

**WASHINGTON RIVER PROTECTION SOLUTIONS (WRPS)
 COST REIMBURSEMENT CONTRACT TYPE
 SUPPLEMENTAL PROVISIONS
 February 4, 2016, Revision 3**

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DEFINITIONS

Whenever used in this document, the following definitions shall apply unless the content indicates otherwise.

Authorized Procurement Representative. The term “authorized procurement representative” shall be a person with authority to enter into and administer Subcontracts and make related determinations and findings. These individuals are identified with the associated authority in the body of the Subcontract.

Buyer’s Technical Representative (BTR). The term “Buyer’s Technical Representative (BTR)” means the individual responsible for providing technical direction to the SUBCONTRACTOR. The BTR does not possess any explicit, apparent or implied authority to modify Subcontract terms and conditions.

BUYER. The term “BUYER” means Washington River Protection Solutions, LLC (WRPS).

Government. The term “Government” shall mean the United States of America and includes the U.S. Department of Energy (DOE) Office of River Protection (ORP), or any duly authorized representative thereof, including the BUYER’s Administrative Contracting Officer (ACO).

Head of the Procurement Activity. The term “Head of the Procurement Activity” means the individual who has the overall responsibility for the operations of the WRPS Procurement Office.

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Lower-Tier Subcontractors. The term “lower-tier Subcontractors” refers to companies or individuals with whom the SUBCONTRACTOR has purchase orders, subcontracts and rental agreements for materials or equipment, and other services not performed directly by the SUBCONTRACTOR under this Subcontract.

SUBCONTRACTOR. The term SUBCONTRACTOR refers to the company, person or organization, including all lower-tier Subcontractors, performing Work under this Subcontract.

Subcontract. The term Subcontract shall mean this Subcontract or Purchase Order between the BUYER and the SUBCONTRACTOR including its terms, conditions, clauses, provisions, written direction and instructions, releases, and documents.

Work. The term “Work” includes all material, labor, tools, and all appliances, machinery, and transportation, necessary to perform and complete the Subcontract’s requirements, and such additional items not specifically indicated or described that can be reasonably inferred as required to complete the Subcontract.

ARTICLE 1.0 CONTRACT TYPE

Cost Reimbursement Contract Type: The contract type is identified and provided on the face of this Subcontract. The provisions that pertain to the contract type identified will be the basis for performance administration. The BUYER will make payments to the SUBCONTRACTOR in amounts determined to be allowable by the BUYER in accordance with Federal Acquisition Regulation (FAR) Subpart 31.2 in effect on the date of this Subcontract and the terms of this Subcontract.

1.1 Cost Plus Fixed Fee

- A. **Fixed Fee Value.** The BUYER’s authorized procurement representative shall pay the SUBCONTRACTOR for performing this Subcontract the fixed fee specified in the Compensation Schedule in accordance with Federal Acquisition Regulation (FAR) 52.216-8 (March 1997).

- B. **Fixed Fee Payment.** Payment of the fixed fee shall be made as specified in the Compensation Schedule; provided, that after payment of 85 percent of the fixed fee, the BUYER’s authorized procurement representative may withhold further payment of fee until a reserve is set aside in an amount that the BUYER’s authorized procurement representative considers necessary to protect the BUYER's interest. This reserve shall not exceed 15 percent of the total fixed fee, or \$100,000, whichever is less. The BUYER’s authorized procurement representative shall release seventy-five (75) percent of all fee withholds under this Subcontract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this Subcontract, provided the SUBCONTRACTOR has satisfied all other Subcontract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final invoices on prior years’ settlements. The BUYER’s authorized procurement representative may release up to 90 percent of the fee withholds under this Subcontract based on the SUBCONTRACTOR’s past performance related to the submission and settlement of final indirect cost rate proposals.

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1.2 Cost Plus Incentive Fee

- A. Incentive Fee Value. The BUYER's authorized procurement representative shall pay the SUBCONTRACTOR for performing this Subcontract a fee determined as provided in this Subcontract.
- B. Target Cost and Target Fee. The target cost and target fee specified in the Compensation Schedule are subject to adjustment if the Subcontract is modified based on equitable adjustment.
- Target Cost, as used in this Subcontract, means the estimated cost of this Subcontract as initially negotiated, adjusted in accordance with paragraph (D) below.
 - Target Fee, as used in this Subcontract, means the fee initially negotiated on the assumption that this Subcontract would be performed for a cost equal to the estimated cost initially negotiated, adjusted in accordance with paragraph (D) of this clause.
- C. Withholding of Fee Payment. Normally, the BUYER's authorized procurement representative shall pay the fee to the SUBCONTRACTOR as specified in the Subcontract. However, when the BUYER's authorized procurement representative considers that performance or cost indicates that the SUBCONTRACTOR will not achieve target cost and/or schedule, the BUYER's authorized procurement representative shall pay on the basis of an appropriate lesser fee.
- When the SUBCONTRACTOR demonstrates that performance or cost clearly indicates that the SUBCONTRACTOR will earn a fee significantly above the target fee, the BUYER's authorized procurement representative may, at the sole discretion of the BUYER, pay on the basis of an appropriate higher fee. After payment of eighty-five (85) percent of the applicable fee, the BUYER's authorized procurement representative may withhold further payment of fee until a reserve is set aside in an amount that the BUYER's authorized procurement representative considers necessary to protect the BUYER's interest. This reserve shall not exceed fifteen (15) percent of the applicable fee, or \$100,000, whichever is less. The BUYER's authorized procurement representative shall release seventy-five (75) percent of all fee withholds under this Subcontract after receipt of the certified final indirect cost rate proposal covering the year of physical completion of this Subcontract, provided the SUBCONTRACTOR has satisfied all other Subcontract terms and conditions, including the submission of the final patent and royalty reports, and is not delinquent in submitting final invoices on prior years' settlements. The BUYER's authorized procurement representative may release up to ninety (90) percent of the fee withholds under this Subcontract based on the SUBCONTRACTOR's past performance related to the submission and settlement of final indirect cost rate proposals.
- D. Equitable Adjustments. When the scope of work under this Subcontract is increased or decreased by an amendment to this Subcontract or when any equitable adjustment in the target cost is authorized under any other clause, equitable adjustments in the target cost, target fee, minimum fee, and maximum fee, as appropriate, shall be stated in an amendment to this Subcontract.
- E. Fee Payable. The fee payable under this Subcontract shall be in accordance with the Compensation Schedule.

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- The fee shall be subject to adjustment, to the extent provided in paragraph (D) above, and within the minimum and maximum fee limitations in subparagraph (1) of this clause, when the total allowable cost is increased or decreased as a consequence of (i) payments made under assignments or (ii) claims excepted from the release as required.
 - If this Subcontract is terminated in its entirety, the portion of the target fee payable shall not be subject to an increase or decrease as provided in this paragraph. The termination shall be accomplished in accordance with other applicable clauses of this Subcontract.
 - For the purpose of fee adjustment, “total allowable cost” shall not include allowable costs arising out of:
 - a. Any of the causes covered by excusable delays to the extent that they are beyond the control and without the fault or negligence of the SUBCONTRACTOR or any lower-tier Subcontractor;
 - b. The taking effect, after negotiating the target cost, of a statute, court decision, written ruling, or regulation that results in the SUBCONTRACTOR being required to pay or bear the burden of any tax or duty or rate increase in a tax or duty;
 - c. Any direct cost attributed to the SUBCONTRACTOR’s involvement in litigation as required by the BUYER pursuant to a clause of this Subcontract, including furnishing evidence and information requested pursuant to the Notice and Assistance Regarding Patent and Copyright Infringement provision;
 - d. The purchase and maintenance of additional insurance not in the target cost and required by the BUYER, or claims for reimbursement for liabilities to third persons pursuant to the Insurance Liability to Third Persons clause;
 - e. Any claim, loss, or damage resulting from a risk for which the SUBCONTRACTOR has been relieved of liability by the Government Property clause; or
 - f. Any claim, loss, or damage resulting from a risk defined in the Subcontract as unusually hazardous or as a nuclear risk and against which the Government has expressly agreed to indemnify the SUBCONTRACTOR.
 - g. All other allowable costs are included in “total allowable cost” for fee adjustment.
- F. Subcontract Amendment. The total allowable cost and the adjusted fee determined as provided in this provision shall be evidenced by an amendment to this Subcontract signed by the SUBCONTRACTOR and the BUYER.
- G. Inconsistencies. In the event of any language inconsistencies between this clause and provisioning documents or the BUYER options under this Subcontract, compensation for spare

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parts or other supplies and services ordered under such documents shall be determined in accordance with this provision.

1.3 Cost Reimbursement – No Fee

- A. Fee Payable. The BUYER shall not pay the SUBCONTRACTOR a fee for performing this Subcontract.
- B. Withholding of Cost. After payment of eighty (80) percent of the total estimated cost shown in the Subcontract, the BUYER may withhold further payment of allowable cost until a reserve is set aside in an amount that the BUYER considers necessary to protect the BUYER's interest. This reserve shall not exceed fifteen (15) percent of the total estimated cost shown in the Subcontract, or \$100,000, whichever is less.

In a Subcontract for research and development with an educational institution or a nonprofit organization, for which the BUYER's authorized procurement representative has determined that withholding of a portion of allowable costs is not required, paragraph (B) of the basic clause is not applicable.

ARTICLE 2.0 ORDER OF PRECEDENCE

In the event of a discrepancy among any of the Subcontract terms, conditions, clauses, provisions, written direction and instructions, and documents (collectively, the 'Subcontract'), the following order of precedence shall govern resolution: (i) Amendments; (ii) Subcontract; (iii) Supplemental Provisions; (iv) General Provisions, (v) Statement of Work ('SOW'); (vi) Technical Specifications; and (vii) Drawings.

Nothing recited above shall be construed as superseding or deleting any applicable statute, rule, ordinance, or regulation (collectively, the 'Laws'). In the event of a conflict with Laws, the specific conflicting term of the Subcontract shall be considered null and without effect, Laws shall govern. All remaining terms unaffected by said Laws should continue in force.

All correspondence, questions, and items concerning interpretation or clarification of subcontracts shall be submitted in writing to the Authorized Procurement Representative.

Subject to the provisions of the "Changes" clause contained herein, all determinations, instructions, and clarifications provided by the Authorized Procurement Representative shall be final and conclusive unless the SUBCONTRACTOR believes such determinations, instructions or clarifications result in a conflict within the Subcontract and/or attachments, in which case the SUBCONTRACTOR shall identify such perceived conflict to the Authorized Procurement Representative prior to proceeding under the terms of the Disputes clauses.

ARTICLE 3.0 TERMS OF PAYMENT

3.1 General Invoice Requirements

- A. Invoice Submission Requirements. Original invoices and supporting documentation shall be submitted no more than once a calendar month to the BUYER's Accounts Payable organization at the address below.

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WASHINGTON RIVER PROTECTION SOLUTIONS (WRPS)
ATTN: Accounts Payable / MSIN H3-02
P.O. Box 850
Richland, WA 99352
Email electronic invoices to: WRPSAPINVOICES@rl.gov.

- B. Invoice Payment Terms. The SUBCONTRACTOR shall prepare all invoices in a form satisfactory to and approved by the BUYER's authorized procurement representative. Except to the extent expressly stated elsewhere in this Subcontract, the invoice is payable thirty (30) calendar days after receipt by the BUYER of a properly marked and submitted invoice. Discounts are expected for earlier payments and shall be specifically incorporated in the Subcontract. All unit pricing and payments made shall be in United States dollars only, in the forms of cash, check or electronic transfer as may be agreed upon. Remittance will be made only to the remittance address on file for the SUBCONTRACTOR. Invoices from third parties or with different remittance instructions or addresses will not be processed. Invoices may be submitted electronically, if in an acceptable format. All invoice requirements still apply to electronic invoices.
- C. Invoice Certification. Submittal of an invoice constitutes the SUBCONTRACTOR's certification that materials, work and/or services have been delivered as specified on the invoice in accordance with the Subcontract. This invoice certification additionally represents that all invoiced hours and materials are true, accurate and correctly represent the invoiced costs to accomplish this Work on the Subcontract. Falsely invoicing costs may result in civil or criminal penalties as a violation of the Federal False Claims Act (31 USC 37296)
- D. Separate Invoice Requirements. Each Subcontract or Subcontract Release shall be invoiced separately.
- E. Minimum Invoice Requirements. The invoice shall identify the following information:
- The SUBCONTRACTOR's name, invoice number, and Subcontract number, and Release number.
 - The SUBCONTRACTOR's name and telephone number of a representative available to respond to invoice questions.
 - The total amount due for the billing period (this amount shall be separate from cumulative amounts or subtotals included on the invoice).
 - A cost summary identifying all cost elements being invoiced with all indirect rates and cost allocations clearly identified.
 - A synopsis of services performed during the billing period.
 - A corresponding description of each item billed and the associated amount.

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- Invoices that include a total freight charge that is equal to or greater than one hundred dollars (\$100) must include a copy of the freight bill. If requested, the SUBCONTRACTOR must provide the weight, quantity, and shipping point. Subcontractor shall be reimbursed for reasonable freight charges as determined by the BUYER.
- If overtime is being invoiced, the BUYER's authorization is required to be included with the invoice submittal.
- Identification of Uncompensated Overtime. Uncompensated overtime means the hours worked without additional compensation in excess of an average of forty (40) hours per week by direct charging employees who are exempt from the Fair Labor Standards Act. Compensated personal absences such as holidays, vacation and sick leave shall be included in the normal work week for purposes of computing uncompensated overtime hours.

The SUBCONTRACTOR's reporting of uncompensated overtime must be consistent with its established accounting practices and policies used to accumulate and report uncompensated overtime hours.

F. Provisional Indirect Billing Rates. Until final annual indirect cost rates are established for any period, the BUYER shall reimburse the SUBCONTRACTOR at provisional billing rates established by the BUYER's authorized procurement representative, or Administrative Contracting Officer, or by an authorized representative (the cognizant auditor), subject to adjustment when the final indirect rates are established. These provisional indirect billing rates:

- Shall be the anticipated final rates; and
- May be prospectively or retroactively revised by mutual agreement, at either party's request, to prevent substantial overpayment or underpayment.

G. Reimbursement of Costs. Reimbursable costs will be determined allowable by the BUYER's authorized procurement representative in accordance with Federal Acquisition Regulation (FAR) Subpart 31.2 in effect on the date of this Subcontract and the terms of this Subcontract.

For the purpose of reimbursing costs (except as provided in subparagraph (2) below, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term "costs" includes only:

- Those recorded costs that, at the time of the request for reimbursement, the SUBCONTRACTOR has paid by cash, check, or other form of actual payment for items or services purchased directly for the Subcontract;

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- When the SUBCONTRACTOR is not delinquent in paying costs of Subcontract performance in the ordinary course of business, costs incurred, but not necessarily paid, for:
 - a. Materials issued from the SUBCONTRACTOR's inventory and placed in the production process for use on the Subcontract;
 - b. Direct labor;
 - c. Direct travel;
 - d. Other direct in-house costs; and
 - e. Properly allocable and allowable indirect costs, as shown in the records maintained by the SUBCONTRACTOR for purposes of obtaining reimbursement under Government contracts; and
 - f. The amount of progress payments that have been paid to the SUBCONTRACTOR's lower-tier Subcontractors under similar cost standards.
 - The SUBCONTRACTOR's contributions to any pension or other postretirement benefit, profit-sharing or employee stock ownership plan funds that are paid quarterly or more often may be included in indirect costs for payment purposes; Provided, that the SUBCONTRACTOR pays the contribution to the fund within thirty (30) days after the close of the period covered. Payments made thirty (30) days or more after the close of a period shall not be included until the SUBCONTRACTOR actually makes the payment. Accrued costs for such contributions that are paid less often than quarterly shall be excluded from indirect costs for payment purposes until the SUBCONTRACTOR actually makes the payment.
 - Notwithstanding, the audit and adjustment of invoices or vouchers for allowable indirect costs under this Subcontract shall be obtained by applying indirect cost rates established in accordance with the section titled Provisional Indirect Billing Rates.
 - Any statements in specifications or other documents incorporated in this Subcontract by reference designating performance of services or furnishing of materials at the SUBCONTRACTOR's expense or at no cost to the BUYER or the Government shall be disregarded for purposes of cost-reimbursement under this provision.
- H. Rejection of Invoices. Any invoice submitted, which fails to comply with the terms of this Subcontract, including the requirements of form and documentation, may be returned to the SUBCONTRACTOR. Any costs associated with the resubmission of an invoice to meet these requirements shall not be reimbursed by the BUYER.
- I. Withholding Invoice Payments. The BUYER may, at its sole discretion, withhold payment due for, but not limited to, the following reasons:
- Substandard Work or delays in the Work not corrected promptly.

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- Evidence that a claim has been or will be filed against the SUBCONTRACTOR.
- Evidence that lower tier Subcontractor's or suppliers have not been properly paid.
- Failure to provide accrual reports by the 16th of each month as specified in the Subcontract provisions.

3.2 Small Business Concerns

Upon receiving written approval from the BUYER's authorized procurement representative, a small business concern may be paid more frequently than the cited payment terms and may invoice and be paid for recorded costs for items or services purchased directly for the Subcontract, even though the concern has not yet paid for those items or services.

3.3 Final Indirect Cost Rates

Final annual indirect cost rates and the appropriate bases shall be established in accordance with Subpart 42.7 of the Federal Acquisition Regulations (FAR) in effect for the period covered by the indirect cost rate proposal.

The SUBCONTRACTOR shall, within 180 days after the expiration of each of its fiscal years, or by a later date approved by the BUYER, submit to the authorized procurement representative responsible for negotiating its final indirect cost rates and, if required by agency procedures, to the cognizant audit activity proposed final indirect cost rates for that period and supporting cost data specifying the Subcontract and/or Subcontract to which the rates apply. The proposed rates shall be based on the SUBCONTRACTOR's actual cost experience for that period. The appropriate authorized procurement representative or Government representative and the SUBCONTRACTOR shall establish the final indirect cost rates as promptly as practicable after receipt of the SUBCONTRACTOR's proposal.

The SUBCONTRACTOR and the appropriate authorized procurement representative or Government representative shall execute a written understanding setting forth the final indirect cost rates. The understanding shall specify (i) the agreed-upon final annual indirect cost rates, (ii) the bases to which the rates apply, (iii) the periods for which the rates apply, (iv) any specific indirect cost items treated as direct costs in the settlement, and (v) the affected Subcontract, identifying any with advance agreements or special terms and the applicable rates. The understanding shall not change any monetary ceiling, Subcontract obligation, or specific cost allowance or disallowance provided for in this Subcontract. The understanding is incorporated into this Subcontract upon execution.

Failure by the parties to agree on a final annual indirect cost rate shall be a dispute within the meaning of the Disputes provision.

3.4 Quick-Closeout Procedures

Quick-closeout procedures are applicable when the conditions in Federal Acquisition Regulation (FAR) 42.708(a) are satisfied.

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3.5 Audit

Audit clauses contained in General Provisions at DEAR 970.5232-3, (Jun 2007), Alt 1 (Dec 2000) entitled Accounts, Records, and Inspection and FAR clause 52.215-2, (Jun 1999), Alt 1 (Mar 2009) entitled Audit and Record-Negotiation are available for use by the BUYER and Department of Energy, if necessary, for auditing Subcontractor records.

Any payment may be (1) reduced by amounts found by the BUYER not to constitute allowable costs per Federal Acquisition Regulation (FAR) Subpart 31.2 or (2) adjusted for prior overpayments or underpayments.

3.6 Final Payment

The SUBCONTRACTOR shall submit a certified completion invoice or voucher, designated as such, promptly upon completion of the Work, but no later than one year (or longer, as the authorized procurement representative may approve in writing) from the completion date. The invoice or voucher shall be clearly marked "FINAL INVOICE." Upon approval of the final invoice or voucher, and upon the SUBCONTRACTOR's compliance with all terms of this Subcontract, the BUYER shall pay within thirty (30) days any balance of allowable costs and that part of the fee (if any) not previously paid.

The SUBCONTRACTOR shall pay to the BUYER any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the SUBCONTRACTOR or any assignee under this Subcontract, to the extent that those amounts are properly allocable to costs for which the BUYER has reimbursed the SUBCONTRACTOR. Reasonable expenses incurred by the SUBCONTRACTOR for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by the authorized procurement representative. Before final payment under this Subcontract, the SUBCONTRACTOR and each assignee whose assignment is in effect at the time of final payment shall execute and deliver:

- A. An assignment to the BUYER, in form and substance satisfactory to the BUYER, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the SUBCONTRACTOR has been reimbursed by the BUYER under this Subcontract; and
- B. A release discharging the BUYER and the Government, their officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this Subcontract, except:
 - Specified claims stated in exact amounts, or in estimated amounts when the exact amounts are not known;
 - Claims (including reasonable incidental expenses) based upon liabilities of the SUBCONTRACTOR to third parties arising out of the performance of this Subcontract; provided, that the claims are not known to the SUBCONTRACTOR on the date of the execution of the release, and that the SUBCONTRACTOR gives notice of the claims in writing to the BUYER within 6 years following the release date or notice of final payment date, whichever is earlier; and
 - Claims for reimbursement of costs, including reasonable incidental expenses, incurred by the SUBCONTRACTOR under the patent clauses of this Subcontract, excluding,

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however, any expenses arising from the SUBCONTRACTOR's indemnification of the Government against patent liability.

- C. Any invoice submitted, which fails to comply with the terms of this Subcontract, including the requirements of form and documentation, may be returned to the SUBCONTRACTOR. Any costs associated with the resubmission of an invoice to meet these requirements shall not be reimbursed by the BUYER. Final payment shall not relieve the SUBCONTRACTOR of any obligation under this Subcontract.
- D. The BUYER may, at its sole discretion, withhold payment due for, but not limited to, the following reasons:
- Substandard work or delays in the Work not corrected promptly.
 - Evidence that a claim has been or will be filed against the SUBCONTRACTOR.
 - Evidence that lower-tier Subcontractors have not been properly paid.

3.7 Cash Discounts

Cash discounts will apply from the date a correct, properly supported invoice is received by the BUYER.

3.8 Limitation of Cost

- A. The parties estimate that performance of this Subcontract, exclusive of any fee, will not cost the BUYER more than (i) the estimated cost specified in the Subcontract or, (ii) if this is a cost-sharing Subcontract, the BUYER's share of the estimated cost specified in the Subcontract. The SUBCONTRACTOR agrees to use its best efforts to perform the Work specified in the Subcontract and all obligations under this Subcontract within the estimated cost, which, if this is a cost-sharing Subcontract, includes both the BUYER's and the SUBCONTRACTOR's share of the cost.
- B. The SUBCONTRACTOR shall notify the BUYER's authorized procurement representative in writing whenever it has reason to believe the authorized cost limitation will be exceeded. This SUBCONTRACTOR notification shall be completed when (1) the estimated costs the SUBCONTRACTOR expects to incur under this Subcontract in the next sixty (60) days, when added to all costs previously incurred, will exceed seventy-five (75) percent of the estimated cost specified in the Subcontract; or (2) the total cost for the performance of this Subcontract, exclusive of any fee, will be either greater or substantially less than had been previously estimated. As part of the notification, the SUBCONTRACTOR shall provide the BUYER's authorized procurement representative a revised estimate of the total cost of performing this Subcontract.
- C. Except as required by other provisions of this Subcontract, specifically citing and stated to be an exception to this provision: the BUYER is not obligated to reimburse the SUBCONTRACTOR for costs incurred in excess of (i) the estimated cost specified in the Subcontract or, (ii) if this is a cost-sharing Subcontract, the estimated cost to the BUYER specified in the Subcontract.
- D. The SUBCONTRACTOR is not obligated to continue performance under this Subcontract (including actions under the Termination provision of this Subcontract) or otherwise incur costs

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in excess of the estimated cost specified in the Subcontract, until the Buyer's authorized procurement representative (i) notifies the SUBCONTRACTOR in writing that the estimated cost has been increased and (ii) provides a revised estimated total cost of performing this Subcontract. If this is a cost-sharing Subcontract, the increase shall be allocated in accordance with the formula specified in the Subcontract.

- E. No notice, communication, or representation in any form other than that specified above, or from any person other than the Buyer's authorized procurement representative, shall affect this Subcontract's estimated cost to the BUYER. In the absence of the specified notice, the BUYER is not obligated to reimburse the SUBCONTRACTOR for any costs in excess of the estimated cost or, if this is a cost-sharing Subcontract, for any costs in excess of the estimated cost to the BUYER specified in the Subcontract, whether those excess costs were incurred during the course of the Subcontract or as a result of termination.
- F. If the estimated cost specified in the Subcontract is increased, any costs the SUBCONTRACTOR incurs before the increase that are in excess of the previously estimated cost shall be allowable to the same extent as if incurred afterward, unless the BUYER issues a termination or other notice directing that the increase is solely to cover termination or other specified expenses.
- G. Change orders (Subcontract amendments) shall not be considered an authorization to exceed the estimated cost to the BUYER specified in the Subcontract, unless the change order (amendment) contains a statement increasing the Subcontract's estimated cost.
- H. If this Subcontract is terminated or the estimated cost is not increased, the Buyer's authorized procurement representative and the SUBCONTRACTOR shall negotiate an equitable distribution of all property produced or purchased under the Subcontract, based upon the share of costs incurred by each party.

3.9 Reimbursement of Travel Expenses

When authorized as part of the Statement of Work, the SUBCONTRACTOR will be reimbursed travel expenses incurred in performance provided that the expenses are for costs incurred for lodging, meals, and incidental expenses considered reasonable, allowable, and allocable to the extent that they do not exceed the maximum per-diem rates in effect at the time of travel as set forth in Federal Travel Regulations (FTR) for travel within the 48 states. The following regulations shall be followed: Federal Acquisition Regulation (FAR) paragraph 31.205-46 and US Department of Energy Regulation (DEAR) 970.3102-05-46.

Additional guidance can be referenced through the Joint Travel Regulations (JTR) for travel in Alaska, Hawaii, the Commonwealth of Puerto Rico, and territories and possessions of the United States; or the Standardized Regulations (SR) for travel allowances in foreign areas.

Per-diem will be paid to the SUBCONTRACTOR employees only who are assigned to a project site for twelve (12) months (365 days) or less. The SUBCONTRACTOR employees assigned to a project for more than sixty (60) days will be expected to vacate hotel lodging and move into residential accommodations:

- A. Business Travel Status. Assignments for thirty (30) consecutive calendar days or less during any 365 day period. Per-diem and lodging will be paid in accordance with the rates established by the

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Federal Travel Regulations (FTR) unless otherwise specified in this Subcontract. Home visits for less than four (4) consecutive weeks of assignment (on travel status) are not authorized. If an assignment originally classified as Business Travel Status is extended such that the total assignment duration exceeds thirty (30) calendar days, the assignment shall be reclassified as a Temporary Assignment with a deemed start date of the 31st day after the employee's first day of reimbursement for Business Travel Status.

B. Temporary Work Assignments (Thirty-one (31) days to Sixty (60) Days). Expenses associated with temporary work assignments that are sixty (60) days or less will be reimbursed under the following guidelines:

- Transportation Other than Airline. Reimbursement of transportation costs will be at the current Federal Travel Regulations (FTR) per mile rate, for travel made by automobile, or actual fares for other public conveyance, reasonably incurred by the SUBCONTRACTOR's personnel in traveling by the shortest and most direct route from his/her home office to (Hanford Site) Richland, Washington, or to other such locations and return, at the request of the BUYER. When travel is by automobile the most direct route shall be determined. Local mileage costs while at the Hanford Site will not be reimbursed, unless specifically authorized by the Authorized Procurement Representative.
- Transportation by Airline. Fourteen (14) day advanced coach airfare via the most direct route in accordance with FTR guidelines shall be purchased, unless the project work assignment or an urgent situation prevents the SUBCONTRACTOR employee from obtaining the fourteen (14) day airfare. If alternate route is taken outside of the to-and-from-home, a cost comparison must be provided as the lesser of the two is allowable. Proof of lowest available airfare shall be provided by submission of comparison documentation showing that the lowest reasonable available airfare was utilized on the day of booking. Airfare reimbursement is limited to the lowest reasonably available airfare which meets the business needs of the BUYER. The SUBCONTRACTOR must provide documentation from an appropriate source documenting that the lowest available airfare was utilized. Evidence shall be provided showing that at least three sources were utilized for finding the lowest available airfare (example: different airlines, different travel sources, or different travel agencies). Costs greater than the lowest available airfare may be reimbursed when adequate justification documentation is provided showing that the lowest available airfare was not reasonably available and would not meet the business needs of the BUYER.
 1. Require travel during unreasonable hours or
 2. Excessively prolonged travel or
 3. Require circuitous routing or
 4. Result in increased cost that would offset transportation savings or
 5. Not be reasonably adequate for the physical or medical needs of the travel or
 6. Not meeting the BUYERS's business needs.
- Receipts must show the full original itinerary with airfare costs separated from any lodging, car rental or other travel charges.

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- Car Rental. Based upon the FTR requirements, travelers must use the least expensive compact car available, unless an exception is granted, as shown in the FTR, for another class of vehicles as approved by the BUYER prior to the car rental. If another class of vehicle is approved for use, this information shall be made available to Accounts Payable so they are aware that Subcontractor has approval to use a vehicle other than the least expensive compact car. Actual itemized receipts must document all car rental and fuel costs (if over \$75). The fuel option at car rental agencies is unallowable and rental vehicles shall be filled up prior to return to the rental agency, unless there is a written justifiable reason for not filling up the vehicle prior to return of vehicle. Per the FTR, Subcontractor personnel shall not be reimbursed for Collision Damage Waiver, theft, or personal accident insurance purchased. GPS and Frequent Flyer charges will not be reimbursed.
 - Instead of using a rental car, a SUBCONTRACTOR owned vehicle may be used if determined to be more cost effective. However, shipping cost and arrangements must be pre-approved by the Authorized Procurement Representative. The BUYER assumes no liability for accidents when SUBCONTRACTOR owned or rental vehicles are used.
 - Lodging. Lodging will be reimbursed at the current FTR rate or at the actual cost if less than the allowable FTR rate. Actual receipts must document all lodging costs being invoiced under this Subcontract. If there are no accommodations available within the allowable FTR rates, subcontractor personnel may request reimbursement to the Buyer on an actual expense basis, not to exceed 300 percent of the maximum per-diem allowance. The approval of actual expenses shall be requested in advance of any travel.
 - Meals and Incidental Expenses (M&IE). M&IE will be reimbursed at a flat rate per day; not to exceed the limits specified for the geographical location in the FTR. The daily living expense (M&IE) shall be prorated at 75% per the FTR during the first and last day of travel, inclusive of weekend trips home. Weekend stay-over(s) may be paid when continued work is required during the following week.
- C. Temporary Work Assignments: More Than Sixty (60) Days, But Less Than Three Hundred Sixty-five (365) Days: Effective the sixty-first day of the work assignment, the following modifications become effective: the BUYER will pay a reduced per-diem rate for lodging and meals of the lesser of actual costs or 55% of Federal per-diem rates for this location. The reduced meals begins on the 31st day of assignment and the reduced lodging begins on the 61st day of assignment. Receipts are required for all lodging.
- Transportation Other than Airline. Reimbursement of transportation costs will be at the current Federal Travel Regulations (FTR) per mile rate, for travel made by automobile, or actual fares for other public conveyance, reasonably incurred by the SUBCONTRACTOR's personnel in traveling by the shortest and most direct route from his/her home office to (Hanford Site) Richland, Washington, or to other such locations and return, at the request of the BUYER. When travel is by automobile the most direct route shall be determined. Local mileage costs while at the Hanford Site will not be reimbursed, unless specifically authorized by the Authorized Procurement Representative

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- Transportation by Airline. Fourteen (14) day advanced coach airfare via the most direct route in accordance with FTR guidelines shall be purchased, unless the project work assignment or an urgent situation prevents the SUBCONTRACTOR employee from obtaining the fourteen (14) day airfare. If alternate route is taken outside of the to-and-from-home, a cost comparison must be provided as the lesser of the two is allowable. Every effort shall be made to plan required travel to obtain the lowest fares available. Proof of lowest available airfare shall be provided by submission of comparison documentation showing that the lowest available airfare was utilized on the day of booking. Airfare reimbursement is limited to the lowest reasonably available airfare which meets the business needs of the BUYER. The SUBCONTRACTOR must provide documentation from an appropriate source documenting that the lowest available airfare was utilized. Evidence shall be provided showing that at least three sources were utilized for finding the lowest available airfare (example: different airlines, different travel sources, or different travel agencies). Costs greater than the lowest available airfare may be reimbursed when adequate justification documentation is provided showing that the lowest available airfare was not reasonable available and would not meet the needs of the BUYER.:
 1. Require travel during unreasonable hours or
 2. Excessively prolong travel or
 3. Require circuitous routing or
 4. Result in increased cost that would offset transportation savings or
 5. Not be reasonably adequate for the physical or medical needs of the travel or
 6. Not meeting the BUYERS's business needs.
- Receipts must show the full original itinerary with airfare costs separated from any lodging, car rental or other travel charges.
- One trip home, to the primary residence, after each four (4) consecutive weeks of assignment (on travel status) to the Subcontract will be reimbursed when approved in advance by the Authorized Procurement Representative.
- If a personal vehicle is used to return to the primary residence, mileage and lodging will be paid in accordance with FAR 31.2 at the Federal Travel Regulations (FTR) for in-route lodging, not to exceed the fourteen (14) day advance airfare rate.
- While at home, per-diem expenses are not reimbursable. Travel days are paid at 55%.
- The trips home are neither "bankable," transferable nor cumulative.
- Car Rental. Based upon the FTR requirements, travelers must use the least expensive compact car available, unless an exception is granted, as shown in the FTR, for another class of vehicles as approved by the Buyer prior to the car rental. If another class of vehicle is approved for use, this information shall be made available to Accounts Payable so they are aware that Subcontractor has approval to use a vehicle other than the least expensive compact car. Actual itemized receipts must document all car rental and fuel costs (if over \$75). The fuel option at car rental agencies is unallowable and rental vehicles shall be filled up prior to return to the rental agency, unless there is a written

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justifiable reason for not filling up the vehicle prior to return of vehicle. Per the FTR, Subcontractor personnel shall not be reimbursed for Collisions Damage Waiver, theft, or personal accident insurance purchased. GPS and Frequent Flyer charges will not be reimbursed.

- Instead of using a rental car, a SUBCONTRACTOR owned vehicle may be used if determined to be more cost effective. However, shipping cost and arrangements must be pre-approved by the Authorized Procurement Representative. The BUYER assumes no liability for accidents when SUBCONTRACTOR owned or rental vehicles are used.

D. Work Assignments. Three Hundred Sixty-five (365) Days and Over: Unless pre-approved by the Authorized Procurement Representative, work assignments of more than three hundred sixty-five (365) consecutive days are considered permanent. Any incurred travel and living expenses, after three hundred sixty-five (365) consecutive days, are not reimbursable without written pre-approval from the Authorized Procurement Representative. This provision shall also apply to the SUBCONTRACTOR's employees who transfer to another Subcontract. The number of consecutive days for a transferred employee shall not restart with the new Subcontract but shall continue from the original Subcontract assignment date.

3.10 Accruals

This provision applies to all Subcontracts unless the Subcontract is for one-time work which will be billed during the month the work was performed. The SUBCONTRACTOR shall provide monthly to BUYER's Accounts Payable an estimate of the total billable cost from inception of the Subcontract through the current fiscal month end. The Fiscal Month Calendar can be accessed on the Hanford external web site. This information must be provided electronically between the 12th and the 16th of each month using the login information contained in the SUBCONTRACTOR's confirmation email when the SUBCONTRACTOR completed its initial vendor registration with the Buyer.

Accruals are submitted through the [Vendor Registration System](#) at Vendor Registration. Click on the accruals tab at the top of the screen and enter the current cost to date amount for the subcontract or release in the appropriate space. If you experience any technical difficulties, please contact us at wrps_procurement@rl.gov. Alternative methods are email or mail and must be submitted by the 16th of each month to the following address.

WASHINGTON RIVER PROTECTION SOLUTIONS (WRPS)
ATTN: Accounts Payable / MSIN H3-02
P.O. Box 850
Richland, WA 99352
Email: awrps@rl.gov

Monthly SUBCONTRACTOR cost to date forms can be obtained at the following link -- [Subcontractor Cost to Date Form](#).

Accrual data must be provided for each Subcontract or Subcontract release until all SUBCONTRACTOR invoices are received and Work is complete.

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3.11 Taxes

The SUBCONTRACTOR shall collect the applicable Washington State sales or use tax and include this on each applicable invoice. If the SUBCONTRACTOR is an out of state vendor with no nexus in the State of Washington, the SUBCONTRACTOR can obtain a Direct Pay Permit from the Authorized Procurement Representative. All other Federal, State, county, municipal or other taxes must be included in the Subcontract amount and invoiced accordingly.

If as a result of this Subcontract, the SUBCONTRACTOR becomes eligible for Washington State Business and Occupation Tax Credit for Research and Development spending, the SUBCONTRACTOR shall take such tax credit and assign such tax credit to the BUYER. If the SUBCONTRACTOR applies for the Washington State Business and Occupation Tax Credit for Research and Development spending, the SUBCONTRACTOR shall notify the Authorized Procurement Representative. The SUBCONTRACTOR shall fully cooperate with the BUYER in any tax audits, tax assessment reviews, or tax challenges.

3.12 Right to Offset

The BUYER, without waiver or limitation of any rights or remedies of the BUYER, shall be entitled from time to time to deduct from any amounts due or owing by the BUYER to the SUBCONTRACTOR in connection with this Subcontract (or any other Subcontract with the BUYER), any and all amounts owed by the SUBCONTRACTOR to the BUYER or the Government in connection with this Subcontract.

3.13 Interest Payment

No interest is payable to the SUBCONTRACTOR for any claim it may have, except that specifically imposed by a court of competent jurisdiction on any judgment, and then only from the date of the entry of judgment.

ARTICLE 4.0 SUPPLEMENTAL TERMS AND CONDITIONS

General Intent. This Agreement is subject to the terms and conditions of the BUYER's Prime Contract Number DE-AC27-08RV14800. The general intent of these provisions is to incorporate into the Subcontract all required Federal Acquisition Regulation (FAR) and Department of Energy Acquisition Regulations (DEAR) flow down clauses, and any other State or Federally-mandated Subcontract clauses, which are required to be so incorporated either by the FAR, DEAR, the BUYER's Prime Contract or the applicable State or Federal law.

To reference the cited FAR and DEAR flow down clauses, the following web addresses are provided:

<http://farsite.hill.af.mil/>

<http://farsite.hill.af.mil/vfdoea.htm>

Substitution of the Parties. Wherever required to make any FAR, DEAR, or Prime Contract clause incorporated herein meaningful, the term "Contractor" shall be read "Subcontractor," ADMINISTRATIVE CONTRACTING OFFICER or (ACO) means AUTHORIZED PROCUREMENT REPRESENTATIVE, HEAD OF THE CONTRACTING ACTIVITY means HEAD OF THE PROCUREMENT ACTIVITY and the term "GOVERNMENT" or "CONTRACTING OFFICER" shall be read "BUYER" with the exception of DEAR 952.250-70 Nuclear Hazards Indemnity Agreement (June 1996).

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Specific Incorporated Clauses. Without in any way limiting the FAR, DEAR, or Prime Contract clauses to be incorporated herein, the following FAR and DEAR clauses are hereby specifically incorporated herein by reference with the same force and effect as if they were given in full text.

4.1 Federal Acquisition Regulation (48 CFR Chapter 1) Clauses and Department of Energy Acquisition Regulation (48 CFR Chapter 9) Clauses

Applicable to all orders:

1. FAR 52.202-1, Definitions (Jul 2004) (As Supplemented by DEAR 952.202-1).
2. FAR 52.242-1, Notice of Intent to Disallow Costs (Apr 1984).
3. FAR 52.243-2, Changes – Cost Reimbursement (Aug 87, Alt II (Apr 84), Alt III (Apr 84) & At V (Apr 84).
4. FAR 52.246-3, Inspection of Supplies -- Cost Reimbursement (May 2001) - Federal requirement is for all cost reimbursement contracts for supplies (materials).
5. FAR 52.246-5, Inspection of Services -- Cost Reimbursement (April 1984) - Federal requirement is for all cost reimbursement contracts for services.
6. DEAR 952.227-11, Patent Rights – Retention by the Contractor (Short Form)(Feb 1995)* (Applies to Subcontracts for experimental, research, developmental, or demonstration work when the SUBCONTRACTOR is a domestic small business or nonprofit organization as defined at FAR 27.301).
7. DEAR 952.227-13, Patent Rights – Acquisition by the Government (Sep 1997)* (Applies to Subcontracts for experimental, research, developmental, or demonstration work when the SUBCONTRACTOR is a domestic large business.
8. DEAR 970.5232-3, Accounts, Records, & Inspection, (Jun 2007), Alt 1 (Dec 2000).
9. DEAR 970.5204-3, Access to and Ownership of Records (Jul 2005).