

**DEFENSEWERX – ENERGYWERX
TERMS AND CONDITIONS AGREEMENT**

This Terms and Conditions Agreement (“TCA or Agreement”) is made and entered into as of the Effective Date by and between **DEFENSEWERX d/b/a ENERGYWERX** (“DEFENSEWERX”), a Florida not-for-profit corporation with its principal place of business located at 1140 E John Sims Parkway No. 1, Niceville, FL 32578 and **City of Glendale** (“Selectee”), with its principal place of business located at 5901 N Glen Harbor Blvd. Glendale, AZ 85307-4502 (each a “Party” and collectively the “Parties”).

RECITALS

WHEREAS, DEFENSEWERX is a not-for-profit corporation, acting as a partnership intermediary for the United States of America (the “Government”), chartered to create an innovative environment for bringing together the best minds of industry, academia, and Government to collaborate and find solutions to the toughest science and technology challenges while championing science, technology, engineering, and mathematics education for all levels of society, including, but not limited to, support of the Partnership Intermediary Agreement (“PIA”) between DEFENSEWERX and the Department of Energy (“DOE”).

WHEREAS, Selectee is an entity with expertise and capabilities deemed to be valuable to the purposes of the associated DOE opportunity.

WHEREAS, the PIA, entered into under 15 U.S.C. § 3715, authorizes DEFENSEWERX, under the direction and approval of DOE, to enter into terms and conditions agreements with entities such as Selectee.

WHEREAS, DEFENSEWERX wishes to engage Selectee to perform tasks (“Services”) in furtherance of the purposes of the associated DOE opportunity.

WHEREAS, Selectee wishes to provide DEFENSEWERX with Services.

NOW, THEREFORE, in acknowledgment of the recitals above and in consideration of the terms, covenants, and conditions hereinafter set forth, including in the attached and hereto incorporated Exhibits, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, each intending to be legally bound, hereby agree as follows:

ARTICLE I – RETENTION AND SERVICES

- 1.1. **Term.** This Agreement shall become effective on the date of the last signature (“Effective Date”) and, unless otherwise terminated in accordance with the terms of Section 1.10 of this Agreement or stated to survive termination, will continue for sixty (60) days after the final deliverable date specified in the Statement of Effort (“SOE”) in Exhibit I.
- 1.2. **Services.** Selectee, in providing the Services contemplated under this Agreement, shall:
 - a. Perform the Services as more particularly set forth in the SOE contained in Exhibit I in a timely, professional, and workmanlike manner in accordance with applicable and relevant industry standards, including any requirements and obligations set forth in the SOE;
 - b. In its performance of this Agreement, utilize properly trained, skilled, and experienced personnel, supplied with all necessary and adequate equipment and personal protective gear;
 - c. Timely disclose all circumstances to DEFENSEWERX that currently exist or arise during performance of this Agreement that create a conflict of interest in accordance with Section 4.3;
 - d. Communicate with DEFENSEWERX regarding performance of Services under this Agreement, and progress thereof, as often as reasonably necessary and upon DEFENSEWERX’s request;

- e. Provide DEFENSEWERX with all relevant information, documents, and technical support reasonably necessary for performance of Services under this Agreement, and provide the same at the request of DEFENSEWERX; and
 - f. Deliver all Milestones by the date set forth in Exhibit I.
- 1.3. **No Assurances.** Neither Party guarantees any results, including, without limitation, their nature, utility, or economic or commercial value, of the required Services more particularly set forth in the SOE. Selectee shall provide Services, more particularly set forth in the SOE, on a best-efforts basis.
- 1.4. **Timing and Delay.** Selectee recognizes and agrees that failure to meet the milestones in accordance with the delivery schedule detailed in the SOE under Exhibit I ("Milestones") may result in administrative expense or other damages to DEFENSEWERX and DOE. Selectee shall, therefore, inform DEFENSEWERX immediately of any anticipated delays in Milestone delivery and of any remedial actions being taken to ensure completion of the Milestone according to such delivery schedule. Selectee shall have the opportunity to cure such delays within thirty (30) days of the original deadline, or if mutually agreed by DOE and the Parties in writing, the delivery schedule of the SOE may be adjusted.
- 1.5. **Reports.** Selectee shall provide DEFENSEWERX with a status summary of work in progress of its activities based on the schedule defined in the SOE in Exhibit I.
- 1.6. **Audits.** During the Term under Section 1.1 and surviving for three (3) years thereafter, DEFENSEWERX shall have the right from time to time to inspect and audit all records relating to Services under this Agreement and otherwise as to this Agreement to the extent necessary for DEFENSEWERX or DOE to comply with any audit to which DEFENSEWERX or DOE are subjected. Selectee shall cooperate with any audit right exercised by DEFENSEWERX under this Section 1.6.
- 1.7. **Independent Contractor.** The Parties agree to perform the Services hereunder solely as independent contractors. The Parties will remain independent contractors in their relationship with one other. The Parties agree that nothing in this Agreement shall be construed as creating a joint venture, partnership, franchise, agency, employer/employee, or other similar relationship between the Parties, or as authorizing either Party to act as the agent of the other Party. DEFENSEWERX shall not be responsible for withholding taxes with respect to Selectee's compensation hereunder. The Parties shall not have a claim against the other for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. Nothing in this Agreement shall create any obligation between either Party and a third-party except with respect to the protections of the Government and DOE as set forth herein.
- 1.8. **Attestations.** Each Party attests and certifies as follows:
- a. It has full power, authority, legal competency, and right to enter into and perform its obligations under this Agreement;
 - b. This Agreement is a legal, valid, and binding obligation of each Party, legally enforceable against it in accordance with its terms;
 - c. Entering into this Agreement will not violate the charter or bylaws of either Party or any material contract to which that Party is also a Party;
 - d. It is financially able to satisfy any funding commitments made pursuant to this Agreement;
 - e. It has the sole right to control and direct the means, details, manner, and method by which the Services are carried out;
 - f. It has the necessary knowledge, skills, experience, and ability to perform the required Services; and

- g. It has the right to perform the Services at any place or location, and at such times as it shall determine.

1.9. **Event of Default.** Each of the following events shall constitute an “Event of Default”:

- a. Selectee’s Services, as enumerated by the SOE in Exhibit I, being performed by any party other than Selectee – with the exception of specialized and/or technical services which were identified during the application process;
- b. Services, as enumerated by the SOE in Exhibit I, being performed by Selectee after the Term under Section 1.1 or Termination under Section 1.10; and
- c. Selectee’s failure to perform any obligation under Section 1.2, including failure to perform by any associated Milestone delivery date.

1.10. **Termination.** This Agreement may be terminated by:

- a. Either Party, or by DOE pursuant to an instruction to DEFENSEWERX, upon thirty (30) days written notice to the other Party, with or without cause;
- b. Either Party, or by DOE pursuant to an instruction to DEFENSEWERX, upon a material breach of any term of this Agreement by the other Party, if the other Party’s material breach is not cured within thirty (30) days written notice thereof;
- c. Either Party, or by DOE pursuant to an instruction to DEFENSEWERX, if the other Party files a bankruptcy petition that is not dismissed within ten (10) business days, the other Party is adjudicated bankrupt or is otherwise insolvent, or the other Party ceases to do business or otherwise terminates its business operations; or
- d. DEFENSEWERX upon any Event of Default.

1.11. **Post-Termination.** Selectee shall submit an invoice to DEFENSEWERX based on the prorated fixed price for that Milestone and such proration will be based on effort expended from the last Milestone payment up to the point of termination. The DOE Agreements Officer (“AO”), in consultation with DEFENSEWERX and in their discretion, will determine if and how much of an appropriate prorated payment is warranted. Selectee acknowledges and agrees that no other compensation, of any nature or type, shall be payable hereunder following the termination of this Agreement.

1.12. **Remedies.** If either Party materially breaches any term of this Agreement or terminates this Agreement due to an Event of Default, in addition to any rights and remedies under this Agreement, the non-breaching or non-terminating Party shall have the right to exercise any and all remedies at law or in equity. All rights and remedies under this Agreement and at law or in equity are cumulative and shall not preclude one another. Notwithstanding any other term of this Agreement, a Party may immediately seek injunctive relief to protect Confidential Information or any intellectual property.

ARTICLE II – PAYMENT

2.1. **Payment.** DEFENSEWERX shall pay to Selectee a total sum of \$247,266 (USD) in accordance with the Schedules & Milestones in Table 1 and the Payment Schedule in Table 2 of Exhibit I. If Selectee anticipates non-cancellable incurred costs, then the estimated cost(s) should be identified, substantiated, and addressed by proposing a modification to Milestone/Payment #1 in the Payment Schedule in Table 2 of Exhibit I.

- 2.2. **Payment Modification.** No modification, increase, or other adjustment to the fee of Section 2.1 or Exhibit I may be made except those made by mutual agreement and executed by both Parties, in writing, and affixed to this Agreement in Exhibit J: Engineering Change Proposal.
- 2.3. **Invoices.** DEFENSEWERX's payments to Selectee in accordance with Section 2.1 and Exhibit I is expressly conditioned on Selectee's submission of a sufficiently detailed invoice to DEFENSEWERX upon, and only upon, full completion of each Milestone as identified in the Schedules & Milestones in Table 1 and the Payment Schedule in Table 2 of Exhibit I.
- 2.4. **Taxes and Expenses.** Each Party shall be solely responsible for payment of its own respective income, social security, workers' compensation, other employment related, other foreign or domestic, and any other taxes of any type. All fees due to Selectee are expressly enumerated by this Agreement, and DEFENSEWERX shall not pay to Selectee any fees other than that indicated by Section 2.1 and Exhibit I, or otherwise mutually agreed to by the Parties in writing, including any costs or expenses incurred by Selectee related to its performance of this Agreement.
- 2.5. **Payment After Default.** Notwithstanding Section 2.1 or Exhibit I, DEFENSEWERX shall not pay to Selectee any fees, or portion of any fees, except to the extent required by Section 1.11, when (i) prohibited by any applicable Government law, regulation, or policy; or (ii) Selectee is in default pursuant to Section 1.9; or (iii) this Agreement is terminated pursuant Section 1.10. Furthermore, all fees due to Selectee under this Agreement are expressly conditioned upon DEFENSEWERX's receipt of funding associated with Selectee's Services under the PIA.

ARTICLE III – NON-DISCLOSURE AND INDEMNIFICATION

- 3.1. **Non-Disclosure.**
- a. The Parties acknowledge that the existence and the terms of this Agreement and any oral or written information, including intellectual property of any kind, exchanged between the Parties in connection with the preparation and performance this Agreement are regarded as DEFENSEWERX business proprietary information ("BPI"). The Parties may exchange BPI amongst each other, with the DOE Point of Contact(s) listed in Exhibit I, and, only to the extent necessary for performance of a Party's obligations under this Agreement, with a Party's officers, members, managers, employees, agents, contractors, subsidiaries, successors, and assigns. Selectee's right to disclose BPI to any of Selectee's officers, members, managers, employees, agents, contractors, subsidiaries, successors, and assigns is expressly conditioned on Selectee acquiring such officers, members, managers, employees, agents, contractors, subsidiaries, successors, and assigns' written agreement to this Section 3.1. Selectee shall not release BPI to any third-party, except as allowed under this Section 3.1(a), unless:
- i. The DOE AO has given prior written approval;
 - ii. Disclosure is required by the Freedom of Information Act or any other applicable law or regulation;
 - iii. Disclosure is required for Selectee to perform the Services as defined by Exhibit I;
 - iv. The BPI is otherwise in public domain before the date of release;
 - v. The BPI is limited to the content of the general agreement and objectives between DOE, DEFENSEWERX, and Selectee, and is used to establish network relationships and/or support activities for the partnership; or
 - vi. Disclosure of the BPI is requested pursuant to a subpoena issued by a court of competent jurisdiction; provided however that in this instance the Selectee shall provide

DEFENSEWERX and DOE prompt notice of the subpoena and a reasonable opportunity, prior to any disclosure of the BPI, to formally object to the subpoena and/or seek an injunction or other relief from the court preventing disclosure of the BPI.

- b. Requests for approval under Section 3.1(a)(i) shall identify the specific BPI to be released, the medium to be used, and the purpose for the release. Selectee shall submit its requests under this Section 3.1(b) simultaneously through DEFENSEWERX and to the DOE AO per the guidance provided in the SOE in Exhibit I.
- c. Notwithstanding the permissibility of Disclosure of BPI under Sections 3.1(a)(i)-(v), Selectee will make reasonable efforts to notify and coordinate with DEFENSEWERX or DOE prior to disclosure of any BPI such that DEFENSEWERX or DOE are aware of such disclosure and may request redactions to the extent permitted by law. If Selectee does not comply with a reasonable request for redactions, Selectee shall not disclose the associate BPI.
- d. By entering into this Agreement, Selectee does not and will not require its employees or contractors to sign internal nondisclosure or confidentiality agreements or statements prohibiting or otherwise restricting its employees or contractors from lawfully reporting waste, fraud, or abuse to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information.
- e. The undersigned further attests that Selectee does not and will not use any Federal funds to implement or enforce any nondisclosure and/or confidentiality policy, form, or agreement it uses unless it contains the following provisions:
 - i. These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this Agreement and are controlling.
 - ii. The limitation above shall not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.
 - iii. Notwithstanding provision listed in paragraph Section 3.1(e)(i), a nondisclosure or confidentiality policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure or confidentiality forms shall also make it clear that they do not bar disclosures to Congress, or to an authorized official of an executive agency or the Department of Justice, that are essential to reporting a substantial violation of law.
- f. The terms of this Section 3.1 shall survive termination of this Agreement pursuant to Section 1.1 for a period of nine (9) years thereafter.

3.2. Indemnification.

- a. Selectee shall defend, indemnify, and hold DEFENSEWERX, including its officers, members, managers, employees, agents, contractors, subsidiaries, successors, and assigns, harmless from and against any third-party claims, actions, or damages arising out of Selectee's performance under this Agreement, provided, however, Selectee shall not offer settlement in any such claim without the agreement of DEFENSEWERX, which agreement shall not be unreasonably withheld. Selectee shall be liable to DEFENSEWERX for any claims, actions, or damages due to Selectee's own negligence or intentional acts. Failure of insurance coverage, if any, for any reason, shall not exonerate Selectee from its indemnity obligations hereunder. This obligation to defend shall include all costs of defense as they accrue. This Section 3.2(a) shall survive termination of this Agreement, for any reason, for a period of three (3) years thereafter.
- b. DEFENSEWERX shall defend, indemnify, and hold Selectee harmless from and against any third-party claims, actions, or damages arising out of DEFENSEWERX's performance under this Agreement, provided, however, DEFENSEWERX shall not offer settlement in any such claim without the agreement of Selectee, which agreement shall not be unreasonably withheld. DEFENSEWERX shall be liable to Selectee for any third-party claims, actions, or damages due to DEFENSEWERX's own negligence or intentional acts. Failure of insurance coverage, if any, for any reason, shall not exonerate DEFENSEWERX from its indemnity obligations hereunder. This obligation to defend shall include all costs of defense as they accrue.

ARTICLE IV – ADHERENCE TO APPLICABLE POLICIES, REGULATIONS, AND LAWS

- 4.1. **Real Property and Equipment.** Real property and equipment purchased with project funds (federal share and Selectee cost share) under this Agreement must be used by Selectee in the program or project for which it was acquired as long as it is needed, whether or not the project or program continues to be supported by the federal funding. Title to Selectee property acquired will conditionally vest upon acquisition with Selectee. Selectee cannot encumber this property and must request disposition instructions prior to disposing of or selling the property as long as it maintains a Current Fair Market Value of \$5,000 or more. Selectee may continue to use the real property and equipment after the conclusion of the agreement period of performance so long as Selectee submits a written Request for Continued Use for DOE authorization, which is approved by the DOE Agreements Officer¹ (AO). The non-federal entity must comply with the property use, maintenance and insurance, and disposition requirements at 2 C.F.R. § 200.310-.316 unless explicitly directed otherwise, in writing, by the DOE AO. This Section 4.1 shall not apply if no project funds are used by Selectee to purchase real property or equipment.
- 4.2. **Access to Records.** In accordance with 42 U.S.C. § 7137, the Comptroller General of the United States, or any of his duly authorized representatives, shall have access to and the right to examine any books, documents, papers, records, or other recorded information of Selectee receiving Federal funds or assistance under this Agreement, including subagreements.
- 4.3. **No Conflicts of Interest, Other Activities.**
 - a. **Performance of Work in the United States.** All work under this Agreement must be performed in the United States (i.e., Selectee must expend 100% of the total project effort in the United States) unless Selectee receives advance written authorization from DEFENSEWERX (in coordination with the DOE AO) to perform certain work overseas. To request a waiver for this requirement, Selectee shall submit a Foreign Work Approval Request using the Foreign Work Approval Request form found at: <https://energywerx.wufoo.com/forms/wi7lppx0cvt9cs/>.
 - b. **Lobbying Restrictions.** By accepting funds under this Agreement, Selectee agrees that none of the funds obligated to this Agreement shall be expended, directly or indirectly, to influence

¹ **Cognizant Contracting Officer/Agreements Officer (CO):** A Government employee who can bind the Government to an agreement, such as an other transaction (OT) or similar agreement, with a partnership intermediary within the scope of the authority delegated to the CO by the cognizant HCA or by the Department's Senior Procurement Executive (SPE).

congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. § 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

- c. The DOE interim Conflict of Interest (“COI”) Policy can be found at the following link: <https://www.energy.gov/management/pf-2022-17-department-energy-interim-conflict-interest-policy-requirements-financial>. The interim COI Policy is applicable to all non-Federal entities that receive DOE funding by means of a financial assistance award or other transactions and, through the implementation of this interim COI Policy by the entity, to each Investigator who is planning to participate in, or is participating in, the project funded wholly or in part under the DOE award. The interim COI Policy establishes standards that provide a reasonable expectation that the design,

conduct, and reporting of projects funded wholly or in part under DOE awards will be free from bias resulting from financial conflicts of interest or organizational conflicts of interest. Selectee is subject to the requirements of the interim COI Policy, and Selectee must certify that it is compliant with all requirements in the interim COI Policy. Selectee must flow down the requirements of the interim COI Policy to any subrecipient non-Federal entities.

- 4.4. **Foreign Collaboration.** Selectee must provide DEFENSEWERX, for coordination with DOE, with advanced written notification of any existing or potential collaboration with foreign organizations or governments in connection with its DOE-funded agreement scope. Selectee must await further guidance from the DOE AO prior to contacting the proposed foreign organization or government regarding the potential collaboration or negotiating the terms of any potential agreement.

- a. **Description of new and existing collaborations that should be reported:** In general, a collaboration will involve some provision of a thing of value to, or from, Selectee. A thing of value includes but may not be limited to all resources made available to, or from, the Selectee in support of and/or related to this Agreement, regardless of whether or not they have monetary value. Things of value also may include in-kind contributions (such as office/laboratory space, data, equipment, supplies, employees, students). Collaborations do not include routine workshops, conferences, use of Selectee’s services and facilities by foreign investigators resulting from its standard published process for evaluating requests for access, or the routine use of foreign facilities by Selectee staff in accordance with Selectee’s standard policies and procedures.

- b. **Export Controls.** The United States government regulates the transfer of information, commodities, technology, and software considered to be strategically important to the United States to protect national security, foreign policy, and economic interests without imposing undue regulatory burdens on legitimate international trade. There is a network of Federal agencies and regulations that govern exports that are collectively referred to as “*Export Controls*.” Selectee is responsible for ensuring compliance with all applicable United States Export Control laws and regulations relating to any work performed under this Agreement. Selectee must immediately report to DEFENSEWERX and DOE any Export Controls violations related to the project funded under this Agreement, at the Selectee sub level, and provide the corrective action(s) to prevent future violations.

- 4.5. **Suspension and Debarment.** In accordance with Executive Orders 12549 and 12689, the regulations at 2 C.F.R. Part 180, Guidance for Governmentwide Debarment and Suspension (Nonprocurement), are applicable to this Agreement.

- 4.6. **U.S. Competitiveness.** The Selectee agrees that any products embodying any subject invention or produced through the use of any subject invention will be manufactured substantially in the United States unless otherwise approved by DOE. In the event DOE agrees to foreign manufacture, there will be a requirement that the Government's support of the technology be recognized in some appropriate manner, e.g., alternative binding commitments to provide an overall net benefit to the United States economy. Selectee agrees that it will not license, assign or otherwise transfer any of its subject inventions to any entity, at any tier, unless that entity agrees to these same requirements. Should any entity receiving rights in the invention(s) from Selectee: (1) undergo a change in ownership amounting to a controlling interest, or (2)

sell, assign, or otherwise transfer title or exclusive rights in the invention(s), then the assignment, license, or other transfer of rights in the subject invention(s) is/are suspended until approved in writing by DOE. DEFENSEWERX and Selectee, including Selectee's successors or assigns, will convey to DOE, upon written request from DOE, title to any subject invention, upon a breach of this paragraph. Selectee will include this paragraph in all subawards/contracts, regardless of tier, for experimental, developmental or research work. A subject invention is any invention conceived or first actually reduced in performance of work under an agreement. An invention is any invention or discovery which is or may be patentable. At any time in which an entity cannot meet the requirements of this Section 4.6, the entity may request a modification or waiver of this Section 4.6. For example, the entity may propose modifying the language of this Section 4.6 in order to change the scope of the requirements or to provide more specifics on the application of the requirements for a particular technology. As another example, the entity may request that this Section 4.6 be waived in lieu of a net benefits statement or United States manufacturing plan. The statement or plan would contain specific and enforceable commitments that would be beneficial to the United States economy and competitiveness. Commitments could include manufacturing specific products in the United States, making a specific investment in a new or existing United States manufacturing facility, keeping certain activities based in the United States or supporting a certain number of jobs in the United States related to the technology. If DOE, in its sole discretion, determines that the proposed modification or waiver promotes commercialization and provides substantial United States economic benefits, DOE may grant the request and, if granted, modify the Agreement terms and conditions for the requesting entity accordingly. This Section 4.6 is implemented by DOE pursuant to a Determination of Exceptional Circumstances under the Bayh-Dole Act and DOE Patent Waivers.

- 4.7. **OIG.** The mission of the DOE Office of Inspector General ("OIG") is to strengthen the integrity, economy and efficiency of DOE's programs and operations including deterring and detecting fraud, waste, abuse, and mismanagement. The OIG accomplishes this mission primarily through investigations, audits, and inspections of DOE activities to include grants, cooperative agreements, loans, and contracts. The OIG maintains a Hotline for reporting allegations of fraud, waste, abuse, or mismanagement. To report such allegations, please visit <https://www.energy.gov/ig/office-inspector-general>. Selectee must disclose, in a timely manner, in writing to DOE all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting this Agreement.
- 4.8. **Cost Share.** If the Cost Share Agreement terms are applicable to Selectee's Services, as indicated by Exhibit A, Selectee shall execute Exhibit B and comply with the obligations set forth thereby.
- 4.9. **Cybersecurity Plan.** If a Cybersecurity Plan is required for the performance of Selectee's Services, as indicated by Exhibit A, Selectee shall execute Exhibit C and comply with the obligations set forth thereby.
- 4.10. **NEPA.** If the National Environmental Policy Act ("NEPA") is applicable to Selectee's Services, as indicated by Exhibit A, Selectee shall execute Exhibit D and comply with the obligations set forth thereby.
- 4.11. **CPS.** If the Current and Pending Support ("CPS") terms are applicable to Selectee's Services, as indicated by Exhibit A, Selectee shall execute Exhibit E and comply with the obligations set forth thereby.
- 4.12. **Davis-Bacon Act.** If the Davis-Bacon Act is applicable to Selectee's Services, as indicated by Exhibit A, Selectee shall execute Exhibit F and comply with the obligations set forth thereby.
- 4.13. **BABA.** If the Build America, Buy America Act ("BABA") is applicable to Selectee's Services, as indicated by Exhibit A, Selectee shall execute Exhibit G and comply with the obligations set forth thereby.
- 4.14. **Confidentiality.** If special confidentiality consideration are applicable to Selectee's Services, as indicated by Exhibit A, Selectee shall execute Exhibit H and comply with the obligations set forth thereby.
- 4.15. **Intellectual Property.** If Selectee's Services sufficiently involve intellectual property, as indicated by Exhibit A, Selectee shall execute Exhibit L and comply with the obligations set forth thereby.

- 4.16. **Publicity and Publication.** The addendum which applies (either Exhibit M or Exhibit N) to appropriately address DOE's communications strategy for this Opportunity will be indicated in Exhibit A.

ARTICLE V – GENERAL TERMS

- 5.1. **Insurance.** Each Party shall procure and maintain, at each Party's own cost and expense, throughout the term of this Agreement, insurance or indemnity protection that is commercially reasonable or required by applicable relevant law. Selectee shall provide to DEFENSEWERX a certificate of insurance as evidence of such coverage upon DEFENSEWERX's request.
- 5.2. **Assignment.** Selectee shall not assign or otherwise transfer its rights or obligations under this Agreement without express written consent of DEFENSEWERX and DOE. Any assignment or transfer made without such express written consent shall be void and constitute a material breach of this Agreement.
- 5.3. **Successors and Assigns.** This Agreement is for the sole benefit of the Parties hereto, and reference to a Party or the Parties shall include, as applicable, a Party's successors and permitted assigns. Nothing herein shall confer upon any other third-party any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this Agreement, unless expressly stated otherwise.
- 5.4. **Modification.** No amendment, modification, or supplement to this Agreement shall be effective unless in writing and signed by an authorized representative of each Party.
- 5.5. **Waiver.** No waiver by either Party of any term of this Agreement will be effective unless explicitly set forth in writing and signed by the waiving Party. No waiver by either Party will operate or be construed as a waiver of any failure, breach, or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after said waiver. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.
- 5.6. **Force Majeure.** Neither Party shall be liable to the other Party for failure to perform any of its obligations under this Agreement, except for those obligations under Section 2.1 to the extent a Milestone has been met by Selectee, during any time in which such performance is prevented by fire, flood, or other natural disaster, pandemic, war, embargo, riot, civil disobedience, or the intervention of any government authority, or any other cause outside of the reasonable control of the Parties, provided that the Party so prevented uses its best efforts to perform under this Agreement and provided further, that such Party provide reasonable written notice to the other Party of such inability to perform. Performance obligations of the Parties may be extended by the amount of delay caused by Force Majeure events under this Section 5.6, upon mutual written agreement.
- 5.7. **Dispute Resolution.**
- a. **In General.** The Parties must resolve any dispute, controversy, or claim arising out of or relating to this Agreement, or alleged breach or invalidity hereof (each, a "*Dispute*"), pursuant to this Section 5.7. Provided, however, that the commencement of the Dispute resolution process set forth in this Section 5.7 shall not limit either Party's rights or remedies contained elsewhere in this Agreement.
 - b. **Informal.** The Parties must first attempt in good faith to resolve the Dispute by informal consultation and negotiation. Any Dispute which is not resolved through this process after a period of five (5) business days from an initial written notice of attempting to resolve such Dispute by negotiation and consultation from a Party (or such shorter period designated by a Party due to time constraints relevant to the specific Dispute), shall be resolved as described below.

- c. **Mediation.** If the Dispute is not resolved pursuant to Section 5.7(b) above, then the Dispute shall be submitted to non-binding mediation. The Parties shall engage in the mediation process in good faith and select a mutually acceptable mediator. If the Parties cannot agree on a mutually acceptable mediator, the first available mediator residing in the County of Okaloosa, State of Florida, based upon the mediator database maintained by the Florida State Courts shall be selected. Each Party shall bear its own expenses to prepare for and attend mediation, including attorneys' fees, if any. Fees of the mediator shall be split equally between the Parties. Any mediation under this Section 5.7(c) shall be attended by representatives of each Party with decision making authority virtually or in person in the County of Okaloosa, State of Florida.
 - d. **Litigation.** No Party shall institute any litigation in a court of law with respect to a Dispute other than (i) if the other Party to the Dispute refuses or fails to comply with the Dispute resolution process set forth above, or (ii) if the Dispute is not resolved pursuant to Section 5.7(c) above.
 - e. **Costs.** Excluding Sections 5.7(a)-(c), a non-prevailing Party to any Dispute litigated under Section 5.7(d) shall reimburse the prevailing Party for its reasonable attorneys' fees, court costs, and all other expenses, whether or not taxable by the court as costs, in addition to any other relief to which the prevailing Party may be entitled. Furthermore, and notwithstanding any other term of this Agreement, Selectee shall reimburse DEFENSEWERX for any administrative costs and expenses incurred by Selectee's failure to meet the Milestones identified by the SOE of Exhibit I.
- 5.8. **Limitation of Liability.** Notwithstanding anything to the contrary in this Agreement, in no event will either Party be liable for any indirect, punitive, special, incidental, or consequential damages arising under or related to this Agreement, including, but not limited to, loss of profits, use, data, or other economic advantage. Provided, however, this Section 5.8 shall not apply if the breach is caused by a Party's willful, reckless, or negligent action, inaction, or omission.
- 5.9. **Corporate Felony Conviction and Federal Tax Liability Assurance.** This term applies to Selectees that are organized as corporations. A corporation includes any entity that has filed articles of incorporation in any of the 50 states, the District of Columbia, or the various territories of the United States, but not foreign corporations. It includes both for-profit and non-profit organizations. By entering into this Agreement, the Selectee attests that its corporation has not been convicted of a felony criminal violation under Federal law in the twenty-four (24) months preceding the date of Selectee's signature herein. The Selectee further attests that its corporation does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 5.10. **Governing Law.** The validity, interpretation, construction, performance, enforcement, and remedies of or relating to this Agreement, and the rights and obligations of the Parties to this Agreement, shall be governed and construed in all respects by the substantive laws of the State of Florida, without regard to the conflict of laws rules or statutes of Florida or any other jurisdiction that might result in the application of other law.
- 5.11. **Venue.** All disputes arising under or related to this Agreement, to the extent allowed by Section 5.7 or other applicable Sections, shall be commenced and maintained exclusively in the federal or state courts situated in the County of Okaloosa, State of Florida, and all Parties hereby irrevocably submit to the jurisdiction and venue of any such court.
- 5.12. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together are deemed to be one and the same Agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement. DocuSign shall have the same force and effect as an original signature.
- 5.13. **Severability.** If any term of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect the enforceability of any other term of this Agreement or invalidate or render unenforceable such term in any other jurisdiction. Upon a determination that any term is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement

to affect the original intent of the Parties as closely as possible in order that the rights and obligations contemplated hereby be consummated as originally contemplated to the greatest extent possible.

- 5.14. **Merger.** This Agreement, including and together with any related Exhibits, is the sole and entire agreement of the Parties with respect to the subject matter herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, whether written or oral, regarding such subject matter.
- 5.15. **Conflicts.** In the event of any conflict between, or any ambiguity caused by, the terms of this Agreement and its incorporated Exhibits, this Agreement shall control.
- 5.16. **Headings.** The headings or captions used in this Agreement are for reference purposes only and are not intended to be used or relied upon in interpreting or enforcing this Agreement.
- 5.17. **Funding.** Funding for this Agreement is provided by PI Project Order PPO-02.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of this date last below written:

DEFENSEWERX

By: _____

Name: Christi Pezzone

Title: ENERGYWERX Deputy Director

Date:

CITY OF GLENDALE

By: _____

Name: Kevin R. Phelps

Title: City Manager

Date:

ATTEST

By: _____

Name: Julie K. Bower

Title: City Clerk

Date:

APPROVED AS TO FORM

By: _____

Name: Michael D. Bailey

Title: City Attorney

Date:

Exhibit A: Checklist of Possible Requirements for the Selectee

This DOE program or effort mandates that the Selectee adhere to specific requirements beyond the TCA.

Per guidance from DOE, the following Exhibits apply to this program or effort. As such, the Selectee is subject to the terms and conditions of each identified applicable provision, noted with an “X” in the Required column:

Required	Exhibit	Requirement
X	Exhibit B	Cost Sharing Agreement
X	Exhibit C	Cybersecurity Plan
	Exhibit D	National Environmental Policy Act (NEPA) Implementing Procedures Agreement
	Exhibit E	Current and Pending Support (CPS)
X	Exhibit F	Davis-Bacon Act Requirements associated with the Bipartisan Infrastructure Law (BIL)
X	Exhibit G	Build America, Buy America Act
	Exhibit H	Non-Disclosure Agreement (NDA)
X	Exhibit I	Statement of Effort
X	Exhibit J	Engineering Change Proposal (ECP)
	Exhibit K	Intellectual Property (IP) Disclosure Form
	Exhibit L	Intellectual Property
	Exhibit M	Publicity and Publications without Federal Research Exception
X	Exhibit N	Publicity and Publications allowing Federal Research Exception

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Agreement as of the day and year first above written,

DEFENSEWERX

By: _____

Name: Christi Pezzone
Title: ENERGYWERX Deputy Director
Date:

City of Glendale

By: _____

Name: Kevin R. Phelps
Title: City Manager
Date:

ATTEST

By: _____

Name: Julie K. Bower
Title: City Clerk
Date:

APPROVED AS TO FORM

By: _____

Name: Michael D. Bailey
Title: City Attorney
Date:

Exhibit B: Cost Sharing Agreement

Cost Sharing may be applicable in some instances. The Selectee’s cost share for the budget must reflect the overall cost share ration negotiated by the parties. This ratio must be at least the statutory minimum based on the nature of the project.

- a. Cost Sharing Obligations. By accepting federal funds under this Agreement, the Selectee agrees that it is liable for the stated percentage of the total allowable project costs, as specified below:

Government Share \$ / %	Selectee Share \$ / %	Total Project Cost
\$247,266 / 50%	\$247,266 / 50%	\$494,532

The Selectee is required to pay the “Cost Share” amount as a percentage of the total project costs in each invoice period for the duration of the period of performance. If the project is terminated or is otherwise not funded to completion, the Selectee is not required to pay the entire “Cost Share” amount; however, the Selectee is required to pay its share (i.e., percentage) of the total project cost incurred to date as of the termination or end date of the Agreement.

- b. Source of Cost Share. Cost share shall be provided by non-Federal funds unless otherwise authorized by statute. In calculating the amount of the non-Federal contribution:
- i. Base the non-Federal contribution on total project costs, including the cost of work where funds are provided directly to a partner, consortium member or subrecipient, such as a Federally Funded Research and Development Center;
 - ii. Include the following costs as allowable in accordance with the applicable cost principles:
 - 1. Cash;
 - 2. Personnel costs;
 - 3. The value of a service, other resource, or third-party in-kind contribution;
 - 4. Indirect costs or facilities and administrative costs; and/or
 - 5. Any funds received under the power program of the Tennessee Valley Authority (except to the extent that such funds are made available under an annual appropriation Act);
 - iii. Exclude the following costs:
 - 1. Revenues or royalties from the prospective operation of an activity beyond the time considered in the award;
 - 2. Proceeds from the prospective sale of an asset of an activity; or
 - 3. Other appropriated Federal funds.
 - iv. Repayment of the Federal share of a cost-shared activity under Section 988 of the Energy Policy Act of 2005 shall not be a condition of the award.
- c. Cost Share Recordkeeping. The Selectee is required to document and maintain records of project costs paid by DOE and project costs that the Selectee claims as cost sharing, including in-kind contributions. Upon request, the Selectee is required to provide such records to the PI, who will provide the records to the Agreements Officer.
- d. Inability to Comply with Cost Sharing Obligations. If the Selectee determines that it might be unable to meet its cost sharing obligations, the Selectee is required to notify DEFENSEWERX immediately, who will notify the Agreements Officer. The notification must include the following information:
- i. whether the Selectee intends to continue or phase out the project, and

- ii. if the Selectee intends to continue the project, how the Selectee will pay (or secure replacement funding for) the Selectee's share of the total project cost.

If the Selectee fails to meet its cost sharing obligations, DEFENSEWERX will consult with the Agreements Officer and may terminate this Agreement or otherwise recover some or all of the financial assistance provided.

- e. Modifying Cost Sharing Contributions. The Selectee must notify the PI, who will submit and receive written authorization from the Agreements Officer, before modifying the amount of cost share contribution.

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Agreement as of the day and year first above written,

DEFENSEWERX

By: _____

Name: Christi Pezzone
Title: ENERGYWERX Deputy Director
Date:

City of Glendale

By: _____

Name: Kevin R. Phelps
Title: City Manager
Date:

ATTEST

By: _____

Name: Julie K. Bower
Title: City Clerk
Date:

APPROVED AS TO FORM

By: _____

Name: Michael D. Bailey
Title: City Attorney
Date:

Exhibit C: Cybersecurity Plan

The Selectee must meet the stated objectives and milestones set forth in its Cybersecurity Plan, which is incorporated in this Exhibit C.

A report on the Selectee's progress towards meeting the objectives and milestones set forth in the Cybersecurity Plan must be included in the continuation application.

Any DOE and/or Laboratory review comments or feedback provided to Selectee does not constitute an endorsement or approval of any specific elements within the cybersecurity plan or the proposed security approach. Therefore, such feedback should not be referenced or used in marketing or promotional materials.

The Cybersecurity Checklist starts on the next page.

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Agreement as of the day and year first above written,

DEFENSEWERX

By: _____

Name: Christi Pezzone
Title: ENERGYWERX Deputy Director
Date:

City of Glendale

By: _____

Name: Kevin R. Phelps
Title: City Manager
Date:

ATTEST

By: _____

Name: Julie K. Bower
Title: City Clerk
Date:

APPROVED AS TO FORM

By: _____

Name: Michael D. Bailey
Title: City Attorney
Date:

Cybersecurity Plan Checklist

Cybersecurity Plan Checklist

The Bipartisan Infrastructure Law (BIL) provides a strategic opportunity to upgrade the nation’s energy infrastructure for a clean, resilient, secure energy future. America’s safety and well-being depends on cybersecurity. It is critical that we ensure cybersecurity is embedded in BIL-funded systems and technologies to minimize potential disruptions to our energy supply chain, infrastructure, and economy. To that end, development of a cybersecurity plan, outlining important details such as goals, activities, & milestones, is required for all BIL-funded projects to ensure that the project cybersecurity runs smoothly.

Asset, Change, & Inventory Management

1. Are you installing an Information Technology (IT) asset/equipment for this project? *(Note: IT assets are a discrete set of electronic information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information)*

Yes No N/A

If yes, please provide a brief description of the IT asset/equipment

2. Are you installing an Operational Technology (OT) asset(s)/equipment for this project? *(Note: OT assets are assets that are necessary for service delivery or production activities. Examples include industrial control systems, building management systems, process control systems, safety instrumented systems)*

Yes No N/A

If yes, please provide a brief description of the OT asset/equipment

If you answered “Yes” for any of the questions above, please proceed to questions 3-10

Risk & Vulnerabilities

3. Are there any potential cybersecurity vulnerabilities & risks for the IT/OT asset(s) in this project?

Yes No N/A

If yes, please provide a brief description of all identified risks and vulnerabilities for the IT/OT asset(s) in this project

4. Are there currently measures, or measures to be implemented, to address identified vulnerabilities & risks for the IT/OT asset(s) in this project?

Yes No N/A

If yes, please provide a brief description of plan to address identified vulnerabilities and risks for the IT/OT asset(s) in this project

Identity and Access Management

5. Are there currently measures, or measures to be implemented, to manage physical & electronic control access to IT/OT asset(s) and facility?

Yes No N/A

If yes, please provide a brief description of plan to manage physical & electronic control access to the IT/OT asset(s) and facility

Situational Awareness, Event Incident and Response, & Continuity of Operations

6. Are there currently measures, or measures to be implemented, to document & address cybersecurity events or incidents for the IT/OT asset(s) in this project?

Yes No N/A

If yes, please provide a brief description of plan to document & address cybersecurity events or incidents for the IT/OT asset(s) in this project

Supply Chain and Third-Party Risk Management

7. Are there currently measures, or measures to be implemented, to manage third-party or supply chain cybersecurity risks (e.g., purchase of counterfeit hardware, software from unknown provenance, etc.) for the IT/OT asset(s) in this project?

Yes No N/A

If yes, please provide a brief description of plan to manage third-party or supply chain cybersecurity risks for the IT/OT asset(s) in this project

Training

8. Will there be cybersecurity training required for operating and/or installing the IT/OT asset(s) in this project?

Yes No N/A

If yes, please provide a brief description of the necessary training required for operating and/or installing the IT/OT asset(s) in this project

Cybersecurity Architecture

9. Are there currently in place, or going to be implemented, the appropriate controls and protections (e.g., network protection, software protection, IT/OT asset security) for the IT/OT asset(s) in this project?
- Yes No N/A

If yes, please provide a brief description of existing, or going to be implemented, controls and protections for the IT/OT asset(s) in this project

Cybersecurity Program Management

10. Will there be cybersecurity management processes to oversee and ensure cybersecurity activities are completed for this project are met?
- Yes No N/A

If yes, please provide a brief description of the plan to manage the cybersecurity activities for this project

Exhibit D: National Environmental Policy Act (NEPA) Implementing Procedures Agreement

NEPA is not applicable for this effort.

Exhibit E: Current and Pending Support (CPS)

Current and Pending Support is not applicable for this effort.

Exhibit F: Davis-Bacon Act Requirements associated with the Bipartisan Infrastructure Law (BIL)

This award is funded under Division D of the Bipartisan Infrastructure Law (BIL). All laborers and mechanics employed by the Selectee, subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair work in excess of \$2000 on an award funded directly by or assisted in whole or in part by funds made available under this award shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code commonly referred to as the "Davis-Bacon Act" (DBA).

Selectees shall provide written assurance acknowledging the DBA requirements for the award or project and confirming that all of the laborers and mechanics performing construction, alteration, or repair work in excess of \$2000 on projects funded directly by or assisted in whole or in part by and through funding under the award are paid or will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act).

The Selectee must comply with all of the Davis-Bacon Act requirements, including but not limited to:

- (1) ensuring that the wage determination(s) and appropriate Davis-Bacon clauses and requirements are flowed down to and incorporated into any applicable subcontracts or subrecipient awards.
- (2) being responsible for compliance by any subcontractor or subrecipient with the Davis-Bacon labor standards.
- (3) receiving and reviewing certified weekly payrolls submitted by all subcontractors and subrecipients for accuracy and to identify potential compliance issues.
- (4) maintaining original certified weekly payrolls for 3 years after the completion of the project and must make those payrolls available to the DOE or the Department of Labor upon request, as required by 29 CFR 5.6(a)(2).
- (5) conducting payroll and job-site reviews for construction work, including interviews with employees, with such frequency as may be necessary to assure compliance by its subcontractors and subrecipients and as requested or directed by the DOE.
- (6) cooperating with any authorized representative of the Department of Labor in their inspection of records, interviews with employees, and other actions undertaken as part of a Department of Labor investigation.
- (7) posting in a prominent and accessible place the wage determination(s) and Department of Labor Publication: WH-1321, Notice to Employees Working on Federal or Federally Assisted Construction Projects.
- (8) notifying the Contracting Officer of all labor standards issues, including all complaints regarding incorrect payment of prevailing wages and/or fringe benefits, received from the Selectee, subrecipient, contractor, or subcontractor employees; significant labor standards violations, as defined in 29 CFR 5.7; disputes concerning labor standards pursuant to 29 CFR parts 4, 6, and 8 and as defined in FAR 52.222-14; disputed labor standards determinations; Department of Labor investigations; or legal or judicial proceedings related to the labor standards under this Contract, a subcontract, or subrecipient award.
- (9) preparing and submitting to the Contracting Officer, the Office of Management and Budget Control Number 1910-5165, Davis Bacon Semi-Annual Labor Compliance Report, by April 21 and October 21 of each year. Form submittal will be administered through the iBenefits system (<https://doeibenefits2.energy.gov>) or its successor system.

The Selectee must undergo Davis-Bacon Act compliance training and must maintain competency in Davis-Bacon Act compliance. The Contracting Officer will notify the Selectee of any DOE sponsored Davis-Bacon Act compliance trainings. The Department of Labor offers free Prevailing Wage Seminars several times a year that meet this requirement, at <https://www.dol.gov/agencies/whd/government-contracts/construction/seminars/events>.

The Department of Energy has contracted with a third-party DBA electronic payroll compliance software application. The Selectee must ensure the timely electronic submission of weekly certified payrolls as part of its compliance with the Davis-Bacon Act unless a waiver is granted to a particular Selectee, contractor, or subcontractor because they are unable or limited in their ability to use or access the software.

Davis Bacon Act Electronic Certified Payroll Submission Waiver

A waiver must be granted before the award starts. The applicant does not have the right to appeal EERE's decision concerning a waiver request.

For additional guidance on how to comply with the Davis-Bacon provisions and clauses, see: <https://www.dol.gov/agencies/whd/government-contracts/construction> and <https://www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in-construction>

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Agreement as of the day and year first above written,

DEFENSEWERX

By: _____

Name: Christi Pezzone
Title: ENERGYWERX Deputy Director
Date:

City of Glendale

By: _____

Name: Kevin R. Phelps
Title: City Manager
Date:

ATTEST

APPROVED AS TO FORM

By: _____

By: _____

Name: Julie K. Bower
Title: City Clerk
Date:

Name: Michael D. Bailey
Title: City Attorney
Date:

Exhibit G: Build America, Buy America Act

This provision applies to designated Buy American Requirement for Infrastructure Projects.

A. Definitions

Components are defined as the articles, materials, or supplies incorporated directly into the end manufactured product(s).

Construction Materials are an article, material, or supply—other than an item primarily of iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives—that is used in an infrastructure project and is or consists primarily of non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables), glass (including optic glass), lumber, drywall, coatings (paints and stains), optical fiber, clay brick; composite building materials; or engineered wood products.

Domestic Content Procurement Preference Requirement means a requirement that no amounts made available through a program for federal financial assistance may be obligated for an infrastructure project unless—

- (A) all iron and steel used in the project are produced in the United States;
- (B) the manufactured products used in the project are produced in the United States; or
- (C) the construction materials used in the project are produced in the United States.

Also referred to as the **Buy America Requirement**.

Infrastructure includes, at a minimum, the structures, facilities, and equipment located in the United States, for: roads, highways, and bridges; public transportation; dams, ports, harbors, and other maritime facilities; intercity passenger and freight railroads; freight and intermodal facilities; airports; water systems, including drinking water and wastewater systems; electrical transmission facilities and systems; utilities; broadband infrastructure; and buildings and real property; and generation, transportation, and distribution of energy - including electric vehicle (EV) charging. The term “infrastructure” should be interpreted broadly, and the definition provided above should be considered as illustrative and not exhaustive.

Manufactured Products are items used for an infrastructure project made up of components that are not primarily of iron or steel; construction materials; cement and cementitious materials’ aggregates such as stone, sand, or gravel; or aggregate binding agents or additives.

Primarily of iron or steel means greater than 50% iron or steel, measured by cost.

Project- means the construction, alteration, maintenance, or repair of infrastructure in the United States.

Public- The Buy America Requirement does not apply to non-public infrastructure. For purposes of this guidance, infrastructure should be considered “public” if it is: (1) publicly owned or (2) privately owned but utilized primarily for a public purpose. Infrastructure should be considered to be “utilized primarily for a public purpose” if it is privately operated on behalf of the public or is a place of public accommodation.

B. Buy America Requirement

None of the funds provided under this award (federal share or Selectee cost-share) may be used for a project for infrastructure unless:

1. All iron and steel used in the project is produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
2. All manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the

manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

3. All construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America Requirement only applies to articles, materials, and supplies that are consumed in, incorporated into, or permanently affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought into the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America Requirement apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

Selectees are responsible for administering their award in accordance with the terms and conditions, including the Buy America Requirement. The Selectee must ensure that the Buy America Requirement flows down to all subawards and that the subawardees and subrecipients comply with the Buy America Requirement. The Buy America Requirement term and condition must be included all sub-awards, contracts, subcontracts, and purchase orders for work performed under the infrastructure project.

C. Certification of Compliance

The Selectee must certify or provide equivalent documentation for proof of compliance that a good faith effort was made to solicit bids for domestic products used in the infrastructure project under this Award.

The Selectee must also maintain certifications or equivalent documentation for proof of compliance that those articles, materials, and supplies that are consumed in, incorporated into, affixed to, or otherwise used in the infrastructure project, not covered by a waiver or exemption, are produced in the United States. The certification or proof of compliance must be provided by the suppliers or manufacturers of the iron, steel, manufactured products and construction materials and flow up from all subawardees, contractors and vendors to the Selectee. The Selectee must keep these certifications with the award/project files and be able to produce them upon request from DOE, auditors or Office of Inspector General.

D. Waivers

When necessary, the Selectee may apply for, and DOE may grant, a waiver from the Buy America Requirement. Requests to waive the application of the Buy America Requirement must be in writing to the Contracting Officer. Waiver requests are subject to review by DOE and the Office of Management and Budget, as well as a public comment period of no less than 15 calendar days.

Waivers must be based on one of the following justifications:

1. Public Interest- Applying the Buy America Requirement would be inconsistent with the public interest;
2. Non-Availability- The types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
3. Unreasonable Cost- The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

Requests to waive the Buy America Requirement must include the following:

- Waiver type (Public Interest, Non-Availability, or Unreasonable Cost);
- Selectee name and Unique Entity Identifier (UEI);
- Award information (Federal Award Identification Number, Assistance Listing number);
- A brief description of the project, its location, and the specific infrastructure involved;
- Total estimated project cost, with estimated federal share and Selectee cost share breakdowns;
- Total estimated infrastructure costs, with estimated federal share and Selectee cost share breakdowns;
- List and description of iron or steel item(s), manufactured goods, and/or construction material(s) the Selectee seeks to waive from the Buy America Preference, including name, cost, quantity(ies), country(ies) of origin, and relevant Product Service Codes (PSC) and North American Industry Classification System (NAICS) codes for each;
- A detailed justification as to how the non-domestic item(s) is/are essential the project;
- A certification that the Selectee made a good faith effort to solicit bids for domestic products supported by terms included in requests for proposals, contracts, and non-proprietary communications with potential suppliers;
- A justification statement—based on one of the applicable justifications outlined above—as to why the listed items cannot be procured domestically, including the due diligence performed (e.g., market research, industry outreach, cost analysis, cost-benefit analysis) by the Selectee to attempt to avoid the need for a waiver. This justification may cite, if applicable, the absence of any Buy America-compliant bids received for domestic products in response to a solicitation; and
- Anticipated impact to the project if no waiver is issued.

The Selectee should consider using the following principles as minimum requirements contained in their waiver request:

- **Time-limited:** Consider a waiver constrained principally by a length of time, rather than by the specific project/award to which it applies. Waivers of this type may be appropriate, for example, when an item that is “non-available” is widely used in the project. When requesting such a waiver, the Selectee should identify a reasonable, definite time frame (e.g., no more than one to two years) designed so that the waiver is reviewed to ensure the condition for the waiver (“non-availability”) has not changed (e.g., domestic supplies have become more available).
- **Targeted:** Waiver requests should apply only to the item(s), product(s), or material(s) or category(ies) of item(s), product(s), or material(s) as necessary and justified. Waivers should not be overly broad as this will undermine domestic preference policies.
- **Conditional:** The Selectee may request a waiver with specific conditions that support the policies of IJJA/BABA and Executive Order 14017.

DOE may request, and the Selectee must provide, additional information for consideration of this waiver. DOE may reject or grant waivers in whole or in part depending on its review, analysis, and/or feedback from OMB or the public. DOE's final determination regarding approval or rejection of the waiver request may not be appealed. Waiver requests may take up to 90 calendar days to process.

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Agreement as of the day and year first above written,

DEFENSEWERX

By: _____

Name: Christi Pezzone
Title: ENERGYWERX Deputy Director
Date:

City of Glendale

By: _____

Name: Kevin R. Phelps
Title: City Manager
Date:

ATTEST

By: _____

Name: Julie K. Bower
Title: City Clerk
Date:

APPROVED AS TO FORM

By: _____

Name: Michael D. Bailey
Title: City Attorney
Date:

Exhibit H: Non-Disclosure Agreement (NDA)

Non-Disclosure Agreement is not applicable for this effort.

Exhibit I: Statement of Effort (SOE)

1 BACKGROUND

DEFENSEWERX has the primary objective to provide services for the Department of Energy (DOE) to increase the likelihood of success in the conduct of cooperative or joint activities typically with small business firms and educational institutions. DEFENSEWERX serves as the Partnership Intermediary to work with the DOE's Office of Manufacturing and Energy Supply Chains (MESC) office on facilitating the Industrial Assessment Centers (IAC) Implementation Funding Program. For this purpose, DEFENSEWERX is doing business as ENERGYWERX.

2 PURPOSE

This is a project to work with DEFENSEWERX (DEFENSEWERX), doing business as ENERGYWERX, as a Partnership Intermediary to facilitate critical activity that aligns with the broader IAC Implementation Funding Program objectives, focused in the area of the Implementation Funding: IAC Implementation Grants workstream. The workstream provide funding to small- and medium-sized manufacturers (SMMs) who have received assessments from either an IAC or CHP/Onsite Energy TAP between 2018 and 2024, or other qualified third party assessor since 2021. Recipients are eligible to receive a maximum award of \$300,000, and a maximum 50% federal cost share.

3 SCOPE/OBJECTIVES

3.1 Overall expectations for the Implementation Funding: IAC Implementation Grants workstream:

- 3.1.1 Identify eligible SMMs who have received either an IAC or CHP TA/Onsite Energy TAP assessment between 2018 and 2024, or qualified third party assessor assessment between 2021 and 2024.
- 3.1.2 Evaluate eligible SMMs who have received either IAC or CHP/Onsite Energy TAP assessments between 2018 and 2024, or a qualified third party assessor assessment between 2021 and 2024, to determine which entities receive an award.
- 3.1.3 Select eligible recipients and begin finalizing project scope of work, budget, and terms and agreement.
- 3.1.4 Recipients to align with PI on reporting and funding schedule.

3.2 City of Glendale ("SELECTEE") shall work with ENERGYWERX and DOE to implement funded projects from IAC or CHP TAP assessments and capture estimated impacts that meet the Implementation Funding: IAC Implementation Grants workstream.

4 SPECIFIC TASKS

4.1 Programmatic – SELECTEE shall:

- 4.1.1 Collaborate with DOE Program Office personnel, U.S. Federal Government employees, industry, and/or academic partners as required by DOE Program Manager (PM) and Subject Matter Investigators (SMIs).
- 4.1.2 Generate finalized scope of work with the Partnership Intermediary – including final budget figures (DOE and Applicant Costs), Schedule of the Project, an
 - 4.1.2.1 *Note: ENERGYWERX (ENWX) understands that estimates received in the past may no longer be accurate. If the SELECTEE finds that the actual cost is more than the estimate, please reach out to ENWX for further assistance.*
 - 4.1.2.2 *Note: The maximum Federal Cost Share contribution remains \$300,000.*
- 4.1.3 The SELECTEE will follow the reporting structure/requirement laid out in table 2 below.
- 4.1.4 The SELECTEE shall complete the following documentation to ensure documentation of findings, results, and/or recommended next steps.
 - 4.1.4.1 **Overall Project Health Form:** Providing a narrative on project progress, accomplishments, or concerns [Attachment 1]
 - 4.1.4.1.1 *Note: Please submit **one attachment per recommendation**²*
 - 4.1.4.2 **Project Financials Form:** Outlining spend to date on funded projects with respective invoices. [Attachment 2]
 - 4.1.4.2.1 *Note: Please submit **one attachment per recommendation**³*
 - 4.1.4.3 **Project Impact Form:** Outlining project impact across key metrics for implemented projects. [Attachment 3]
 - 4.1.4.3.1 *Note: Please submit **one attachment per recommendation**⁴*
- 4.1.5 Provide finalized list of recommendations to implement in the table below to ensure sufficient documentation of recommendation progress.

	Recommendation Description	Davis Bacon Act Applies
1	Chiller Upgrades	Yes
2	Cooling Tower Upgrade	Yes

Table 1: List of Recommendations to Implement

- 4.1.6 Coordinate directly with DOE, and their designated transfer office, on specific terms and negotiation of shared patent rights between DOE and identified partners.

4.2 All Phases – SELECTEE shall:

- 4.2.1 Provide own facilities, materials, and labor to support Implementation Funding: IAC Implementation

² If an awarded applicant plans to implement 3 different recommendations (e.g., LED light replacement, HVAC replacements, and solar panel installation), then the applicant will fill out 3 separate forms for each recommendation

³ If an awarded applicant plans to implement 3 different recommendations (e.g., LED light replacement, HVAC replacements, and solar panel installation), then the applicant will fill out 3 separate forms for each recommendation

⁴ If an awarded applicant plans to implement 3 different recommendations (e.g., LED light replacement, HVAC replacements, and solar panel installation), then the applicant will fill out 3 separate forms for each recommendation

Grants workstream in accordance with the TCA as well as any mandated exhibits from the SOE’s addendums.

- 4.2.2 Provide a written status to DEFENSEWERX (dba ENWX) quarterly.
- 4.2.3 Utilize Teams Video Teleconference (or approved alternative) for all virtual meetings, technical program reviews, and/or demonstrations.
- 4.2.4 If requested, conduct in-person meetings and/or technical demonstrations at locations TBD by DOE PM and SMI(s).

5 SCHEDULE AND MILESTONES

The following schedule and milestones are proposed for this effort depending on the timeline implementation. Below is a schedule of the anticipated milestones. There will be quarterly check ins (due on the 15th of the month) where the SELECTEE provides a bulleted status to info@energywerx.org. Twice a year, in June and December, SELECTEE will also provide reporting documentation in addition to the bulleted status update. The reporting documentation can be found at the end of this agreement and in the ENERGYWERX Invoicing One Drive: https://8502264383-my.sharepoint.com/:f:/g/personal/info_energywerx_org/Euo9NzS2j71BomBDPpAtAzQBnCW6bxcn00G1knPt4noi5w?e=eF0vnc.

Milestone	Due
ENWX provides notice to proceed; B2B Agreement executed & SELECTEE completes ENWX Invoice Intake Form	January 2025
SELECTEE completes email check in providing project status to ENWX & program team.	March 15,2024
SELECTEE completes email check in providing project status to ENWX & program team & first batch of reporting documentation	June 15, 2025
SELECTEE completes email check in providing project status to ENWX & program team	September 15, 2025
SELECTEE completes email check in providing project status to ENWX & program team & second batch of reporting documentation	December 15,2025
SELECTEE completes email check in providing project status to ENWX & program team	March 15, 2025
SELECTEE completes email check in providing project status to ENWX & program team & third batch of reporting documentation	June 15, 2026
SELECTEE completes email check in providing project status to ENWX & program team	September 15, 2026
SELECTEE completes email check in providing project status to ENWX & program team & fourth batch of reporting documentation	December 15, 2026
SELECTEE submits batch final of reporting documentation & final deliverable package	September – December 2026
Program review of final batch of reporting documentation complete	September – December 2026
Address any critical follow ups from program team second batch of reporting documentation	September – December 2026
Final Deliverable Approved – Project Completion	September – December 2026

Note: Projects shorter than 2 years will submit their final batch of reporting and address any critical follow ups from the program team during the quarter following project completion.

Table 2: Project Schedule & Milestones

6 SECURITY

This is an unclassified activity; however, all work, communication, documentation, and participant details are Business Proprietary. Information may only be exchanged between parties working directly on the program. Requests for publication or distribution of information to media or outside parties must be made in writing to DEFENSEWERX (dba ENERGYWERX) pursuant to Paragraph 19 the Terms and Conditions Agreement for coordination with DOE. No publication or distribution of information may be made prior to DOE approval, and such information will be withheld from public disclosure to the extent permitted by law, including the Freedom of Information Act. Without assuming any liability for inadvertent disclosure, the Parties will seek to limit disclosure of such information to their respective employees on a need-to-know basis, and to outside reviewers only when necessary and in coordination with DOE. This restriction does not limit the U.S. Federal Government's right to use the information if it is obtained from another source.

Personnel performing work under this Statement of Effort may receive, have access to or participate in the development of proprietary or source selection information (e.g., cost or pricing information, budget information or analyses, specifications or work statements, etc.) or perform evaluation services which may create a current or subsequent Organizational Conflict of Interest (OCI) as defined in FAR Subpart 9.5. The Parties shall notify DOE immediately whenever it becomes aware that such access or participation may result in any actual or potential OCI and shall promptly submit a plan to avoid or mitigate any such OCI.

SELECTEE certifies that it qualifies as a domestic entity. To qualify as a domestic entity, the entity must be organized, chartered or incorporated (or otherwise formed) under the laws of a particular state or territory of the United States; have majority domestic ownership and control; and have a physical place of business in the United States.

SELECTEE certifies that it is not owned by, controlled by, or subject to the jurisdiction or direction of government of Country of Risk, and that individuals performing this work are not part of a foreign talent program sponsored by a Country of Risk. DOE defines Country of Risk to include China, Russia, North Korea and Iran. This list is subject to change.

7 GOVERNMENT FURNISHED EQUIPMENT, INFORMATION, AND FACILITIES

The U.S. Federal Government will not provide any equipment or facilities.

8 DESIRED OUTCOME AND DELIVERABLES

8.1 SELECTEE shall work to deliver:

8.1.1.1 Completion of the reporting documentation as called out in section 4.1.3

8.1.1.1.1 The final set of reporting documentation to outline the following detail including – final project spend across the targeted recommendations, realized cost and energy savings, CO2 emissions impact, and/or number of jobs created

8.1.1.2 Finalize implementation of targeted recommendations

8.1.1.3 Public Summary Sheet providing an overview of the project(s) implemented.

9 PAYMENT SCHEDULE

DEFENSEWERX, dba ENERGYWERX, proposes milestone payments and purchase order details in conjunction with the work to be performed (NOTE: Timeline may be accelerated, if applicable). Please be advised this

agreement is contingent upon DEFENSEWERX receipt of task funding through the Partnership Intermediary Agreement with DOE.

City of Glendale has been awarded \$247,266 to support the estimated total value of the work \$494,532, with your contribution then being \$247,266.

Pmt	Invoice Submission	Milestone	Pmt Amt	Cumulative
1	March 2024	SELECTEE completes email check in providing project status to ENWX & program team	50% of total costs incurred up to (Federal Cost Share – 10%)	= Payment Amount
2	June 2025	SELECTEE completes email check in providing project status to ENWX & program team & first batch of reporting documentation	50% of total costs incurred up to (Federal Cost Share – 10%)	= Payment Amount + March Cumulative
3	September 2025	SELECTEE completes email check in providing project status to ENWX & program team	50% of total costs incurred up to (Federal Cost Share – 10%)	= Payment Amount + June Cumulative
4	December 2025	SELECTEE completes email check in providing project status to ENWX & program team & second batch of reporting documentation	50% of total costs incurred up to (Federal Cost Share – 10%)	= Payment Amount + September Cumulative
5	March 2025	SELECTEE completes email check in providing project status to ENWX & program team	50% of total costs incurred up to (Federal Cost Share – 10%)	= Payment Amount + December Cumulative
6	June 2026	SELECTEE completes email check in providing project status to ENWX & program team & third batch of reporting documentation	50% of total costs incurred up to (Federal Cost Share – 10%)	= Payment Amount + March Cumulative
7	September 2026	SELECTEE completes email check in providing project status to ENWX & program team	50% of total costs incurred up to (Federal Cost Share – 10%)	= Payment Amount + June Cumulative
8	December 2026	SELECTEE completes email check in providing project status to ENWX & program team & fourth batch of reporting documentation	50% of total costs incurred up to (Federal Cost Share – 10%)	= Payment Amount + September Cumulative
9	Project Completion	SELECTEE submits batch final of reporting documentation & final deliverable package	50% of total costs incurred up to (Federal Cost Share – 10%)	= Payment Amount + Cumulative to Date
	Month after project completion	DOE review of final batch of reporting documentation complete	N/A	
	Month after DOE review of final batch of reporting	Address any critical follow ups from program team second batch of reporting documentation	N/A	
10	Month after follow ups addressed	Final Deliverable Approved – Project Completion	=10% of total award	= \$247,266

Note: All invoices submitted through the ENWX Invoicing System need to include documentation in support of the milestone. This should include receipts that show payments have been made by SELECTEE, copies of emails sending quarterly status, copies of reporting documentation during the applicable quarter).

Final reporting documentation invoice can be submitted one month after project is complete, regardless of what month it is completed in. Final invoice for 10% of the federal cost share can be submitted after DOE approves the reporting documentation.

Tables 3: Project implementation payment schedule

10 POINTS OF CONTACT

The following points of contact (POCs) will be used for the duration of the agreement. All parties must be notified if a change in POC is requested.

Points of Contact:

DOE PM

Name: Justin Smith

Email: justin.smith2@hq.doe.gov

DOE Technical POC/Subject Matter Investigator

Name / Primary: Mustafa Mahmoud

Email: Mustafa.mahmoud@hq.doe.gov

DOE Technical POC/Subject Matter Investigator

Name / Alternate: Clifton Yin

Email: Clifton.yin@hq.doe.gov

DOE Agreements Officer

Name / Alternate: Laura Merrick

Email: laura.merrick@ee.doe.gov

ENERGYWERX Director

Name: Carla Heron

Email: cheron@ENERGYWERX.org

ENERGYWERX Deputy Directory

Name: Christi Pezzone

Email: cpezzone@ENERGYWERX.org

DEFENSEWERX Financial POC

Name: Joanna Gomez

Email: jgomez@defensewerx.org

City of Glendale Primary Technical Program Manager POC

Name: Karla Camou Guerra

Email: kcamouguerra@glendaleaz.com

City of Glendale Alternate Technical Program Manager POC

Name: Jenny Doyle

Email: JDoyle2@glendaleaz.com

City of Glendale Primary Administrative POC

Name: Melanie Mikolic

Email: MMikolic@glendaleaz.com

City of Glendale Alternate Administrative POC

Name: Dan Hatch

Email: Dhatch@glendaleaz.com

ITAC IMPLEMENTATION GRANTS DAVIS-BACON ACT COMPLIANCE OVERVIEW

General Davis-Bacon Information

Davis-Bacon Act Requirements for Recipients of Bipartisan Infrastructure Law Funding

The Davis-Bacon Act helps ensure that federally funded projects prioritize workers and protect communities by upholding local wage and labor standards. That includes the requirement that award recipients **pay AT LEAST the prevailing wages** to workers performing project construction. It also includes two regular tracking components:

1. **Weekly Payroll Tracking**
2. **Semi-annual Reporting**

[Read more about Davis-Bacon here.](#)

Additional Resources:

[Weekly DBA Payroll Tracking with LCP Tracker](#)

[DBA Weekly Pay Compliance Options](#)

[Bipartisan Infrastructure Law Davis-Bacon Fact Sheet | U.S. Department of Labor](#)

Roles:

Awardee (Prime Approver)

Energywerx and the DOE

Contractor

6 Weeks Before Work Begins

The awardee provides the following information to Energywerx by email:

Awardee's DBA Contact

- Contact Name for the individual in the awardee's organization that will be responsible for working with the DOE to ensure Davis-Bacon compliance.
- Contact Email.
- Contact Phone Number.

Subcontractor Information

- Will the awardee be using a sub-contractor?
- If yes, the awardee will be responsible for collecting information from their contractor using the [Contractor Intake Form](#), completing an ID Verification, adding their contractor to the LCP system, and assigning them to the applicable projects.
- Note: If the awardee is not using external labor, they will serve as both the prime approver and the contractor submitting and approving their own payrolls.

Project Start Date

- Estimated date for when work will begin.

Project Intake Before Work Begins

Project and Wage Intake

- The DOE will submit necessary forms to allow the awardee's prime approver access to the LCP system, will load the project(s) in the LCP Tracker system, and will assign prevailing wages to the project. This step can take up to 6 weeks, so it is key that this information is provided with adequate lead time.

Prime Approver ID Verification, Training, and Contractor Outreach (if applicable)

- The awardee's David-Bacon point of contact will need to complete an ID verification meeting with the DOE DBA team. The contact will receive an email to schedule this appointment. It is encouraged that this step is completed as soon as possible. After completing the ID verification, the prime approver account will be created, and the contact will be able to access the project(s).
- We **strongly recommend** that the organization's Davis-Bacon contact completes this free on-demand training to learn about their role as a prime approver in the LCP System: [Prime Approver Training](#)
- If the awardee is using external contractors, the awardee will share the [Contractor Intake Form](#) with their contractor and provide the following information to help them fill the form:
 - **The LCP Tracker Project Name**- this can be found on the prime approver's LCP account, or by contacting Energywerx
 - **Prime Recipient representative you are working with**- the prime approver's email (whoever was set up in the LCP system on the project side)
 - **DOE Technical Project Officer's Email Address**- Mustafa.Mahmoud@hq.doe.gov

Contractor Intake Form and Training

- The awardee's contractor's point of contact will need to complete the [Contractor Intake Form](#) with the information provided by the prime approver.
- We **strongly recommend** that the contractor completes this on-demand training on the LCP Tracker if they are not familiar with the system. They can access the free training here: [Contractor Training](#)

Contractor ID Verification and LCP Tracker Contractor Intake

- After the contractor completed the intake form, both the contractor and the prime approver will receive an email from does3s4davisbaconlaborstandards@hq.doe.gov with the subject line "LCPtracker Contractor Intake: Next Steps" which will include details about the ID verification.
- The Prime Approver will need to set up a quick meeting with the Contractor to complete the ID verification, and then will need to set the contractor up in the LCP system and assign them to the applicable project. These short videos provide direction on how to complete this step, but please reach out to the Energywerx (info@energywerx.org) team with any issues.
 - [How to Create a Contractor Account in LCPtracker](#)
 - [How to Assign a Contractor to a Project in LCPtracker](#)
- Note: If the awardee is completing the work with internal labor, the prime approver can use the videos linked above to create their own contractor account for their company. The prime approver can serve as the contractor contact or use another contact within their organization.

Weekly While Project Work is Occurring



Submitting certified payrolls

- Contractor submits weekly payrolls into the LCP system for all weeks that work takes place.
- Guidance on how to submit payrolls and use the LCP system as a contractor is available here, as well as in the on-demand training linked above:
 - [Contractor Quick Start Guide](#)
 - [Contractor User Guide](#)
- The LCP Support team (email: support@lcptracker.com, phone: 714-669-0052) is also available to help troubleshoot any technical issues.



Approving payrolls

- After the contractor submits payrolls, the prime approver will review and approve payrolls. If there are issues, the approver can reject payrolls and include a message for the contractor on the corrections needed.
- Guidance on how to approve payrolls and use the LCP system as a prime approver is available here, as well as in the on-demand training linked above:
 - [Prime Approver Guide](#)
- The LCP Support team (email: support@lcptracker.com, phone: 714-669-0052) is also available to help troubleshoot any technical issues.



DOE Final Validation

- DOE reviews certified payrolls after they have been approved by the awardee’s prime approver and will monitor and record compliance.

For DEFENSEWERX (dba ENERGYWERX)

For City of Glendale

By: _____
Christi Pezzone
ENERGYWERX Deputy Director
 Date:

By: _____
Name: Kevin R. Phelps
Title: City Manager
 Date:

ATTEST

APPROVED AS TO FORM

By: _____
Name: Julie K. Bower
Title: City Clerk
 Date:

By: _____
Name: Michael D. Bailey
Title: City Attorney
 Date:

Exhibit J: Engineering Change Proposal (ECP)

As of the Effective Date, there are no modifications. Should any modifications be required, this exhibit will be updated to reflect those mutually agreed to changes and affixed with signatures of both parties below.

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Agreement as of the day and year first above written,

DEFENSEWERX

By: _____

Name: Christi Pezzone
Title: ENERGYWERX Deputy Director
Date:

City of Glendale

By: _____

Name: Kevin R. Phelps
Title: City Manager
Date:

ATTEST

By: _____

Name: Julie K. Bower
Title: City Clerk
Date:

APPROVED AS TO FORM

By: _____

Name: Michael D. Bailey
Title: City Attorney
Date:

Exhibit K: Declaration of Background Intellectual Property (IP)

Declaration of Background Intellectual Property (IP) is not applicable for this effort.

Exhibit L: Intellectual Property

Intellectual Property is not applicable for this effort.

Exhibit M: Publicity and Publications without Federal Research Exception

Publicity and Publications without Federal Research Exception is not applicable for this effort.

Exhibit N: Publicity and Publications allowing Federal Research Exception

All work, communication, documentation, and participant details are Business Sensitive. Notifications of any planned media engagements and publications must be made in writing to DWX (dba ENWX) to provide advanced notice to DOE.

DOE acknowledges Selectee’s ability to participate in public outreach activities without prior approval so long as they are in furtherance of the objectives of the ITAC Implementation Grant program (as described in the SOE) and Selectee notifies DOE afterwards. When possible, DOE requests an opportunity to review and provide prior approval to written statements and to review any questions provided in advance of media interviews.

IN WITNESS WHEREOF, the parties hereto have signed and sealed this Agreement as of the day and year first above written,

DEFENSEWERX

By: _____

Name: Christi Pezzone
Title: ENERGYWERX Deputy Director
Date:

City of Glendale

By: _____

Name: Kevin R. Phelps
Title: City Manager
Date:

ATTEST

By: _____

Name: Julie K. Bower
Title: City Clerk
Date:

APPROVED AS TO FORM

By: _____

Name: Michael D. Bailey
Title: City Attorney
Date:

Attachment 1: Overall Project Health Form

Note: If an awarded applicant plans to implement 3 different recommendations (e.g., LED light replacement, HVAC replacements, and solar panel installation), then fill out 3 separate forms for each recommendation

Date (update using field at right): August 14, 2023

CONTRACTOR Project Lead Name:	
CONTRACTOR Organization:	
CONTRACTOR Facility Address	
CONTRACTOR City, State, Zip Code:	

Project Name:	
Project Start Date:	

Project Health Indicators:

The CONTRACTOR project team has assigned the following health indicators for the project scope, schedule and budget:

	Health Indicator (Green, Yellow, or Red)	Comments (Required)
Scope		
Schedule		
Budget		

Green = Project is on track; Yellow = Project has a few issues, but issues are being managed and closely monitored; Red = Project has serious issues, estimated deadlines are being missed

Project Progress/Accomplishments: Overview on implementation progress & accomplishments to date

--

--

Project Concerns and/or required support: Overview on any concerns on project meeting aligned scope

This document does not prescribe or approve any specific changes to the project scope or budget. Such changes must be undertaken with the approval of the Department of Energy

CONTRACTOR Project Lead Name:	
CONTRACTOR Project Lead Signature:	

Attachment 2: Project Financials Form

Note: *If an awarded applicant plans to implement 3 different recommendations (e.g., LED light replacement, HVAC replacements, and solar panel installation), then fill out 3 separate forms for each recommendation*

Date (update using field at right): August 14, 2023

CONTRACTOR Project Lead Name:	
CONTRACTOR Organization:	
CONTRACTOR Facility Address	
CONTRACTOR City, State, Zip Code:	

Recommendation Name:	
Recommendations Start Date:	

Expenditures: In the table below, please provide a list of all expenditures (equipment, contractors, permitting, etc.) to date for implementing the project

	Description ⁵	MFG Serial Number ⁶	Purchase Date ⁷	Install Date	Purchase Cost ⁸	Proof of Purchase Submitted? ⁹

⁵ Brief description of the item or service

⁶ As applicable, enter the manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number.

⁷ Date of purchase for item in MM/DD/YYYY

⁸ Cost of item or service

⁹ Provide proof of purchase (e.g., invoice, receipts, contract, etc.)

1						
2						
3						
4						
5						

CONTRACTOR Project Lead Name:	
CONTRACTOR Project Lead Signature:	

Attachment 3: Project Impact Form

Note: If an awarded applicant plans to implement 3 different recommendations (e.g., LED light replacement, HVAC replacements, and solar panel installation), then the applicant will fill out 3 separate forms for each recommendation

Date (update using field at right): August 14, 2023

CONTRACTOR Project Lead Name:	
CONTRACTOR Organization:	
CONTRACTOR Facility Address	
CONTRACTOR City, State, Zip Code:	

Recommendation Name:	
Recommendations Start Date:	

Project Impact: In the tables below, please provide an update (as applicable) regarding the following metrics for the specific recommendation

	Metric ¹⁰	Unit ¹¹	Value ¹²	Comments ¹³
1	Annual Electricity Savings	KwH/yr.		
2	Annual CO2 Emissions Reduction	Kg of CO2/yr.		
3	Annual Cost Savings	\$/yr.		

¹⁰ Metric to report with respect to the recommendation. For projects recently completed, for annual metrics, feel free to report estimated yearly impact via extrapolation of actual data

¹¹ Unit of measure for the metric

¹² Actual value of metric

¹³ Provide any commentary that you may believe is useful for the DOE and PI to know

4	# of Permanent Jobs Created or Maintained due to Project	#		
5	# of Temporary Jobs Created or Maintained due to Project	#		
6	Jobs & Training Outcome	#		

Comments on recommendation impact on site's operation, & economic & energy performance

CONTRACTOR Project Lead Name:	
CONTRACTOR Project Lead Signature:	