

Request for Proposals

Comprehensive Disaster Recovery, Financial and Grant Management Support, and Pre-Disaster Cost Recovery Planning Services

Date Issued: October 4, 2024

PROPOSALS DUE BY: October 11, 2024 5:00pm EDT

1. Request for Proposal Notice

Pursuant to Buncombe County's Procurement, Purchasing and Contracting Policy, Proposals will be received by Buncombe County for the following: Standby comprehensive disaster recovery management services including, but not limited to:

- I. FEMA Public Assistance Advisory Services
- II. FEMA Individual Assistance Advisory Services
- III. FEMA 404 and 406 Hazard Mitigation Expertise
- IV. HUD CDBG-DR, MIT, CV, ESG, and other HUD Program Support
- V. FHWA / FTA Support
- VI. Financial / Grants Management Support and Information Technology
- VII. Resilient Community Planning Program Support
- VIII. Long-Term Recovery Operations Implementation
- IX. Emergency Operation Center and Joint Field Office Staff Augmentation

Supplier may select specific components to quote or may submit a quote for all services listed above. Any other services you might have can be submitted but please keep them separate from the requested services above.

Notice is hereby given that the County will accept proposals until October 11, 2024 5:00pm EDT.

The RFP is comprised of the base RFP document, any attachments, and any addenda released before contract award. All attachments and addenda released for this RFP in advance of any contract award are incorporated herein by reference.

2. Scope of Services

The selected contractor will assist the following Buncombe County in strategically managing Buncombe County project development and administration of various Federal and State Disaster Programs related to Presidentially declared emergencies or disasters that occur during the term of this contract.

Federal Programs may include, but are not limited to: Federal Emergency Management Agency (FEMA) Public Assistance (PA); FEMA 404 Hazard Mitigation Grant Program (HMGP); FEMA Individual Assistance (IA); United States (US) Department of Housing and Urban Development (HUD) Community Development Block Grant Disaster Recovery (CDBG-DR) Mitigation (MIT), Coronavirus (CV), Emergency Solutions Grant (ESG); Federal Highway Emergency Relief Program (FHWA-ER); Federal Transit Administration Emergency Relief Program (FTA-ER); and FEMA Community Disaster Loan (CDL). The awarded firm will provide project development and grants management services for any existing, open disaster recovery effort including Tropical

System Helene as well as any future disaster events. Examples of disaster recovery services that may be required, include:

1. FEMA Public Assistance Advisory Services

- a. Provide extensive knowledge, experience, and technical competence in dealing with Federal regulations, specifically including the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), the Post-Katrina Emergency Management Reform Act of 2006 (PKEMRA), the Sandy Recovery Improvement Act of 2013 (SRIA), and the Disaster Recovery Reform Act of 2018 (DRRA).
- b. Evaluate and assist in the formulation, execution, and closeout of FEMA PA Emergency and Permanent Work Project Worksheets (PWs). This will involve expertise in cost estimating, developing detailed damage descriptions and dimensions (DDDs), technical assistance, and project scopes of work (SOW), and cost estimates (CEs).
- c. Meet as necessary with Buncombe County/State/Federal representatives in connection with the programmatic, financial, contracting, and eligibility and process issues, at the request of the client.
- d. Evaluate and recommend potential alternate and/or improved projects.
- e. Evaluate the appropriateness of the use of FEMA programs, including the Section 428 Public Assistance Alternative Procedures for Permanent Work and Debris Removal.
- f. Develop a process/system to efficiently submit Federal grant applications, identify eligible projects, capture costs, prepare cost reports, reconcile invoices, and close-out projects.
- g. Prepare first and second appeals, and arbitration, and Prepare projects for audit and respond to audit findings as requested.

2. FEMA Individual Assistance Advisory Services

- a. Provide expert knowledge and technical competence in FEMA IA Programs, including Mass Care and Emergency Assistance (MC/EA), Individuals and Households Program (IHP), Disaster Case Management (DCM), Crisis Counseling and Training Program (CCP), Disaster Unemployment Assistance (DUA), and Disaster Legal Services (DLS).

- b. Support community relations functions and outreach, and support efforts to provide disaster survivors with guidance on eligibility and the application process for Federal, State, and local assistance programs
- c. Work as an advocate of disaster survivors and bring to the attention of FEMA any misunderstandings or problems an applicant may have involving any aspect of eligibility, funding, or the programs in general
- d. Provide technical assistance related to all aspects of Federally-funded shelter and housing or home repair programs, including IHP Programs (Transitional Sheltering Assistance, Rental Assistance, Direct Temporary Housing Assistance, and Permanent Housing Construction), Sheltering and Temporary Power (STEP), and HUD Disaster Housing Assistance Programs
- e. Represent Applicant in discussions with FEMA, State, and other entities related to activation and implementation of housing and individual assistance programs, time extensions, appeals, and eligibility determinations, and other related matters
- f. Develop or support the development of strategies, plans, policies, and procedures related to disaster housing and human services.

3. FEMA 404 and 406 Hazard Mitigation Expertise

- a. Assist in identifying, developing and evaluating opportunities for hazard mitigation projects to reduce or eliminate risk from future events (both Sections 404 and 406).
- b. Develop hazard mitigation proposals (HMPs), and if needed benefit-cost analysis (BCA), to protect damaged elements and facilities from future damage.
- c. Prepare hazard mitigation proposals, grant applications, BCA, and other services related to the HMGP, Pre-Disaster Mitigation, and other mitigation programs.

4. HUD CDBG-DR, MIT, CV, ESG, and other HUD Program Support Services

- a. Provide staff augmentation, subject matter expertise, and other support services related to HUD Coronavirus relief programs to include those funded through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Consolidated Appropriations Act, 2021, American Rescue Plan Act (ARPA), and any future legislation (e.g., American Jobs Plan, American Families Plan, and other COVID-19 related funding programs).
- b. Provide knowledge, experience and technical competence in the planning, administration, and implementation of eligible CDBG activities as identified at 24

CFR 570 and modified or waived under the Federal Register allocation of the CDBG-DR funds.

- c. Conduct unmet needs assessments that identify type and location of the community's disaster recovery needs especially in the three core aspects of recovery – housing, infrastructure, and the economy.
 - d. Provide extensive knowledge of CDBG eligible activities and national objectives particularly as they apply to disaster recovery and develop and submit Action Plans.
 - e. Provide technical assistance as requested including HUD level environmental reviews and clearance and other cross-cutting Federal requirements such as documentation, procurement, Federal labor standards, fair housing, accessibility, uniform administration, closeout, and monitoring and compliance.
- 5. FHWA / FTA Support**
- a. Advise and provide technical support for FHWA DR and/or FTA DR funding.
- 6. Financial / Grants Management Support and Information Technology**
- a. Advise on Federal regulation and policy on tracking costs, including direct administrative costs (DAC) and facilitate reimbursement for all eligible costs incurred by Buncombe County. This includes policy developed by FEMA specific disaster recovery grants and any other guidance issued by Federal agencies.
 - b. Categorize, record, track, and file costs in support of the financial reimbursement process. Develop IT solutions that support such grants management.
 - c. Perform internal controls assessment and support compliance monitoring activities.
 - d. Provide expertise using systems to report information to assist in the management of the disaster recovery programs.
- 7. Resilient Community Planning Program Support**
- a. Develop a resilience strategy and program, including goals and strategies.
 - b. Conduct preparedness-related services (including training design and execution) and associated pre-disaster recovery planning (e.g., disaster cost recovery, debris management, hazard mitigation).
 - c. Conduct preparedness-related services that support (directly or indirectly) a jurisdiction's resilience program.

8. Long-Term Recovery Operations Implementation Support

- a. Manage the operations of the recovery structure to engage with the impacted community(ies), State and Federal agencies, and non-governmental organizations to identify community recovery needs and develop and implement strategy to support the local recovery efforts.
 - i. Support the disaster recovery coordinator and other mission support personnel to implement recovery priorities.
 - ii. Coordinate with agencies and partners, as necessary, necessary to participate within the Recovery Support Function (RSF) structure.
 - iii. Coordinate with emergency management and other agencies to determine resources to fill staffing needs.
- b. Engage with the impacted community(ies) to provide technical assistance and guidance in developing a local recovery management structure, as necessary.
- c. Engage with the impacted community(ies), and provide technical assistance as appropriate, to determine recovery needs and goals.
- d. Identify State and Federal resources available to support local recovery goals.
- e. Develop strategies for each RSF to provide technical assistance and programmatic support to meet the local recovery needs.
- f. Manage cost recovery and recovery financing efforts to secure funding for identified recovery strategies.
- g. Manage the implementation of the strategies, including providing technical assistance to community(ies) as needed throughout the recovery process to identify and address continuing needs. Evaluate strategies to determine effectiveness in meeting recovery needs and adapt as needed.
- h. Evaluate the need for RSFs and a recovery structure throughout the long-term recovery process and adapt the structure as needed through time to manage operations effectively and efficiently.
- i. Provide a plan to transition recovery efforts to steady state operations and demobilizing the recovery structure. This may include providing guidance on the transition to steady state.

9. Emergency Operations Center and Joint Field Office Staff Augmentation

- a. Provide staff augmentation to the Emergency Operations Center (EOC) and/or the Joint Field Office (JFO) in support of disaster response and recovery operations.
- b. Assist Buncombe County in determining staff need and composition for the EOC and/or JFO.
- c. Supply staff with the knowable and expertise to serve in the positions of chief, deputy chief, or specialists for the following sections:
 - i. Command
 - ii. EOC/ JFO Chief of Staff
 - iii. Safety Officer
 - iv. Public Information Officer
 - v. Liaison Officer
 - vi. Operation Section
 - vii. Planning/Intelligence Section
 - viii. Logistics Section
 - ix. Finance and Administration Section
- d. Provide additional expertise and staffing as needed to support additional disaster response and recovery efforts.

3. Requirements

Each Proposer must be in compliance with all local, State, and Federal Requirements and be prepared to implement programs that comply with these requirements.

The contractor will be required to track their hours and costs to facilitate reimbursement by Federal agencies, including FEMA, when applicable. Timesheets will include specific descriptions of tasks performed and results achieved.

4. Evaluation Criteria

A. Qualifications of the firm

Provide a description and history of the firm focusing on previous disaster recovery experience. Include past experience with the FEMA PA Program, and applicability of the Stafford Act, as amended, relevant Federal Regulations (including 44 CFR 206, the standards at 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and

Audit Requirements for Federal Awards which applies to disasters declared on or after December 26, 2014 and 44 CFR 13.36 – Procurement which applies to disaster declared before December 26, 2014), and FEMA policies (the 9500 Policy Series for disasters declared prior to January 1, 2016 and the Public Assistance Program and Policy Guide for disasters declared on or after January 1, 2016) as a prime contractor.

Provide additional information to support the evaluation of firm qualifications. The qualifications of the prime contracting firm must include, at minimum, the following:

- a. Ten years of experience working with the FEMA PA Program at the Federal, State or local level, including PW development, PW audit, documentation review, eligible cost reconciliation, audit checklists, the development of successful appeal/appeal responses, and closeout.
- b. Experience with interpreting and administering grant SRIA and DRRRA rules and programs.
- c. Experience with all categories of work in the FEMA PA Program for man-made and natural disasters, with expertise in the tracking of force account labor, equipment reimbursement, supplies, donated services, mutual aid, and contracted services.
- d. Experience in the application of the PA Program to the costs incurred in response to COVID-19.
- e. Experience developing, reconciling, or reviewing Federal grants for multiple clients of comparable size and complexity.
- f. Demonstrated experience developing and implementing innovative solutions to difficult recovery issues, including innovative uses of traditional recovery funding streams (e.g., FEMA PA and HUD CDBG-DR).
- g. Prior experience in Program Conformance with pre- and post- construction projects, including but not limited to producing detailed estimates, performing quantity surveys, participating in design development meetings, and reviewing progress design documents for conformance to budgeted scope of work
- h. Demonstrated experience in financial and grants management for the Section 428 Public Assistance Alternative Procedures Program for Permanent Work and Debris Removal.
- i. Demonstrated experience in managing projects with at least three funding streams, including, but not limited to: Insurance; 404 and 406 Hazard Mitigation; FHWA; HUD; and FEMA.

- j. Experience developing Letters of Interest (LOIs) for the FEMA 404 and 406 Hazard Mitigation Program.
- k. Prior experience performing A-123 Internal Controls Review and Improper Payment Act reviews of US Department of Homeland Security (DHS) programs.
- l. Experience managing the financial functions of a large-scale disaster reconstruction program.
- m. Experience implementing a comprehensive financial and grant management system for the FEMA PA Program.
- n. Experience administering the FEMA CDL Program.
- o. Experience with programmatic disaster closeouts.
- p. Proven track record proactively and successfully solving disagreements during project formulation rather than through appeals and arbitration.
- q. Experience supporting the design and implementation of programs funded through grants under the CARES Act, Consolidated Appropriations Act, 2021, ARPA, or other COVID-19 relief programs.
- r. Experience providing technical assistance related to disaster housing and sheltering programs and operations for Federal, State, and local clients.
- s. Experience working with HUD CDBG-DR grant programs at the Federal, State or large local government level, including program design and monitoring.
- t. Knowledge and understanding of HUD's Disaster Recovery Grant Reporting (DRGR) data management system including Action Plan set-up and Quarterly Reporting.
- u. Knowledge of HUD's requirements for housing programs including rehabilitation, reconstruction, acquisition, buyout, relocation, and rental assistance.
- v. Knowledge of HUD's requirements for infrastructure and public facilities including FEMA PA match programs; economic development activities; and HUD requirements for calculating duplication of benefits in compliance with the Stafford Act.
- w. Demonstrated experience in providing staff in and EOC or JFO for a large-scale disaster recovery operation.
- x. Past performance supporting after-action reports and incorporating best practices and lessons learned into plans, policies, and procedures.

- y. Past experience developing pre- and post-disaster plans to support response and recovery, including Recovery Redevelopment Plans, Long-Term Recovery Plans, and Disaster Cost Recovery Plans (among others).

B. Qualifications of Personnel

Provide an organizational chart, resumes, and summary of personnel qualifications. Key personnel should include, but are not limited to:

- Project Executive (15+ years of experience with at least five years in a leadership role),
- Senior Subject Matter Expert (12+ years of experience)
- Subject Matter Expert (10+ years of experience)
- Senior Project Manager (8+ years of management experience, plus college degree),
- Project Manager (6+ years of management experience, plus college degree),
- Project Accountant (5+ years of experience, plus relevant college degree),
- Preparedness / Response / Recovery Consultant IV (10+ years of experience)
- Preparedness / Response / Recovery Consultant III (5+ years of experience)
- Preparedness / Response / Recovery Consultant II (2+ years of experience)
- Preparedness / Response / Recovery Consultant I (relevant college degree)
- Administrator (1+ year experience)

Proposer may include other labor categories and include a description describing the minimal level of qualifications. For all positions, education and work experience may be substituted on a one for one basis.

C. Past Performance References

Provide a minimum of three references for which the firm has performed services in the past that are similar to the requirements in the Scope of Services. Provide a description of the project, the reference contact name, title, e-mail address, telephone numbers, and date of the contract/period of performance.

D. Technical Approach

Provide a description of your firm's approach to the project. Include information regarding start-up procedures, project management, and quality control procedures. Provide your approach to each of the scope of work areas identified in the Scope of Services.

E. Cost Proposal

Each Proposer must complete and submit the Cost Proposal Form/Fee Schedule included herein. The Cost Proposal will be evaluated on the hourly rates submitted on

the cost proposal form for the labor positions listed. All non-labor other direct costs, including travel and lodging, will be billed to Buncombe County at cost without mark-up.

NOTE: Pricing is not confidential or proprietary

5. Cost Proposal

Instructions: The hourly labor rates shall include all applicable overhead and profit. All non-labor other direct costs, including travel and lodging, will be billed to Buncombe County at cost without mark-up.

| Position | Hourly Rate |
|---|--------------------|
| Project Executive | \$ |
| Senior Subject Matter Expert | \$ |
| Subject Matter Expert | \$ |
| Senior Project Manager | \$ |
| Project Manager | \$ |
| Preparedness / Response / Recovery Consultant IV | \$ |
| Preparedness / Response / Recovery Consultant III | \$ |
| Preparedness / Response / Recovery Consultant II | \$ |
| Preparedness / Response / Recovery Consultant I | \$ |
| Administrator | \$ |

Proposer may include other positions that may be required to support Buncombe County. Provide hourly rates and attach a job description and required years of experience for each additional position proposed.

| Position | Hourly Rate |
|-----------------|--------------------|
| | \$ |
| | \$ |

| | |
|--|----|
| | \$ |
| | \$ |

| | |
|-----------------------|--|
| Name of Firm: | |
| Authorized Signature: | |
| Printed Name: | |
| Title: | |
| Email: | |
| Date: | |

6. Evaluation Metrics

| Criteria | Points |
|------------------------------|---------------|
| Qualifications of the Firm | 25 |
| Qualifications of Personnel | 25 |
| Past Performance References | 20 |
| Technical Approach | 20 |
| Cost Proposal | 10 |
| Total Possible Points | 100 |

7. RFP Schedule and Proposal Submission

| | |
|--|-----------------------------|
| RFP Issued: | October 4, 2024 |
| Questions Deadline: | October 8, 2024 5:00pm EDT |
| Addendum: | October 9, 2024 1:00pm EDT |
| Deadline for Proposal Submittals: | October 11, 2024 5:00pm EDT |

8. Evaluation and Selection Process

Submittals will be reviewed for responsiveness, and responsive submittals will further be screened by a selection committee in accordance with the above criteria. The firm(s) submitting the highest-rated proposal may be invited for interviews.

Interviews, if held, will be scored and ranked separately from the written proposals. However, the County may use criteria similar to the above Evaluation Criteria to score and rank Proposers' responses to interview questions or instructions, in addition to other relevant information provided or requested.

After interviews, a Best and Final Offer (BAFO) may be requested. The County reserves the right to make an award without further discussion of the proposal submitted with the offeror. Therefore, the proposal should be submitted initially on the most favorable terms and pricing that the firm or individual might propose.

The County reserves the right to award a contract to the firm who's proposal best accomplishes the desired results.

Buncombe County reserves the right to request additional information or clarification from proposers during the evaluation process.

The County reserves the right to reject any or all proposals, or to waive minor irregularities in said proposals, or to negotiate with the successful firm(s). In the case of differences between written

words and figures in a proposal, the amount stated in written words shall govern. In the case of a difference in unit price versus the extended figure, the unit price shall govern.

The County will notify all proposers whether or not they are selected for the subject work. Email is the County's preferred method of communication for all stages of the RFP process.

9. Proposal Submittal Instructions

All Proposals must be made and submitted in a non-editable electronic document (PDF) format. Links are not allowed. Proposals must be delivered via email. Buncombe County takes no responsibility for emails that are undeliverable or delayed. It is the responsibility of the submitter to obtain email confirmation. All proposals MUST be clearly identified in the email subject line as RFP Disaster Recovery Services and MUST be delivered by October 11, 2024 5:00pm EDT.

Electronic Submission via Email:

Project Manager: Ron Venturella

Subject: RFP Disaster Recovery Services

Email Address:

ron.venturella@buncombecounty.org

Late proposals will not be considered. All proposals must be signed by an authorized representative of your organization. Faxed proposals will NOT be considered.

Questions and Addenda

Inquiries and/or clarifications must be submitted via email to the project manager by October 8, 2024 5:00pm EDT. Any revisions to this RFP shall be made by written addendum only. Addendum will be issued answering all questions and/or addressing any approved modifications to the RFP. No oral statements by any person shall modify or otherwise affect this RFP. Proposers shall acknowledge receipt of any addendum by returning a signed copy with their proposal. All addenda will be posted to [Buncombe County Procurement](#). It is the responsibility of the proposer to check this website periodically for any changes to this proposal.

10. Request for Proposal (RFP) Terms and Conditions

Standard Contract: Upon completion of the evaluation and recommendation for award, the selected vendor will be required to execute a general services contract.

Contract Term:

The initial term of the contract will be for a three-year time period with (2) one-year optional renewals as agreed upon by the County and successful vendor. An annual economic price adjustment will be considered each year.

Independent Contractor: At all times the Contractor shall represent himself/herself to be an independent contractor offering services to Buncombe County and shall not represent himself/herself, or his/her employees, to be an employee of Buncombe County. Therefore, the Contractor shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold Buncombe County and its officers, agents, and employees harmless from and against any and all loss, cost (including attorney fees), and damage of any kind related to such matters.

PubliCounty Clause: Respondent must obtain prior written approval from the County for use of information relating to the County or this Agreement in advertisements, brochures, promotional materials or media, press releases, or other informational avenues.

Non-Appropriation: If the County does not receive funding for this Contract from the County Council for any fiscal year applicable to this Contract, then the County shall have the right to terminate this Agreement without penalty by giving not less than thirty (30) days' written notice documenting the lack of funding.

Conflict of Interest: The Contractor shall warrant that no official or employee of the County who has a conflict of interest has been employed or retained to solicit or aid in the procuring of the resulting contract, nor that any such person will be employed in the performance of such contract without immediate divulgence of such fact to the County.

Non-Collusion: Proposers submitting proposals shall warrant that their offer is made without any previous understanding, agreement, or connection with any person, firm, or corporation submitting a separate proposal for the same project and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action. This condition shall not apply to proposals that are submitted by Proposers who have partnered with others to submit a cooperative proposal that clearly identifies a primary contractor and the associated sub-contractors.

E-Verify Employer Compliance: Per NC HB 786 Session Law 2013-418, Employers and their subcontractors with 25 or more employees as defined must comply with E-Verify requirements to contract with governmental units. E-Verify is a Federal program and can be accessed via this link: <https://www.e-verify.gov/>.

Iran Divestment And Israel Boycott: Buncombe County staff are responsible for verifying that the contractor is not listed on the Iran Divestment List or the Companies Boycotting Israel Final Divestment List published by the NC State Treasurer pursuant to N.C.G.S. 147-86.60 and 147-86.82. The County shall not contract with any company or their affiliates listed on these divestment lists.

Drug Free Workplace: Buncombe County is a drug-free workplace employer. The County requires contractors/vendors entering into a contract with the County to provide a drug-free workplace in the performance of said contract. The contractor, upon execution of the contract, certifies that it will provide a drug-free workplace during the performance of the work on this contract. The contractor agrees to notify employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace and specify the actions that will be taken for violations of such prohibitions. Responsive actions

should be appropriate and sufficient to address and remediate any violations of this requirement.

Expenses Incurred In Preparing Proposal: Buncombe County accepts no responsibility for any expense incurred by the proposer in the preparation of a proposal. Such expenses shall be borne exclusively by the proposer.

Addenda: Any and all revisions to this document shall be made only by written addendum from Buncombe County Purchasing Division. Therefore, no oral statements by any person shall modify or otherwise affect the terms, conditions, or specifications stated in this request for proposals. The proposer is cautioned that the requirements of this RFP can be altered only by written addendum and that verbal communications from any source are of no effect.

Ad Valorem Taxes: Proposers/Vendors please note that County Policy adopted by the County Council Resolution No. 93-139, prohibits the County from entering into contracts with persons or firms who are delinquent in the payment of ad valorem taxes owed to Buncombe County.

Termination: This contract may be terminated by either party, with thirty (30) days prior written notice. Notice shall be served under this contract by email and acknowledged by both parties.

Insurance Requirements: The successful proposer (Contractor) agrees to keep and maintain for the duration of this Agreement including but not limited to commercial general liability, auto liability, professional liability, workers' compensation, employer's liability, and umbrella coverage with at least the minimum limits shown below. The Contractor shall furnish the County with certificates of insurance for each type of insurance described herein, with the County listed as Certificate Holder and as an additional insured on the Contractor's general liability policy and provide a waiver of subrogation on the Contractor's general liability and workers' compensation policy. In the event of bodily injury, property damage, or financial loss caused by the Contractor's negligent acts or omissions in connection with Contractor's services performed under this Agreement, the Contractor's Liability insurance shall be primary with respect to any other insurance which may be available to the County, regardless of how the "Other Insurance" provisions may read. In the event of cancellation, substantial changes or nonrenewal, the Contractor and their insurance carrier shall give the County at least thirty (30) days prior written notice. No work shall be performed until the Contractor has furnished to the County the above referenced certificates of insurance and associated endorsements, in a form suitable to the County.

| | |
|-------------------------------|-----------------------------------|
| Commercial General Liability: | \$1,000,000 per occurrence |
| Commercial Auto Liability: | \$1,000,000 combined single limit |
| Professional Liability: | \$4,000,000 per claim-made |
| Workers' Compensation: | Statutory |
| Employer's Liability: | \$500,000 |

Certificate of Insurance lists Buncombe County, PO Box 7148, Asheville, NC 28802, as Certificate Holder.

Governing Law And Jurisdiction: The parties acknowledge that this Agreement is made and entered into in Asheville, North Carolina, and will be performed in Buncombe County, North

Carolina. The parties further acknowledge and agree that North Carolina law shall govern all the rights, obligations, duties, and liabilities of the parties under this Agreement, and that North Carolina law shall govern the interpretation and enforcement of this Agreement and any other matters relating to this Agreement (all without regard to North Carolina conflicts of law principles). Disputes arising under this Agreement shall be resolved in an appropriate court in North Carolina.

Indemnification: The successful proposer shall indemnify, defend and hold harmless the County and the County's officers, employees and agents from and against any and all losses, damages, costs, expenses (including reasonable attorneys' fees), obligations, and other liabilities (including settlement amounts) that arise directly or indirectly from:

- Any infringement of any copyright, trademark, or patent, any misappropriation of any trade secrets, or infringement or misappropriation of any other proprietary rights, in connection with any software, documentation, services, or other products supplied directly or indirectly by successful proposer in connection with this Agreement, or any allegation of any of the foregoing (collectively referred to as "Infringement Claims");
- Any acts of negligence or willful misconduct by the successful proposer or any of its agents, employees, or subcontractors (or any allegations of any of the foregoing), including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness, or disease to any person(s) or damage or destruction to any property, real or personal;
- Any acts or omissions of the successful proposer with respect to the services provided by the successful proposer under this Agreement (or any allegations of any of the foregoing);
- Any claims by any persons or entities supplying labor or material to the successful proposer in connection with the performance of the Company's obligations under this Agreement.

If an Infringement Claim occurs, the successful proposer shall either: (i) procure for the County the right to continue using the affected product or service; or (ii) repair or replace the infringing product or service so that it becomes non-infringing, provided that any such replacement or modification will not affect the performance of any network or component thereof or affect the performance of any type of County system, product, item, or device or of any service that the County provides.

Proprietary/Confidential Information-Trade Secrets:

Trade Secrets and Personal Identification Information Definition

Upon receipt by the County, all materials submitted (including the Proposal) are considered public records with certain, limited exceptions, including (1) material that qualifies as "trade secret" information under N.C. Gen. Stat. § 66-152 et seq. ("Trade Secret" or "Trade Secrets") or (2) "personally identifiable information" protected by state or federal law, to include, but not be

limited to, Social Security numbers, bank account numbers, and driver's license numbers ("Personally Identifiable Information" or "PII").

Instructions for Marking and Identifying Trade Secrets

If any Proposal contains Trade Secrets or PII, such Trade Secrets and PII must specifically and clearly be identified in accordance with this Section by: (1) clearly separating them on different pages from the rest of the Proposal and (2) including a clear designation or indication, on each page where Trade Secrets or PII appear, that these materials are "confidential" or a "trade secret," as appropriate. The proposal can create this clear designation or indication by placing a caption/header/footer of "confidential" or "trade secret" on the pages where Trade Secrets or PII appear.

Availability of Proposals to County Staff and Contractors

By submitting a Proposal, each Company agrees that the County may reveal any Trade Secret materials and PII contained therein to all County staff and County officials involved in the selection process, and to any outside consultant or other third parties who serve on the Evaluation Committee or who are hired or appointed by the County to assist in the evaluation process.

Availability of Proposals via Public Records Requests

Any person or entity (including competitors) may request to review Proposals submitted in response to an RFP. Only those portions of RFPs properly designated as Trade Secret or PII or that the County is prohibited by law from disclosing are not subject to disclosure. The public disclosure of the contents of a Proposal or other materials submitted by a Company is governed by N.C. Gen. Stat. §§ 132 and 66-152, et seq. When determining whether to mark materials as Trade Secret, please note the following:

- Entire Proposals may not be marked as Trade Secret
- Pricing may not be marked as Trade Secret

The County may disqualify any proposer that designates its entire Proposal as a Trade Secret, or any portion thereof that clearly does not qualify under applicable law as a Trade Secret or PII. Each Company agrees to indemnify, defend, and hold harmless the County and each of its officers, employees, and agents from all costs, damages, and expenses incurred in connection with refusing to disclose any material that the Company has designated as a Trade Secret or PII. This includes an obligation on the part of the Company to defend any litigation brought by a party that has requested Proposals or other information that the Company has marked Trade Secret or PII.

Upon receipt of a public records request for any information designated as Trade Secrets or PII, the County may elect to notify the Company that submitted the designated information of the request, and that absent receipt of a court order or other documentation sufficient to relieve the County of its obligations under the North Carolina Public Records Act or other applicable law by a deadline designated by the County, such information may be disclosed to the requesting party. In such an event, the Company agrees that the County shall not be liable to the Company for any damages or losses of any kind arising from said disclosure.

Goods and General Services: A 2023 disparity study conducted by Buncombe County indicated a disparity among Minority-owned businesses (MBE) on goods and general services contracts. The study indicated that of the contractors available for utilization on goods and general services, 6.39% are MBE: Black American-owned (B) and Woman (W). Buncombe County has set an annual aspirational MBE goal of 6.39% for goods and general services contracts. Although achieving this goal is not a criterion for the award of this Contract, it is expected that documents will reflect that every effort has been made to conduct inclusive outreach to ensure that contractors with existing disparities have an opportunity to participate in contracting with Buncombe County.

Federal Applicability:

The County anticipates that this Contract will be financed in whole or in part with Federal funding. As such, Federal laws, regulations, policies, and related administrative practices apply to this Contract. The most recent of such Federal requirements, including any amendments made after the execution of this Contract, shall govern this Contract, unless the Federal Government determines otherwise. This Section identifies the Federal requirements that are applicable to this Contract. The Contractor is responsible for complying with all applicable provisions.

To the extent applicable, the Federal requirements are deemed incorporated into this Contract by reference and shall be incorporated into any subcontract or subcontract executed by the Contractor pursuant to its obligations under this Contract. The Contractor and its subcontractors, if any, hereby represent and covenant that they have complied and shall comply in the future with all applicable provisions of Federal, State, and local laws, regulations, and rules and local policies and procedures, as amended from time to time, relating to the Work to be performed under this Contract. Anything to the contrary herein notwithstanding, all Federal awarding agency-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any County requests, which would cause the County to be in violation of the Federal awarding agency's terms and conditions.

This Contract will be financed, in whole or in part, by funding provided by programs of the Federal Emergency Management Agency (FEMA). Contractor shall at all times comply with all applicable FEMA regulations, policies, procedures, and directives, including without limitation those listed directly or by reference, as they may be amended or promulgated from time to time during the term of this Contract. Contractor's failure to so comply shall constitute a material breach of this Contract.

REMEDIES:

PERFORMANCE AND DEFAULT: If, through any cause, contractor shall fail to fulfill in timely and proper manner the obligations under The Contract, the County shall have the right to terminate The Contract by giving written notice to the contractor and specifying the effective date thereof. In that event any or all finished or unfinished deliverable items under The Contract prepared by the contractor shall, at the option of the County, become its property, and the contractor shall be entitled to receive just and equitable compensation for any acceptable work completed as to which the option is exercised. Notwithstanding, contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of The Contract, and the County may withhold any payment due the contractor for the purpose of set off until such time as the exact amount of damages due the County from such breach can be determined. The County reserves the right to require at any time a performance bond or other acceptable alternative performance guarantees from contractor without expense to the County.

In the event of default by the contractor, the County may procure the goods and services necessary to complete performance hereunder from other sources and hold the contractor responsible for

any excess cost occasioned thereby. In addition, in the event of default by the contractor under The Contract, or upon the contractor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the contractor, the County may immediately cease doing business with the contractor, immediately terminate The Contract for cause, and may take action to debar the contractor from doing future business with the County.

TERMINATION FOR CONVENIENCE:

If this contract contemplates deliveries or performance over a period of time, the County may, for any reason within its sole discretion, terminate this contract at any time by providing 30 days' notice in writing from the County to the contractor. In that event, any or all finished or unfinished deliverable items prepared by the Vendor under this contract shall, at the option of the County, become its property. If the contract is terminated by the County as provided in this section, the County shall pay for those items for which such option is exercised, less any payment or compensation previously made.

CONTRACT CHANGES:

Contract changes must be in writing and agreed on by the County and the vendor and will be implemented by contract amendments. The cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope. Contract amendments will be coordinated with the Project Manager and approved by the County before any changes should occur.

NONDISCRIMINATION

Equal Employment Opportunity

During the performance of this contract, the contractor agrees as follows:

(1) 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.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, County that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge 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.

(4) 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.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will comply with Section 504 of the Rehabilitation Act of 1973, as amended.

(7) 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.

(8) 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.

(9) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (9) 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 County to enter into such litigation to protect the interests of the County. The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a County or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance. The applicant further agrees that it

will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceeding.

Age

In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, and 29 USC 623 through 634 and the implementing U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements the Federal awarding agency may issue.

Sex

The Contractor agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 USC 1681 et seq., and with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Educational Programs or Activities Receiving Federal Financial Assistance," 49 CFR Part 25, that prohibit discrimination on the basis of sex.

Disabilities

In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 USC 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities.

Access to Services for Persons with Limited English Proficiency

The Contractor agrees to comply with Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 USC 2000d-1 note, and U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005, except to the extent that the Federal Government determines otherwise in writing.

Drug or Alcohol Abuse Confidentiality and Other Civil Rights Protections

To the extent applicable, the Contractor agrees to comply with the confidentiality and other civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 USC 1101 et seq., with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 USC 4541 et seq., and with the Public Health Service Act of 1912, as amended, 42 USC 290dd through 290dd-2, and any amendments thereto.

Other Nondiscrimination Laws

The Contractor agrees to comply with applicable provisions of other Federal laws and regulations, and follow applicable directives prohibiting discrimination, except to the extent that the Federal Government determines otherwise in writing.

Inclusion in Subcontracts

The Contractor also agrees to include the requirements of this Section in each subcontract financed in whole or in part with Federal assistance, modified only if necessary to identify the affected parties.

COMPLIANCE WITH THE DAVIS-BACON ACT- CONSTRUCTION

All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

Additionally, contractors are required to pay wages not less than once a week.

COMPLIANCE WITH THE COPELAND “ANTI-KICKBACK” ACT

a. Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

b. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

COMPLIANCE WITH THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

CLEAN AIR ACT

The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. 2. The contractor agrees to report each violation to the (name of applicant entering into the contract) and understands and agrees that Buncombe County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. 3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

FEDERAL WATER POLLUTION CONTROL ACT

The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. 2. The contractor agrees to report each violation to Buncombe County and understands and agrees that Buncombe County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. 3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

ENERGY CONSERVATION

The Contractor agrees to comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. § 6321, et seq. This requirement extends to all third-party contractors and their contracts at every tier and this clause shall be included in all such subcontracts.

DEBARMENT AND SUSPENSION

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into

(3) This certification is a material representation of fact relied upon by (insert name of recipient/subrecipient/applicant). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (insert name of recipient/subrecipient/applicant), the Feder

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

This requirement extends to all third-party contractors and their contracts; this clause shall be included in all subcontracts of any tier executed in furtherance of this contract.

The requisite Debarment and Suspension Certification is included as ATTACHMENT A and must be executed for contracts of \$25,000 or more and prior to the award of the contract.

BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal

appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

The Contractor further agrees to secure like undertakings from all subcontractor tiers whose subcontracts are expected to be of a value of one hundred thousand dollars (\$100,000.00) or more.

The requisite “Lobbying Certification” is included as ATTACHMENT B and must be executed for contracts of \$100,000 or more and prior to the award of the contract.

PROCUREMENT OF RECOVERED MATERIALS

- (i) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired— • Competitively within a timeframe providing for compliance with the contract performance schedule; • Meeting contract performance requirements; or • At a reasonable price
- (ii) Information about this requirement, along with the list of EPA-designated items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>.
- (iii) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

This requirement extends to all third-party contractors and their contracts; this clause shall be included in all subcontracts of any tier executed in furtherance of this contract.

ACCESS TO RECORDS AND RECORD RETENTION

The record keeping and access requirements extend to all third-party contractors and their contracts at every tier. Under 49 USC 5325(g) and 2 CFR 200.336, FEMA has the right to examine and inspect all records, documents, and papers, including contracts, related to any FEMA project financed with Federal assistance authorized by 49 U.S.C. Chapter 53.

1. Record Retention. The Contractor will retain and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

2. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 CFR § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of

claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

3. Access to Records.

a. The Contractor agrees to provide sufficient access to FEMA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

b. The Contractor agrees to permit, and require its subcontractors to permit, the U.S. Secretary of Transportation, and the Comptroller General of the United States, and, to the extent appropriate, the State, or their authorized representatives, upon their request to inspect all Project work, materials, payrolls, invoices, and other data, and to audit the books, records, and accounts of the Contractor and its subcontractors pertaining to the Project, as required by 49 USC 5325(g) and 2 CFR 200.336.

c. Contractor also agrees, pursuant to 49 CFR 633.17 to provide the FEMA Administrator or authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 USC 5302(a)1, which is receiving federal financial assistance through the programs described at 49 USC 5303, 5307, 5309, 5339, 5310, 5311, 5316, or 5317.

d. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

4. Access to the Sites of Performance. The Contractor agrees to permit FEMA and its contractors access to the sites of performance under this contract as reasonably may be required.

DHS SEAL, LOGO, AND FLAGS

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.”

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FEMA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

DOMESTIC PREFERENCE CLAUSE

As appropriate and to the extent consistent with law, the [non-Federal entity][vendor] should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to iron, aluminum, steel, cement, and other manufactured products)." – For purposes of this clause, (i) "produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States, and (ii) "manufactured products" means items and construction materials composed in whole or in part of non-ferrous materials such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

CONFLICT OF INTEREST

No employee, officer, board member, or agent of the COUNTY or the Contractor shall participate in the selection, award, or administration of a contract supported by FEMA funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer, board member, or agent, any member of his or her immediate family, his or her partner, or an organization that employees or is about to employ any of the above, has a financial or other interest in the firm selected for the award.

DISADVANTAGED BUSINESS ENTERPRISES (DBE)

The COUNTY promotes policies which assure and encourage the full participation of Disadvantaged Business Enterprises (DBE) in the provision of goods and services. Disadvantaged Business Enterprises, as defined in 2 CFR § 200.321, shall have equal opportunity to compete for and perform subcontracts which the contractor enters into pursuant to this contract. The Contractor agrees to solicit small and minority business and women's business enterprises whenever they are potential sources. When economically feasible, the Contractor agrees to divide total requirements into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises. Where the requirement permits, the Contractor agrees to establish delivery schedules which encourage participation by small and minority businesses and women's business enterprises. As appropriate, the Contractor agrees

to use the services and assistance of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

This requirement extends to all third-party contractors and their contracts; this clause shall be included in all subcontracts of any tier executed in furtherance of this contract.

PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

(a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy, #405-143-1 Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services.

(b) Prohibitions.

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

(i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or

(iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

(1) This clause does not prohibit contractors from providing—

- a. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
- b. Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to:

- a. Covered telecommunications equipment or services that:
 - i. Are not used as a substantial or essential component of any system; and
 - ii. Are not used as critical technology of any system.
- b. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) Reporting requirement.

(1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:

(i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of

covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

BUY AMERICA

If this project is subject to the Build America, Buy America Act (BABAA), the Contractor and its subcontractors shall certify that no federal financial assistance funding for infrastructure projects will be provided unless all the iron, steel, manufactured projects, and construction materials used in the project are produced in the United States. BABAA, Pub. L. No. 117-58, §§ 70901-52. Contractor and subcontractors shall also disclose any use of federal financial assistance for infrastructure projects that does not ensure compliance with BABAA domestic preference requirement.

The requisite “BABAA Certificate of Compliance” is included as ATTACHMENT C.

HUAWEI./ ZTB Ban

CF 200.216 Prohibition on certain telecommunications and video surveillance services or equipment. (a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to: (1) Procure or obtain; (2) Extend or renew a contract to procure or obtain; or (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). (ii) Telecommunications or video surveillance services provided by such entities or using such equipment. (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country. (b) In implementing the prohibition under Public Law 115–232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition

from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained. (c) See Public Law 115–232, section

ATTACHMENT A

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY and VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTION

(To be submitted with all bids exceeding \$25,000.)

- (1) The prospective lower tier participant (Bidder/Contractor) certifies, by submission of this bid or proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) The prospective Bidder/Contractor also certifies by submission of this bid or proposal that all subcontractors and suppliers (this requirement flows down to all subcontracts at all levels) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (3) Where the prospective lower tier participant (Bidder/Contractor) is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this bid or proposal.

The lower tier participant (Bidder/Contractor), _____, certifies or affirms the truthfulness and accuracy of this statement of its certification and disclosure, if any.

DATE _____

SIGNATURE _____

COMPANY _____

NAME _____

TITLE _____

State of _____

County of _____

Subscribed and sworn to before me this ____ day of _____, 20____.

Notary Public _____

My Appointment Expires _____

[SEAL]

ATTACHMENT B

CERTIFICATION REGARDING LOBBYING

(To be submitted with all offers exceeding \$100,000; must be executed prior to Award)

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding to any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into these transactions imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 1352, *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Date _____

Printed Name and Title of Contractor's Authorized Official

State of _____

County of _____

Subscribed and sworn to before me this ____ day of _____, 20____.

Notary Public _____

My Appointment Expires _____

[SEAL]

ATTACHMENT C

BABAA CERTIFICATION OF COMPLIANCE

The Build America, Buy America Act (BABAA) requires that no federal financial assistance for "infrastructure" projects is provided "unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States." Section 70914 of Public Law No. 117-58 §§ 70901-52.

The undersigned certifies, to the best of their knowledge and belief, that:

All the iron, steel, manufactured products, and construction materials used in the contract are in full compliance with BABAA requirements including:

1. All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting state through the application of coatings, occurred in the United States.
2. All manufactured products purchased with FEMA financial assistance must be produced in the United States. For a manufactured product to be considered produced in the United States, the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55% of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.
3. All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United states.

"The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any."

Signature of Contractor's Authorized Official

Date _____

Printed Name and Title of Contractor's Authorized Official

State of _____

County of _____

Subscribed and sworn to before me this ____ day of _____, 20____.

Notary Public _____

My Appointment Expires _____

[SEAL]