

# ADMINISTRATION/PROFESSIONAL SERVICES

for  
Project No. DR

## PART I AGREEMENT

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024 by and between THE COUNTY OF HARDIN hereinafter called the "County," acting herein by Wayne McDaniel, County Judge hereunto duly authorized, and Traylor & Associates, Inc. hereinafter called "the Contractor," acting herein by Mark Taylor, President.

WITNESSETH THAT:

WHEREAS, the County desires to seek grant funding under the general direction of the Hazard Mitigation Grant Program (hereinafter called "HMGP") administered by the Texas Division of Emergency Management (hereinafter called "TDEM");

WHEREAS, the County has an interest in 2023 TDEM-HMGP for available funding under the DR-4332 Hurricane Harvey, and,

WHEREAS, the County desires to engage Traylor & Associates, Inc. to render certain professional /administration services in connection with these HMGP Projects.

NOW THEREFORE, the parties do mutually agree as follows:

1. Scope of Services  
The Contractor will perform the services set out in Part II, Scope of Services.
2. Time of Performance - The services of the Contractor shall commence on the day following the execution of this contract. In any event, all of the services required and performed hereunder shall be completed no later than **May 22, 2026**, or the Period of Performance as stated in extensions(s) approved by FEMA, whichever occurs later.
3. Local Program Liaison - For purposes of this Contract, the County Judge or equivalent authorized person will serve as the Local Program Liaison and primary point of contact for the County. All required progress reports and communication regarding the project shall be directed to this liaison and other local personnel as appropriate.
4. Access to Records - Records of non-Federal entities. FEMA, Department of Homeland Security (DHS, Inspector General, the Comptroller General of the United States, the Texas Division of Emergency Management (TDEM) or Texas Water Development Board (TWDB) as the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.
5. Retention of Records - Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies

and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:

- a. If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
  - b. When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
  - c. Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.
  - d. When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.
  - e. Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.
  - f. Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).
    1. If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.
    2. If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.
6. Compensation and Method of Payment - The maximum amount of compensation and reimbursement to be paid shall not exceed ***Two Hundred Seventy Thousand No/100 Dollars (\$270,000.00)***. Payment to the Contractor shall be based on satisfactory completion of identified milestones in Part III - Payment Schedule of this Agreement.
7. Indemnification – The Contractor shall comply with the requirements of all applicable laws, rules and regulations, and shall exonerate, indemnify, and hold harmless the County and its agency members from and against any and all claims, costs, suits, and damages, including attorneys' fees, arising out of the Contractor's performance or nonperformance of the activities, services or subject matter called for in this agreement or in connection with the management and administration of the TDEM contract, and shall assume full responsibility for payments of Federal, State and local taxes on contributions imposed or required under the Social Security, worker's compensation and income tax laws.
8. Miscellaneous Provisions
- a. This Agreement shall be construed under and in accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Hardin County, Texas.
  - b. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Agreement.

- c. In any case one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- d. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.
- e. This Agreement may be amended by mutual agreement of the parties hereto and a writing to be attached to and incorporated into this Agreement.

9. Extent of Agreement

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

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

BY: \_\_\_\_\_  
(County's Authorized Representative)  
Wayne McDaniel  
(Printed Name)  
County Judge  
(Title)

BY: \_\_\_\_\_  
(Contractor's Authorized Representative)  
Mark Taylor  
(Printed Name)  
President  
(Title)

## PART II

### SCOPE OF SERVICES

The Contractor shall provide the following scope of services, if requested and assigned by the County:

a. Mitigation Projects-Construction (other than Property Acquisition/Structure Demolition, Structure Elevation, and Reconstruction)

Pre-Award\*--(services associated with developing and requesting Federal disaster assistance), including:

- Application Development including Scope of Work (SOW), budget, and schedule
- Coordinate Responses to FEMA/State requests for information (RFI)
- Provide assistance regarding feasibility and effectiveness
- Coordinate Benefit-Cost Analysis (BCA) with engineer or local staff
- Gather preliminary Environmental and Historic Preservation Review (EHP) data
- Workshops and meetings related to the development and submission of the application
- Public outreach, if applicable (e.g. advertising, public meetings)

Management Activities - (services associated with administering Federal disaster assistance), including but not limited to:

- Record keeping and financial management
- Geocoding mitigation projects identified for further review by FEMA
- Delivery of technical assistance (e.g., plan reviews, BCA reviews, EHP data gathering, appraisal coordination, outreach, training) to support the implementation of mitigation activities
- Managing awards (e.g., quarterly reporting, reimbursement requests, closeout)
- Technical monitoring (e.g., site visits, technical meetings)
- Project Monitoring: monitor and evaluate the progress of the mitigation activity in accordance with the approved SOW and budget, administrative requirements of 2 CFR Part 200, applicable State requirements
- Project closeout in accordance with 2 CFR Sections 200.343 and 200.344. The project file should document that:
  - The approved SOW was fully implemented
  - All obligated funds were liquidated and in a manner consistent with the approved SOW
  - All EHP compliance grant conditions were implemented and documented as required
  - The project was implemented in a manner consistent with the Federal award or subaward agreement
  - The pass-through entity submitted the required quarterly financial and performance reports
  - The Federal award and subaward were closed out in accordance with the provisions outlined in Part VI, E and F (subaward and Federal award closeout)

**PART III  
PAYMENT SCHEDULE\*\***

The County shall reimburse Contractor for management/administrative services provided for completion of the following project milestones in the amount not to exceed *Two Hundred Seventy Thousand and No/100 Dollars (\$270,000.00)*.

**FEE SCHEDULE**

<b>Lumberton Detention Pond (4332-0232)</b>			
1	Establish Record Keeping and Financial Management	20%	\$ 54,000.00
2	Implementation of mitigation activities to include delivery of technical assistance (e.g. plan review, BCA review, EHP data gathering, appraisal coordination, outreach, training)	20%	\$ 54,000.00
3	Manage awards (e.g., quarterly reporting, reimbursement requests)	20%	\$ 54,000.00
4	Project Monitoring and compliance - monitor progress and ensure compliance with labor standards and other requirements	20%	\$ 54,000.00
5	Program closeout per state and federal requirements	20%	\$ 54,000.00
<b>Total</b>			<b>\$ 270,000.00</b>

***\*\*Payment of the fees associated with Part III – Payment Schedule of this agreement, shall be contingent upon funding. In the event grant funds are not awarded to the County by TDEM through the Hazard Mitigation Grant Program, this agreement shall be terminated by the County.***

**PART IV**  
**TERMS AND CONDITIONS**

1. Termination for Cause. If the Contractor fails to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor violates any of the covenants, conditions, agreements, or stipulations of this Agreement, the County shall have the right to terminate this Agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof, which shall be at least five days before the effective date of such termination. In the event of termination for cause, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Contractor pursuant to this Agreement shall, at the option of the County, be turned over to the County and become the property of the County. In the event of termination for cause, the Contractor shall be entitled to receive reasonable compensation for any necessary services actually and satisfactorily performed prior to the date of termination.

Notwithstanding the above, the Contractor shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of contract by the Contractor, and the County may set-off the damages it incurred as a result of the Contractor's breach of contract from any amounts it might otherwise owe the Contractor.

2. Termination for Convenience of the County.  
The County may at any time and for any reason terminate Contractor's services and work at County's convenience upon providing written notice to the Contractor specifying the extent of termination and the effective date. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement.

Upon such termination, Contractor shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by Contractor as are permitted by the prime contract and approved by County; (3) plus ten percent (10%) of the cost of the work referred to in subparagraph (1) above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Contractor prior to the date of the termination of this Agreement. Contractor shall not be entitled to any claim or claim of lien against County for any additional compensation or damages in the event of such termination and payment.

3. Changes. The County may, from time to time, request changes in the services the Contractor will perform under this Agreement. Such changes, including any increase or decrease in the amount of the Contractor's compensation, must be agreed to by all parties and finalized through a signed, written amendment to this Agreement.
4. Resolution of Program Non-Compliance and Disallowed Costs. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or FEMA program requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within 30 days of receipt of a written notice of the dispute or invitation to negotiate, and attempt to reach a just and equitable solution satisfactory to both parties. If the matter is not resolved by negotiation within 30 days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Agreement and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. If the matter is not resolved through such mediation within 60 days of the initiation of that procedure, either party may proceed to file suit.

5. Personnel.
  - a. The Contractor represents that he/she/it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the County.
  - b. All of the services required hereunder will be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
  - c. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the County. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.
6. Assignability. The Contractor shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the County thereto; Provided, however, that claims for money by the Contractor from the County under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the County.
7. Reports and Information. The Contractor, at such times and in such forms as the County may require, shall furnish the County such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement.
8. Records and Audits. The Contractor shall insure that the County maintains fiscal records and supporting documentation for all expenditures of funds made under this contract in a manner that conforms to 2 CFR 200.300-.309, and this Agreement. County shall retain such records, and any supporting documentation, for the greater of three years from closeout of the Agreement or the period required by other applicable laws and regulations.
9. Findings Confidential. All of the reports, information, data, etc., prepared or assembled by the Contractor under this contract are confidential and the Contractor agrees that they shall not be made available to any individual or organization without the prior written approval of the County.
10. Copyright. No report, maps, or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Contractor.
11. Compliance with Local Laws. The Contractor shall comply with all applicable laws, ordinances and codes of the State and local governments, and the Contractor shall save the County harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.
12. Conflicts of interest.
  - a. Governing Body. No member of the governing body of the County and no other officer, employee, or agent of the County, who exercises any functions or responsibilities in connection with administration, construction, engineering, or implementation of the award between TDEM and/or TWDB and the County shall have any personal financial interest, direct or indirect, in the Contractor or this Agreement; and the Contractor shall take appropriate steps to assure compliance.
  - b. Other Local Public Officials. No other public official who exercises any functions or responsibilities in connection with the planning and carrying out of administration, construction, engineering or implementation of the award between TDEM and/or TWDB and the County shall have any personal financial interest, direct or indirect, in the Contractor or this Agreement; and the Contractor shall take appropriate steps to assure compliance.
  - c. Contractor and Employees. The Contractor warrants and represents that it has no conflict of interest associated with the award between TDEM and/or TWDB and the County or this Agreement. The

Contractor further warrants and represents that it shall not acquire an interest, direct or indirect, in any geographic area that may benefit from the award between TDEM and/or TWDB and the County or in any business, entity, organization or person that may benefit from the award. The Contractor further agrees that it will not employ an individual with a conflict of interest as described herein.

13. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
14. Debarment and Suspension (Executive Orders 12549 and 12689). The Contractor certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, or otherwise excluded from or ineligible for participation in federally-assisted programs under Executive Orders 12549 (1986) and 12689 (1989). The term “principal” for purposes of this Agreement is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor. The Contractor understands that it must not make any award or permit any award (or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, “Debarment and Suspension.”

#### **Federal Civil Rights Compliance.**

15. 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, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
  - 3) The Contractor will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee’s essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor’s legal duty to furnish information.



- 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, "Equal Employment Opportunity," and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 6) 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.
- 7) 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.
- 8) The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

*Provided*, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

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 State 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 proceedings.

16. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
17. Age Discrimination Act of 1975. The Contractor shall comply with the Age Discrimination Act of 1975 which provides that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
18. Small and Minority Businesses. Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.
  - a. The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
  - b. Affirmative steps must include:
    1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
    2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
    3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
    4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
    5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
    6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.
19. DHS Seal. Firm shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
20. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387). As amended – Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
21. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must 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 must 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 non-Federal award.

22. Solid Waste Disposal Act. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75885, Dec. 19, 2014]

23. Energy Policy and Conservation Act. 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.
24. Use of Products Containing Recovered Materials. 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 –
- a. Competitively within a timeframe providing for compliance with the contract performance schedule;
  - b. Meeting contract performance requirements; or
  - c. At a reasonable price

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

25. 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 (Interim), as used in this clause –
  - 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 –
  - i. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
  - ii. 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:
  - i. 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.
  - ii. 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.
26. Domestic Preference for Procurements. As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.
- For purposes of this clause:  
*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.  
*Manufactured products* mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.
27. FEMA Financial Assistance Acknowledgement. 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.
28. Federal Government – No Party to Contract. 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.
29. Contractor Acknowledgement. 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.