*

ii. **Professional Liability Insurance.** Consultant shall carry, and shall cause its engineering / architecture subcontractors to carry, professional liability insurance from a company authorized to issue insurance in Missouri to protect it from claims that may arise from the negligent acts, errors, or omissions of Consultant or its subcontractors in connection with the work performed under this Agreement. The minimum amount of professional liability insurance coverage is $1,000,000 per claim and in the aggregate.

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iii. **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.

iv. 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), commercial automobile liability insurance, or professional liability insurance policies.

v. 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 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***

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***<u>the percent task completion reported must be based upon actual work completed and must not be based upon dollars expended or costs incurred.</u>***

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. <u>Ownership of Work Products & Intangible Property.</u>

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. FHWA) 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 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.

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b. *Intangible Property*.

i. **Copyrights**. Under 2 CFR Part 200 § 200.315 (b), DOT 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 DOT 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 (c)(i). Consultant shall cooperate fully with the Council or DOT 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, DOT 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 DOT under this Paragraph 7, Part (b)(ii).

iii. **Other Data.** DOT 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 DOT 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, DOT, or any of these entities' duly authorized representatives a copy of research data produced under this Agreement.

8. <u>Disclosure of Project Information and Work Products & Publication Requirements.</u>

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

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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) – (5) are examples of the types of language that Consultant must use.

1. "This publication was produced with the cooperation of Consultant, East-West Gateway Council of Governments and the U.S. Department of Transportation (FHWA). The work that provided the basis of this publication was supported, in part, by a grant provided from the U.S. Department of Transportation (FHWA)."

2. "This publication was supported, in part, by a grant provided from the U.S. Department of Transportation (FHWA). The opinions, findings, and conclusions expressed in this publication are those of the authors and not necessarily those of the Federal Highway Administration."

3. "This publication was funded, in part, through a grant from the U.S. Department of Transportation (FHWA)."

4. "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

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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."

5. "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.

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

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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. The terms of Paragraph 8 are separate and distinct from any requirements for public notices or other materials produced for public outreach activities. The requirements for these types of materials are described in Appendix I, Exhibit 2 – Title VI Requirements for Public Outreach.

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.

The Council's project manager, the point of contact designated in Paragraph 15, Part (a)(i)(2), 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

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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 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

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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 FHWA or DOT 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. Disputes, Remedies & Termination.

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 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

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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,

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

iii. 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

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to this Agreement, as the noncompliance is determined by the Council, FHWA, or DOT.

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, FHWA, or DOT 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 FHWA or DOT, 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,

b. at any time when FHWA or DOT 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,

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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).

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

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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 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. 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

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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.

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"), FHWA, or DOT 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 49 CFR Part 20 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

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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 contracts 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.

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 or FHWA.

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 1200,

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.

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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.

13. Inspections and Access to Records & Records Retention.

a. *Inspections and Access to Records.* Consultant shall allow the Council, FHWA, DOT, the Comptroller General of the United States, or any of these entities' duly authorized representatives, to review and inspect the work 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. 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, examination, 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 three (3) 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.

iii. If any litigation, claim, negotiation, audit, or other action involving the records has started before the expiration of the three (3) year retention period described in Paragraph 13, Part (b)(i), then Consultant shall retain the records

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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.* Consultant shall at all times comply with all applicable DOT regulations, policies, procedures, and directives, 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.

b. *Statutory and Regulatory Requirements.*

i. **Civil Rights.**

1. **Nondiscrimination Assurances.**

a. Consultant certifies that it will comply with all applicable federal and state statutes, regulations, executive orders, agency directives, and administrative rules relating to nondiscrimination and equal opportunity, including, but not limited to Title VI and Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000d and 2000e), as well as any applicable titles of the Americans with Disabilities Act and the Rehabilitation Act of 1973 (29 U.S.C. § 790 *et seq.*), and 49 CFR Subtitle A, Part 27.

b. Consultant shall comply with the administrative rules of DOT relative to nondiscrimination in federally-assisted programs of the DOT (49 CFR Subtitle A, Part 21).

c. Consultant shall not discriminate on grounds of race, color, national origin, religion, sex, disability, or age of any individual in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR Subtitle A, Part 21.5 including employment practices.

d. Consultant agrees that it will not discriminate against any employee or applicant for employment because of race, color, national origin, religion, sex, disability, or age. Consultant agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, national origin, religion, sex, disability, or age. Such action shall include, but is not limited to: employment upgrading, demotions or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or

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other forms of compensation; and selection for training, including apprenticeship.

e. These assurances concerning nondiscrimination also apply to subcontractors and suppliers of Consultant; as well as to all solicitations, either by competitive bidding or negotiation, made by Consultant for work to be performed under a subcontract including procurement of materials or equipment. Consultant shall notify each potential subcontractor or supplier of the requirements of this Agreement relative to nondiscrimination on grounds of the race, color, national origin, religion, sex, disability, or age of any individual.

2. **Disadvantaged Business Enterprises, Small Business Enterprises, Women's Business Enterprises, and Minority Business Enterprises.**

a. It is the policy of DOT and the Council that disadvantaged business enterprises ("DBEs"), small business enterprises ("SBEs"), women's business enterprises ("WBEs"), and minority business enterprises ("MBEs") (together "D/S/W/MBE") shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds. Consequently, the D/S/W/MBE requirements described in 2 CFR Part 200, Section 200.321 apply to this Agreement.

b. The Council shall not discriminate on the basis of race, color, national origin, religion, sex, disability, or age in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The Council shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The Council's DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference and made a part of this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Council of its failure to carry out its approved DBE Program, DOT may impose sanctions as provided under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801 *et seq.*).

c. Consultant shall carry out the applicable requirements of 2 CFR Part 200, Section 200.321 and in Section VII of the request for proposals in the award and administration of DOT assisted contracts. Failure by Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or other remedy as

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the Council deems appropriate.

d. ***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 (__%).

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 MoDOT or 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 (as indicated in the entity's U.S. System for Award Management certifications). 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

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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.

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

3. Consultant assures that, as a condition of receiving payments under this 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 this Agreement, including the selection and retention of subcontractors and the procurement of materials and leases of equipment.

4. Consultant shall comply with the data collection and reporting requirements subject to Title VI of the Civil Rights Act of 1964 and the implementing regulations of 28 CFR Part 42, Subpart F and 49 CFR Part 21.

5. Consultant shall comply with the terms provided in Appendix IV – Title VI, DBE & Other Nondiscrimination Requirements ("Appendix IV"), which is attached to this Agreement and is incorporated by reference and made a part of this Agreement.

6. 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.

7. Each of the statutes, orders, regulations, or rules, including any later amendments, listed in Paragraph 14, Part (b)(i) are incorporated by reference and made a part of this Agreement.

8. Consultant shall include the provisions of Paragraph 14, Parts (b)(i)(1) – (7) in every subcontract, including procurement of materials or leases of equipment.

9. 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

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to, those remedies expressed in Paragraph 10, Part (b).

ii. **False Claims and Program Fraud.**

1. Consultant acknowledges that the provisions of the False Claims Act, 31 U.S.C § 3729 *et seq.*, and the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq*. and federal implementing regulations, including without limitation DOT regulations at 49 CFR Part 39 –*Program Fraud Civil Remedies*, apply to Consultant's actions pertaining to this Agreement. Upon execution of this Agreement, Consultant certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to this Agreement or the DOT assisted project for which its work is being performed. In addition to other penalties that may be applicable, Consultant acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the federal government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 and other related federal statutes on Consultant to the extent the federal government deems appropriate.

2. Consultant also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the federal government under an agreement connected with a project that is financed in whole or in part with federal assistance originally awarded by DOT under the authority of 49 U.S.C. Chapter 53 or any other federal law, the government reserves the right to impose the penalties of 49 U.S.C. §§ 5307(n), 5321(l), 18 U.S.C. § 1001, or any other applicable federal statute on Consultant, to the extent the federal government deems appropriate.

3. Consultant shall include Paragraph 14, Parts (b)(ii)(1) and (2) in each subcontract financed in whole or in part with federal assistance provided by DOT. Consultant shall not modify these clauses, except to identify the subcontractor who will be subject to the provisions.

iii. **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

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confidential or privileged information and shall justify the information as confidential or privileged. The Council will review the documents and 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 FHWA's or DOT'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 FHWA or DOT makes the determination that a document may be disclosed under the FOIA, the Council will presume that the document is subject to disclosure under the Sunshine Act unless Consultant demonstrates otherwise.

iv. **Drug-Free Workplace.** Consultant certifies that it will comply with the requirements of the federal Drug-Free Workplace Act, 41 U.S.C. § 701 *et seq.*, as amended, and implemented at 49 CFR Part 32.

v. **Compliance with Energy Conservation Plans.** Consultant shall comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321 *et seq.*

vi. **Clean Air and Water.** 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 the 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 DOT and the appropriate Environmental Protection Agency Regional Office. Consultant shall include these requirements in each subcontract made under this Agreement that exceeds $150,000.

vii. **Federal Funding Accountability and Transparency Act of 2006.** Consultant shall comply with all reporting requirements of the Federal Funding Accountability and Transparency Act of 2006, as amended. This Agreement is subject to the award terms within 2 CFR Part 170.

viii. **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, and the prohibitions described in § 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, P.L. 115-232 that prohibit contracting for covered telecommunications equipment or services. Consultant shall include the language of Paragraph 14, Part (b)(viii) in the contract documents for all subcontracts at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative contracts).

ix. **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"

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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 (b)(ix) in the contract documents for all subcontracts at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative contracts).

15. Contact Information, Mailing Addresses & Notices.

a. *Contact Information.*

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

1. The point of contact for questions regarding budgeting, invoicing, reporting, this Agreement, and to seek authorization for changes is _____, East-West Gateway Council of Governments, 1 S. Memorial Drive, Suite 1600, St. Louis, MO 63102; ____@ewgateway.org; 314-421-4220.

2. The point of contact regarding the scope of work is _____, East-West Gateway Council of Governments, 1 S. Memorial Drive, Suite 1600, St. Louis, MO 63102; ____@ewgateway.org; 314-421-4220.

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

1. The point of contact for questions regarding invoicing is _____.

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

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 an e-mail to the point of contact designated in Paragraph 15, Part (a)(i)(1) 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

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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

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. The funding for this project is provided as follows: (i) a total of eighty percent (80%) from federal

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sources and (ii) a total of twenty percent (20%) from non-federal sources.

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 DOT awards federal financial 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 DOT 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 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 DOT. Consultant shall not modify Paragraph 16, Part (e)(i), except to identify the subcontractor that will be subject to its provisions.

f. *Incorporation of FHWA SS4A Agreements' Terms and Conditions.* The preceding provisions of this Agreement include, in part, certain Standard Terms and Conditions required by FHWA, whether or not expressly set forth in the preceding Agreement provisions. All applicable contractual provisions required by FHWA, as set forth in the then-current SS4A Grant Agreements – General Terms and Conditions and Exhibits (together "Appendix V"), that can be accessed online at: https://www.transportation.gov/grants/ss4a/grant-agreements, are incorporated by reference and made a part of this Agreement. Anything to the contrary herein notwithstanding, all of the FHWA 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 V.

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

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

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the State of Missouri.

i. *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.

j. *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.

k. *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.

l. *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.

m. *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.

n. *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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o. *Order of Precedence.* This Agreement consists of the terms of this Agreement and Appendices I through V. 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.

v. Appendix V.

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<br>XXXX | James M. Wild<br>Executive Director |
| _____ | _____ |
| **Date** | **Date** |

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_____ (Prime Contractor)
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*** | | | | ***$0.00*** |
| ***TOTAL SBE FIRMS*** | | | | ***$0.00*** |
| ***TOTAL WBE FIRMS*** | | | | ***$0.00*** |
| ***TOTAL MBE FIRMS*** | | | | ***$0.00*** |

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

*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

   _____

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**ALN ___ - Project Name**
**Appendix ____ to the East-West Gateway COG & _____**
**Title VI, DBE & Other Nondiscrimination Requirements**
**(Third Party Contractor)**

CONSULTANT understands and agrees that the following terms and conditions apply to the Agreement entered into between CONSULTANT and the Council. These terms and conditions are made a part of and are hereby incorporated into the Agreement. CONSULTANT further understands and agrees that failure to adhere to these terms and conditions constitutes a material breach of its Agreement with the Council, and that the Council may take the appropriate action against CONSULTANT to ensure compliance with these provisions, up to and including ordering a stoppage of work, suspending payments, or terminating the Agreement.

**1.0 APPLICABLE TITLE VI & OTHER CIVIL RIGHTS LAWS & REGULATIONS.** CONSULTANT agrees to abide by all applicable federal and state laws, regulations, orders, and directives regarding non-discrimination in federally assisted programs. These laws, regulations, orders, and directives include, but are not limited to:

**1.1** Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d, and implementing regulations at 49 CFR Part 21 – *Nondiscrimination in Federally Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act*;

**1.2** The equal employment opportunity provisions of 49 U.S.C. § 5332 and Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*, and implementing regulations;

**1.3** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and implementing regulations at 49 CFR Part 25 – *Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*;

**1.4** Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§ 12101 *et seq.*, and implementing regulations, including:

**1.4.1** 49 CFR Part 37—*Transportation Services for Individuals with Disabilities (ADA)*;

**1.4.2** 49 CFR Part 27—*Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance*;

**1.4.3** 36 CFR Part 1192 and 49 CFR Part 38—*Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles*;

**1.4.4** 28 CFR Part 35—*Nondiscrimination on the Basis of Disability in State and Local Government Services*;

**1.4.5** 28 CFR Part 36—*Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities*;

**1.4.6** 41 CFR Subpart 101 – 119—*Accommodations for the Physically Handicapped*;

**1.4.7** 29 CFR Part 1630—*Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act*;

**1.4.8** 47 CFR Part 64, Subpart F—*Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled*;

**1.4.9** 36 CFR Part 1194—*Electronic and Information Technology Accessibility Standards*;

**1.4.10** 49 CFR Part 609—*Transportation for Elderly and Handicapped Persons*; and

**1.4.11** Federal civil rights and nondiscrimination directives implementing those federal laws and regulations, unless the federal government determines otherwise in writing.

**1.5** The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and implementing regulations at 49 CFR Part 90 – *Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance*;

**1.6** The Age Discrimination in Employment Act, 29 U.S.C. §§ 621 through 634, and implement regulations of the U.S. Equal Employment Opportunity Commission 29 CFR Part 1625—*Age Discrimination in Employment Act*;

**1.7** The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2;

**1.8** Executive Order 12898—Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 42 U.S.C. § 4321 note, and DOT Order 5620.3 at Federal Register Vol. 62 No. 18377—*Department of Transportation Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*;

**1.9** Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency, 42 U.S.C. § 2000d – 1 note, and implementing policy guidance at Federal Register Vo. 70 No. 74087—*DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Person*; and

**1.10** All provisions of Missouri Executive Order No. 94 – 03, promulgating the Code of Fair Practices.

**2.0 NON-DISCRIMINATION POLICY, STATEMENT & ASSURANCES.** CONSULTANT is required to adopt a non-discrimination policy as stated in a Statement of Nondiscrimination that provides assurances that it will not discriminate against any person in the performance of any federally assisted program on the basis of race, color, national origin, religion, sex, disability, or age. Specifically, CONSULTANT's Statement of Nondiscrimination must state: "CONSULTANT assures that no person shall, on the grounds of race, color, national origin, religion, sex, disability, or age be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance." CONSULTANT's Statement of Nondiscrimination may be more inclusive than the language listed above, but it cannot be more exclusive.

**2.1** CONSULTANT is required to publicly post its non-discrimination policy as stated in its Statement of Nondiscrimination, and CONSULTANT must provide a written copy of each to the Council upon execution of the Agreement. "Publicly post" includes, but is not limited to, posting the documents to CONSULTANT's website if it has one.

**2.2** CONSULTANT must include its non-discrimination policy as stated in its Statement of Nondiscrimination in all procurement documents, such as request for proposals, request for qualifications, and other similar documents.

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**2.3** CONSULTANT must include its non-discrimination policy as stated in its Statement of Nondiscrimination in all subcontracts, including those for materials and leases, that it enters into under the Agreement.

**2.4** CONSULTANT must provide a sample of its procurement document(s) and subcontract to the Council upon execution of the Agreement, so that the Council can verify the inclusion of the required statement.

**2.5** If CONSULTANT does not have a non-discrimination policy as stated in a Statement of Nondiscrimination, then CONSULTANT must notify the Council of this prior to execution of the Agreement. If CONSULTANT does not develop and/or adopt such a policy and statement prior to the execution of the Agreement, then CONSULTANT must use and adhere to the Council's non-discrimination policy and statement. A copy of this will be provided to CONSULTANT upon execution of the Agreement and can be found on the Council's website at www.ewgateway.org.

**3.0 TITLE VI REQUIREMENTS IN RELATION TO COMMUNITY/PUBLIC ENGAGEMENT OR OUTREACH.** If CONSULTANT is required to perform any public meetings, engagement, or other community outreach as part of the work under the Agreement, then CONSULTANT must ensure that all persons, including Limited English Proficiency (LEP) persons, are provided meaningful access, as it is defined under Title VI and related provisions, to these events. These requirements include, but are not limited to, ensuring that the meeting location, date, and time are selected in such as way as to not exclude a person from participation on the basis of race, color, national origin, religion, sex, disability, or age; informing attendees of their rights under Title VI; and ensuring that all attendees are provided the opportunity to participate without regard to their race, color, national origin, religion, sex, disability, age, or LEP status.

**3.1** CONSULTANT shall adhere to the Council's requirements for notifying the public about public meetings and other events intended to engage the public, including project websites, online surveys, and other web-based outreach that may be conducted for the project. The Council will provide CONSULTANT with the notification protocols and the language that must be included in any public notifications.

**3.2** After every public meeting, engagement, or other outreach activity, CONSULTANT shall submit to the Council a report using the format prescribed by the Council.

**4.0 TITLE VI REQUIREMENTS IN RELATION TO WEBSITE, ONLINE SURVEYS, AND PRINTED MATERIALS DEVELOPMENT.** If CONSULTANT is required to develop or create a website, an online survey, or printed informational materials as part of its work under the Agreement, then CONSULTANT must ensure that all persons, including Limited English Proficiency (LEP) persons, are provided meaningful access, as it is defined under Title VI and related provisions, to the website and the information contained in the printed materials. As part of the effort to ensure meaningful access, CONSULTANT will be required to develop any printed materials intended for public informational purposes (i.e. brochures and other promotional items) in such a way that these documents can readily be translated into other languages and/or formats upon request. CONSULTANT must design or create any website such that it includes a translator function so that the material included on the website can be translated into other languages. Additionally, CONSULTANT must design or create any website or online survey so that it is in compliance with the Rehabilitation Act, 29 U.S.C. §§ 794 *et seq.*, as amended, and the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, as amended, and their implementing regulations, and that it adheres to the accessibility requirements set forth by the Federal government. The website or online survey must be designed or created in adherence with Section 508 Standards of the Rehabilitation Act. CONSULTANT can find more information about accessibility standards at: http://www.section508.gov/. CONSULTANT must ensure that any website or online survey includes the Council's required Title VI Notice and notice regarding reasonable accommodations. The Council will provide this language to CONSULTANT.

**5.0 TITLE VI REPORTING REQUIREMENTS.** CONSULTANT is required to provide the Council the required information listed in 3.1 above in regard to public events. CONSULTANT shall also provide the Council with any data or information required per Paragraph 6 of the Agreement. Further, CONSULTANT shall provide the Council with any additional information that the Council requests in regard to Title VI compliance. CONSULTANT shall also permit the Council to access its records up to and including accounting records that are pertinent to the Council substantiating CONSULTANT's compliance with Title VI.

**6.0 TITLE VI COMPLAINTS.** CONSULTANT must notify the Council in writing if a Title VI complaint is filed against it, within five (5) business days of CONSULTANT being notified of such complaint. The notification must be provided to the Council even if the complaint is not in regard to work that CONSULTANT performed under the Agreement. The notification shall include the following information: (1) date complaint was filed; (2) nature of complaint; (3) who was involved; (4) what action has been taken to date; and (5) any outcome(s) to date, if applicable.

**7.0 DISADVANTAGED BUSINESS ENTERPRISES (DBEs) APPLICABLE REGULATIONS.** CONSULTANT agrees to abide by the applicable DOT regulations governing DBE participation on federally assisted projects. These regulations can be found at 49 CFR Part 26 – *Participation By Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. CONSULTANT can find the definition of DBE, small business concern, and other relevant definitions regarding DBE participation on this project in 49 CFR Part 26.

**8.0 IMPORTANT DBE REQUIREMENTS.** CONSULTANT is prohibited from excluding any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract made under the Agreement on the basis of race, color, sex, or national origin.

**8.1** CONSULTANT must include this prohibition in all procurement documents, such as request for proposals, request for qualifications, and other similar documents.

**8.2** CONSULTANT must include this prohibition in all subcontracts, including those for materials and leases, that it enters into under the Agreement.

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**8.3** CONSULTANT must provide a sample of its procurement document(s) and subcontract to the Council upon execution of the Agreement, so that the Council can verify the inclusion of the required prohibition.

**9.0** **DBE GOALS.** If the project governed by the Agreement includes a DBE goal, CONSULTANT understands and agrees that it is required to strictly adhere to the DBE goal and the requirements of 49 CFR Part 26.

**10.0** **SELECTING DBE SUBCONTRACTORS.** In order for a firm to be eligible to participate as a DBE subcontractor on the project governed by the Agreement, the DBE subcontractor must be a certified DBE. The firm must be certified and registered as a DBE with one of the entities described in Paragraph 14 of the Agreement. It is the responsibility of CONSULTANT to ensure that the DBE subcontractor it hires is a certified DBE firm.

**11.0** **TERMINATING OR SUBSTITUTING A DBE SUBCONTRACTOR.** CONSULTANT cannot terminate and/or substitute a DBE firm that it listed in its proposal as a subcontractor and/or was approved by the Council as a DBE subcontractor under the Agreement without the prior written consent of the Council. This includes, but is not limited to, instances where CONSULTANT seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm. If CONSULTANT wishes to terminate or substitute a DBE subcontractor it must first submit a written notice to the DBE subcontractor stating its intention to request a termination and/or substitution and the reason for the request, and give the DBE subcontractor no less than five (5) days to respond to the notice and to provide CONSULTANT and the Council the reasons why the subcontractor should not be terminated. A copy of this written notice must be provided to the Council. Only after the DBE subcontractor has been so notified and provided time to object, may CONSULTANT submit its request to terminate or substitute a DBE subcontractor. CONSULTANT must submit its request in writing to the Council and fully state the reasons for its request. Unless the request demonstrates that CONSULTANT has good cause to terminate and/or substitute a DBE subcontractor, the Council will not concur in CONSULTANT's finding of good cause and will not approve CONSULTANT's request to terminate and/or substitute a DBE subcontractor. The definition of "good cause" can be found at 49 CFR Part 26 § 26.53.

**11.1** When a DBE subcontractor is terminated, fails to complete its work on the Agreement for any reason, CONSULTANT is required to make a good faith effort to find another DBE subcontractor to substitute for the original DBE subcontractor. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Agreement as the DBE that was terminated. If there is a DBE goal on the project, then the work performed by the substitute DBE need only perform at least the same amount of work under the Agreement as the DBE that was terminated, to the extent needed to meet the DBE goal.

**12.0** **DBE REPORTING REQUIREMENTS.** In accordance with Paragraph 6 of the Agreement, CONSULTANT may be required to submit to the Council, the DBE Participation Form that is attached to the Agreement. CONSULTANT shall also provide any other data relevant to DBE participation on the project upon request by the Council. CONSULTANT shall also permit the Council to access its records up to and including accounting records that are pertinent to the Council substantiating the information provided by CONSULTANT on its DBE reporting forms.

**13.0** **FLOW DOWN PROVISIONS.** The provisions listed in this Attachment apply to every subcontractor hired by CONSULTANT to perform work under the Agreement. CONSULTANT will ensure that all of its subcontractors are made aware of these requirements and will include these provisions as a part to any subcontract that CONSULTANT enters into under the Agreement.

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**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<br>Director of Administration / Title VI Coordinator<br>staci.alvarez@ewgateway.org | (314) 421-4220 (MO)<br>(618) 274-2750 (IL)<br>(314) 231-6120 (Fax) | East-West Gateway Council of Governments<br>1 S. Memorial Dr., Suite 1600<br>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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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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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.**

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

**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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