



1220 L Street, NW
Washington, DC 20005-4078
USA
Telephone 202-682-8000
Fax 202-682-8036
www.apa.org

Kerry McConnon

API Contract No.: 2018-111813

DDC Public Affairs
805 15th Street, NW, Suite 300
Washington DC, 20005

This letter of Agreement between the American Petroleum Institute (hereinafter "API") and DDC Public Affairs (hereinafter "Consultant", which includes Consultant's officers, directors and employees, and agents and subcontractors, if authorized) is as follows:

1. Scope of Work. API authorizes Consultant to

as specified in
Consultant's proposal dated November 1, 2017, which is attached and made a part hereof.

API may withhold up to 15% of the Agreement amount, pending API's acceptance of tasks and all deliverables.

5. **Invoicing and Expense Documentation Guidelines.** Consultant agrees to follow the guidelines in Attachment A, *API Invoicing and Expense Documentation Guidelines*, including how to submit invoices for payment, how to subtotal activity types, what constitutes allowable out of pocket expenses, and payments that the Consultant may not pay directly on API's behalf. Noncompliance with API invoicing guidelines may cause delays processing payments.

An equal opportunity employer

6. **Term.** This Agreement shall be effective on January 1, 2018 below and shall terminate on June 30, 2018, unless modified in writing by both parties.
7. **Privacy.** Consultant represents and warrants that none of the data, mailing lists or other material used in activities under this agreement or contained in any of the deliverables under this agreement will violate or infringe upon the proprietary or statutory rights of any person or entity, or constitute an invasion of anyone's right to privacy.
8. **Intellectual Property Ownership.** All videos, reports, drawings, drafts, data and other documents or materials developed hereunder, and all intellectual property rights in such videos, reports, drawings, drafts, data and other documents or materials, including copyrights and patent rights, shall be the sole property of API. API may use such materials in any manner in which API, in its sole discretion, deems fit and proper, including submission to governmental agencies, use in litigation, or use in other proceedings before governmental bodies. In the event that any court or governmental authority determines that API does not own all rights in all videos, reports, drawings, drafts, data and other documents or materials developed hereunder, Consultant shall immediately assign all such rights to API. Consultant will not use the aforementioned items or other material developed therefrom, or release the content or findings of the work performed hereunder to parties outside API without prior review and written approval from API, unless they are in the public domain or are otherwise publicly released by API. Consultant agrees to preserve the confidentiality of information furnished hereunder by API.

This Agreement shall not affect any existing ownership rights in stock footage, however, Consultant shall secure a written, unlimited, worldwide, royalty free, nonexclusive, non-terminable licenses, with no duty to account, permitting API to use all stock footage for any purpose whatsoever. Such licenses shall include the following terms:

"[Copyright Owner] hereby grants the American Petroleum Institute ("API") and its agents or assigns an unlimited, worldwide, royalty free, nonexclusive, non-terminable licenses, with no duty to account, permitting API to use all images, video, or other materials ("stock footage") subject to this Agreement, for any purpose whatsoever, including, but not limited to, on websites, in online advertising, in social media, in mobile advertising, mobile "apps", software, film, video, television, footage, displays, screensavers, e-cards, e-publications (e-books, e-magazines, blogs, etc.), and in online media (including on video-sharing services such as YouTube, Dailymotion, Vimeo, Instagram etc.) or other multimedia production. API's license rights for stock footage shall survive any termination of this Agreement."

Consultant shall maintain all agreements with Copyright Owners granting API said license rights in stock footage and shall provide copies of the agreements to API for review, at API's request. Consultant acknowledges that its agreements with Copyright Owners shall not be inconsistent with the terms of this Agreement.

9. **Restrictions on Use of API Information.** Consultant shall not use any API content, information, processes, knowledge or any copyrightable work created under this Agreement or any materials developed therefrom for any other purpose than to satisfy the terms of this Agreement, or release the content or findings of the work performed hereunder to parties outside API, without prior review and written approval from the API Contract Officer, unless such materials are already in the public domain as of the date of this Agreement or are otherwise publicly released by API. Consultant shall not disclose the existence of this

Agreement, its terms, the content or findings of the work performed hereunder to any parties outside API, and shall preserve the confidentiality of information furnished hereunder by API or received on behalf of API pursuant to the obligations described under the clause Nondisclosure of Confidential Information.

10. **Nondisclosures of Confidential Information.** This paragraph governs Consultant's obligations with respect to API's Confidential Information. Confidential Information includes, but is not limited to, deliverables and any technical and business information relating to API's activities, products, services, employees, customers, member organizations; and the existence, terms and substance of this Agreement. Confidential Information does not include information that is or becomes publicly available without act or omission by Consultant or API; was in Consultant's possession before API's disclosure to Consultant; or is lawfully disclosed to Consultant by a third party without restriction on disclosure.

Consultant certifies that it currently is not obligated by any agreement with any other third party to disclose Confidential Information related to this Agreement. Consultant agrees: (i) to use API's Confidential Information only for purposes of performing this Agreement; (ii) not to disclose API's Confidential Information to any third party pursuant to a contractual obligation without prior written approval from API; (iii) prior to disclosing Confidential Information to the extent required by lawful order of a court or government entity, Consultant shall immediately notify API of such order, provide a copy of the order to API, allow API to review and comment on Consultant's response to such order before disclosure, and allow API to seek maximum confidential treatment of the Confidential Information allowed by law; and (iv) to use commercially reasonable efforts to secure against discovery or disclosure of API's Confidential Information.

The parties agree that the requirements of this paragraph are material terms such that failure to comply with this paragraph is grounds for API to terminate this Agreement and entitle API to a refund of all monies paid. At the termination of this Agreement, Consultant will return or destroy (at API's election) all Confidential Information in Consultant's possession or control.

11. **Right to Inspect.** API shall have the right at all reasonable times during the course of this Agreement, and for a reasonable period following completion of this Agreement, to inspect Consultant's offices and facilities, including equipment and records relating to the work conducted hereunder, for the purpose of ensuring conformance with this Agreement and with generally accepted good scientific practices, if applicable, and to verify the accuracy of invoices. Such inspection shall include the right to photocopy records pertaining to work conducted pursuant to this Agreement. Consultant agrees to maintain records in accordance with its Records Retention policy or for five years after termination of this Agreement, whichever is greater.
12. **Trade Sanctions.** Consultant shall be solely responsible for ensuring its compliance with applicable laws and regulations.

Except as authorized by law, Consultant agrees that it will not export, re-export or disclose any product or technical data provided under this Agreement contrary to the laws and regulations of the United States and other countries relating to export trade, or to any country, entity or other party that is ineligible to receive such items under U.S. laws and regulations, including, but not limited to, regulations of the U.S. Department of Commerce or the U.S. Department of the Treasury.

Except as authorized by law, Consultant specifically warrants that it does not currently and shall not export or re-export any product or technical data supplied hereunder to any country or party subject to embargo or restrictions under U.S. law or regulations, which as of the signing of this Agreement, include, but are not limited to:

- (a) countries subject to economic sanction under Executive Order of the President, regulations of the U.S. Treasury Department, or other U.S. law; and parties controlled by or acting for the governments of those countries, including, but not limited to, Cuba, Iran, Sudan, Syria, North Korea, and the Crimea region of Ukraine;
- (b) parties identified by the U.S. government as prohibited or restricted from participating in export transactions by any U.S. government agency, including but not limited to the U.S. Department of the Treasury's "List of Specially Designated Nationals and Blocked Persons" and "U.S. Sectoral Sanctions Identifications List," the U.S. Commerce Department's Denied Person's List or Entity List, and any party that is not itself specifically designated but that is 50% or more owned by a designated party, or is otherwise acting on behalf of a designated party; and
- (c) any party engaged in or supporting terrorism or the design, development, production, stockpiling or use of nuclear, chemical or biological weapons or missiles.

Consultant also warrants that no product or technical data supplied hereunder will be used, either directly or indirectly, in, or in support of, exploration for, or production of, oil or gas in Russian deepwater, Arctic offshore locations, or shale formations in Russia.

If Consultant's activities hereunder do not comply with statutory or regulatory requirements, Consultant agrees to take whatever corrective action, including product recall, that is deemed necessary by API to protect consumers or API in a time frame specified by API.

Consultant agrees that API may, in its sole discretion, immediately terminate this Agreement if API learns information which it determines, in its sole discretion, to be evidence of a breach by Consultant of any representation set forth in this paragraph, and that API shall not be liable for any damages alleged to be caused by such termination.

Consultant agrees that API may notify any third party of an improper or unauthorized use of the API mark(s) when, in the sole judgment of API, such notifications are necessary to protect consumers, the public, or for API's own protection, and API shall not be liable for any damages whatsoever resulting from such notification.

13. Compliance. Consultant agrees that it:

- (a) will comply with all applicable laws governing bribery and corrupt practices, including but not limited to the U.S. Foreign Corrupt Practices Act;
- (b) will not take any action in furtherance of bribery of a government official or employee, or any political party or candidate; and
- (c) will not give or offer anything of value to any government official or employee, or any political party or candidate, for the purpose of:
 - (i) influencing or rewarding any act or decision of such official, employee, party or candidate, either directly, or indirectly through an agent or subcontractor;
 - (ii) inducing such official, employee, party or candidate to violate his or her lawful duty;
 - (iii) inducing such official, employee, party or candidate to influence any government or instrumentality thereof; or
 - (iv) securing any improper advantage for API.

For the purposes of this paragraph, employees of state-owned entities are considered "government officials or employees."

Consultant agrees to notify API immediately if Consultant receives any information indicating a possible violation of the requirements of this paragraph.

Consultant represents that no government official or employee, or any political party or candidate has an ownership interest greater than 5% in Consultant. Consultant further agrees to notify API if, during the term of this Agreement, any government official or employee, or any political party or candidate acquires an ownership interest greater than 5% in Consultant.

Consultant agrees that API may, in its sole discretion, immediately terminate this Agreement if API learns information which it determines, in its sole discretion, to be evidence of a breach by Consultant of any representation set forth in this paragraph, and that API shall not be liable for any damages alleged to be caused by such termination.

Consultant agrees that it shall comply with and render all services under this Agreement in accordance with all other applicable federal, state and local laws and regulations.

14. **Termination.** API may terminate this Agreement at any time by giving written notice of such termination to Consultant. Upon receipt of such written notice of termination, Consultant shall cease incurring costs on this project except with the prior written approval of API for such costs that are necessary to close out the project. In the event of such termination, API's sole obligation will be to reimburse Consultant for actual costs incurred as of the date of termination and subsequent costs incurred with prior written approval of API. In no event shall such payment include costs and/or anticipated fees for unperformed work or exceed the maximum amount of this Agreement as set forth above.
15. **Return of Materials.** At the termination of this Agreement, Consultant will return or destroy (at API's election) all API property and information that API provided Consultant that is in Consultant's possession or control.
16. **Subcontract.** Consultant may not assign, subcontract, or otherwise delegate its obligations under this Agreement without API's prior written consent. If API authorizes the Consultant to engage subcontractors, including but not limited to local support, to provide services, then Consultant shall be responsible for the work and payment of fees and expenses of such subcontractors, if any. Prior to Consultant engaging a subcontractor on behalf of API, Consultant agrees to provide and ensure Consultant's officers, directors, employees, agents, and subcontractors will provide in a timely manner information requested by API in order for API to complete, in its sole discretion, adequate due diligence of the subcontractor. If API determines in its sole discretion that the subcontractor does not meet API's compliance standards, Consultant agrees to nominate an alternative subcontractor at no additional cost or other negative impact to API. API agrees to include in its review due diligence results performed by Consultant, if any.
17. **Consultant is Independent Contractor.** Consultant acknowledges that it is an independent contractor in its performance of any and all work pursuant to this Agreement, and the only obligations assumed by API are those specifically described in this Agreement. No association, partnership, or joint venture of any kind has been created by this Agreement. Consultant agrees not to refer to itself as API's agent nor refer to the

relationship between the parties as an association, partnership, joint venture, or any other business combination. Consultant shall have no authority to act or contract on behalf of API. API shall not be liable for taxes, Workers' Compensation, unemployment insurance, employer's liability, employer's FICA, social security, withholding tax, and/or other taxes or withholding for or on behalf of Consultant or any other person under Consultant's direction in performing the services under this Agreement. All such obligations and costs are Consultant's responsibility.

18. **Insurance Requirements.** Consultant shall carry Workers' Compensation insurance and any other insurance required by the jurisdiction in which the work pursuant to this Agreement will be performed. Consultant shall obtain and maintain Comprehensive General Liability Coverage in an amount sufficient to cover all of Consultant's operations and obligations under this Agreement. Consultant shall require any subcontractor to obtain and maintain the same level of insurance as that required by Consultant under this paragraph. Consultant agrees to provide evidence of insurance for itself if requested by API.
19. **Indemnification.** Consultant shall indemnify, defend and hold harmless API, its employees, directors, officers, members and agents from and against all claims, demands, suits, actions or other proceedings brought by third parties ("Claims"), and from and against all damages, payments made in settlement, and other liability payable to such third parties, and all costs and expenses incurred (including without limitation reasonable attorneys', accountants' and experts' fees and expenses), as a result of such Claims to the extent such Claims: (i) are alleged to arise out of or are or were caused by the Consultant's breach of its obligations under this Agreement or (ii) are for damages to any property or bodily injury to or death of any person alleged to be arising out of or caused by its negligence or willful misconduct.
20. **Limited Liability.** API SHALL HAVE LIMITED LIABILITY TO CONSULTANT OR ANY OTHER THIRD PARTY FOR ANY DAMAGES, LOSSES OR CLAIMS ALLEGED TO ARISE OUT OF THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING NEGLIGENCE, OR FOR ANY INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR FOR ANY CLAIM MADE AGAINST CONSULTANT BY ANY OTHER PARTY. SUCH LIMITED LIABILITY SHALL NOT EXCEED THE FEES PAID TO CONSULTANT BY API.
21. **API Tax Exempt Status.** API is a nonprofit corporation exempt from United States federal income tax under section 501(c)(6) of the Internal Revenue Code of 1986 as amended. No provision of this Agreement shall obligate API to take any action that is inconsistent with or that could jeopardize its tax-exempt status.
22. **Payment of Taxes.** Consultant agrees to remit all sales, use, excise, and other taxes collected from API now or hereafter as required by any government body or authority based on or in any way measured by this Agreement.
23. **Assignment.** Neither party may assign its rights or obligations under this Agreement without the prior written consent of the other party.
24. **Defense of Work.** Upon request of API, Consultant agrees to defend its work under this Agreement and to provide testimony in defense of its work to governmental bodies (legislative, executive or judicial). API shall pay expenses for such services at Consultant's standard billing rates in effect at the time the services are rendered.

25. **Complete Agreement.** This Agreement sets forth the entire agreement between the parties. This Agreement supersedes all prior proposals, understandings or agreements, oral or written, relating thereto.
26. **Modification and Waiver.** The failure of either party to enforce its rights under this Agreement at any time for any period shall not be construed as a waiver of such rights. No changes or modification or waivers to this Agreement that would increase or decrease the total cost by more than \$10,000 or extend the completion date will be effective unless in writing and signed by both parties. Any modification of this Agreement must be specifically referenced.
27. **Restrictions on Publicity.** Consultant agrees that the trademarks "American Petroleum Institute" and "API" are the registered trademarks of API (the "API Marks"), and Consultant agrees that it shall not use the API Marks or any formative marks, in any publicity or advertising, or for any other purpose without the prior written approval of API.
28. **Notice of Claims.** Consultant agrees to notify in writing API Contract Officer within five business days of any threats of litigation or of any assertion or allegation that the rights of any third party have been violated by any actions taken pursuant to this Agreement. In response to said assertion, Consultant agrees to: (1) consult with API Contract Officer to determine what action needs to be pursued, and (2) to take any action that is deemed necessary by API to protect both parties. The parties agree that if API determines that there is a reasonable basis for said assertion that API may immediately suspend or terminate this Agreement. API shall not be liable to Consultant for any lost royalty, cost, expense, or damage whatsoever resulting from a suspension or termination made pursuant to this paragraph.
29. **Method of Giving Notice.** Any notice required or authorized by this Agreement shall be given in writing and shall be delivered by personal delivery, e-mail transmission, overnight courier, or by certified or registered mail, and shall be deemed received: (i) on the date of personal delivery or facsimile or e-mail transmission (with confirmation of transmission), or (ii) on the next business day if delivered by overnight courier, or (iii) on the third business day if deposited into the United States mail. All notices to API shall be sent to the API Contract Officer. All notices to Consultant shall be sent to the Project Manager.
30. **Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the District of Columbia, without regard to the rules regarding conflicts of law. The parties agree that any action, suit, or proceeding based upon any matter, claim, or controversy arising under this Agreement shall be brought exclusively in the federal or state courts located in the District of Columbia. The parties consent to the jurisdiction and venue of such courts, and waive any objections to the jurisdiction and venue of those courts.
31. **Execution.** This Agreement may be signed in multiple counterparts that together shall constitute a single Agreement. This Agreement, including any modifications, waivers, or notifications relating thereto, may be executed and delivered by facsimile, electronic mail, or other electronic means. Any such electronically transmitted document shall constitute the final Agreement of the parties.
32. **Priority of Terms.** For any inconsistencies between this Agreement and its attachments, the express terms of this Agreement shall govern.

33. **Authority to Contract.** The undersigned individuals represent and warrant that they are expressly and duly authorized by their respective entities to execute this Agreement and to legally bind their respective entities as set forth in this Agreement.
34. **Compliance with Advocacy Laws.** Consultant shall render all services during the term of this Agreement in accordance with all applicable federal and state laws and regulations, including but not limited to lobbying, election campaign, gift, ethics and privacy laws, the CAN-SPAM Act, and the Children's Privacy Protection Act. As Consultant's efforts on API's behalf may extend to action within the meaning of the Lobbying Disclosure Act of 1995 (Public Law 104-65), as amended, Consultant will, if applicable, register with and report to Congress under the provisions of that Act. Consultant and any of its assignees agree to comply with any other applicable lobbying or ethics laws and regulations in their performance hereunder, including, without limitation, the Federal Election Campaign Act of 1971, as amended, the Gift Rules Guidelines of the United States Senate and House of Representatives, the Standards of Ethical Conduct of Employees of the Executive Branch, and the Lobbying Disclosure Act of 1995, as amended. Consultant's relationships with public officials and candidates for public office will be maintained in such a manner as to avoid any impropriety or appearance of impropriety that may be attributed to API.
35. **Independence of Political Advocacy.** Consultant agrees that it will assist API in maintaining the independence of its political advocacy from federal candidates and political parties. Consultant agrees to give API advance written notice of any relationship, including, but not limited to, vendor or consulting, it has or later intends to establish with a federal candidate or political party. Consultant agrees to notify API in writing and no later than five business days prior to taking on another engagement that, in API's sole discretion, presents an actual or perceived risk of an allegation of improper coordination between API and a federal candidate or political party. API may authorize Consultant to present a written plan establishing safeguards and firewalls to adequately protect API from the risk of an allegation. If adequate measures cannot be agreed upon, API may immediately terminate this Agreement. Consultant further agrees that it will take no action that would cause API to improperly coordinate its activities under the law, including, but not limited to, conveying to API non-public information about plans, projects, activities, or needs of a candidate or political party.
36. **Survival.** Paragraphs 7-35 shall survive the termination of this Agreement.

[Signatures appear on the following page.]

If the above terms and conditions are acceptable, please sign below and return an executed copy of this Agreement to API.

DDC Public Affairs



Date: 12/14/2017 | 9:56 AM EST

American Petroleum Institute



Marty Durbin,
Executive Vice President and Chief Strategy
Officer of Government Affairs

Date: 12/14/2017 | 11:42 AM EST

ATTACHMENT A: API INVOICING AND EXPENSE DOCUMENTATION GUIDELINES

Provide this Attachment A to Company's Account Manager and/or Billing Department
--

Please review these Guidelines carefully. Payment will be delayed for incomplete invoices or unsubstantiated expenses. For questions, contact the API representative named in the Agreement. Sections III and IV also apply to invoices submitted for subcontractor expenses.

I. General Invoice Guidelines

1. Invoices shall reference API Contract No.: 2018-111813.
2. API may request specific activity/expense itemization on the invoice.
3. Each invoice shall have a unique invoice number that will not subsequently be reused.
4. Invoices shall be in US dollars unless otherwise specified in the Agreement.
5. Invoices shall provide a detailed description of the services provided. This includes, but is not limited to, tasks performed, hours worked, goods procured, itemized expenses.
6. Invoices shall include a subtotal of professional services, direct costs, and out of pocket expenses, if applicable).
7. Invoices are payable within 30 days of API's receipt of a complete and accurate invoice.
8. API may withhold up to 15% of the Agreement amount, pending API's acceptance of all deliverables.
9. A current W-9 and banking information are required from new vendors; payment is contingent upon receipt of a W-9. International vendors may have additional requirements.

II. Submitting Invoices for Payment

1. API uses Anybill, a third party vendor, to receive and route invoices for payment.
2. Submit invoices to Anybill using one of the following methods; do not include API staff on communications to Anybill:
 - a. **Anybill Email (preferred):**
 - i. Email submissions are limited to ONE PDF FILE per invoice, which includes all backup documentation, AND cannot exceed 10 MB.
 - b. If the above TWO criteria cannot be met, fax or mail the invoice to:
 - i. Anybill Address:
 - ii. Anybill Fax:

III. Required Supporting Documentation

1. Documentation is required for expense reimbursement of \$75 USD or more.
2. Documentation must show amount incurred by Vendor; estimates or quotes are insufficient.
3. Expenses must be itemized on the invoice, or an attachment to the invoice, such that totals match amounts on supporting documentation.
4. Receipts must be legible, oriented upright, and be in the same sequential order as the itemization.
5. Meals and entertainment expenses, other than for the Vendor's individual travel, must include the itemized receipt and include an itemization of attendees, their affiliation, title, and the business purpose of the expense. This is required regardless of the amount spent.

[continued on the next page]

IV. Out of Pocket Expenses

1. Reimbursement of travel expenses is limited to coach class transportation and reasonable and necessary accommodations and meal costs if travel is requested by API.
2. Air travel must include the ticketed itinerary stating the fare amount, taxes, fees, etc., as well as class designation.
3. If upgrading from coach class, include documentation identifying the coach fare at the time the ticket was purchased, and clearly identify the amount of overage paid by Vendor.
4. Reimbursement for vehicle mileage shall be at the prevailing IRS rate.

-End Attachment A-