



**AGENDA ITEM REQUEST FORM
CITY OF JOHNSON CITY, TEXAS
CITY COUNCIL**

ITEM NO. 13

MEETING DATE: September 7, 2021

AGENDA PLACEMENT:

- Ceremonial
- Consent
- Individual
- Closed Session

CAPTION:

Discussion of and action on a Professional Services Agreement between the City of Johnson City and Grant Development Services for American Rescue Plan Act (ARPA) administration and project implementation services in an amount not to exceed \$26,401.59, or ten percent (10%) of the ARPA funds awarded, and authorizing Mayor Rhonda Stell to execute said Agreement on behalf of the City Council of the City of Johnson City, Texas. (Staff)

STRATEGIC WORK PLAN:

- | | |
|------------------------------------------------------------------|----------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Not Applicable | <input type="checkbox"/> Goal 5: Improve Fire Safety |
| <input type="checkbox"/> Goal 1: Increase Housing Diversity | <input type="checkbox"/> Goal 6: Improve Streets |
| <input type="checkbox"/> Goal 2: Expand Quality Lodging | <input type="checkbox"/> Goal 7: Increase Publicity & Promotion of the Community |
| <input type="checkbox"/> Goal 3: Improve Code Enforcement | <input type="checkbox"/> Goal 8: Increase Economic Development Activities |
| <input type="checkbox"/> Goal 4: Improve Streetscaping & Signage | |

EXECUTIVE SUMMARY:

The U.S. Treasury transferred \$264,015.90 in American Rescue Plan Act (ARPA) funds to the City of Johnson City in August 2021. An additional \$264,015.90 in ARPA funds will be transferred to the City in August 2022.

We anticipate ARPA administration and reporting to be consistent with Community Development Block Grant (CDBG) regulations, which are in-depth, tedious, and voluminous. CDBG grants are reviewed in accordance with the CDBG Project Implementation Manual below:

[https://www.texasagriculture.gov/GrantsServices/RuralEconomicDevelopment/RuralCommunityDevelopmentBlockGrant\(CDBG\)/Forms.aspx](https://www.texasagriculture.gov/GrantsServices/RuralEconomicDevelopment/RuralCommunityDevelopmentBlockGrant(CDBG)/Forms.aspx)

FINANCIAL: Amount not to exceed \$26,401.59, or ten percent (10%) of the ARPA funds.

ATTACHMENTS:

- Proposed Professional Services Agreement

SUGGESTED ACTION:

Motion to approve a Professional Services Agreement between the City of Johnson City and Grant Development Services for American Rescue Plan Act (ARPA) administration and project implementation services in an amount not to exceed \$26,401.59, or ten percent (10%) of the ARPA funds awarded, and authorizing Mayor Rhonda Stell to execute said Agreement on behalf of the City Council of the City of Johnson City, Texas.

PREPARED BY: City Staff

DATE SUBMITTED: 9/1/21

**PROFESSIONAL SERVICES AGREEMENT
FOR ADMINISTRATION/ PROJECT IMPLEMENTATION
BETWEEN THE CITY OF JOHNSON CITY
AND GRANT DEVELOPMENT SERVICES FOR
AMERICAN RESCUE PLAN SERVICES**

STATE OF TEXAS

COUNTY OF BLANCO:

PART I - AGREEMENT

This professional services agreement (“Agreement”) is entered into this _____ day of _____ 2021 by and between the City of Johnson City Texas, acting by and through its duly authorized official, Rhonda Stell, Mayor, (hereinafter referred to as the “City”) and Grant Development Services, (hereinafter referred to as “GDS”), acting by and through its duly authorized official J. Gandolf Burrus, President. The City and GDS are collectively referred to herein as the “Parties”.

Recitals:

WHEREAS, The City of Johnson City desires to utilize Federal Funds from the 2021 American Rescue Plan (hereinafter called “ARP” of “Funding Agency”) to construct new infrastructure to assist the residents of the City in recovering from the negative impacts of the Coronavirus, and

WHEREAS The City desires to engage GDS to render assistance in securing the maximum amount of ARP grant funds for which it qualifies, and

WHEREAS The City desires GDS to provide professional management and administration services required to implement the Federal Funds from the ARP for infrastructure construction or other eligible expenses.

NOW, THEREFORE, in consideration of the above recitals, the mutual promises that follow, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Incorporation of Recitals.

The above recitals, having been found to be true and correct, are incorporated herein by reference.

2. Time of Performance.

The services to be provided by GDS shall commence upon execution of this Agreement. All services required and rendered under this Agreement shall be completed no later than June 15, 2025, and /or according to the time frames and deadlines established by ARP.

3. Definitions.

Throughout this document:

- a. "Agreement" refers to this contract between the City and GDS.
- b. "Completion" refers to GDS' submission to the ARP Administrator of the Certificate of Construction Completion, Final Wage Compliance Report, and secure the ARP's acceptance and approval of the same.
- c. "Contractor" or "GDS" refers to Grant Development Services.
- d. "Parties" refer to GDS and the City.
- e. "ARP" refers to the 2021 Federal-funded American Rescue Plan

4. Scope of Services.

- a. Assistance in assistance in securing the maximum amount of ARP grant funds for which the City qualifies.
 - 1. Review US Treasury and ARP guidelines with City.
 - 2. Review Terms and Conditions pertaining to ARP Allocation from Governor's Office.
 - 3. Secure Allocation estimates.
 - 4. Coordinate with the Governor's Office to secure request procedures.
 - 5. Provide liaison services between City and Governor's office
 - 6. Set up conferences/teleconferences as needed with Governor's staff.
 - 7. Verify first payment of funds: Phase 1.
 - 8. Develop timeline for ARP Program for Phase 1 funding and deadlines.
- b. Once the ARP allocation has been awarded, the remainder of the project will be managed as per Part II, Professional Management Scope of Services, which is hereby incorporated by reference into this Agreement.

5. Compensation and Method of Payment

- a. GDS shall be compensated by the City for all administrative services required to implement the project. The scope of services for project administration is set forth in Part II which is incorporated herein by reference. Fees will be paid with City local funds.

- b. The maximum amount of compensation and reimbursement to be paid hereunder shall not exceed Ten percent (10%) of the ARP Phase 1 funds awarded. Payment to GDS shall be based on satisfactory completion of identified milestones in Part III Payment Schedule of this Agreement.
- c. GDS shall periodically invoice the City for the fees due to GDS hereunder as described by Part III PAYMENT SCHEDULE. City shall pay to GDS all undisputed invoiced amounts within thirty (30) days of receipt of each invoice. City shall abide by the Texas Prompt Payment Act, Ch. 2251 Tex. Government Code in connection with payment for the professional services rendered under this Agreement.

6. Local Program Liaison

For purposes of this Contract, the City Manager or equivalent authorized person, will serve as the Local Program Liaison and primary point of contact for GDS. All required progress reports and communication regarding the project shall be directed to this liaison and other local personnel as directed.

7. Access to Information.

The U.S. Department of the Treasury, Inspectors General, the Comptroller General of the United States, and or any of their authorized representatives, shall have access to any documents, papers, or other records relating to GDS' agreement with the City or the administration, construction, engineering or implementation of the ARP award in order to conduct audits, examinations, and reviews necessary and to close out the City's contract with ARP.

It is agreed that all materials, data, reports and records, illustrations or maps in the possession of the City that are necessary for the carrying out of work outlined in Part II, "Professional Management Scope of Services," shall be readily facilitated and available at no cost to GDS.

8. GDS Responsibilities.

In addition to the obligations outlined in Section 2. "Time of Performance" and Section 4. "Scope of Services," GDS agrees to comply with all requirements of any and all applicable laws, rules, and regulations, Federal, State, and Local. GDS shall assume full responsibility for payments of Federal, State and Local taxes on contributions imposed or required under the Social Security, Worker's Compensation, and Income Tax Statutes for compensation received for services rendered under this Agreement. GDS recognizes that the City is employing GDS for its expertise for administering grants. In fulfilling its obligations under this Agreement, GDS shall exercise the skill and care appropriate to a firm that has professional administration expertise.

9. Resolution of Program Non-Compliance and Disallowed Costs.

In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or ARP program requirements, the parties hereto

shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within 30 days of receipt of a written notice from the City of the dispute, and attempt to reach a just and equitable solution satisfactory to both parties.

If the matter is not resolved by negotiation within 30 days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Agreement and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. If the matter is not resolved through such mediation within 60 days of the initiation of that procedure, either party may proceed to file suit.

10. Termination of Agreement.

- a. The City may terminate this Agreement if, through any cause, GDS fails to fulfill its obligations under this Agreement in a timely and proper manner, or if GDS violates any of the covenants, agreements, or stipulations of this Agreement. To effectuate the City's termination rights, City shall give written notice to GDS of such termination by certified mail, return receipt requested at the mailing address listed in this Agreement, PART IV TERMS AND CONDITIONS, Paragraph 15. Address of Parties For Notices, such notice specifying the effective date thereof, at least thirty (30) days before the effective date of such termination.
- b. During such termination notice period, GDS shall have the opportunity to cure any allegations of breach as reflected in the City's notice letter. If the Agreement is terminated for cause by the City, no consideration is due GDS except reimbursement for actual out-of-pocket expenses incurred by GDS in connection with providing the professional services contemplated by this Agreement.
- c. If the Agreement is terminated for cause by the City, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Contractor pursuant to this Agreement shall, at the option of the City, be turned over to the City and become the property of the City.
- d. In the event this Agreement is terminated by the City prior to the grant project's Completion for convenience or reasons other than good cause, or in the event administrative funds are deobligated by the Agency for reasons other than (a) a failure to provide services contemplated by this Agreement, or (b) other fault of GDS, GDS shall be entitled to receive just and equitable compensation for any work completed hereunder. All completed work will be billed at an hourly rate of \$75.00 per hour based on the charges for time, labor, expenses, overhead and other items specified in the Agreement, but in no event more than a reasonable

compensation of less than the maximum amount of compensation agreed to in this Agreement. Any payments received from the City in excess of that reasonable compensation shall be reimbursed by GDS within 30 days of the date of termination.

- e. If the matter is not resolved by negotiation within 30 days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure.
- f. The parties shall bear the costs of such mediation equally. If the matter is not resolved through such mediation within 60 days of the initiation of that procedure, either party may proceed to file suit.
- g. Upon termination of this Agreement, GDS and the City shall utilize good faith efforts to wind up their affairs and obligations arising under this Agreement in a businesslike and reasonable manner, and in a manner that fully protects the rights of the parties, as well as all third-parties affected by this Agreement.
- h. Notwithstanding the above, GDS shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of contract by GDS, and the City may set-off the damages it incurred as a result of GDS' breach of contract from any amounts it might otherwise owe GDS.

11. Enforcement Costs.

If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled. If any party hereto institutes an action or proceeding to enforce any rights arising under this Agreement, the party prevailing in such action or proceeding will be paid all reasonable attorneys' fees and costs to enforce such rights by the other party, such fees and costs to be set by the court, not by a jury, and to be included in the judgment entered in such proceeding.

12. Additional Terms and Conditions:

The Parties agree to honor and abide by the additional terms and conditions which are appended hereto as Part IV and which are incorporated herein by reference.

13. Extent of Agreement

This Agreement, which includes Parts I-IV represents the entire and integrated agreement between the City and GDS and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by authorized representatives of both City and GDS.

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

CITY OF JOHNSON CITY

ATTEST:

BY: _____

**Rhonda Stell
Mayor**

BY: _____

**Whitney Walston
City Secretary**

DATE: _____

DATE: _____

FIRM: GRANT DEVELOPMENT SERVICES, INC.

BY: _____

**J. Gandolf Burrus,
President**

DATE: _____

**CITY OF
JOHNSON CITY
PART II**

PROFESSIONAL MANAGEMENT SCOPE OF SERVICES

The Management Firm shall provide the following scope of services:

A. Project Management

1. Develop a recordkeeping system consistent with program guidelines, including the establishment of a filing system.
2. Maintenance of filing system.
3. Provide general advice and technical assistance to City personnel on implementation of project and regulatory matters.
4. Assist in the procurement of professional consulting engineering services through the request for proposal process, if applicable, and as required by the Federal/State regulations.
5. Provide proof that all service providers, contractors and subcontractors are not listed as debarred, ineligible, excluded or suspended on the government wide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235).
6. Furnish City with necessary forms and procedures required for implementation of project.
7. Assist the City in meeting all special condition requirements that may be stipulated in the contract between the City and FUNDING AGENCY.
8. Prepare and submit to FUNDING AGENCY documentation necessary for amending the ARP contract.
9. Prepare and submit quarterly reports (progress and minority hiring).
10. Prepare Recipient Financial Interest Report form for City signature and submittal.
11. Establish procedures to document expenditures associated with local administration of the project.
12. Provide guidance and assistance to City regarding acquisition of property (if required):
 - Submit required reports concerning acquisition activities
 - Establish a separate acquisition file for each parcel of real property acquired
 - Determine necessary method(s) for acquiring real property

13. Maintain FUNDING AGENCY Property Management register for any property/ equipment purchased or leased.
14. Serve as liaison for the City during any monitoring visit by staff representatives from either FUNDING AGENCY.

B. Financial Management

1. Assist the City in proving its ability to manage the grant funds to the state's audit division.
2. Assist the City in establishing and maintaining a bank account (Direct Deposit account) and/or separate local bank account, journals and ledgers.
3. Assist the City in submitting the required Accounting System Certification letter, Direct Deposit Authorization Form (if applicable), and/or Depository/Authorized Signatory form.
4. Prepare all fund drawdowns on behalf of the City in order to ensure orderly, timely payments to all contracting parties within the allotted time period.
5. Review invoices received for payment and file back-up documentation
6. Provide general advice and technical assistance to City personnel on implementation of project and regulatory matters
7. Assist the City in establishing procedures to handle the use of any FUNDING AGENCY program income.

C. Environmental Review

1. File Environmental Exemption form for Administrative and Engineering Activities
2. Prepare environmental assessment.
3. Coordinate environmental clearance procedures with other federal or state agencies and interested parties responsible for implementing applicable laws.
4. Document consideration of any public comments.
5. Prepare any required re-assessment of environmental assessment.
6. Ensure compliance with EO 11988 for projects in the flood plains.
7. Prepare all required Public Notices.

D. Acquisition (if required)

1. Prepare required acquisition reports(s).
2. Assist City and Project Engineer in obtaining documentation of ownership for City- owned property and/or Right of Way (ROWs)

E. Construction Management

1. Establish procedures to document expenditures associated with local construction of the project (if force account is applicable).
 - Assist City in determining whether and/or what FUNDING AGENCY contract activities will be carried out in whole or in part via force account labor.
 - Assist City in determining whether or not it will be necessary to hire temporary employees to specifically carry out FUNDING AGENCY contract activities.
 - Assist City in maintaining adequate documentation of personnel, equipment and materials expended/used and their costs.
2. Assist City in documenting compliance with all federal and state requirements related to equal employment opportunity,
3. Assist City in documenting compliance with all federal and state requirements related to minimum wage and overtime pay requirements.
4. Provide assistance to or act as local labor standards officer.
5. Request wage rates from US Department of Labor.
6. Provide sample FUNDING AGENCY contract documents to engineer.
7. Advertise for bids.
8. Make ten-day call to US Dept of Labor to verify Wage Rates.
9. Verify construction contractor eligibility (SAM Clearances).
10. Review construction contract.
11. Conduct pre-construction conference and prepare minutes.
12. Submit any reports of additional classification and rates .
13. Provide Labor Standards Report .
14. Review weekly payrolls, including compliance follow-ups. Conduct employee interviews.

15. Process change orders approved by City and the project engineer and submit to FUNDING AGENCY prior to execution with the construction contractor
16. Obtain Certificate of Construction Completion/Final Wage Compliance Report.
17. Provide general advice and technical assistance to City personnel on implementation of project and regulatory matters.

F. Fair Housing / Equal Opportunity

1. Assist the City in developing, implementing and documenting new activities to affirmatively further fair housing during the contract period.
2. Maintain documentation of all project beneficiaries by ethnicity and gender.
3. Assist with the development and administration of the Citizen Participation Plan per 24 CFR Part 91, including grievance procedures.
4. Assist with Section 3 requirements per 24 CFR Part 135.
5. Prepare all Section 504 requirements per 24 CFR Part 8.
6. Provide all applicable equal opportunity provisions and certifications for inclusion in bid packet.
7. Ensure adoption of Excessive Force provision per 24 CFR Part 91.
8. Ensure the adequate publication of required notices.

G. Audit / Close-out Procedures

1. Prepare the final Project Completion Report, including Minority Business Report, Recipient Financial Interest/Update Report, documentation of fair housing activities and Certificate of Completion.
2. Assist City in resolving any monitoring and audit findings.
3. Assist City in resolving any third-party claims.
4. Provide auditor with FUNDING AGENCY audit guidelines.

CITY OF JOHNSON CITY

PART III

PAYMENT SCHEDULE

PROFESSIONAL MANAGEMENT SERVICES

City shall reimburse Grant Development Services, Inc for management services provided for completion of the following project milestones per the following percentages of the maximum contract amount:

<u>Milestone</u>	<u>Percent of Contract Fee</u>
1. Establishment of Recordkeeping System	15%
2. Completion of Environmental/Special Conditions Clearance	5%
3. Completion of the Bid/Contract Award Process	20%
4. Labor Standards Compliance	15%
5. Comply with EEO / Fair Housing Requirements	10%
6. Project management through Completion of Construction	25%
7. Filing of all Required Close-out Information	10%
Total	<hr/> 100%

CITY OF JOHNSON CITY
PART IV
TERMS AND CONDITIONS
PROFESSIONAL MANAGEMENT SERVICES

1. Changes to Professional Services.

The City may, from time to time, request changes in the scope of the services of GDS to be performed hereunder. Such changes, including any increase or decrease in the amount of GDS' compensation, which are mutually agreed upon by and between the City and GDS, shall be incorporated in written amendments to this Agreement.

2. Personnel.

- a. GDS represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Neither GDS nor such personnel shall be employees of the City. Such personnel shall have no contractual relationship with the City.
- b. All the services required hereunder will be performed by GDS or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under Federal, State and Local law to perform such services.
- c. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracts hereunder shall be specified by written agreement and shall be subject to each provision of this Agreement.

3. Assignability.

GDS shall not assign any interest on this Agreement and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City thereto; provided, however, that claims for money by GDS from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly by GDS to the City.

4. Reports and Information.

GDS, at such times and in such forms as FUNDING AGENCY may require, shall furnish the City such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.

5. Records and Audits.

GDS shall insure that the City maintains fiscal records and supporting documentation for all expenditures of funds made under this contract in a manner that conforms to 2 CFR 200.300-.309, 24 CFR 570.490, and this Agreement. Such records must include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of

the funds provided under this Agreement. GDS and the City shall ensure that reasonable steps are undertaken to ensure confidentiality in the sharing of such records and information, to the extent applicable.

GDS and the City shall retain such records, and any supporting documentation, for the greater of three years after City make final payments and all other pending matters are closed. or the period required by other applicable laws and regulations.

6. Findings Confidential.

All the reports, information, data, etc., prepared or assembled by GDS under this Agreement are confidential and GDS agrees that they shall not be made available to any individual or organization without the prior written approval of the City.

7. Copyright.

No report, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of GDS.

8. Compliance with Applicable Laws/ Indemnification.

GDS shall comply with the requirements of all applicable laws, ordinances, codes, rules and regulations, and shall exonerate, indemnify, and hold harmless the City, its elected and appointed officials and employees, from and against any and all claims, costs, suits, and damages, including attorneys' fees, arising out of any tort done in GDS' performance or nonperformance of the activities, services or subject matter called for in this Agreement or in connection with the management and administration of the ARP contract, and shall assume full responsibility for payments of all damages and Federal, State and local taxes on contributions imposed or required under the Social Security, worker's compensation and income tax laws.

FEDERAL CIVIL RIGHTS COMPLIANCE

9. Equal Employment Opportunity.

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

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, handicap, sexual orientation, gender identity, political or religious opinions or national origin.
- c. The Contractor will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- d. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and related orders of the Secretary of Labor.
- f. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order

as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

10. Civil Rights Act of 1964.

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

11. Section 504 Rehabilitation Act of 1973, as amended

The Contractor agrees that no otherwise qualified individual with disabilities shall, solely by reason of his/her disability, be denied the benefits of, or be subjected to discrimination, including discrimination in employment, under any program or activity receiving federal financial assistance.

12. Age Discrimination Act of 1975.

The Contractor shall comply with the Age Discrimination Act of 1975 which provides that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance

13. Section 109 of the Housing and Community Development Act of 1974.

The Contractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

14. Section 503 Handicapped (if \$2,500 or Over) Affirmative Action for Handicapped Workers.

- a. The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b. The contractor agrees to comply with the rules, regulations, and orders of the Secretary of Labor issued pursuant to the Act.

- c. In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and orders of the Secretary of Labor issued pursuant to the Act.
- d. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.
- e. The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of Section 503 of Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.
- f. The contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

15. Address of Parties for Notices:

To: City of Johnson City
Rick Schroder City Manager
303 E Pecan Drive
Johnson City, Texas 78636

To: Grant Development Services
JGandolf Burrus, President
Post Office Box 33043
Austin, Texas 78764
4801 So Congress Ave, Ste R-4 (78745)

Or to such other address as may from time to time be specified in a notice given to the other party at the address provided in this Section.

16. Jurisdiction

This Agreement shall be construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Blanco County, Texas. Venue for any legal proceedings to enforce or interpret this Agreement shall be in a court of appropriate jurisdiction in Blanco County, Texas.

17. No Other Agreements

This Agreement supersedes all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement, or promise relating herein shall be valid or binding. Neither this Agreement nor any duties or obligations hereunder shall be assignable by either party without the prior written consent of the other.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Agreement.

18. Amendments to Agreement

This Agreement, including the Attachments thereto constitutes a legally binding contract between the City and GDS. This Agreement may be amended only in writing and shall require the mutual consent of both parties. The City may, from time to time, request changes in the services that GDS will perform under this Agreement. Such changes, including any increase or decrease in the amount of GDS' compensation, must be agreed to by all parties and finalized through a signed, written amendment to this Agreement.

19. Counterparts.

This Agreement may be signed in counterparts, each of which shall be deemed to be an original for all purposes.

20. Severability

In any case one or more of the provisions contained in Agreement is held by a court of law to be illegal, invalid or unenforceable, (i) that provision will be deemed amended to achieve as nearly as possible the same economic effect as the original provision, and (ii) the legality, validity and enforceability of the remaining provisions of this Agreement will not be affected or impaired thereby.

21. Conflicts of interest

- a. Governing Body. No member of the governing body of the City and no other officer, employee, or agent of the City, who exercises any functions or responsibilities in connection with administration, construction, engineering, or implementation of the ARP award between FUNDING AGENCY and the City shall have any personal financial interest, direct or indirect, in the Contractor or this Agreement; and the Contractor shall take appropriate steps to assure compliance.
- b. Other Local Public Officials. No other public official who exercises any functions or responsibilities in connection with the planning and carrying out of administration, construction, engineering or implementation of the ARP award between FUNDING AGENCY and the City shall have any personal financial interest, direct or indirect, in the Contractor or this Agreement; and the Contractor shall take appropriate steps to assure compliance.

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

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

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