

**INTERLOCAL AGREEMENT
FOR EMERGENCY DEBRIS MANAGEMENT SERVICES**

This Interlocal Agreement for Emergency Debris Management Services (the "Agreement") is made and entered into by and between the City of North Port, Florida ("City") a political subdivision of the State of Florida, and Holiday Park Park and Recreation District, Sarasota County ("Holiday Park") an independent special taxing district and political subdivision of the State of Florida, collectively referred to as the "Parties."

RECITALS

WHEREAS, after a natural disaster, an agreement between the State of Florida ("State") and the Federal Emergency Management Agency ("FEMA") governing the use of Public Assistance Grant Funding is attested requiring the State to share the costs eligible for financial assistance; and the State has undertaken to share those costs, as appropriate, with City, as its subgrantee; and

WHEREAS, on September 23, 2022, Florida Governor Ron DeSantis issued Executive Order Number 22-218, declaring a state of emergency in Brevard, Broward, Charlotte, Collier, DeSoto, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River, Lee, Manatee, Martin, Miami Dade, Monroe, Okeechobee, Osceola, Palm Beach, Pasco, Pinellas, Polk, Sarasota, and St. Lucie Counties; and

WHEREAS, on September 24, 2022, Governor DeSantis issued Executive Order Number 22-219, amending Executive Order Number 22-218 to declare a state of emergency in the entire State of Florida; and

WHEREAS, on September 25, 2022, the City Commission of the City of North Port, Florida adopted Ordinance No. 2022-30, declaring a state of local emergency due to Hurricane Ian; and

WHEREAS, the impact of Hurricane Ian caused significant damage throughout the City of North Port, including within the jurisdiction of Holiday Park requiring the collection and removal of vegetative debris ("debris"); and

WHEREAS, Holiday Park is responsible for vegetative debris removal services within its jurisdiction located in Holiday Park Unit One as per plat thereof recorded in Plat Book 19, Pages 27 through 27G, of the Public Records of Sarasota County, Florida, and Holiday Park Unit Two, as per plat thereof recorded in Plat Book 20, Pages 8 through 8N, of the Public Records of Sarasota County, Florida (the "Property"); and

WHEREAS, Holiday Park is fully qualified and eligible to receive FEMA Public Assistance Grant Funds to provide debris removal services on the Property but was unable to independently secure a contract for debris removal following the impact of Hurricane Ian; and

WHEREAS, the City finds that the debris removal services provided under this Agreement primarily serve a public purpose by providing otherwise unavailable services to City residents; and

WHEREAS, the Parties find that the debris removal services provided under this Agreement promote the health, welfare, safety, and protection of the community, and that these services are a proper exercise of a municipal function.

NOW, THEREFORE, for and in consideration of the mutual covenants specified herein and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the Parties agree as follows:

1. Recitals. The above recitals are true and correct and are incorporated into this Agreement by reference.
2. Term. This Agreement becomes effective on the date the last party approves or executes the Agreement, as applicable ("Effective Date"). The term of this Agreement begins on the Effective Date and will remain in effect for 180 days ("Initial Term"). At the end of the Initial Term, and unless otherwise terminated as provided herein, this Agreement may be extended for additional 30 day periods until such time as the emergency debris management services provided herein are complete and the City has received all eligible payments for the services provided to Holiday Park.
3. City's Responsibilities.
 - A. Debris Removal – In order for the costs associated with removing debris generated as a result of the impact of Hurricane Ian (the "disaster") to be deemed eligible for reimbursement per FEMA 321, Public Assistance Policy Digest, the work must be "*...the legal responsibility of an eligible applicant at the time of the disaster.*" Therefore, the City agrees to accept from Holiday Park, and Holiday Park agrees to defer to the City, the legal responsibility for removing all disaster generated debris within the Property. This DOES NOT provide for legal authority for City or its contractors to clear or remove debris from private property.
 - B. Emergency Push/Road Clearance – The City shall ensure that debris located on the Property is collected and removed pursuant to the terms contained herein. The collecting and removal of debris includes but is not limited to the cutting, tossing, and pushing of vegetative debris, hanging limbs, and leaning trees off the transportation routes as identified and deemed necessary by the City.
 - C. Debris Removal and Clearance – The City shall ensure that debris located on the Property in the public rights-of-way and on other public property is loaded and hauled to authorized debris management sites and/or final disposition locations as determined by the City.
 - D. Costs-Not-To-Exceed – All contracts the City enters for the removal of debris shall contain a cost-not-to-exceed provision as established in 44 C.F.R 13.36(b)(10)(ii), notifying each vendor that the vendor exceeds the costs as contracted at the vendor's own risk.
 - E. Eligible Work/Eligible Debris – The City shall seek reimbursement from FEMA for all eligible work performed pursuant to this Agreement. Eligible work is defined in FEMA 321 as work that is "*...necessary to:*"
 - 1) Eliminate immediate threats to life, public health, and safety;
 - 2) Eliminate immediate threats of significant damage to improved public or private property;
 - 3) Ensure economic recovery of the affected community to the benefit of the community-at-large; or

- 4) Mitigate the risk to life and property by removing substantially damaged structures and associated appurtenances as needed to convert property acquired through a FEMA hazard mitigation program to uses compatible with open space, recreation, or wetlands management practices.

FEMA 321 further provides examples of eligible debris removal activities including:

- 5) Debris removal from street or highway to allow safe passage of emergency vehicles;
- 6) Debris removal from roads in private communities, including debris moved to the curb by the community (See Homeowner's Associations); and
- 7) Debris removal from public and private property to eliminate health and safety hazards.

4. Holiday Park's Responsibilities.

- A. Services – Holiday Park or its representatives must provide the City with a list of priorities for the clearance and removal of disaster generated debris on the Property, establish and monitor residential debris drop-off sites on the Property, establish and monitor communications to manage citizen complaints to acceptable resolution at the sole discretion of the City, and disseminate related information to Property residents via applicable media.
 - B. FEMA-State Agreement – Holiday Park agrees to all the conditions, obligations, and duties imposed by the FEMA-State Agreement and all applicable State and Federal legal requirements including, without any limitation on the generality of the foregoing, the requirements of 44 C.F.R. parts 13 and 206, and the policies of FEMA. All expenditures under this Agreement shall comply with all applicable State and Federal laws, rules, and regulations.
 - C. Duplication of Benefits Prohibited – Holiday Park shall not seek or receive reimbursement or funding for work performed pursuant to this Agreement or to pay for damage already covered by insurance, nor shall Holiday Park receive any other benefits otherwise provided to it pursuant to this Agreement.
 - D. Administrative Allowance – Holiday Park shall remit to the City any and all administrative allowances Holiday Park receives pursuant to 44 C.F.R 208.41 as a result of eligible work performed on the Property.
5. Cost Sharing. As a minimum, the Federal government reimburses the Grantee for eligible work at 75% of the costs. The State typically reimburses a subgrantee for half of the remaining costs. Regardless of the Federal and State shares, Holiday Park shall reimburse the City only for that portion of costs not reimbursed to the City by Federal and State governments. As an example, if the Federal share is 75%, and the State share is 12.5%, the maximum obligation incurred by Holiday Park will be 12.5% of the eligible costs. Cost sharing shall be calculated on the costs actually reimbursed.
 6. Ineligible Work and Reimbursement. If at any point in time, and until final inspection, final audit, or other review by the City, FEMA or any other authorized authority determines a disbursement for work performed pursuant to this Agreement exceeds eligible costs or the work performed is

determined ineligible for reimbursement, Holiday Park shall reimburse the City all costs associated with such work.

7. Required Documentation and Review.

- A. Documentation – The City shall create and maintain documentation of work performed and costs incurred on the Property pursuant to this Agreement sufficient to permit formal audit comporting with ordinary, customary, and prudent public accounting requirements. The City shall track costs associated with removal, reduction, final disposition of ALL DEBRIS TYPES removed pursuant to this Agreement and the associated monitoring costs via a methodology that distinctively identifies eligible work performed on the Property, including but not limited to quantifications of debris by debris type, documentation of eligibility to include measurements and photographs of eligible hazardous stumps, hazardous hanging branches or hazardous leaning trees, and monitoring hours worked by pay level or labor category.
- B. Review – Upon request, the City shall provide Holiday Park with any requested documentation created in furtherance of this Agreement within thirty (30) days of receipt or as otherwise required by Florida law. In addition, the City must provide requested documentation to Holiday Park with any request for reimbursement for eligible costs not reimbursed to the City by Federal or State government.

8. Record Maintenance. Funding of eligible costs under this Agreement and the performance of all other conditions are subject to the following requirements, in addition to such other and further requirements as may be imposed by operation of law:

- A. The "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," as codified in 44 C.F.R. Part 13, as amended;
- B. Office of Management and Budget Circular No. A-87, "Cost Principles for State and Local Governments," as amended;
- C. The City shall maintain all public records created in furtherance of this Agreement until the occurrence of the following events, whichever is later:
- 1) The completion of final inspection, final audit, and the final resolution of any issues identified in the same;
 - 2) The expiration of five (5) years from the date of disaster closeout under this Agreement; or
 - 3) As otherwise required under Florida law.
- D. The City shall make all records created in furtherance of this Agreement available and accessible to the Comptroller General of the United States, the Florida Department of Community Affairs, and the Federal Emergency Management Agency, or their authorized representatives, between 8:00 AM and 5:00 PM on weekdays other than official holidays.

9. Public Records. In accordance with Florida Statutes, Section 119.0701, Holiday Park shall comply with all public records laws, and shall specifically:

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

1) The timeframes and classifications for records retention requirements must be in accordance with the General Records Schedule GS1-SL for State and Local Government Agencies. (See <http://dos.dos.state.fl.us/library-archives/records-management/general-records-schedules/>).

2) "Public records" means and includes those items specified in Florida Statutes, Section 119.011(12), as amended from time to time, and currently defined as: All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made, or received pursuant to law or ordinance or in connection with the transaction of official business with the City. Holiday Park's records include but are not limited to, supplier/subcontractor invoices and contracts, project documents, meeting notes, e-mails and all other documentation generated pursuant to this Agreement.

B. Upon request from the City's custodian of public records, provide the City, at no cost, 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 for by law. All records kept electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

C. Ensure that project 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 Agreement term and, if Holiday Park does not transfer the records to City following completion of the Agreement, for the time period specified in General Records Schedule GS1-SL for State and Local Government Agencies.

D. Upon completion of the Agreement, transfer, at no cost, to the City all public records in Holiday Park's possession or keep and maintain public records required by the City to perform the service. If Holiday Park keeps and maintains public records upon the completion of the Agreement, it shall meet all applicable requirements for retaining public records.

E. IF HOLIDAY PARK HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO HOLIDAY PARK'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CUSTODIAN OF PUBLIC RECORDS, 4970 CITY HALL BOULEVARD, NORTH PORT, FLORIDA 34286, (941) 429-7056 OR HOTLINE (941) 429-7270; E-MAIL: publicrecordsrequest@northportfl.gov.

10. Remedies. The City's rights and remedies as set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to it in law or in equity.

11. Notices. Except as specified elsewhere in this Agreement, all notices provided for in the Agreement must be in writing and transmitted by FedEx, UPS, or by certified mail, return receipt requested to

the following. A party may update its notice information by providing written notice to the other party.

For City of North Port, Florida:
City of North Port, Florida
Attn: City Manager
4970 City Hall Blvd.
North Port, Florida 34286

with a copy to:
City of North Port, Florida
Attn: City Attorney
4970 City Hall Blvd.
North Port, Florida 34286

For Holiday Park:
John Rabideau
Chairperson
5401 Holiday Park Blvd
North Port, FL 34287

12. Force Majeure. Should performance of any obligation (other than payment obligations) created under this Agreement become illegal or impossible by reason of:

- A. A strike or work stoppage, unless caused by a negligent act or omission of any Party;
- B. An act of God, tornado, hurricane, flood, sinkhole, fire, explosion, landslide, earthquake, epidemic, pandemic, quarantine, pestilence, or extremely abnormal and excessively inclement weather;
- C. An act of a public enemy, act of war, terrorism, effect of nuclear radiation, blockage, insurrection, riot, civil disturbance, state of martial law, or national or international calamity;
- D. A declared emergency of the federal, state, or local government; or
- E. Any other cause not enumerated that is beyond the reasonable control of the non-performing party;

then the performance of any such obligation is suspended during the period of, and only to the extent of, such prevention or hindrance, provided the affected Party provides reasonable notice of the event of force majeure and exercises all reasonable diligence to eliminate the cause of force majeure.

13. INDEMNIFICATION.

- A. TO THE EXTENT PERMITTED BY FLORIDA LAW, AND SPECIFICALLY WITHOUT WAIVING ITS SOVEREIGN IMMUNITY PROTECTIONS, HOLIDAY PARK ASSUMES ALL LIABILITY FOR, AND RELEASES AND AGREES TO DEFEND, INDEMNIFY, PROTECT, AND HOLD HARMLESS THE CITY, ITS COMMISSIONERS, OFFICERS, AGENTS, AND EMPLOYEES, FROM ALL LIABILITIES, FINES, CLAIMS, ASSESSMENTS, SUITS, JUDGMENTS, DAMAGES, LOSSES AND COSTS, INCLUDING CONSEQUENTIAL, SPECIAL, INDIRECT, AND PUNITIVE DAMAGES, (INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES AND COURT COSTS, WHETHER SUCH FEES AND COSTS ARE INCURRED IN NEGOTIATIONS, AT THE TRIAL LEVEL OR ON APPEAL, OR IN THE COLLECTION OF ATTORNEYS' FEES), ARISING OUT OF ANY ACTS, ACTIONS, BREACHES, NEGLIGENCE OR OMISSIONS

OF HOLIDAY PARK, OR HOLIDAY PARK'S OFFICERS, EMPLOYEES, AGENTS, SUBCONTRACTORS, SUB-CONSULTANTS, AND OTHER PERSONS EMPLOYED OR UTILIZED BY HOLIDAY PARK IN THE PERFORMANCE OF, OR THE FAILURE TO PERFORM, THE AGREEMENT. THE AGREEMENT DOES NOT CONSTITUTE A WAIVER OF SOVEREIGN IMMUNITY OR CONSENT BY THE CITY OR ITS SUBDIVISIONS TO SUIT BY THIRD PARTIES.

- B. THE CITY MUST PROVIDE ALL AVAILABLE INFORMATION AND ASSISTANCE THAT HOLIDAY PARK MAY REASONABLY REQUIRE REGARDING ANY CLAIM. IN THE EVENT OF A CLAIM, THE CITY MUST PROMPTLY NOTIFY HOLIDAY PARK IN WRITING BY PREPAID CERTIFIED MAIL (RETURN RECEIPT REQUESTED) OR BY DELIVERY THROUGH ANY NATIONALLY RECOGNIZED COURIER SERVICE (SUCH AS FEDERAL EXPRESS OR UPS) WHICH PROVIDES EVIDENCE OF DELIVERY, AT THE ADDRESS PROVIDED FOR RECEIPT OF NOTICES IN THIS AGREEMENT.
- C. THIS AGREEMENT FOR INDEMNIFICATION SURVIVES TERMINATION OR COMPLETION OF THE AGREEMENT. THE INSURANCE COVERAGE AND LIMITS REQUIRED IN THIS AGREEMENT MAY OR MAY NOT BE ADEQUATE TO PROTECT THE CITY AND SUCH INSURANCE COVERAGE WILL NOT BE DEEMED A LIMITATION ON HOLIDAY PARK'S LIABILITY UNDER THE INDEMNITY PROVIDED IN THIS SECTION. IN ANY PROCEEDINGS BETWEEN THE PARTIES ARISING OUT OF OR RELATED TO THIS INDEMNITY PROVISION, THE PREVAILING PARTY SHALL BE REIMBURSED ALL COSTS, EXPENSES AND REASONABLE ATTORNEY FEES THROUGH ALL PROCEEDINGS (AT BOTH TRIAL AND APPELLATE LEVELS).
- D. NOTHING IN THIS AGREEMENT SHALL BE DEEMED TO AFFECT THE RIGHTS, PRIVILEGES, AND IMMUNITIES OF THE CITY AND/OR HOLIDAY PARK AS SET FORTH IN FLORIDA STATUTES SECTION 768.28.
- E. THE TERMS OF THIS SECTION SURVIVE THE TERMINATION OF THIS AGREEMENT.

14. Liability. The City assumes no liability to third parties in connection with this Agreement.

- A. For the purpose of this Agreement, the Parties agree that neither one is an employee or agent of the other, but that each one stands as an independent contractor in relation to the other.
- B. Nothing in this Agreement shall be construed as a waiver by the Parties of any legal immunity, nor shall anything in this Agreement be construed as consent by either of the parties to be sued by third parties in connection with any matter arising from the performance of this Agreement.
- C. Holiday Park represents to the best of its knowledge that any hazardous substances at its site are present quantities within statutory and regulatory limitations, and do not require remedial action under any Federal, State or Local legal requirements concerning such substances. Holiday Park further represents that the presence of any such substance or any condition at the site caused by the presence of any such substances shall be addressed in accordance with all applicable legal requirements.

15. Supplemental FEMA Provisions. The Parties shall abide by the additional FEMA Provisions attached to this Agreement as Exhibit "A" and incorporated herein.

16. Miscellaneous.

- A. Authority to Execute Agreement. The signature by any person to this Agreement shall be deemed a personal warranty that the person has the full power and authority to bind any corporation, partnership, or any other business or governmental entity for which the person purports to act hereunder.
- B. Binding Effect/Counterparts. By the signatures affixed hereto, the Parties intend to be bound by the terms and conditions hereof. This Agreement is binding upon and shall inure to the benefit of the Parties and their respective heirs, executors, administrators, successors and assigns. It may be signed in counterparts.
- C. Governing Law and Venue. The laws of the State of Florida govern the rights, obligations, and remedies of the Parties under this Agreement. The exclusive venues for any legal or judicial proceedings in connection with the enforcement or interpretation of this Agreement are the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida and the United States District Court for the Middle District of Florida.
- D. No Agency. Nothing contained herein shall be deemed or construed as creating the relationship of principal and agent, or of partnership or joint venture, between the Parties, it being understood and agreed that no provision contained herein, or any acts of the Parties shall be deemed to create any relationship between them other than that as detailed herein.
- E. Severability. In the event any court shall hold any provision of this Agreement to be illegal, invalid, or unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any breach of any provision, term, condition or covenant shall not be construed as a waiver of a subsequent breach by the other party.
- F. Headings. The descriptive titles appearing in each respective paragraph are for convenience only and are not a part of this Agreement and do not affect its construction.
- G. Complete Agreement. This Agreement incorporates and includes all prior negotiations, correspondence, agreements, or understandings between the parties, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. This Agreement supersedes all other agreements between the parties, whether oral or written, with respect to the subject matter.
- H. Amendment. No amendment, change, or addendum to this Agreement is enforceable unless agreed to in writing by both parties and incorporated into this Agreement. Any amendments changing City's financial obligations under this Agreement shall require approval by the City Commission. The City Commission hereby authorizes the City Manager or City Manager's authorized designee to approve and execute all Agreement amendments on behalf of City that do not change City's financial obligations under this Agreement, including Term extensions.
- I. Assignment. Holiday Park shall not assign this Agreement or any right or responsibility herein unless with the written consent of the City.

J. Non-Discrimination. The City of North Port, Florida does not discriminate on the basis of race, color, national origin, sex, age, disability, family, or religious status in administration of its programs, activities, or services. Holiday Park shall not administer this Agreement in an unlawfully discriminatory manner, nor deny participation in or the benefits of same to any individual based on that individual's race, color, national origin, sex, age, disability, family or religious status, marital status, sexual orientation, gender identity or expression, or physical characteristic.

HOLIDAY PARK PARK AND RECREATION DISTRICT

By: John E Rabideau
BOARD OF TRUSTEES CHAIRPERSON

Date: 12-19-2022

ACKNOWLEDGEMENT

STATE OF FLORIDA
COUNTY OF SARASOTA

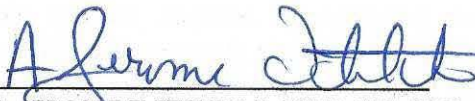
The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 19 day of December 2022 by John E Rabideau (name), as Chairperson (title) for Holiday Park Park & Recreation District (entity).

Candice Shearer
Notary Public

Personally Known OR Produced Identification
Type of Identification Produced _____



CITY OF NORTH PORT, FLORIDA


A. JEROME FLETCHER II, ICMA-CM, MPA
CITY MANAGER

ATTEST


HEATHER FAUST, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS



AMBER L. SLAYTON, B.C.S.
CITY ATTORNEY



EXHIBIT A
Additional FEMA Provisions

Section 1: 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).

(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.

Section 2: 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.

Section 3: Equal Employment Opportunity

- (a) This section applies if the contract is for a federally assisted construction contract. As defined in 41 C.F.R. § 60-1.3:

- (1) A *federally assisted construction contract* means "any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any federal program involving a grant, contract, loan, insurance or guarantee, or undertaken pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work."
 - (2) *Construction work* means as "the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction."
 - (3) *Contract* means "any Government contract or subcontract or any federally assisted construction contract or subcontract."
 - (4) Additional definitions pertaining to this section can be found at 41 C.F.R. § 60-1.3.
- (b) Unless exempted in 41 C.F.R. Part 60, the following terms apply, and 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 consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
 - (3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
 - (4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The Contractor will 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 (1) and the provisions of paragraphs (1) through (8) 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.

Section 4: Davis-Bacon Act

- (a) This section applies when required by federal program legislation for prime construction contracts over \$2,000. The Davis-Bacon Act only applies to the Emergency Management Performance Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, Transit Security Grant Program, Intercity Passenger Rail Program, and Rehabilitation of High Hazard Potential Dams Program. Unless otherwise stated in a program's authorizing statute, it *does not* apply to other FEMA grant and cooperative agreement programs, including the Public Assistance program. Where this section applies:
 - (1) Minimum wages.
 - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), 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 regulations issued 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 equivalents 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 (a)(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 § 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 paragraph (a)(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 be easily 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; and
 - (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, 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 paragraphs (a)(1)(ii) (B) or (C) of this section, 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 City 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 the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (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 (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). 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 section 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 which 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 records which show the costs anticipated or the actual cost 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 (write in name of appropriate federal 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 (write in name of 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 <http://www.dol.gov/esa/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 (write in name of appropriate federal 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 (write in name of 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) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
 - (2) That each laborer or 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) That 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 (a)(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 (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the 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, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, 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 Office of Apprenticeship Training, Employer and Labor Services 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 Office of

Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, 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 which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who 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 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal 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 5.5.
 - (7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 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 U.S.C. 1001.

Section 5: Copeland Anti-Kickback Act

- (a) This section applies only if the Davis-Bacon Act applies (see Section 4).
- (b) 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.
- (c) 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.
- (d) 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.

Section 6: Contract Work Hours and Safety Standards Act

- (a) This section applies to all procurements over \$100,000 that involve the employment of mechanics, laborers, and construction work. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- (b) Where this section applies:
 - (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
 - (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible 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 (b)(1) of this section, in the sum of \$27 for each calendar day on

- which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
 - (4) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.
- (c) If this contract is only subject to Contract Work Hours and Safety Standards Act and not subject to the other statutes in 29 C.F.R. § 5.1, the following terms apply:
- (1) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.
 - (2) Records to be maintained under this provision shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

Section 7: Clean Air and Water

- (a) This section applies if the contract is over \$150,000.
- (b) 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. The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, FEMA, and the appropriate Environmental Protection Agency Regional Office. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by FEMA.
- (c) 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. The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, FEMA, and the appropriate Environmental Protection Agency Regional Office. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by FEMA.

Section 8: Suspension and Debarment

- (a) If this contract is for \$25,000 or more, or requires the consent of an official of a federal agency, then this contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, the Contractor is required to verify that none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). The Contractor must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. The Contractor agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C throughout the period of the contract.
- (b) This certification is a material representation of fact relied upon by the City. If it is later determined that the Contractor did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to the City, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

Section 9: Byrd Anti-Lobbying Amendment

Contractors who apply or bid for an award of more than \$100,000 shall file the FEMA-required certification found at 44 C.F.R. Part 18, Appendix A (attached hereto). Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.

Section 10: Procurement of Recovered Materials

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

Section 11: Access to Records

- (a) The Contractor agrees to provide the City, the State of Florida, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (b) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- (c) In compliance with section 1225 of the Disaster Recovery Reform Act of 2018, the City and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

Section 12: DHS Seal, Logo, and Flags

The Contractor shall not use the Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. The Contractor shall include this provision in any subcontracts.

Section 13: Compliance with Federal Law

The Contractor acknowledges 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.

Section 14: No Obligation of Federal Government

The federal government is not a party to this contract and is not subject to any obligations or liabilities to the non-federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.

Section 15: False Claims

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.

Section 16: Affirmative Socioeconomic Steps

If subcontracts are to be let, the prime Contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Section 17: Copyright and Data Rights

If the contract requires the Contractor or subcontractor to produce copyrightable subject matter or data, then the Contractor grants to the City, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the City or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the City data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the City.

Section 18: Patent Rights

If this contract is a *funding agreement* as defined in 37 C.F.R. § 401.2(a), then the standard patents rights clause at 37 C.F.R. § 401.14 is hereby incorporated by reference as if fully set forth herein.