Construction Contract for Demolition of Fire Station

This Contract is made and entered into by and between the Sanibel Island Fire & Rescue District ("District"), a Florida independent special District, whose address is 2351 Palm Ridge Rd, Sanibel FL 33957, and _____, a Florida corporation ("Contractor"), whose address is _____ ("Contract").

WHEREAS, the District desires to retain the services of the Contractor to provide the goods and services in accordance with the District's Invitation to Bid No. 23-001, and the Contractor's response thereto, all of which are incorporated herein by reference.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereafter set forth, the Contractor and the District agree as follows:

ARTICLE 1. INCORPORATED DOCUMENTS

The following documents are incorporated and are part of this Contract:

Exhibit A – Scope of Work
Exhibit B – Insurance Requirements
Exhibit C – Requirements for Projects Using Federal Funds
Invitation to Bid No. 23-001, and Contractor's response to it.

ARTICLE 2. THE WORK

The Contractor shall perform the work in compliance with the Scope of Work provided in Exhibit A (the "Work").

ARTICLE 3. CONTRACT PRICE

For performance of the Work the District shall pay to the Contractor, the lump sum amount of $_____.

ARTICLE 4. CONTRACT TERM

This contract is in full force and effect upon execution by District and will remain in effect until final inspection and final payment by the District unless earlier terminated as provided in this Contract.

ARTICLE 5. CONTRACT TIMES

A. Contractor shall ensure that the Work is substantially complete on before February 16th, 2024, and completed and ready for final payment on or before February 23rd , 2024.
B. Substantial Completion
    1. When Contractor considers the Work ready for its intended use, Contractor shall request that District issue a certificate of substantial completion. Contractor shall at the same time submit to District an initial draft of punch list items to be completed or corrected before final payment.

2. Promptly after Contractor's request, District will inspect the Work with Contractor to determine the status of completion. If District does not consider the Work substantially complete, District will notify Contractor of the reasons for its decision.
3. If District considers the Work substantially complete, or upon resolution of all reasons for non-issuance of a certificate, District will deliver to Contractor a certificate of substantial completion that will fix the date of substantial completion and include a punch list of items to be completed or corrected before final payment.

C. Final Inspection. Upon notice from Contractor that the entire Work is complete, District will promptly make a final inspection with Contractor, and will notify Contractor of all particulars in which this inspection reveals that the Work is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work and remedy such defects.

D. Final Payment
    1. Contractor may make application for final payment after satisfactorily completing all Work, including providing all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents, and other documents required under the Contract Documents.
    2. The final application for payment must be accompanied (except as previously delivered) by:
        a. All documentation called for in the contract documents;
        b. If applicable, consent of the surety to final payment;
        c. A list of all known pending claims; and
        d. Complete and legally effective releases or waivers (satisfactory to the District) of all lien rights arising out of the Work, and of liens filed in connection with the Work.
    3. The Work is complete (subject to surviving obligations) when it is ready for final payment as reasonably determined by District.

ARTICLE 6. ADDITIONAL CONTRACTOR RESPONSIBILITIES

In addition to all other requirements of this Contract, Contractor is responsible as follows.

A. Fees and Permits
1. Contractor shall obtain and pay for all construction permits, disposal fees, and other costs necessary for Contractor's operations and assume all costs incident to performing the Work.
2. Contractor shall obtain and pay for all licenses and permits necessary for Contractor's operations.

B. Laws and Regulations
1. Contractor shall give all notices required by, and shall comply with, all local, state, and federal laws and regulations applicable to the performance of the Work. The District is not responsible for monitoring Contractor's compliance with any laws or regulations.
2. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to laws or regulations, Contractor shall bear all resulting costs and losses,

and to the fullest extent permitted by law Contractor shall indemnify and hold harmless District and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, from and against all such claims, costs, losses, and damages.

C. Safety and Protection
   1. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work.
   2. Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities are the prevention of Work-related accidents and the maintenance and supervision of safety precautions and programs.

D. Insurance. When Contractor delivers the signed Contract to Owner, Contractor shall furnish certificates, endorsements, and any other evidence of insurance showing that Contractor has obtained and will maintain insurance that meets the requirements provided in **Exhibit B**. Insurance must be provided by companies with a minimum A.M. Best rating of A-VII or better or be otherwise reasonably acceptable to the District.

E. Compliance With Federal Laws, Regulations, and Executive Orders. The Work may be funded with federal financial assistance from the Federal Emergency Management Agency (FEMA). Contractor must comply with all applicable federal laws, regulations, executive orders, and FEMA requirements. Per 2 C.F.R. § 200.326, as provided in **Exhibit C** in accordance with Appendix II to 2 C.F.R. Part 200.

ARTICLE 7. INDEMNIFICATION

A. As provided in section 725.06, Florida Statutes**,** the Contractor shall indemnify and hold harmless the District, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Contractor and persons employed or utilized by the Contractor in the performance of the contract. The Contractor expressly understands and agrees that any insurance protection required by this agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless, the District or its officers, employees, agents, and instrumentalities as herein provided.

B. Nothing in this agreement will affect the rights, privileges, and sovereign immunities of the District as set forth in Section 768.28, Florida Statutes. Each party assumes the risk of personal injury and property damage attributable to the acts or omissions of that party and its officers, employees and agents.

C. In no event shall either party be liable for any indirect, special, consequential or punitive damages in connection with work performed under this Contract

ARTICLE 8. TERMINATION

A. For convenience: District, by written notice to the Contractor, may terminate this Contract with or without cause (for convenience), in whole or in part, when the District determines in its sole discretion that it is in the District's best interest to do so. In the event of termination, the Contractor will not incur any new obligations for the terminated portion

of the Contract after the Contractor has received notification of termination.

B. For default: The District reserves the right to terminate this contract, in part or in whole, or place the Contractor on probation in the event the Contractor fails to perform in accordance with the terms and conditions stated herein by providing written notice of such failure or default and by specifying a reasonable time period within which the Contractor must cure any such failure to perform or default. If the Contractor fails to cure the default within the time specified, the District may then terminate the subject contract by providing written notice to the Contractor. The Contractor will be notified by letter of the District's intent to terminate. In the event of termination for default, the District may procure the required goods and/or services from any source and use any method deemed in its best interest. All re- procurement costs shall be borne by the incumbent Contractor.

C. If the Contract is terminated before performance is completed, the Contractor shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount that is the same percentage of the Contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this Contract. All work in progress shall become the property of the District and shall be turned over promptly by the Contractor.

ARTICLE 9. PUBLIC RECORDS

Contractor shall comply with Florida public records laws, specifically to:

A. Keep and maintain public records required by the District to perform the service.

B. Upon request from the District's custodian of public records, provide the District with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statute or as otherwise provided by law.

C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the records to the District.

D. Upon completion of the Contract, transfer, at no cost, to the District all public records in possession of the Contractor or keep and maintain public records required by the District to perform the service. If the Contractor transfers all public records to the District upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the District, upon request from the District's custodian of public records, in a format that is compatible with the information technology systems of the District.

E. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE SANIBEL ISLAND FIRE & RESCUE District, 2351 PALM RIDGE RD, SANIBEL FL 33957. THE CUSTODIAN OF PUBLIC RECORDS MAY BE CONTACTED BY PHONE AT (239) 472-5525, OR BY EMAIL AT KBARBOT@SANIBELFIRE.COM**

ARTICLE 10. MISCELLANEOUS PROVISIONS

A. Notice. All notices or other written communications required, contemplated, or permitted under this Contract shall be in writing and shall be via hand delivery, e-mail of not more than 50 mega-bytes (50 MB) in size including attachments, or certified U.S. Mail, (postage prepaid), return receipt requested, or other mail delivery service, such as UPS or Federal Express, to the following addresses:

As to the District:
Sanibel Island Fire & Rescue District
2351 Palm Ridge Rd,
Sanibel FL 33957

Attn: Assistant Chief Jackson
Email: CJackson@sanibelfire.com

As to the Contractor:

_____

_____

_____

Attn.: _____

Email: _____

B. Headings. The headings contained in this Contract are for convenience of reference only and shall not limit or otherwise affect in any way the meaning or interpretation of this Contract.

C. Effective Date. The effective date of this Contract is the date it has been executed by both parties.

D. Assignment. Neither this Contract nor any right or interest herein shall be assigned,

transferred, or encumbered without the written consent of the other Party.

E. Counterparts and Transmission. To facilitate execution, this Contract may be executed in as many counterparts as may be convenient or required, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The executed signature page(s) from each original may be joined together and attached to one such original and it shall constitute one and the same instrument. In addition, said counterparts may be transmitted electronically (i.e., via facsimile or .pdf format document sent via electronic mail), which transmitted document shall be deemed an original document for all purposes hereunder.

F. Severability. If any part of this Contract shall be declared unlawful or invalid, the remainder of the Contract will continue to be binding upon the parties.

G. Venue. This agreement will be governed by and construed in accordance with the laws of the State of Florida. In the event of any litigation with respect to this Contract, the parties agree that venue will be in Lee County, Florida.

H. Modification. This Contract may be modified by mutual consent, in writing, through the issuance of a modification to this Contract, a supplemental agreement, purchase order, or change order, as appropriate.

I. Scrutinized Companies. Contractor certifies that it is in compliance with section 287.135, Florida Statutes. Contractor certifies that it is not on this list of Scrutinized Companies that Boycott Israel and is not engaged in a boycott of Israel. The District may terminate this Agreement if Contractor is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel. Contractor acknowledges the remedies provided in subsection 287.135(5), Florida Statutes against anyone found to have submitted a false certification including civil penalties.

J. Public Entity Crimes. Contractor understands the requirements of sections 287.132 and 287.133, Florida Statutes and is not on the convicted vendor list for public entity crimes maintained by the Florida Department of Management Services. Contractor is in full compliance with sections 287.132 and 287.133, Florida Statutes, will remain in compliance with them throughout the term of this Agreement, and will notify the District if it becomes non-compliant.

K. E-Verify**.** Contractor is in compliance with section 448.095, Florida Statutes. As required by subsection 448.095(2)(a), Florida Statutes, Contractor has registered with and uses the E-Verify System to verify the work authorization status of all newly hired employees. As required by subsection 448.095(5)(b), F.S. Contractor shall require any subcontractors to provide the Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The contractor shall maintain a copy of such affidavit for the duration of the contract.

The parties have executed this Contract on the dates written below.

SANIBEL FIRE RESCUE District

By: _____

Name: _____

Title: _____

Date: _____

CONTRACTOR

By: _____

Name: _____

Title: _____

Date: _____

Approved as to Form and Legal Sufficiency

By:_____

Name:_____

Exhibit A
Scope of Work

Sanibel Fire & Rescue station #172, located on 5171 Sanibel Captiva Rd, Sanibel, FL 33957 , was structurally evaluated after significant flooding during Hurricane Ian in September of 2023. The building structural analysis report indicated that the existing building is "substantially structurally deteriorated." Therefore, the fire department wishes to demolish the existing station. The scope of work is for the demolition only and will consist of demolishing the existing one-story station in its entirety along with all existing concrete aprons, all existing conc. sidewalks, all existing pavers, and non-functional generator along with its base. All existing underground lines and plumbing is to be capped. Refer to the demolition plan for the exact locations and extent of the work. The existing one-story detached storage building, and the existing communication tower is to remain. The fire department intends to operate out of the existing trailer on site while demolition is underway. All work performed shall be coordinated with the fire department to maintain the fire department operations during the duration of demolition work.

The work must be performed in accordance with the attached Architectural and Civil Demolition Plans.

Exhibit B

Insurance Requirements

A. The Contractor must maintain during the entire term of this Agreement, insurance in the following kinds and amounts with a company or companies authorized to do business in the State of Florida and shall not commence work under this Agreement until the Authority has received an acceptable certificate of insurance showing evidence of such coverage.

B. The amounts and types of insurance shall be appropriate for the services being performed by the Contractor, its employees or agents and must conform to the following minimum requirements:

1. Workers' Compensation. Coverage must apply for all employees and subcontractors with statutory limits in compliance with the applicable state and federal laws. In addition, the policy must include the following:

    a. Employer's Liability with a minimum limit per accident in accordance with statutory requirements.
    b. Notice of Cancellation and/or Restriction. The policy must be endorsed to provide Authority with thirty (30) days written notice of cancellation and/or restriction.
    c. Contractor(s) must be in compliance with all applicable state and federal workers' compensation laws.

2. Commercial or Comprehensive General Liability. Coverage must include:

    a. $1,000,000.00 combined limit per occurrence for bodily injury, personal injury and property damage.
    b. Contractual coverage applicable to this specific contract, including any hold harmless and/or indemnification agreement, broad form property damage, explosion, collapse, and underground hazard coverage and independent contractor's coverage.
    c. Additional Insured. Authority is to be specifically included as an additional insured.
    d. Notice of Cancellation and/or Restriction. The policy must be endorsed to provide Authority with thirty (30) days written notice of cancellation and/or restriction.

3. Comprehensive Automobile Liability. Coverage must be afforded on a form no more restricted than the latest edition of the Comprehensive Automobile Liability Policy filed by the Insurance Services Office and must include:

    a. $1,000,000.00 combined single limit per accident for bodily injury and property damage.
    b. Owned Vehicle.
    c. Hired and Non-Owned Vehicles.
    d. Employee Non-Ownership.
    e. Additional Insured. Authority is to be specifically included as additional insured.
    f. Notice of Cancellation and/or Restriction. The policy must be endorsed to provide Authority with thirty (30) days written notice of cancellation and/or restriction.

C. Contractor must deliver to the Authority Certificates of Insurance evidencing the insurance coverage specified in this Section 14 prior to commencing work under the Agreement. The required Certificates of Insurance not only shall name types of policies provided but also shall refer specifically to the Agreement.

D. Insurance coverage shall be placed with insurers or self-insurance funds, satisfactory to the Authority, licensed to do business in the State of Florida and with a resident agent designated for the service of process. Contractor shall provide the Authority with financial information concerning any self-insurance fund insuring Contractor. At the Authority's option, Self-Insurance Fund financial information may be waived.

E. All the policies of insurance so required of Contractor, except workers' compensation and professional liability, shall be endorsed to include as additional insureds: the Authority, its directors, officers, employees and agents. Such insurance policies shall include or be endorsed to include a cross liability clause so the additional insureds will be treated as if a separate policy were in existence and issued to them. If the additional insureds have other insurance, which might be applicable to any loss, the insurance required of Contractor shall be considered primary, and all other insurance shall be considered excess. The cross liability clause does not increase the limits of liability or aggregate limits of the policy.

F. Deductible and self-insured retention amounts shall be subject to approval by the Authority, which approval shall not be unreasonably withheld. Contractor is responsible for the amount of any deductibles or self-insured retentions.

G. Approval of the insurance by the Authority shall not relieve or decrease the liability of Contractor hereunder. Contractor acknowledges and agrees the Authority does not in any way represent the insurance (or the limits of insurance) specified in this Section 14 is sufficient or adequate to protect Contractor's interests or liabilities, but are merely minimums.

H. All of the policies of insurance required to be purchased and maintained (or the certificates or other evidence thereof) shall contain a provision or endorsement that the coverage afforded will not be cancelled, materially changed, or renewal refused, until at least thirty (30) days prior written notice has been given to the Authority and Contractor by certified mail. Contractor shall give notice to the Authority within twenty-four (24) hours of any oral or written notice of adverse change, non-renewal or cancellation. If the initial insurance expires prior to completion of the work, renewal Certificates of Insurance shall be furnished thirty (30) days prior to the date of their expiration.

I. All insurance required hereunder shall remain in full force and effect until final payment and at all times thereafter when Contractor may be providing services to correct, remove or replace defective work.

J. If applicable, professional liability insurance shall continue in force until the end of the fifth (5^{th}) calendar year following the calendar year in which the Agreement is terminated. The current professional liability insurance policy, if not renewed, shall provide for an extended reporting period on the existing policy through said fifth (5^{th}) calendar year.

K. Contractor shall, upon request by the Authority, deliver to the Authority a copy of each insurance policy purchased by Contractor.

L. All policies, except for workers' compensation and professional liability, shall contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of subrogation against the Authority, its Contractors, directors, officers, employees, representatives or agents. Nothing contained in these insurance requirements is to be construed as limiting the liability of Contractor or Contractor's insurance carriers.

M. The commercial (occurrence form) or comprehensive general liability (occurrence form) insurance shall include contractual liability insurance applicable to all of the Contractor's obligations under the Agreement, including any indemnity or hold harmless provision.

N. Contractor shall be responsible for ensuring all of its subcontractors, suppliers and other persons or organizations working for Contractor in connection with Work Orders comply with all of the insurance requirements contained herein relative to each such party.

Exhibit C
Requirements for Projects Using Federal Funds

FEDERAL SUPPLEMENT
APPLICABLE PROVISIONS

☒ = Any Contract, if awarded, will be subject to the following federal provisions as selected below:

1. ☒ EQUAL EMPLOYMENT OPPORTUNITY
2. ☒ MAINTENANCE OF RECORDS
3. ☒ DHS SEAL, LOGO, AND FLAGS
4. ☒ LOCAL VENDOR PREFERENCE EXCLUSION
5. ☒ COMPLIANCE WITH FEDERAL LAW, REGULATIONS, and EXECUTIVE ORDERS
6. ☒ NO OBLIGATION BY THE FEDERAL GOVERNMENT
7. ☒ FRAUD and FALSE OR FRAUDULENT OR RELATED ACTS
8. ☒ SUBCONTRACTS
9. ☒ CONFLICT OF INTEREST
10. ☒ EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM (E-VERIFY)
11. ☒ ENERGY POLICY AND CONSERVATION ACT
12. ☒ SMALL AND MINORITY BUSINESS, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS
13. ☒ DOMESTIC PREFERENCES FOR PROCUREMENT (2 C.F.R. § 200.322)
14. ☒ PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS OR SERVICES (2 C.F.R. § 200.216)
15. ☒ TERMINATION FOR CAUSE AND/OR CONVENIENCE
16. ☒ RECOVERED MATERIALS
17. ☒ SUSPENSION AND DEBARMENT
18. ☐ CONTRACT WORK HOURS & SAFETY STANDARDS (40 U.S.C. 3701-3708)
19. ☐ BYRD ANTI-LOBBYING AMENDMENT
20. ☐ CLEAN AIR ACT
21. ☐ FEDERAL WATER POLLUTION CONTROL ACT
22. ☐ REMEDIES
23. ☐ OTHER RIGHTS AND REMEDIES
24. ☒ DAVIS-BACON REQUIREMENTS
25. ☒ COPELAND ANTI-KICKBACK ACT

The following clauses shall apply to any Purchase Orders issued under declaration of emergency and/or where federal funds apply [or may apply].

ANY/ALL THRESHOLD AMOUNTS

1. EQUAL EMPLOYMENT OPPORTUNITY:

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

A. The CONSULTANT/CONTRACTOR/VENDOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The CONSULTANT/CONTRACTOR/VENDOR 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 CONSULTANT/CONTRACTOR/VENDOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

B. The CONSULTANT/CONTRACTOR/VENDOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT/CONTRACTOR/VENDOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

C. The CONSULTANT/CONTRACTOR/VENDOR 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 CONSULTANT/CONTRACTOR/VENDOR's legal duty to furnish information.

D. The CONSULTANT/CONTRACTOR/VENDOR will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the CONSULTANT/CONTRACTOR/VENDOR's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

E. The CONSULTANT/CONTRACTOR/VENDOR 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.

F. The CONSULTANT/CONTRACTOR/VENDOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

G. In the event of the CONSULTANT/CONTRACTOR/VENDOR's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the CONSULTANT/CONTRACTOR/VENDOR may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

H. The CONSULTANT/CONTRACTOR/VENDOR will include 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 sub-CONSULTANT/CONTRACTOR/VENDOR.

The CONSULTANT/CONTRACTOR/VENDOR will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance:

Provided, however, that in the event the CONSULTANT/CONTRACTOR/VENDOR becomes involved in, or is threatened with, litigation with a sub- CONSULTANT/CONTRACTOR/VENDOR as a result of such direction, the CONSULTANT/CONTRACTOR/VENDOR may request the United States to enter into such litigation to protect the interests of the United States.

The District 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 District 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 District 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 District 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 District 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.

2. MAINTENANCE OF RECORDS:

A. The CONSULTANT/CONTRACTOR/VENDOR will keep and maintain adequate records and supporting documentation applicable to all of the services, work, information, expense, costs, invoices and materials provided and performed pursuant to the requirements of this agreement. Said records and documentation will be retained by the CONSULTANT/CONTRACTOR/VENDOR for a minimum of five (5) years from the date of termination of this agreement, or for such period is required by law.

B. CONSULTANT/CONTRACTOR/VENDOR shall provide, when requested, access by the District, Federal granting agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the CONSULTANT/CONTRACTOR/VENDOR which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

C. CONSULTANT/CONTRACTOR/VENDOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

D. CONSULTANT/CONTRACTOR/VENDOR agrees to provide the GRANT AGENCY Administrator or his authorized representatives' access to construction or other work sites pertaining to the work being completed under the contract.

E. CONSULTANT/CONTRACTOR/VENDOR shall retain all records associated with this solicitation and any agreements that are created in response to the solicitation for a period of no less than five (5) years after final payments and all other pending matters are closed.

F. The District and its authorized agents shall, with reasonable prior notice, have the right to audit, inspect and copy all such records and documentation as often as the District deems necessary during the period of this agreement, and during the period as set forth in the paragraphs above; provided, however, such activities shall be conducted only during normal business hours of the CONSULTANT/CONTRACTOR/VENDOR and at the expense of the District.

3. DHS SEAL, LOGO, AND FLAGS

The CONSULTANT/CONTRACTOR/VENDOR shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific GRANT AGENCY pre- approval.

4. LOCAL VENDOR PREFERENCE EXCLUSION

Local Vendor Preference requirements have been waived for this service/purchase request and any and all references contained herein are non-applicable to this request and subsequent contract and/or purchase order(s).

5. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, and EXECUTIVE ORDERS

This is an acknowledgment that GRANT AGENCY financial assistance will be used only to fund the services requested. The CONSULTANT/CONTRACTOR/VENDOR will comply with all applicable federal law, regulations, executive orders, GRANT AGENCY policies, procedures, and directives.

6. NO OBLIGATION BY THE FEDERAL GOVERNMENT

The Federal Government is not a party to this solicitation and is not subject to any obligations or liabilities to the non- Federal entity, CONSULTANT/CONTRACTOR/VENDOR, or any other party pertaining to any matter resulting from the Solicitation.

7. FRAUD and FALSE OR FRAUDULENT OR RELATED ACTS

The CONSULTANT/CONTRACTOR/VENDOR acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the CONSULTANT/CONTRACTOR/VENDORs actions pertaining to this solicitation.

8. SUBCONTRACTS

The selected firm must require compliance with all federal requirements of all sub-CONSULTANT/CONTRACTOR/VENDORs performing work for Prime CONSULTANT/CONTRACTOR/VENDOR under this Agreement, by including these federal requirements in all contracts with sub-CONSULTANT/CONTRACTOR/VENDORs.

9. CONFLICT OF INTEREST

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of

interest. Such a conflict of interest would arise when the employee, officers, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from CONSULTANT/CONTRACTOR/VENDORs or parties to subcontracts.

10. EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM (E-VERIFY)

A. Statutes and Executive Orders require employers to abide by the Immigration laws of the United States and to employ only individuals who are eligible to work in the United States. The Employment Eligibility Verification System (E-Verify) operated by the U.S. Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA) to provides an internet-based means of verifying employment eligibility of workers in the United States; it is not a substitute for any other employment eligibility verification requirements.

B. Sub-CONSULTANT/CONTRACTOR/VENDOR requirement: Vendors shall require all subcontracted vendors to flow down the requirement to use E-Verify to sub- CONSULTANT/CONTRACTOR/VENDORs.

C. It shall be the vendor's responsibility to familiarize themselves with all rules and regulations governing this program.

D. For additional information regarding the Employment Eligibility Verification System (E- Verify) program visit the following website: http://www.dhs.gov/E-Verify.

11. ENERGY POLICY AND CONSERVATION ACT

CONSULTANT/CONTRACTOR/VENDOR must follow any 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. 6201).

12. SMALL AND MINORITY BUSINESS, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS

CONSULTANT/CONTRACTOR/VENDOR shall, at a minimum, take the following five "affirmative steps" to assure that minority firms, small businesses, women's business enterprises, and Labor Surplus Area firms are used when possible:

A. Place qualified small and minority businesses and women's business enterprises on solicitation lists.

B. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.

C. 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.

D. 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.

E. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.

13. DOMESTIC PREFERENCES FOR PROCUREMENT (2 C.F.R. § 200.322)

As appropriate and to the greatest extent consistent with law, state and non-state entities should, to the greatest extent practicable under its GRANT AGENCY award, provide a preference for the purchase of goods, products or materials produced in the United States (including but not limited to iron, aluminum, steel, cement and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. 2 C.F.R. § 200.322 also provides specific definitions for "Produced in the United States" and "manufactured products" that states should review.

14. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS OR SERVICES (2 C.F.R. § 200.216)

(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 Contract Provisions Guide 28

(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.

OVER $10K ADD THE FOLLOWING TO THE ABOVE

15. TERMINATION FOR CAUSE AND/OR CONVENIENCE:

A. The District, by written notice to the CONSULTANT/CONTRACTOR/VENDOR, may terminate this Agreement with or without cause (for convenience), in whole or in part, when the District determines in its sole discretion that it is in the District's best interest to do so. In the event of termination the CONSULTANT/CONTRACTOR/VENDOR will not incur any new obligations for the terminated portion of the Agreement after the CONSULTANT/CONTRACTOR/VENDOR has received notification of termination.

B. If the Agreement is terminated before performance is completed, the CONSULTANT/CONTRACTOR/VENDOR shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount that is the same percentage of the Agreement price as the amount of work satisfactorily completed is a percentage of the total work called for by this Agreement. All work in progress shall become the property of the District and shall be turned over promptly by the CONSULTANT/CONTRACTOR/VENDOR.

16. RECOVERED MATERIALS

A. In the performance of this contract, the CONSULTANT/CONTRACTOR/VENDOR shall make maximum use of products containing recovered material 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.

B. Information about this requirement is available EPA'S Comprehensive Procurement Guidelines web site, http://www.epa.gov/cpg/ The list of EPA-designate items is available at http://www.epa.gov/cpg/products/htm

OVER $25K ADD THE FOLLOWING TO THE ABOVE

17. SUSPENSION AND DEBARMENT

A. 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 CONSULTANT/CONTRACTOR/VENDOR is required to verify that none of the CONSULTANT/CONTRACTOR/VENDOR, its 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).

B. The CONSULTANT/CONTRACTOR/VENDOR 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.

C. This certification is a material representation of fact relied upon by the awarded CONSULTANT/CONTRACTOR/VENDOR. If it is later determined that the CONSULTANT/CONTRACTOR/VENDOR 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 Lee District, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

D. The CONSULTANT/CONTRACTOR/VENDOR 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.

OVER $100K ADD THE FOLLOWING TO THE ABOVE

18. CONTRACT WORK HOURS & SAFETY STANDARDS (40 U.S.C. 3701-3708)

Required contract provision 18 applies to all procurements over $100,000 that involve the employment of mechanics, laborers, and construction work.

A. 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.

B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor 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 (1) of this section, in the sum of $10 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 (1) of this section.

C. Withholding for unpaid wages and liquidated damages. The State of Florida Division of Emergency Management 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 (2) of this section.

D. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (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 (1) through (4) of this section.

19. BYRD ANTI-LOBBYING AMENDMENT

CONSULTANT/CONTRACTOR/VENDORs 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 nonfederal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

OVER $150K ADD THE FOLLOWING TO THE ABOVE

20. CLEAN AIR ACT

A. 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.

B. The contractor agrees to report each violation to the GRANT AGENCY and the Regional Office of the Environmental Protection Agency and understands and agrees that the GRANT AGENCY and the Regional Office of the Environmental Protection Agency will, in turn, report each violation as required to assure notification to the District, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

C. The contractor agrees to include these requirements in each subcontract exceeding
$150,000 financed in whole or in part with Federal assistance provided by GRANT AGENCY.

21. FEDERAL WATER POLLUTION CONTROL ACT

A. 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.

B. The contractor agrees to report each violation to the GRANT AGENCY and the

Regional Office of the Environmental Protection Agency and understands and agrees that the GRANT AGENCY and the Regional Office of the Environmental Protection Agency will, in turn, report each violation as required to assure notification to the District, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

C. The contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by GRANT AGENCY.

OVER $250K/SIMPLIFIED ACQUISITION THRESHOLD

22. REMEDIES

A. In the event the CONSULTANT/CONTRACTOR/VENDOR fails to satisfactorily perform or has failed to adhere to the terms and conditions under this Agreement, the District may, upon fifteen (15) calendar days written notice to the CONSULTANT/CONTRACTOR/VENDOR and upon the CONSULTANT/CONTRACTOR/VENDOR's failure to cure within those fifteen (15) calendar days, exercise any one or more of the following remedies, either concurrently or consecutively:

1. Withhold or suspend payment of all or any part of a request for payment.

2. Require that the CONSULTANT/CONTRACTOR/VENDOR refund to the District any monies used for ineligible purposes under the laws, rules and regulations governing the use of these funds.

3. Exercise any corrective or remedial actions, to include but not be limited to:

4. Requesting additional information from the CONSULTANT/CONTRACTOR/VENDOR to determine the reasons for or the extent of non-compliance or lack of performance;

5. Issuing a written warning to advise that more serious measures may be taken if the situation is not corrected;

6. Advising the CONSULTANT/CONTRACTOR/VENDOR to suspend, discontinue or refrain from incurring costs for any activities in question; or

7. Requiring the CONSULTANT/CONTRACTOR/VENDOR to reimburse the District for the amount of costs incurred for any items determined to be ineligible.

23. OTHER REMEDIES AND RIGHTS:

A. Pursuing any of the above remedies will not keep the District from pursuing any other rights or remedies, which may be otherwise available under law or in equity. If the District waives any right or remedy in this Agreement or fails to insist on strict performance by the CONSULTANT/CONTRACTOR/VENDOR, it will not affect, extend or waive any other right or remedy of the District, or affect the later exercise of the same right or remedy by the District for any other default by the CONSULTANT/CONTRACTOR/VENDOR.

B. Unless otherwise provided by the Contract, all claims, counter-claims, disputes and other matters in question between the District and the CONSULTANT/CONTRACTOR/VENDOR arising out of or relating to the Agreement between the parties, or the breach of it, that cannot be resolved by and between the parties after conferring in good faith, will be decided by a court of competent jurisdiction pursuant to Florida law. If such dispute is in state court, venue shall be in the Twentieth Judicial Circuit Court in and for Lee County, Florida. If in federal court, venue shall be in the U.S. District Court for the Middle District of Florida, Ft. Myers Division.

REQUIRED PROVISIONS FOR ALL CONSTRUCTION CONTRACTS

24. DAVIS-BACON REQUIREMENTS

1. Minimum Wages.
(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including

helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
(1) The work to be performed by the classification requested is not performed by a classification in the wage determination;
(2) The classification is utilized in the area by the construction industry; and
(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program: *Provided* that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding.
The Federal Emergency Management Agency or the sponsor 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 the Contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and

mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the Federal Emergency Management Agency may, after written notice to the Contractor, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and Basic Records.
(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and that show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Emergency Management Agency if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Emergency Management Agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (*e.g.* the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at *www.dol.gov/whd/forms/wh347instr.htm* or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Emergency Management Agency if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit them to the applicant, sponsor, or Owner, as the case may be, for transmission to the Federal Emergency Management Agency, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).
(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the

persons employed under the contract and shall certify the following:
(1) The payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;
(2) Each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;
(3) Each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.
(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the sponsor, the Federal Emergency Management Agency, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the

registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements.
The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

6. Subcontracts.
The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR Part 5.5(a)(1) through (10) and such other clauses as the Federal Emergency Management Agency 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 the contract clauses in 29 CFR Part 5.5.

7. Contract Termination: Debarment.
A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements.
All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.
Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the
U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC 1001

25. 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. Part 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.