

Contract

ENGINEERING SERVICES

PART I AGREEMENT

THIS AGREEMENT, entered into this 21st day of March, 2022, by and between Polk County, hereinafter called the "County", acting herein by Sydney Murphy, County Judge hereunto duly authorized, and Goodwin-Lasiter-Strong hereinafter called "Firm," acting herein by Pat Oates, P.E., Engineering Manager.

WITNESSETH THAT:

WHEREAS, the County of Polk desires to implement the following: American Rescue Plan Act of 2021 Coronavirus Local Fiscal Recovery Fund Project (hereinafter called "ARPA - CLFRF") under the general direction of the U.S. Treasury Department (USDOT). Whereas the County desires to engage Goodwin-Lasiter-Strong to render certain engineering and surveying services in connection with the aforementioned ARPA - CLFRF Project.

NOW THEREFORE, the parties do mutually agree as follows:

1. Definitions:

Throughout this document:

- a. "Agreement" refers to this contract between the County and the Firm to assist with the surveying and engineering of all or any portion of a community development block grant.
- b. "Firm" refers to the professional services provider engaged to assist the County with the surveying and engineering of all or a portion of a community development block grant.
- c. "Parties" refer to the Firm and the County.

2. Scope of Services

The Firm will perform the services set out in Part II, Scope of Services.

3. Time of Performance - The services of the Firm shall commence on receipt of the completely executed contract (est. to be on or before March 28, 2022). In any event, all of the services required and performed hereunder shall be completed no later than December 31, 2024.
4. Local Program Liaison - For purposes of this Agreement, the County Judge or equivalent authorized person will serve as the Local Program Liaison and primary point of contact for the Firm. All required progress reports and communication regarding the project shall be directed to this liaison and other local personnel as appropriate.
5. Access to Information - The Comptroller General of the United States, the County, the U.S. Treasury Department and the Texas State Auditor's Office or any successor agency or representative, shall have access to any books, documents, papers and records relating to the Firm's agreement with the County or the administration, construction, engineering or implementation of the ARPA - CLFRF award between U.S. Treasury Department and County.
6. Compensation and Method of Payment - The maximum amount of compensation and reimbursement to be paid hereunder shall not exceed **\$ (To be Determined in the Planning Phase)**. Payment to the Firm shall be based on satisfactory completion of identified milestones in Part III - Payment Schedule of this Agreement.
7. Indemnification - The Firm shall comply with the requirements of all applicable laws, rules and regulations, and shall exonerate, indemnify, and hold harmless the County and its agency members from and against any and all claims, costs, suits, and damages, including attorney's fees, arising out of the Firm's performance or nonperformance of the activities, services or subject matter called for in this

Agreement, and shall assume full responsibility for payments of Federal, State and local taxes on contributions imposed or required under the Social Security, worker's compensation and income tax laws.

8. Miscellaneous Provisions

- a. This Agreement shall be construed under and accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Polk County, Texas.
- b. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Agreement.
- c. In any case one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- d. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.
- e. This Agreement may be amended by mutual agreement of the parties hereto and a writing to be attached to an incorporated into this Agreement.
- f. The Locality shall provide access to their facilities and the locating of existing facilities for the Engineer for the purposes of design surveying necessary for the Firm to fulfill their responsibilities under this agreement.
- g. A time schedule (Exhibit A) will be furnished by the Firm. It will include a specified listing of activities and time frames in which they will be completed. Said schedule shall be attached to and made a part of this Contract.
- h. The project "engineer of record" for the engineering firm is Pat G. Oates, P.E.
- i. The projected persons for the engineering firm to provide construction observations are as follows:
 - Nick Hoelscher, P.E.
- j. The Locality's contact person, in regard to all matters concerning this Contract, shall be Sydney Murphy, County Judge or her official designee.
- k. The Engineer shall receive and maintain a copy of the final project Record Drawing(s) engineering schematic(s), as constructed using Funds under this contract. These maps shall be provided in digital format containing the source map data (original vector data) and the graphic data in files on machine readable media, such as compact disk (CD), which are compatible with computer systems owned or readily available to the Engineer. The digital copy provided shall not include a digital representation of the Engineer's seal but the accompanying documentation from the Engineer shall include a signed statement of when the map was authorized, that the digital map is a true representation of the original sealed document, and that a printed version with the seal be provided to the Engineer. In addition, complete documentation as to the data and layout of the data files and the name of the software package(s) used to generate the data and maps shall be received and maintained by the Engineer in written form. The Engineer shall provide the office upon request a copy of all the electronic files and other data received, including the original vector data, and all documentation in electronic format, on a CD or other media in a file format determined by the Office. If requested by the office, the Engineer shall ensure that the CD copy of all electronic files and other data provided to the office are properly identified. Specifically, the CD label shall show the Engineer's name, the contents of CD, the preparer's name, and the name of the software package(s) used to generate the maps on the CD.

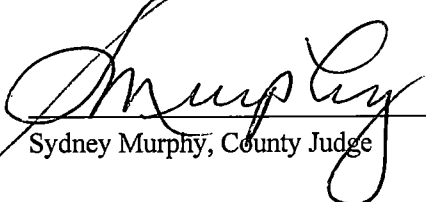
9. Extent of Agreement

This Agreement, which includes Parts I-V, [*and if applicable*, including the following exhibits: Project Map and Implementation Schedule] represents the entire and integrated agreement between the County and the Firm and supersedes all prior negotiations, representations or agreements, either written or oral.

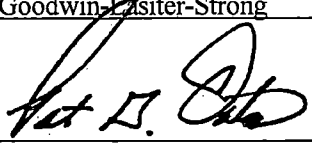
This Agreement may be amended only by written instrument signed by authorized representatives of both County and the Firm.

IN WITNESSETH WHEREOF, the parties have executed this Agreement by causing the same to be signed on the day and year first above written.

BY: County of Polk


Sydney Murphy, County Judge

BY: Goodwin-Lasiter-Strong


Pat G. Oates, P.E., Engineering Director

PART II
SCOPE OF SERVICES

The Firm shall render the following professional services necessary for the development of the project: (*Choose appropriate contracted services*)

SCOPE OF SERVICES

1. Attend preliminary conferences with the County regarding the requirements of the project.
2. Attend monthly progress meetings with the County and Administrator.
3. Determine necessity for acquisition of any additional real property/easements/right-of-ways (ROWS) for the ARPA - CLFRF project and, if applicable, furnish to the County:
 - a. Name and address of property owners;
 - b. Legal description of parcels to be acquired; and
 - c. Map showing entire tract with designation of part to be acquired.
4. Make any necessary surveys of existing rights-of-way, topography, utilities, or other field data required for proper design of the project. Provide consultation and advice as to the necessity of the County providing or obtaining other services such as auger borings, core borings, soil tests, or other subsurface explorations; laboratory testing and inspecting of samples or materials; other special consultations. The Firm will review any tests required and act as the County's representative in connection with any such services. Costs of other services outside the surveying tasks are the responsibility of the Locality outside the costs outlined in this contract. Does not include Special Reports such as TCEQ / USDA / TWDB, etc.
5. Prepare railroad/highway permits as applicable. Cost of permits to be paid for by the Locality in addition to the costs outlined in this agreement.
6. Prepare a preliminary engineering study and report on the project in sufficient detail to indicate clearly the problems involved and the alternate solutions available to the County, to include preliminary layouts, sketches and cost estimates for the project, and to set forth clearly the Firm's recommendations; to be completed within 60 days of execution of this Agreement.
7. Furnish the County five (5) copies of the preliminary report, if applicable (additional copies will be furnished to the County at direct cost of reproduction). (One copy of said report shall be furnished to the Grant Administrator by e-mail.)
8. Submit detailed drawings and plans/specifications to appropriate regulatory agency(ies) and obtain clearance (TCEQ).
9. Prepare bid packet/contract documents/advertisement for bids. At the time the bid packet is completed, the Firm shall also furnish to the County an updated written Estimate of Probable Costs for the Project. The Engineer will forward the publication cost of the advertisement for bids to the County. The County will reimburse the Engineer for this cost.
10. Confirm prevailing wage decision once the Grant Administrator makes the 10-day call.
11. Incorporate any and all wage rate modifications or supersedes via bid addendum (if applicable).
12. Conduct bid opening and prepare minutes.
13. Tabulate, analyze, and review bids for completeness and accuracy.
14. Accomplish construction contractor's eligibility verification through www.SAM.gov.
15. Jointly, with Grant Administrator conduct pre-construction conference and prepare copy of report/minutes.
16. Issue Notice to Proceed to construction contractor and Grant Administrator.
17. Provide in all proposed construction contracts deductive alternatives where feasible, so that should the lowest responsive base bid for construction exceed the funds available, deductive alternatives can be taken to reduce the bid price.

18. Design for access by persons with disabilities for those facilities to be used by the public in accordance with Public Law 504.
19. Use U.S. Treasury Department approved forms for instructions to bidders, general conditions, contract, bid bond, performance bond, and payment bond.
20. Make periodic visits, no less than every 30 days during the construction period, to the site to observe the progress and quality of the work, and to determine, in general, if the work is proceeding in accordance with the Agreement.
21. Consult with and advise the County during construction; issue to contractors all instructions requested by the County; and prepare routine change orders if required, at no charge for engineering services to the County when the change order is required to correct errors or omissions by the Firm; provide price analysis for change orders; process change orders approved by County and the Firm and submit to the Grant Administrator so he may obtain U.S. Treasury Department approval prior to execution with the construction contractor.
22. Review shop and working drawings furnished by contractors for compliance with design concept and with information given in contract documents (contractors will be responsible for dimensions to be confirmed and correlated at job site).
23. Resolve all payment requests within 14 days of receipt of signed pay request from the construction contractor.
24. Based on the Firm's on-site observations and review of the contractor's applications for payment, determine the amount owed to the contractor in such amounts; such approvals of payment to constitute a representation to the County, based on such observations and review, that the work has progressed to the point indicated and that the quality of work is in accordance with the plans, specifications and contract documents.
25. Recommend that a 10% retainage is withheld from all payments on construction contracts until final acceptance by the County and approval by U.S. Treasury Department, unless State or local law provides otherwise.
26. Prepare Certificate of Construction Completion and Clean Lien Certificate. A Clean Lien Certificate may be prepared for each of the Prime Contractor(s) and each of the subcontractor(s).
27. Conduct interim/final inspections.
28. Revise contract drawings to show the work as actually constructed, and furnish the County with a set of "record drawings" plans.
29. The Firm will provide a copy of the final project record drawing(s) engineering schematic(s), as constructed using funds under this contract. These maps shall be provided in digital format containing the source map data (original vector data) and the graphic data in files on machine readable media, such as compact disc (CD), which are compatible with computer systems owned or readily available to the owner. The digital copy provided shall not include a digital representation of the engineer's seal but the accompanying documentation from the Firm shall include a signed statement of when the map was authorized, that the digital map is a true representation of the original sealed document, and that a printed version with the seal has been provided to the County. In addition, complete documentation as to the content and layout of the data files and the name of the software package(s) used to generate the data and maps shall be provided to the owner in written form.

SUBCONTRACTS

1. No work under this Agreement shall be subcontracted by the Firm without prior approval, in writing, from the County.
2. The Firm shall, prior to proceeding with the work, notify the County in writing of the name of any subcontractors proposed for the work, including the extent and character of the work to be done by each.
3. If any time during progress of the work, the County determines that any subcontractor is incompetent or undesirable, the County will notify the Firm who shall take reasonable and immediate steps to satisfactorily cure the problem, substitute performance, or cancel such subcontract. Subletting by subcontractors shall be subject to the same regulations. Nothing contained in this Agreement shall create any contractual relation between any subcontractor and the County.
4. The Firm will include in all contracts and subcontracts in excess of \$150,000 a provision which requires compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). The provisions shall require reporting of violations to U.S. Treasury Department and to the Regional Office of the Environmental Protection Agency (EPA).
5. The Firm will include in all contracts and subcontracts in excess of \$150,000 provisions or conditions which will allow for administrative, contractual or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.
6. The Firm will include in all contracts and subcontracts in excess of \$10,000 provisions addressing termination for cause and for convenience by the County including the manner by which it will be effected and the basis for settlement..
7. The Firm will include in all contracts and subcontracts provisions requiring compliance with the following, if applicable:
 - a. Prime construction contracts in excess of \$2,000, compliance with the Davis-Bacon Act, as amended (40 U.S.C.3141-3144, 3146-3148) as supplemented by Department of Labor regulations (29 CFR part 5);
 - b. Prime construction contracts in excess of \$2,000, compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR part 3)
 - c. Contracts greater than \$10,000, the inclusion of the Equal Opportunity clause provided under 41 CFR 60-1.4(b) (Executive Order 11246);
 - d. Section 3 of the Housing and Urban Development Act of 1968;
 - e. Contracts exceeding \$100,000, compliance with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352);
 - f. For contracts in excess of \$100,000 that involve the employment of mechanics or laborers, compliance with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708), including work week requirements and safety conditions for workers, as supplemented by Department of Labor regulations (29 CFR Part 5); and
 - g. For procurement of recovered materials where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000, compliance with 2 CFR 200.322 and section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, which requires procuring only items designated in guidelines of the EPA at 40 CFR part 247 that contain the highest percentage of recovered materials practicable.
8. The Firm will include in all negotiated contracts and subcontracts a provision which indicates that funds will not be awarded under this contract to any party which is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 and 2 CFR Part 2424. A certification shall be provided and received from each proposed subcontractor under this contract and its principals.
9. The Firm will include in all negotiated contracts and subcontracts a provision to the effect that the County, Comptroller General of the United States, the County, the U.S. Treasury Department and the Texas State Auditor's Office or any of their duly authorized representatives, shall have access to any

books, documents, papers and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions.

10. The Firm will include in all contracts and subcontracts a requirement that the contractor maintain all relevant project records for three (3) years after the County has made final payment to the contractor and all other pending matters are closed.

STANDARD OF PERFORMANCE AND DEFICIENCIES

1. All services of the Firm and its independent professional associates, consultants and subcontractors will be performed in a professional, reasonable and prudent manner in accordance with generally accepted professional practice. The Firm represents that it has the required skills and County to perform work and services to be provided under this Agreement.
2. The Firm represents that services provided under this Agreement shall be performed within the limits prescribed by the County in a manner consistent with that level of care and skill ordinarily exercised by other professional consultants under similar circumstances.
3. Any deficiency in Firm's work and services performed under this contract shall be subject to the provisions of applicable state and federal law. Any deficiency discovered shall be corrected upon notice from County and at the Firm's expense if the deficiency is due to Firm's negligence. The County shall notify the Firm in writing of any such deficiency and provide an opportunity for mutual investigation and resolution of the problem prior to pursuit of any judicial remedy. In any case, this provision shall in no way limit the judicial remedies available to the County under applicable state or federal law.
4. The Firm agrees to and shall hold harmless the County, its officers, employees, and agents from all claims and liability of whatsoever kind or character due to or arising solely out of the negligent acts or omissions of the Firm, its officers, agents, employees, subcontractors, and others acting for or under the direction of the Firm doing the work herein contracted for or by or in consequence of any negligence in the performance of this Agreement, or by or on account of any omission in the performance of this Agreement.

PART III-
PAYMENT SCHEDULE

County shall reimburse the Firm for professional services provided upon completion of the following project milestones per the following percentages of the maximum contract amount:

Milestone	% of Contract Fee
• Approval of Preliminary Engineering Plans and Specifications by County.	10%
• Completion of Field Measurements	15%
• Approval of Plans and Specifications by Regulatory Agency (ies).	25%
• Completion of bid advertisement and contract award.	20%
• Construction Phase Services.	20%
• Completion of Final Closeout Assessment and submittal of "Record As-Built" to County. Completion of final inspection and acceptance by the County.	10%
Total	100%

SPECIAL SERVICES

Special Services shall be reimbursed under the following hourly rate schedule: (List all applicable services to include overhead charge).

Registered Surveyor	\$130.00
Survey Crew (3 members)	\$120.00
Project Engineer	\$100.00
Engineering Technician	\$70.00
Project Representative	\$60.00
Draftsman	\$45.00

The fee for all other Special Services shall not exceed a total of SEE ENGINEERING COST LETTER. The payment for these Special Services shall be paid as a lump sum, per the following schedule:

1. The Firm shall be paid upon completion of surveying, necessary field data, and acquisition data, if applicable, the sum of SEE ENGINEERING COST LETTER.
2. The Firm shall be reimbursed the actual costs of necessary testing based on itemized billing statements from the independent testing laboratory, plus a fifteen percent (15%) overhead charge. All fees for testing shall not exceed a total of none anticipated and No/100 Dollars (\$N/A) (if necessary).
3. The payment requests shall be prepared by the Firm and be accompanied by such supporting data to substantiate the amounts requested.
4. Any work performed by the Firm prior to the execution of this Agreement is at the Firm's sole risk and expense.

PART III
EXHIBIT A
TIME SCHEDULE*

TO BE INSERTED ONCE PROJECT SCOPE AND BUDGET IS PREPARED

PART III
EXHIBIT B
PAYMENT SCHEDULE

PROFESSIONAL ENGINEERING SERVICES

Locality shall reimburse the Firm for basic engineering services provided upon completion of the following project milestones per the following percentages for the maximum contract amount: Each item can be billed based on a percentage of work completed:

	(\$) Column
1. Completion of Preliminary Engineering Study	<u>10%</u>
2. Completion of Field Measurements	<u>14%</u>
3. Approval of Plans & Specifications	<u>42%</u>
4. Completion of bid advertisement and contract award	<u>7%</u>
5. Construction Phase Services	<u>22%</u>
6. Completion of final inspection and acceptance by the Locality and submittal of As Built Plans to Locality	<u>5%</u>
Totaling	100%

Refer to following page for breakdown in Engineering Cost Letter.

Engineering Cost Letter

Polk County
410 East Church Street, Suite E
Livingston, Texas 77351

March 21, 2022

ATTN: Hon. Sydney Murphy, County Judge

**RE: American Rescue Plan Act of 2021 Coronavirus Local Fiscal Recovery Fund Project
(ARPA - CLFRF)
Engineering Services**

Dear Judge Murphy:

We appreciate County of Polk's selection of Goodwin-Lasiter-Strong as the engineering firm for the ARPA - CLFRF Water System Improvements Project. The County shall implement the design and construction of improvements to rural water systems plant facilities with related work. Our firm will provide our services in accordance with the enclosed budget, for the following task costs:

Preliminary Engineering	\$	TBD
Field Measurements	\$	TBD
Plans & Specifications	\$	TBD
Bidding, Advertisement & Contract Award	\$	TBD
Construction Phase	\$	TBD
System Evaluation & Report	\$	TBD
Final Inspection/As-built "Record Drawings"	\$	TBD
Total	\$	TBD

We appreciate this opportunity and look forward to working with you on the project.

Sincerely,

Pat G. Oates, P.E.
Engineering Director

PART IV
TERMS AND CONDITIONS

1. Termination of Agreement for Cause. If the Firm fails to fulfill in a timely and proper manner its obligations under this Agreement, or if the Firm violates any of the covenants, conditions, agreements, or stipulations of this Agreement, the County shall have the right to terminate this Agreement by giving written notice to the Firm of such termination and specifying the effective date thereof, which shall be at least five days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Firm pursuant to this Agreement shall, at the option of the County, be turned over to the County and become the property of the County. In the event of termination for cause, the Firm shall be entitled to receive reasonable compensation for any necessary services actually and satisfactorily performed prior to the date of termination.

Notwithstanding the above, the Firm shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Agreement by the Firm, and the County may set-off the damages it incurred as a result of the Firm's breach of the contract from any amounts it might otherwise owe the Firm.

2. Termination for Convenience of the County. The County may terminate this Agreement at any time by giving at least ten (10) days' notice in writing to the Firm. If this Agreement is terminated for convenience, the County will pay the Firm for actual services rendered up to the termination date, based on the charges for time, labor, expenses and other items specified in the Agreement.
3. Changes. The County may, from time to time, request changes in the services the Firm will perform under this Agreement. Such changes, including any increase or decrease in the amount of the Firm's compensation, must be agreed to by all parties and finalized through a signed, written amendment to this Agreement.
4. Resolution of Program Non-Compliance and Disallowed Costs. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or USDT program requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within 30 days of receipt of a written notice of the dispute or invitation to negotiate, and attempt to reach a just and equitable solution satisfactory to both parties. If the matter is not resolved by negotiation within 30 days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Amendment and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. *[This section may also provide for the qualifications of the mediator(s), the locale of meetings, time limits, or any other item of concern to the parties.]* If the matter is not resolved through such mediation within 60 days of the initiation of that procedure, either party may proceed to file suit.

5. Personnel.
 - a. The Firm represents that he/she/it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the County.
 - b. All of the services required hereunder will be performed by the Firm or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
 - c. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the County. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.
6. Assignability. The Firm shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the County thereto; Provided, however, that claims for money by the Firm from the County under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the County.
7. Reports and Information. The Firm, at such times and in such forms as the County may require, shall furnish the County such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.
8. Records and Audits. The Firm shall insure that the County maintains fiscal records and supporting documentation for all expenditures of funds made under this contract in a manner that conforms to 2 CFR 200.300-.309, 24 CFR 570.490, and this Agreement. Such records must include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the funds provided under this Agreement. The Firm and the County shall retain such records, and any supporting documentation, for the greater of three years from closeout of the Agreement or the period required by other applicable laws and regulations.
9. Findings Confidential. All of the reports, information, data, etc., prepared or assembled by the Firm under this contract are confidential and the Firm agrees that they shall not be made available to any individual or organization without the prior written approval of the County.
10. Copyright. No report, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Firm.
11. Compliance with Local Laws. The Firm shall comply with all applicable laws, ordinances and codes of the State and local governments, and the Firm shall save the County/County harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.
12. Conflicts of interest.
 - a. Governing Body. No member of the governing body of the County/County and no other officer, employee, or agent of the County/County, who exercises any functions or responsibilities in connection with administration, construction, engineering, or implementation of USDT award between USDT and the County / County, shall have any personal financial interest, direct or

indirect, in the Firm or this Agreement; and the Firm shall take appropriate steps to assure compliance.

- b. Other Local Public Officials. No other public official, who exercises any functions or responsibilities in connection with the planning and carrying out of administration, construction, engineering or implementation of the USDT award between USDT and the County/County, shall have any personal financial interest, direct or indirect, in the Firm or this Agreement; and the Firm shall take appropriate steps to assure compliance.

- d. The Firm and Employees. The Firm warrants and represents that it has no conflict of interest associated with the USDT award between USDT and the County/County or this Agreement. The Firm further warrants and represents that it shall not acquire an interest, direct or indirect, in any geographic area that may benefit from the USDT award between USDT and the County/County or in any business, entity, organization or person that may benefit from the award. The Firm further agrees that it will not employ an individual with a conflict of interest as described herein.

13. Debarment and Suspension (Executive Orders 12549 and 12689)

The Firm certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, or otherwise excluded from or ineligible for participation in federally-assisted programs under Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235). The term "principal" for purposes of this Agreement is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Firm. The Firm understands that it must not make any award or permit any award (or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

Federal Civil Rights Compliance.

During the performance of this Agreement, the Firm agrees as follows:

14. Equal Opportunity Clause (applicable to contracts and subcontracts over \$10,000).

- a. The Firm will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Firm will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the County/County setting forth the provisions of this non-discrimination clause.
- b. The Firm will, in all solicitation or advertisements for employees placed by or on behalf of the Firm, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity or national origin.
- c. The Firm will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the

compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- d. The Firm will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Firm's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - e. The Firm will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
 - f. The Firm will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
 - g. In the event of the Firm's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Firm may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
 - h. The Firm will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Firm will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Firm becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Firm may request the United States to enter into such litigation to protect the interests of the United States.
15. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
16. Section 109 of the Housing and Community Development Act of 1974. The Firm shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

17. Section 504 of the Rehabilitation Act of 1973, as amended. The Firm agrees that no otherwise qualified individual with disabilities shall, solely by reason of his/her disability, be denied the benefits of, or be subjected to discrimination, including discrimination in employment, under any program or activity receiving federal financial assistance.
18. Age Discrimination Act of 1975. The Firm shall comply with the Age Discrimination Act of 1975 which provides that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
19. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) (if contract greater than or equal to \$100,000)
The Firm certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining this contract. The Firm shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

[If this Contract is greater than \$100,000, include the following Section 3 language:]

20. Economic Opportunities for Section 3 Residents and Section 3 Business Concerns.

a. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by USDT assistance or USDT-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of USDT assistance for housing.

b. The parties to this Agreement agree to comply with USDT's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this Agreement certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

c. The Firm agrees to send to each labor organization or representative of workers with which the Firm has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Firm's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

d. The Firm agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The Firm will not subcontract with any subcontractor where the Firm has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

e. The Firm will certify that any vacant employment positions, including training positions, that are filled (1) after the Firm is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the Firm's obligations under 24 CFR part 135.

f. Noncompliance with USDT's regulations in 24 CFR part 135 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future USDT assisted contracts.

g. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this Agreement. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).