

**AGREEMENT FOR CONSULTING AND PROFESSIONAL SERVICES  
BETWEEN**

**URS Energy and Construction, Inc**

**AND**

**TBD APPLIANCE MANUFACTURER**

**AGREEMENT NO. *TBD***

**THIS AGREEMENT** (“Agreement”) No. **TBD** for Reimbursement of Shipping Cost related to Voluntary Participation in the Department of Energy (DOE) Round Robin Appliance Testing Program (together with the Attachments hereto) dated and effective as of **TBD** is hereby made and entered into by and between URS Energy and Construction, Inc, a Ohio corporation, (hereinafter “Client”) having a place of business located at Morgantown, WV and **TBD (Appliance Manufacturer)** (hereinafter “Consultant”) having a place of business located at **TBD** (each a “Party” and collectively, the “Parties”).

**WHEREAS**, Client has entered into an agreement (the “Prime Agreement”) to provide professional services to the Department of Energy (the “Owner”) in connection with the DOE Round Robin Appliance Testing Program run by National Energy Technology Laboratory (NETL) (the “Project”);

**WHEREAS**, Client desires to subcontract certain portion of its services under the Prime Agreement to Consultant; and

**WHEREAS**, Consultant desires to perform such subcontracted services for Client.

**NOW THEREFORE**, for and in consideration of the foregoing premises and mutual covenants and agreements contained herein, the Parties agree as follows:

**1. TYPE OF AGREEMENT**

1.1 Consultant agrees to undertake and perform services related to voluntary participation in the DOE Round Robin Appliance Testing Program and to be reimbursed through this Agreement for related shipping cost of test products in accordance with the terms and conditions contained herein.

**2. AGREEMENT VALUE**

2.1 The ceiling value of this agreement is \$5,000.00

Shipping: \$5,000.00 (to be reimbursed at cost without additional markups)

No additional cost for packaging materials will be reimbursed unless prior written authorization is obtained from the Client (Article 22.4).

2.2 Applicable Appliance Test to be performed under this Agreement

**TBD, the below table is provided as an example for demonstration purposes of this template the actual agreement will include the specific appliance types and test procedures applicable.**

Appliance Type	Applicable DOE Test Procedure from 10 CFR Part 430 Subpart B	Key Performance Metrics
Refrigerator / Freezer	Appendix A1, Uniform Test Method for Measuring the Energy Consumption of Electric Refrigerators and Electric Refrigerator – Freezers	Adjusted Total Volume (Cubic Feet)
Refrigerator / Freezer	Appendix A1, Uniform Test Method for Measuring the Energy Consumption of Electric Refrigerators and Electric Refrigerator – Freezers	Annual Energy Use (kWh/year)

**3. LIMITATION OF FUNDS**

3.1 Total funds in the amount of \$5,000.00 are obligated herewith and made available for payment of shipment costs to be incurred under this Agreement. The Client is not obligated to reimburse Consultant for costs incurred in excess of the established funding.

**4. SERVICES TO BE RENDERED**

4.1 This agreement provides the terms and conditions applicable to the shipping services provided and the voluntary services provided in conjunction of DOE’s Round Robin Appliance Test Program. The Consultant has volunteered to perform testing at no cost (reimbursed solely for the shipping costs related to shipping the Government Furnished Property GFP to the next identified location). The Consultant agrees to these terms and conditions in providing the voluntary testing services. The Statement of Work (SOW) – Attachment A, SOW Number **TBD**, Revision Number **TBD** detail the full extent of services to be provided under this agreement.

**5. PAYMENTS FOR SHIPPING SERVICES**

5.1 In consideration for providing those Services Client shall pay Consultant pursuant to the rates and charges schedule in Article 2.1.

5.2 Consultant shall render invoices monthly for Services performed during the previous calendar month. All invoices shall reference this Agreement (including any applicable GSA Number). Payment terms will be net forty five (45) days on all invoiced amounts. Client and Consultant shall promptly attempt to affect a resolution of any dispute concerning an invoice submitted by Consultant and Consultant shall provide Client with a corrected invoice or additional supporting documentation as necessary. Client may withhold payment of that portion of an invoice disputed by Client until the dispute has been resolved. Notwithstanding anything to the contrary in this Agreement, Client shall pay Consultant the undisputed portion of any invoice only after Client receives corresponding payment from Owner.

5.3 Each invoice must have a unique invoice number that does not duplicate any other invoice number that prime Contractor may receive from the Consultant. Prime Contractor will only make payment(s) based on an original invoice. Each invoice shall indicate whether invoice is initial, interim, or final invoice for the Consultant, as appropriate.

To permit expeditious review and approval, each invoice shall include the following at a minimum:

1. Current Date
2. Invoice Number
3. The assigned Agreement Number.
4. Period of performance covered by invoice.
5. Current and Cumulative charges for Shipping Costs
6. Authorized signature of Consultant w/ following certification:

*"Pursuant to the authority vested in me, I certify that the invoiced costs were expended in performance of work authorized under the referenced Agreement and that the voucher is correct and proper for payment"*

\_\_\_\_\_ Date

\_\_\_\_\_ Authorized Signature

Consultant shall submit invoices as follows:

URS Energy & Contractors, Inc.  
Attention: Accounts Payable  
3610 Collins Ferry Road, Mailstop I-01  
Morgantown, West Virginia 26505

The Consultant shall not allow a lapse of more than 90 calendar days between incurrence of a cost and receipt of an invoice by Prime Contractor for that cost (“over-aged cost”). For this clause, a cost is “incurred” on the date that it is entered, or should have been entered, in the Consultant’s accounting records. Breach of this requirement permits the Prime Contractor at its sole discretion to disallow over-aged direct or indirect costs

- 5.4 Costs incurred by Consultant for travel, including costs for lodging, other subsistence, and incidental expenses, shall not be reimbursed.
- 5.5 Consultant is a US person (a US individual, corporation, partnership, trust, etc.), Consultant must provide to Client a completed and signed Form W-9, Request for Taxpayer Identification Number and Certification, or be subject to backup withholding as required by Federal law.
- 5.6 If Consultant is a foreign person (a foreign individual, corporation, partnership, trust, etc.), Consultant must provide to Client the appropriate Form W-8, or Form 8233 (for non-resident alien individuals providing independent personal services in the US), completed and signed, so Client can determine the proper withholding tax as required by Federal law.
- 5.7 Consultant shall be responsible for all reporting and payment obligations with respect to (i) Consultant's personnel relating to worker's compensation insurance, Social Security, state and federal unemployment insurance, medical-hospital insurance, salary continuation insurance, pension plan costs, and pro rata allowances for vacation and sick leave pay, as well as all other employee benefit programs and (ii) the payment of all sales and use taxes which are measured by the value of Services performed under this Agreement. Consultant shall, when requested by Client, furnish Client with evidence in a form and substance satisfactory to Client that Consultant has been paid amounts owed under this Agreement and that all liens and claims have been waived to the extent permitted by law.

## 6. RESPONSIBILITY FOR SERVICES

- 6.1 Consultant shall perform the Services in accordance with the highest degree of care, diligence, professional skill, practices and judgment that is exercised by recognized professionals in his/her/its field of expertise with respect to services of a similar nature, and Consultant shall be responsible for the professional quality, technical accuracy, and completeness of all Services furnished under this Agreement. Consultant warrants that such Services shall be free of error or omission, and shall conform to any requirements specified, and shall not result in or contribute to any infringement of any patent, copyright, trademark or other intellectual property right. In the event that Client determines that Consultant's Services have failed to meet any of the above standards, Consultant agrees, upon written notice from Client, to correct the faulty portion of the Services and that it shall be responsible for all resulting damages and losses, regardless of whether resulting wholly or only partially there from, all at no cost to Client and all without prejudice to any other right or remedy. Consultant understands that Client will rely on the data, findings and recommendations obtained from the Consultant under this Agreement. Any and all tools, materials, and instruments required to perform the Work shall be furnished by the Consultant.

## 7. SAFETY

- 7.1 Consultant acknowledges that safety is of prime importance to Client and Owner, and Consultant shall cooperate with Client and Owner in efforts to prevent injuries to personal and to comply with all applicable safety rules and regulations.

## 8. INSURANCE

- 8.1 Unless otherwise specified in the Agreement, Consultant agrees that it shall obtain and maintain during the performance of any Services at the Facility Site and until the acceptance thereof, the insurance described in item 8.2 below and shall be carried with insurance companies with at least a Best's "A" rating. Consultant will furnish to Client three (3) copies of the certificate(s) evidencing such insurance prior to commencing, performance or physically present on the Facility site under the Agreement.

The required insurance coverage is as follows:

- (a) Worker's Compensation Insurance and Employer's Liability Insurance (including occupational disease) to cover statutory benefits and limits of the Worker's Compensation laws of any applicable jurisdiction in which the Services are to be performed hereunder, and Employers'

Liability Insurance with limits of one hundred thousand dollars (\$100,000) for trauma, each accident; one hundred thousand dollars (\$100,000) for disease, each person and one hundred thousand dollars (\$100,000) disease, policy limit.

- (b) Commercial General Liability Insurance written on the latest ISO occurrence form and including coverage for Contractual Liability and Products and Completed Operations (to remain in force for two (2) years following acceptance of the Services). The insurance required by this clause (b) shall have the following limits of liability:

Third Party Bodily Injury and Property Damage Liability:

\$500,000 combined single limit per occurrence and \$1,000,000 combined single limit general aggregate, with such limits available to the Project.

- (c) Business Automobile Liability insurance covering all owned, leased and non-owned vehicles used in connection with the Services, with not less than \$500,000 combined single limit per occurrence for bodily injury and property damage.
- (d) If professional services are involved, Professional Liability Insurance with not less than \$1,000,000 per occurrence with a 24 months discovery period after completion of the performance under the Agreement.

8.2 The following endorsements shall be included in the above insurance coverages:

- (a) Thirty (30) days advance written notice in the event of cancellation, non-renewal or material change of any policy. Language referring to "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" shall be stricken from the certificate of insurance.
- (b) Client and Owner named as additional insureds (except on Workers' Compensation and Professional Liability Insurance).
- (c) A waiver of subrogation in favor of Client and Owner.
- (d) Severability of Interest or Separation of Insureds.
- (e) Consultant's insurance is primary and any insurance maintained by Client is considered excess and non-contributory.

8.3 Consultant expressly understands and agrees that any insurance coverages required by this Agreement or otherwise provided by Consultant in no way limits the obligations or liabilities of the Consultant assumed elsewhere in this Agreement. Deductibles, if any, are for the account of the Consultant.

## 9. INDEMNITY

9.1 Consultant shall indemnify, defend, and hold Client, Client's affiliated companies, Owner, and each of Client's/their respective agents, successors, assigns, and any and all officers, directors, shareholders, employees or representatives of any of the foregoing ("Indemnified Parties"), harmless from and against any and all loss, claim, liability, penalty, fine, cost (including also attorneys fees) or expense, including but not limited to any and all property damage and any and all personal injury, including death ("Damages"), in the event such Damages to any extent whatsoever arise from or relate to any act or omission of Consultant, its employees or affiliates in connection with the Services, except only to the extent of Client's sole negligence, subject to applicable law, whether based on contract, tort, negligence, strict liability, delay, warranty, indemnity, error and omission, or otherwise. Consultant waives any right to assert any immunity from or limitation of any of these obligations under any workers' compensation or other employee benefit or disability statute.

**10. WAIVER OF CONSEQUENTIAL DAMAGES**

- 10.1 Notwithstanding anything to the contrary in this Agreement, Client shall in no event be liable, whether based on contract, tort, negligence, strict liability, delay, warranty, indemnity, error and omission, or otherwise, for any consequential, special, incidental, indirect, exemplary, punitive or multiple damages, or damages arising from or in connection with loss of use or loss of revenue or profit and Consultant hereby releases Client from any such liability.

**11. CHANGES**

- 11.1 Client may from time to time modify, extend, enlarge, reduce, shorten or terminate the Services and/or schedule by written instructions to Consultant. In the event Client requires Consultant to perform additional Services, or make other modifications to the Services, Consultant's compensation, the schedule and any other relevant terms and conditions of the relevant Services shall be subject to mutual negotiation.

**12. INDEPENDENT CONSULTANT**

- 12.1 Consultant is an independent contractor. Neither Consultant, nor any of its employees, are or shall be deemed to be agents or employees of Client or Owner. Consultant has sole authority and responsibility to employ, discharge or otherwise control its employees.

**13. CONFLICT OF INTEREST**

- 13.1 Consultant represents that performance of the Services does not create any conflict of interest with Consultant's other business undertakings, and Consultant agrees not to undertake any other assignment from any third party that might create an actual or apparent conflict of interest with performing the Services for Client.

**14. FOREIGN NATIONALS**

(As used in this Article, the term "Foreign National" means any natural person who is not a lawful permanent resident as defined by 8 U.S.C. 1101(a)(20) or who is not a protected individual as defined by 8 U.S.C. 1324b(a)(3). It also means any foreign corporation, business association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the United States, as well as international organizations, foreign governments and any agency or subdivision of foreign governments (e.g. diplomatic missions).)

- 14.1 The Consultant shall obtain the approval of Contractor, in writing, prior to any visit to a DOE or Contractor facility by any Foreign National in connection with work being performed under this Agreement, in accordance with the requirements of DOE Order 142.3, Unclassified Foreign Visits and Assignments Program. Visits are normally for the purpose of technical discussions, orientation, observation of projects or equipment, training, subcontract service work, including delivery of materials, or for courtesy purposes. The term "visit" also includes officially-sponsored attendance at a DOE or Contractor event off-site from the DOE/Contractor facility, but does not include off-site events and activities open to the general public. Consultant's should be aware that required forms and documents necessary for approval of visits by Foreign Nationals should be submitted to the Contractor Purchasing Representative at least four (4) to six (6) weeks prior to the visit, depending on the nationality of the individual and the areas to be visited. Forms can be obtained from the Contractor Purchasing Representative.
- 14.2 In addition, when the research results/work is not considered subject to the Fundamental Research exemption the Consultant shall obtain the approval of the Contractor Purchasing Representative, in writing, prior to the participation by, any Foreign National in the performance of work under this Agreement or any lower tier Agreement at off-site locations. Such approvals will be processed in accordance with the requirements of DOE Order 142.3.
- 14.3 In the performance of off-site work, Foreign Nationals only incidentally involved with Consultant's Agreement, and who have no knowledge that their activities are associated with Consultant's Agreement work, are exempt from the above.

- 14.4 Work performed at a NETL site may be sensitive, and if so, access to generated data may need to be limited only to those individuals authorized to work on the project. This may require the Consultant to protect such data from unauthorized distribution to foreign nationals and other non-approved individuals consistent with DOE Order 142.3. Projects containing sensitive information will be identified by the Contractor during the TOA process.

## 15. COMPLIANCE WITH LAWS

- 15.1 The Services and Consultant's performance thereof shall comply with all applicable Federal, State and local laws, rules, regulations, codes, etc. In addition, Consultant shall comply with all work rules and restrictions established at or for the site of the Services by Client or Owner. Consultant agrees to indemnify, defend and hold the Indemnified Parties harmless from and against any and all Damages based on or arising out of, in whole or in part, from any violation or alleged violation of law or any noncompliance by Consultant under this Article 15, whether based on contract, tort, negligence, strict liability, delay, warranty, indemnity, error and omission, or otherwise.

## 16. OWNERSHIP OF DOCUMENTS/WARRANTY

- 16.1 All documents originally prepared by Consultant or its subcontractors in the performance of Services and to be provided to Client are "works made for hire" for Client under the Copyright Act of 1976, as amended. Client shall acquire all right, title and interest in any such document, whether delivered to Client or not, and Consultant hereby assigns, and will cause each of its subcontractors to assign, to Client all right, title and interest in any such document and the copyright therein. Client shall have the unrestricted right to use and disclose such information in any manner and for any purpose without any further payment or compensation.
- 16.2 Consultant warrants and represents that any document furnished by Consultant or any of its subcontractors in the performance of Services do not infringe any patent, copyright, trademark or other third party intellectual property rights. Consultant shall indemnify, defend and hold the Indemnified Parties harmless from and against any Damages arising out of or relating to any claim of infringement in connection with any document furnished by Consultant or its subcontractor in the performance of Services are subject to applicable law, whether based on contract, tort, negligence, strict liability, delay, warranty, indemnity, error and omission, or otherwise.

## 17. TERMINATION / SUSPENSION

- 17.1 Client shall have the right (in its sole and absolute discretion) to terminate for its convenience this Agreement prior to completion of the Services there under delivery of written notice to Consultant, or upon death or disability of Consultant or of any key person performing any Services. Consultant shall stop all Services on the date specified in such notice. In any such event, Client shall pay Consultant all undisputed amounts due up to the effective date of termination.
- 17.2 Client shall have the right (in its sole and absolute discretion), at any time, to suspend for its convenience performance of all or any part of the Services by giving written notice to Consultant. Consultant shall stop all Services on the date specified in such notice. Such suspension may continue for a total cumulative aggregate period of up to twelve (12) months after the effective date of suspension during which period Client may request, in writing, Consultant to resume performance of the Services. A suspension of Services by Client may be the basis for a change pursuant to Article 11.

## 18. CONFIDENTIALITY

- 18.1 Consultant shall preserve the confidentiality of all information provided by Client or Owner or developed or furnished by Consultant under this Agreement, and shall restrict the use thereof to those within its organization requiring such use in order to perform the Services. When required by Client, Consultant shall require its employees and subcontractors, if any, to enter into appropriate similar non-use and non-disclosure agreements. The above restrictions shall not apply with respect to: a) information which is or

becomes generally available to the public other than as a result of violation of this Article 18; b) written information disclosed to Consultant hereunder which was in Consultant's possession prior to such disclosure and which was not acquired under an obligation of confidentiality directly or indirectly; c) information received by Consultant, from a third party, after the time of first disclosure hereunder and without any obligation of confidentiality directly or indirectly; or d) information which is required by appropriate legal authority to be disclosed (but only to the extent of such requirement).

18.2 Client and Consultant agree that in the event of a breach of the confidentiality provisions in this Article 18, Client shall be entitled to equitable relief, including injunctive relief and specific performance, in addition to all other remedies available at law or in equity.

18.3 In the event the Parties have a separate confidentiality agreement, the more stringent provisions shall apply, notwithstanding Article 22.2.

## 19. TERM

19.1 Unless otherwise specified, the term of this Agreement shall be through **TBD** from the Effective Date.

## 20. LEINS

20.1 Consultant shall pay when due all labor and material bills, if any, arising from performance of the Services, keep the premises free from any liens, and indemnify, defend and hold the Indemnified Parties harmless from any Damages arising out of any liens or claims for payment, if any, arising from performance of the Services. Should any lien or notice of lien be filed by any person performing labor or furnishing material to the Consultant, Client shall have the option to (a) retain a sufficient sum to pay and discharge such obligation, or (b) pay and discharge such lien without regard to its validity and to collect from Consultant all costs including reasonable attorney's fee for discharging such lien. In lieu of (a) or (b) above, the Consultant at its option may furnish an indemnity bond, approved by Client, at Consultant's cost.

## 21. GOVERNMENT FURNISHED PROPERTY

21.1 The appliances to be tested are Government Furnished Property (GFP). These items will be purchased by the Government, sanitized to remove any identification of manufacturer, assigned a property tag, and assigned to the Consultant as GFP. While in the custody of the Consultant, the property shall be managed (control, use, preserve, protect, and maintain) in accordance with the Consultant's Property Administration System and the requirements of FAR 52.245-1.

The Client will provide notification to the Consultant when an appliance is being shipped for testing.

Consultant shall notify the Client upon receipt of an appliance for testing and confirm that the appliance received has been inspected, not damaged and is acceptable for testing.

In the event an appliance is received damaged and/or is determined to be unacceptable for testing, the Consultant shall notify the Client immediately to obtain instructions regarding the damaged/unacceptable appliance.

At the conclusion of testing an appliance, the Consultant shall notify the Client that testing has been completed and request disposition instructions for the appliance. The Consultant shall provide a description of the appliance with the assigned Government Property Tag number.

The Client will provide disposition instructions for an appliance to the Consultant. The Client will instruct the Consultant as to where to ship the appliance with applicable shipping instructions.

The Consultant shall notify the Client when the appliance has been shipped and provide shipping documentation that identifies a description of the appliance, the Government Property Tag, the method of shipment, shipper and estimated delivery date.



**22. GENERAL**

- 22.1 Client and Consultant each represent and warrant that this Agreement has been duly authorized, executed, and delivered and constitute its binding agreement enforceable against it.
- 22.2 Consultant shall maintain true and correct records of all reimbursable costs (in accordance with generally accepted accounting principles applied on a consistent basis) pertaining to Consultant's Services under this Agreement and all transactions related thereto, and shall retain all such records for a period of four (4) years from the date of their preparation, or such longer period as may be required by law. Client may from time to time make an audit of all records of Consultant in connection with the Services rendered under this Agreement. Client shall be permitted to make such audits for a period of four (4) years from the date of the preparation of the applicable records, or such longer period as may be required by law. Consultant shall assist Client in making the above audits. In the event an audit by Client results in disallowance of costs, any overpayment that has been made to Consultant will be immediately reimbursed by Consultant to Client.
- 22.3 This Agreement may not be assigned by Consultant in any way, including by operation of law, unless otherwise mutually agreed to in writing, and any such attempted non-authorized assignment shall be null and void and of no force or effect.
- 22.4 Notices shall be effective hereunder as follows only if in writing and addressed to the Party designated in this provision: (1) upon delivery, if delivered personally to the Party; (2) upon transmission, if transmitted to the facsimile number of the Party; and (3) two business days after posting by registered or overnight mail (postage prepaid). The acceptable addresses for each Party to whom notices are to be delivered are as follows:

CLIENT:

Attention: Mr. Gordon A. Shaffer  
Contract Manager

URS Energy and Construction, Inc.  
3610 Collins Ferry Road, Mailstop I-03  
Morgantown, WV 26505

Phone Number: (304) 285-5360  
Email: [Gordon.Shaffer@ur.netl.doe.gov](mailto:Gordon.Shaffer@ur.netl.doe.gov)

CONSULTANT:

Attention: TBD

Manufacturer: TBD

Address: TBD

Phone Number: TBD

Email: TBD

- 22.5 All contract issues and matters of law will be adjudicated in accordance with the laws of the State of West Virginia, excluding any provisions or principals thereof which would require the application of the laws of a different jurisdiction, unless the Parties mutually agree in writing to apply the laws of a different jurisdiction. In the event a dispute arises between Client and Owner in connection with the Prime Agreement, Client shall have the right to implead Consultant into the dispute resolution proceeding and Consultant hereby consents and agrees to any such impleader.

- 22.6 The terms and conditions of this Agreement shall prevail, notwithstanding any variance with any document submitted by Consultant whether formally rejected by Client or not. This Agreement may be modified only by amendment when signed by each Party. In the event that any one or more of the provisions of this Agreement shall be found to be illegal or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect, and such term or provision shall be deemed stricken only to the extent and in the jurisdictions necessary for compliance with applicable law. In such a case Client and Consultant shall meet in a good faith effort to amend this Agreement so that it will comply as nearly as is then legally possible with its original provisions.
- 22.7 Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than Client or Consultant.
- 22.8 The headings in this Agreement are for convenience only, and shall not affect the interpretation hereof.
- 22.9 The provisions under the Articles for Responsibility for Services, Confidentiality, Limitation of Liability, Insurance, Waiver of Consequential Damages and Indemnity and any other provisions of this Agreement providing for limitation of or protection against liabilities between the Parties hereto shall survive termination of this Agreement and/or completion of the Services hereunder.
- 22.10 This Agreement supersedes all prior written and/or oral contracts and agreements that may have been made or entered into between Client and Consultant regarding the subject matter hereof, including but not limited to any and all proposals, oral or written, and all communications between the Parties relating to this Agreement, and constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof. No amendment to this Agreement shall be enforceable unless in writing and signed by both Parties hereto. Consultant shall have accepted this Agreement, provided that Consultant has received this Agreement and either a) received payment; or b) started performance of the services.

**23. SPECIAL PROVISIONS RELATED TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (APR 2009)**

**References to Contractor shall mean Consultant for this Article 23.**

Preamble: Work performed under this contract will be funded, in whole or in part, with funds appropriated by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act or Act). The Recovery Act's purposes are to stimulate the economy and to create and retain jobs. The Act gives preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds made available by it for activities that can be initiated not later than June 17, 2009.

Contractors should begin planning activities for their first tier subcontractors, including obtaining a DUNS number (or updating the existing DUNS record), and registering with the Central Contractor Registration (CCR).

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related Guidance. For projects funded by sources other than the Recovery Act, Contractors should plan to keep separate records for Recovery Act funds and to ensure those records comply with the requirements of the Act.

The Contractor must comply with all requirements of the Act. If the contractor believes there is any inconsistency between ARRA requirements and current contract requirements, the issues will be referred to the Contracting Officer for reconciliation.

Be advised that special provisions may apply to projects funded by the Act relating to:

- Reporting, tracking and segregation of incurred costs;
- Reporting on job creation and preservation;
- Publication of information on the Internet;

- Protecting whistleblowers; and
- Requiring prompt referral of evidence of a false claim to the Inspector General.

#### Definitions:

For purposes of this clause, "Covered Funds" means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. Covered Funds will have special accounting codes and will be identified as Recovery Act funds in the contract and/or modification using Recovery Act funds. Covered Funds must be reimbursed by September 30, 2015.

Non-Federal employer means any employer with respect to Covered Funds – the contractor or subcontractor, as the case may be, if the contractor or subcontractor is an employer; and any professional membership organization, certification of other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving Covered Funds; or with respect to Covered Funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the State or local government; and does not mean any department, agency, or other entity of the federal government.

#### A. Flow Down Provision

This clause must be included in every first-tier subcontract.

#### B. Segregation and Payment of Costs

Contractor must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects. Where Recovery Act funds are authorized to be used in conjunction with other funding to complete projects, tracking and reporting must be separate from the original funding source to meet the reporting requirements of the Recovery Act and OMB Guidance.

Invoices must clearly indicate the portion of the requested payment that is for work funded by the Recovery Act.

#### C. Prohibition on Use of Funds

None of the funds provided under this agreement derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

#### D. Wage Rates

All laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan numbered 14 of 1950 (64 Stat. 1267, 5 U.S.C. App.) and section 3145 of title 40 United States Code. See <http://www.dol.gov/esa/whd/contracts/dbra.htm> .

#### E. Publication

Information about this agreement will be published on the Internet and linked to the website [www.recovery.gov](http://www.recovery.gov), maintained by the Accountability and Transparency Board (the Board). The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to

protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

#### F. Registration Requirements

Contractor shall ensure that all first-tier subcontractors have a DUNS number and are registered in the Central Contractor Registration (CCR) no later than the date the first report is due.

#### G. Utilization of Small Business

Contractor shall to the maximum extent practicable give a preference to small business in the award of subcontracts for projects funded by Recovery Act dollars.

### 24. APPLICABLE FAR AND DEAR CLAUSES (INCORPORATED BY REFERENCE)

- 24.1 This Agreement incorporates certain clauses by reference. These clauses apply as if they were incorporated in their entirety. For Federal Acquisition Regulation (FAR) and Department of Energy Acquisition Regulation (DEAR) provisions incorporated by reference, "Contractor" means Consultant and "Contracting Officer" means the URS Procurement Representative. Government means URS, except that the term "Government" or its authorized representatives shall retain its original meaning where (1) the provision pertains to, addresses or governs rights and obligations in property (real, personal or intellectual), (2) a right, act, authorization or obligation can be granted or performed only by the Government, (3) the intent of the provision is to provide benefit or protection to the Government, or (4) when access to the consultant's proprietary financial or other data is required. FAR clauses may be accessed electronically at <http://www.arnet.gov/far>. DEAR clauses can be found at <http://www.management.energy.gov/DEAR.htm>. Upon request, URS will make their full text available.
- 24.2 LIMITATION OF FUNDS (APR 1984) FAR 52.232-22
- 24.3 LIMITATION OF COST (APR 1984) FAR 52.232-20
- 24.4 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (SEP 2007) FAR 52.204-9
- 24.5 EQUAL OPPORTUNITY (MAR 2007) FAR 52.222-26
- 24.6 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VIETNAM ERA VETERANS AND OTHER ELIGIBLE VETERANS (SEP 2006) FAR 52.222-35
- 24.7 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998) FAR 52.222-36
- 24.8 NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES (DEC 2004) FAR 52.222-39
- 24.9 SERVICE CONTRACT ACT OF 1965 AS AMENDED (NOV 2007) FAR 52.222-41  
Note: Applicable if order exceeds \$2,500 and involves employment by subcontractor of service employees, as defined in DOL Regulations.
- 24.10 COMBATING TRAFFICKING IN PERSONS (AUG 2007) FAR 52.222-50
- 24.11 RIGHTS IN DATA – FACILITIES (DEC 2000) DEAR 970.5227-1
- 24.12 PATENT RIGHTS-ACQUISITION BY THE GOVERNEMENT (SEP 1997) DEAR 952.227-11
- 24.13 GOVERNMENT PROPERTY (JUNE 2007) FAR 52.245-1
- 24.14 WHISTLEBLOWER PROTECTION UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (MAR 2009) FAR 52.203-15
- 24.15 AUDIT AND RECORDS-NEGOTIATION (JUN 1999) WITH (ALTERNATE I) (MAR 2009) FAR 52.215-2
- 24.16 AMERICAN RECOVERY AND REINVESTMENT ACT – REPORTING REQUIREMENTS (MAR 2009) FAR 52.204-11

### 25. ATTACHMENTS

- 25.1 The following Attachments and Forms which are attached hereto are incorporated by this reference into this Agreement as if fully set forth herein.

Attachment A - Statement of Work – SOW Number **TBD**, Revision Number **TBD**

Attachment B - Final Release and Waiver

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be duly executed by their duly authorized representatives, effective as of the day and year first above mentioned.

**CONSULTANT**

**CLIENT**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_