

AGREEMENT #2025-14.001
EMERGENCY FEEDING AND CATERING SERVICES

THIS NON-EXCLUSIVE AGREEMENT (“Agreement”) is made and entered into this ____ day of ____ 2026, by and between the City of North Port, Florida, a municipal corporation of the State of Florida, hereinafter referred to as the “City” and Cotton Commercial USA, Inc., a Foreign Profit Corporation, with its principal place of business located at 5443 Katy Hockley Cut-Off Road, Katy, Texas 77493 hereinafter referred to as “Contractor.”

RECITALS

Whereas, the City issued Request for Proposals No. 2025-14 on July 9, 2025, seeking the services of one or more qualified vendors to support and assist the City with feeding and catering services during an emergency disaster response (the “RFP”); and

Whereas, the Contractor timely submitted a proposal in response to the RFP (“Contractor’s Submittal Package”); and

Whereas, the City Commission, in session duly and publicly assembled, awarded the RFP to Contractor on _____ [insert date] (“Effective Date”).

The parties to this Agreement, in consideration of their mutual agreements, the RFP, and Contractor’s Submittal Package, and all documents that may be executed as a result of this Agreement and promises hereinafter contained, bind themselves, their partners, successors, assigns, and legal representatives to all covenants, agreements, and obligations contained in the agreements and proposal documents executed between the parties, and do hereby further agree as follows:

1. SCOPE OF SERVICES

- A. Contractor agrees to diligently and timely perform services for the City as specified in the RFP. The scope of all services is described in Exhibit A (“Scope of Services”) and is incorporated herein. All defined terms in the RFP are incorporated by reference. All capitalized terms used in this Agreement which are not otherwise defined in this document shall have the meaning defined in the RFP.
- B. **Pre-Event Agreement.** The parties acknowledge that this is a pre-event agreement. In the event the City desires to utilize the services of the Contractor, the parties acknowledge and agree that the City will issue a separate “Notice to Proceed” for each event project. The Notice to Proceed shall be on a form prepared by the City and shall include the specific scope of work, cost, and time of performance for each project.
- C. The City may, in its sole and absolute discretion, issue a Notice to Proceed identifying the services to be provided. The mobilization time for services and equipment must be in accordance with Scope of Services. The Notice to Proceed will indicate the not-to-exceed amount for the services to be provided.

- D. Contractor acknowledges and confirms that the City may engage multiple contractors and may designate primary and secondary contractor(s) to provide the services described in the RFP. Once designated, the City must give preference to the primary contractor when assigning the work to be provided in association with the City's clean up and recovery from a particular event. If the primary contractor is determined to be unable to perform by the City in its sole and absolute discretion, the City will proceed to authorize the secondary contractor(s) to provide services. Contractor has been designated the Prime contractor under this Agreement.
- E. The following exhibits are attached hereto and incorporated as if set forth fully herein:
1. Exhibit A – Scope of Services.
 2. Exhibit B – Price Schedule.
 3. Exhibit C – Supplemental FEMA provisions.
 4. Exhibit D – Notice to Proceed (to be appended upon issuance).
 5. EXHIBIT E – Change Order/Amendment form
- F. **Incorporation of Request for Proposal No. 2025-14 Documents.** The RFP and all specifications, attachments, and addenda, and the Contractor's response to RFP, are specifically made a part of this Agreement and are incorporated herein. In the event of a conflict between or among the documents or any ambiguity or missing specifications or instruction, the following priority is established:
- 1) First, the Supplemental FEMA Provisions attached as Exhibit C to this Agreement;
 - 2) Second, the terms of this Agreement, as approved by the City Commission; in the event of any conflict among the exhibits to this Agreement, priority shall always be given to the Supplemental FEMA Provisions attached as Exhibit C, then in alphabetical order;
 - 2) Third, the RFP, including all attachments and any addenda; and
 - 3) Fourth, the Contractor's Submittal.

2. RESPONSIBILITIES OF THE CONTRACTOR

- A. All work performed pursuant to this Agreement must be done in accordance with the specifications set forth in the RFP. Contractor represents and warrants that it understands the specifications of the RFP and is capable of performing the services in a timely manner. Contractor shall comply with all federal, state, and local laws, regulations and ordinances applicable to the services, including those specified herein under the "Supplemental FEMA Provisions" attachment. Contractor must supervise and direct the work performed under this Agreement, and must not employ for work on the project any person without sufficient skill to perform the job for which the person is employed. Any change or substitution to the Contractor's key personnel must receive the City's written approval before said changes or substitution can become effective. Contractor is solely responsible for all duties under this Agreement, including but not limited to,

the techniques, sequences, procedures, and means, and for all coordination of providing the services under this Agreement.

- B. The Contractor assumes full responsibility for acts, negligence, or omissions of all of its employees, for those of its subcontractors and their respective employees, and for those of all other persons doing work under a contract with it. All contracts between the Contractor and any subcontractor(s), must conform to the provisions of this Agreement, the RFP, and must incorporate the terms of this Agreement in the relevant portions of their subcontractor agreement.
- C. Contractor must provide and pay for all labor, materials, and equipment, including tools, equipment and machinery, all transportation, and all other facilities and services necessary for the proper completion of the services in strict conformity with the requirements of this Agreement.
- D. **PUBLIC RECORDS LAW:** In accordance with Florida Statutes, Section 119.0701, Contractor must comply with all public records laws, and must specifically:
 - 1. Keep and maintain public records required by the City to perform the services under this Agreement.
 - a. 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/>).
 - b. "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. Contractor's records under this Agreement include but are not limited to, supplier/subcontractor invoices and contracts, project documents, meeting notes, emails and all other documentation generated during this Agreement.
 - 2. 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.
 - 3. 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 contract term and, if the Contractor 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.

4. Upon completion of the Agreement, transfer, at no cost, to the City all public records in Contractor's possession or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Agreement, the Contractor must 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 the completion of the contract, the Contractor must meet all applicable requirements for retaining public records.
5. **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 CUSTODIAN OF PUBLIC RECORDS, 4970 CITY HALL BOULEVARD, NORTH PORT, FLORIDA 34286, (941) 429-7056 OR HOTLINE 429-7270; EMAIL hfaust@northportfl.gov@cityofnorthport.com.**
6. Failure of the Contractor to comply with these requirements shall be a material breach of this Agreement. Further, the Contractor may be subject to penalties under Florida Statutes, Section 119.10.

3. TERM

- A. This Agreement is in effect for a three (3) year period that begins on the day of the award by the City Commission. Should any active individual emergency event extend beyond the expiration date of this Agreement, the term shall be deemed extended until the services have been satisfactorily and successfully completed and accepted. The City retains the right to renew this initial Agreement under the same terms and conditions and upon mutual agreement with the Contractor. This Agreement may be renewed for a period that does not exceed three (3) years. Renewal of this Agreement must be in writing and is subject to the same terms and conditions as set forth in the initial Agreement. A renewal agreement may not include any compensation for costs associated with the renewal. Renewals are contingent upon satisfactory performance evaluations by the City and subject to the availability of funds.
- B. The City reserves the right to discontinue this Agreement in any year of a renewal period if it is deemed to be in the best interest of the City.
- C. No guarantee is expressed or implied as to the volume of services to be purchased under this Agreement.

4. PRICE REQUIREMENTS

- A. Delivered Prices. Agreement prices are freight prepaid and allowed/destination. Agreement prices are inclusive of labor, equipment, transportation, freight, handling, delivery, surcharges, and any other incidental charges that may be required for the completion of work under this Agreement. The price schedule is attached as Exhibit B ("Price Schedule").

- B. Maximum Ceiling Unit Prices. The Price Schedule included in this Agreement are maximum ceiling unit prices. Maximum ceiling unit prices that exceed the U.S Federal Emergency Management Agency ("FEMA") approved unit prices for the event must be reduced to be equal or less than FEMA's allowed unit prices.
- C. Fixed Price Term. Contractor must supply the City the items and/or services listed at firm delivered maximum ceiling prices for the first year of the initial Agreement term.
- D. Price Adjustments.
1. The City will allow one (1) price adjustment in the second year of the initial Agreement term and one (1) price adjustment in the third year of the initial Agreement term. It is at the City's discretion to continue the second and/or the third year price for the initial Agreement term. Additional consideration by the City may be given for extreme and unforeseen volatility in the marketplace as specified below.
 2. Price adjustments during the second and third year of the initial Agreement term are allowed but must not exceed the Consumer Price Index (Urban Consumers) South Region percent of change for the past twelve (12) months immediately preceding the date of written request for price adjustment. This request becomes effective thirty (30) days from the date the notice was received by the City from the Contractor for all purchases and services ordered after the effective date.
 3. Equitable Adjustments. Equitable adjustment(s) are temporary due to the reason for the adjustment. All equitable adjustments must be evaluated by the City to determine if the reason for the adjustment remains valid, and shall only be approved by written amendment to this Agreement. When the reason for the adjustment is no longer valid the City will terminate the adjustment and notify the Contractor. The City may, in its sole discretion, make an equitable adjustment in the Agreement terms or pricing if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace that satisfy all the following criteria:
 - a. The volatility is due to causes wholly beyond the Contractor's control;
 - b. The volatility impacts the marketplace or industry, not just the particular source of supply for this Agreement;
 - c. The impact on pricing or availability of supply is substantial; and
 - d. The volatility so impacts the contractor that continued performance of this Agreement would result in a substantial loss.
 4. The City reserves the right to renegotiate this Agreement if the prices exceed the current marketplace.
 5. Contract Renewal. Price adjustment is permitted during the optional renewal period. However, only one (1) adjustment for each year of the renewal period is permitted.

- E. Price/Sales Tax. Unless otherwise specified herein, the unit prices herein do not include sales or use tax, if applicable.

5. INVOICING/PAYMENT TERMS

- A. Payment to the Contractor will be issued by the City's Finance Department in accordance with Florida Statutes, Chapter 218, the Local Government Prompt Payment Act upon receipt of the Contractor's invoice and written approval of same by the City indicating that services have been rendered in conformity with this Agreement. The Contractor must submit an invoice for payment to the City for those specific tasks that were completed during the invoicing period. For those specific services that were partially completed, progress payments shall be paid in proportion to the percentage of completed work on those specific services approved in writing by the City based on the percentage of the amount for those specific services. The Contractor's invoices must be in a form satisfactory to the City's Finance Department, who will initiate disbursements.
- B. Invoices for payment shall be submitted on a regular basis and for no more than a thirty (30) day period.
- C. The City's Purchase Order number must appear on all invoices. Invoices must be detailed and annotate the services provided, unit prices, extended prices, and correlate to and include the following:
 - 1. Supporting documentation and invoices for services performed or goods furnished by the Contractor; and
 - 2. Copies of all sub-contractor invoices and contracts between the Contractor and sub-contractors.

6. EMERGENCY RECOVERY PERIOD COMPLIANCE

- A. Pursuant to Florida Statutes Section 252.505, this Agreement includes provisions applicable to emergency response contracts during natural emergencies. For purposes of this section, the term "*emergency recovery period*" means the one (1)-year period beginning on the date the Governor of Florida initially declares a state of emergency in response to a "natural emergency" (as defined by Florida Statutes Section 252.34(8)). If Contractor breaches this Agreement during an emergency recovery period, Contractor shall be liable to the City for:
 - 1. A statutory penalty in the amount established by Florida Statutes Section 252.505 (currently Five Thousand U.S. Dollars and NO/100 (\$5,000)), as may be amended, and
 - 2. Either:
 - a. Actual and consequential damages incurred as a result of the breach; or
 - b. Liquidated damages, if specified elsewhere in this Agreement.

- B. The City, in its sole discretion, may elect to pursue either actual and consequential damages or liquidated damages in addition to the statutory penalty. This election shall not affect the City's right to seek any other legal or equitable remedies available under this Agreement or by law. This provision shall survive the termination or expiration of this Agreement and shall apply to all breaches occurring during an emergency recovery period, regardless of when discovered.

7. WARRANTY/GUARANTEES

- A. **Covenant Against Gratuities.** Contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of City with the intent toward securing this Agreement or favorable treatment with respect to any determination concerning the performance of this Agreement. In the event of breach of this warranty, City is entitled to pursue the same remedies including, but not limited to, termination, against Contractor as it could pursue in the event of Contractor's default.
- B. **Merchantability Warranty.** The goods or items furnished must be of a merchantability quality. They also must be suitable for the particular purpose as referenced in the solicitation document and in all supporting literature relating to the goods or items being purchased.
- C. **Specification Warranty.** The awarded Contractor warrants that all services will be in full accordance with the specifications and requirements of the RFP and this Agreement.

8. CHANGE ORDER/AMENDMENTS TO AGREEMENT

- A. This Agreement constitutes the sole and complete understanding between the parties and supersedes all other agreements between them, whether oral or written, with respect to the subject matter. All requests for changes (whether Change Orders (contingency funds for unforeseen/time extensions) or Amendments (not contingency funds/time extensions) to this Agreement must be made in writing and no amendment, change, or addendum to this Agreement is enforceable unless agreed to in writing by both parties and incorporated into this Agreement. The City Manager or designee may agree to amendments that do not increase compensation to Contractor. The City Commission shall approve all increases in compensation or prices under this Agreement.
- B. The Contractor fully understands and accepts the City's Change Order/Amendment Policy. In the event the Contractor begins work on unauthorized changes prior to receiving a signed Change Order/Amendment they do so at their own expense and risk of not being compensated by the City for performing the unauthorized work.

9. INSURANCE

- A. Before performing any work, Contractor must procure and maintain, during the life of this Agreement, the insurance listed below, unless otherwise specified. The policies of insurance must be primary and written on forms acceptable to the City and placed with insurance carriers approved and licensed by the Insurance Department in the State of Florida, and meet a minimum financial AM Best and Company rating of no less than "Excellent." No changes are to be made to these specifications without the City Manager or designee's prior written approval. The City

Manager or designee may alter the amounts or types of insurance policies required by this Agreement upon agreement with Contractor.

1. Workers' Compensation and Employer's Liability Insurance: Coverage to apply for all employees at the statutory limits provided by state and federal laws. Include proof of current Workers' Compensation Coverage or Workers' Compensation Exemption (notarized affidavit). The policy must include Employers' Liability with a limit of \$100,000 each accident; \$100,000 each employee; and \$500,000 policy limit for disease.
 2. Comprehensive Commercial General Liability Insurance: Occurrence form required. Aggregate must apply separately to this Agreement. Minimum \$1,000,000 each occurrence; \$1,000,000 general aggregate; \$1,000,000 products and completed ops; and \$100,000 fire damage.
 3. Automobile Insurance: To include all vehicles owned, leased, hired, and non-owned vehicles with limits of not less than \$1,000,000 per person; \$1,000,000 per accident; and \$1,000,000 property damage, with contractual liability coverage for all work performed under this Agreement.
- B. WAIVER OF SUBROGATION: All required insurance policies are to be endorsed with a waiver of subrogation. The insurance companies, by proper endorsement or thru other means, agree to waive all rights of subrogation against the City, its officers, officials, employees, and volunteers, and the City's insurance carriers, for losses paid under the terms of these policies that arise from the contractual relationship or work performed by the Contractor for the City. It is the Contractor's responsibility to notify its insurance company of the Waiver of Subrogation and request written authorization or the proper endorsement. Additionally, the Contractor, its officers, officials, agents, employees, volunteers, and any sub-contractors, agree to waive all rights of subrogation against the City and its insurance carriers for any losses paid, sustained, or incurred, but not covered by insurance, that arise from the contractual relationship or work performed. This waiver also applies to any deductibles or self-insured retentions for which the Contractor or its agents may be responsible.
- C. POLICY FORM:
1. All policies required by this Agreement, with the exception of Workers' Compensation, or unless Risk Management through the City's Purchasing Office gives specific approval, are to be written on an occurrence basis and must name the City of North Port, Florida, its Commissioners, officers, agents, employees, and volunteers as additional insureds as their interest may appear under this Agreement. Claims Made Policies will be accepted for professional liability and hazardous materials and such other risks as are authorized by the City's Purchasing Office. All Claims Made Policies contributing to the satisfaction of the insurance requirements herein shall have an extended reporting period option or automatic coverage of not less than two (2) years. If provided as an option, Contractor agrees to purchase the extended reporting period on cancellation or termination unless a new policy is affected with a retroactive date, including at least the last policy year.
 2. Insurance requirements itemized in this Agreement, and required of the Contractor, must be provided by or on behalf of all sub-contractors to cover their operations performed under this

Agreement. The Contractor will be held responsible for any modifications, deviations, or omissions in these insurance requirements as they apply to sub-contractors.

3. Each insurance policy required by this Agreement shall:
 - a. Apply separately to each insured against whom claim is made and suit is brought, except with respect to limits of the insurer's liability.
 - b. Be endorsed to state that coverage shall not be suspended, voided, or cancelled by either party except after notice is delivered in accordance with the policy provisions. The Contractor is to notify the City's Purchasing Office by written notice via certified mail, return receipt requested.
4. The City retains the right to review, at any time, coverage, form, and amount of insurance.
5. **The procuring of required policies of insurance shall not be construed to limit Contractor's liability nor to fulfill the indemnification provisions and requirements of this Agreement. The extent of Contractor's liability for indemnity of the City shall not be limited by insurance coverage or lack thereof, or unreasonably delayed for any reason, including but not limited to, insurance coverage disputes between the Contractor and its carrier.**
6. The Contractor is solely responsible for payment of all premiums for insurance contributing to the satisfaction of this Agreement and is solely responsible for the payment of all deductibles and retentions to which such policies are subject, whether or not the City is an insured under the policy. Contractor's insurance is considered primary for any loss, regardless of any insurance maintained by the City. Contractor is responsible for all insurance policy premiums, deductibles, SIR (self-insured retentions), or any loss or portion of any loss that is not covered by any available insurance policy.
7. All certificates of insurance must be on file with and approved by the City before commencement of any work under this Agreement. All certificates of insurance required herein must be accompanied by a copy of the additionally insured documents/endorsements (CG 20101185 or combination of CG 2010370704 and CG 20370704). Certificates of insurance evidencing Claims Made or Occurrences form coverage and conditions to this Agreement, as well as the Agreement number and description of work, are to be furnished to the City's Purchasing Office (4970 City Hall Boulevard, Suite 337, North Port, FL 34286) prior to commencement of work AND a minimum of thirty (30) calendar days prior to expiration of the insurance contract when applicable. All insurance certificates shall be received by the City's Purchasing Office before Contractor will be allowed to commence or continue work. The Certificate of insurance issued by the underwriting department of the insurance carrier shall certify compliance with the insurance requirements provided herein.
8. Notices of Accidents (Occurrences) and Notices of Claims associated with work being performed under this Agreement must be provided to the Contractor's insurance company and the City's Purchasing Office as soon as practicable after notice to the insured.

10. INDEMNITY

- A. TO THE EXTENT PERMITTED BY FLORIDA LAW, THE CONTRACTOR SHALL INDEMNIFY, DEFEND, 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 THE CONTRACTOR, OR CONTRACTOR'S OFFICERS, EMPLOYEES, AGENTS, SUB-CONTRACTORS, AND OTHER PERSONS EMPLOYED OR UTILIZED BY THE CONTRACTOR IN THE PERFORMANCE OF, OR THE FAILURE TO PERFORM, UNDER THIS AGREEMENT. THIS AGREEMENT DOES NOT CONSTITUTE A WAIVER OF SOVEREIGN IMMUNITY AS TO ANY THIRD PARTIES NOR CONSENT BY THE CITY OR ANY OF ITS SUBDIVISIONS TO SUIT BY THIRD PARTIES.
 - B. THE CITY SHALL PROVIDE ALL AVAILABLE INFORMATION AND ASSISTANCE THAT THE CONTRACTOR MAY REASONABLY REQUIRE REGARDING ANY CLAIM. IN THE EVENT OF A CLAIM, THE CITY SHALL PROMPTLY NOTIFY THE CONTRACTOR 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. 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 THE CONTRACTOR'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, LIMITATIONS, AND IMMUNITIES OF THE CITY AS SET FORTH IN FLORIDA STATUTES, SECTION 768.28.
 - E. THE TERMS OF THIS SECTION SURVIVE THE TERMINATION OF THIS AGREEMENT.
11. **CONTRACTOR'S REPRESENTATIONS.** In order to induce the City to enter into this Agreement, Contractor makes the following representations and assurances:
- A. The Contractor will furnish each of its sub-contractors copies of the Agreement and all associate documents required for their work.

- B. Contractor is familiar with the nature and extent of the services to be provided under this Agreement including the work, locality, and all local conditions and federal, state, and local laws, ordinances, rules, and regulations that in any manner may affect cost, progress, or performance of the work to be done under this Agreement.
- C. Contractor has given the City written notice of any conflicts, errors, and/or discrepancies that it has discovered in the Agreement documents and the written resolution thereof by the City is acceptable to the Contractor.
- D. Contractor warrants that all services provided under this Agreement will be performed by skilled and competent personnel to the highest professional standards for the scope of work.

12. TERMINATION AND DEFAULT

- A. **Termination for Convenience or with Cause.** This Agreement may be terminated with or without cause by the City Manager, in whole or in part, whenever the City Manager determines that termination is in the City's best interest. Any such termination must be achieved by the delivery to the Contractor of a written notice of termination at least thirty (30) days before the date of termination, specifying the extent to which performance of the work under this Agreement is terminated and the date upon which such termination becomes effective. Except as otherwise directed, the Contractor must stop work on the date of receipt of the notice of termination or other date specified in the notice; place no further orders or subcontracts for material, services, or facilities except as necessary for completion of such portion of the work not terminated; terminate all vendors and subcontracts; and settle all outstanding liabilities and claims. Contractor will be paid only for such work performed and materials supplied up to the termination. Under no circumstances will the City make any payment to Contractor for services that have not been performed or that are performed subsequent to the termination date.
- B. **Funding in Subsequent Fiscal Years.** The parties acknowledge and agree that the obligations of City to fulfill financial obligations of any kind pursuant to any and all provisions of this Agreement, or any subsequent agreement entered into pursuant to this Agreement or referenced herein to which City is a party, are and shall remain subject to the provisions of Florida Statutes, Section 166.241, regardless of whether a particular obligation has been expressly so conditioned. City agrees to exercise all lawful and available authority to satisfy any financial obligations of City that may arise under this Agreement; however, since funds are appropriated annually by the City Commission on a fiscal year basis, and since funds have not yet been appropriated for the undertakings contemplated herein, City's legal liability for the payment of any costs shall not arise unless and until appropriations for such costs are approved for the applicable fiscal year by the City Commission (nor shall such liability arise if, a request for such appropriations is excluded from the budget approved by the City Commission). Notwithstanding the foregoing, no officer, employee, director, member or other natural person or agent of City shall have any personal liability in connection with the breach of the provisions of this Section or in the event of a default by City under this Section. This Agreement shall not constitute an indebtedness of City nor shall it constitute an obligation for which City is obligated to levy or pledge any form of taxation or for which City has levied or pledged any form of taxation.
- C. In the event the Contractor abandons performance under this Agreement, the City Manager or designee may terminate this Agreement upon three (3) calendar days' written notice to the

Contractor indicating its intention to do so. The written notice must state the evidence indicating the Contractor's abandonment.

- D. The Contractor has the right to terminate this Agreement only in the event the City fails to pay the Contractor's properly documented and submitted invoice within ninety (90) calendar days of its approval by the City's Administrative Agent, or if the project is suspended by the City for a period greater than ninety (90) calendar days.
- E. The City Manager or designee reserves the right to immediately terminate and cancel this Agreement in the event the Contractor is placed in either voluntary or involuntary bankruptcy, a receiver is appointed for the Contractor, or an assignment is made for the benefit of creditors.
- F. In the event Contractor breaches this Agreement, the City must provide written notice of the breach and Contractor will have three (3) days from the date the notice is received to cure. If Contractor fails to cure within the three (3) days, the City Manager or designee has the right to immediately terminate the Agreement and/or refuse to make any additional payment, in whole or in part. Failure of the City to take any action with respect to the breach of any term, covenant, or condition contained in this Agreement, or any instance of default by the Contractor, will not be deemed to be the acceptance or a waiver of any default or breach. To the extent Chapter 558, F.S., is applicable, the parties expressly opt out of the requirements of Chapter 558, F.S., within the mean of section 558.005(1), F.S.

13. INDEPENDENT CONTRACTOR

The Contractor is and shall be in the performance of all work services and activities performed under this Agreement, an independent contractor and not an employee, agent, or servant of the City. All persons engaged in any of the work or services performed pursuant to this Agreement are at all times, and in all places, subject to the Contractor's sole direction, supervision, and control. The Contractor must exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the City is that of an independent contractor and not as employees or agents of the City. The Contractor does not have the power or authority to bind the City in any promise, agreement or representation other than as specifically provided for in this Agreement. The Contractor must not pledge the City's credit or make it a guarantor of payment of surety for any contract, debt, obligation, judgment, lien or any form of indebtedness. The Contractor further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

14. LICENSES AND PERMITS/LAWS AND REGULATIONS

The Contractor must pay all taxes required by law in connection with the activity performed under this Agreement including sales, use, and similar taxes, and unless mutually agreed to in writing to the contrary, must secure all licenses and permits necessary for proper completion of the services, paying any fees therefore. Contractor must comply with all laws and ordinances, and the rules, regulations, and orders of all public authorities relating to the performance of the work herein. If any of the Agreement documents are at variance therewith, the Contractor must notify the City promptly on the discovery of such variance.

15. 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.

16. NONDISCRIMINATION

The City does not discriminate on the basis of race, color, national origin, sex, age, disability, family, or religious status in the administration of its programs, activities, or services. The Contractor must 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.

17. SCRUTINIZED COMPANIES

- A. Certification. As required by Florida Statutes Section 287.135(2), for contracts of any amount, the Contractor must certify on a form provided by the City, that it is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Florida Statutes Section 215.4725, and that it is not engaged in a boycott of Israel.
- B. Requirements. As required by Florida Statutes Section 287.135(5), for contracts of \$1,000,000 or more, the Contractor must certify on a form provided by the City, that all of the following are true:
 - (1) The Contractor is not on the Scrutinized Companies that Boycott Israel List, created pursuant to Florida Statutes Section 215.4725, and that it is not engaged in a boycott of Israel; and
 - (2) The Contractor is not on the Scrutinized Companies with Activities in Sudan list or the Scrutinized Companies with Activities in Iran Petroleum Energy Sector list, created pursuant to Florida Statutes Section 215.473; and
 - (3) The Contractor is not engaged in business operations in Cuba or Syria.
- C. Termination. If the Contractor provides a false certification or has been placed on one of the above-noted Lists of Scrutinized Companies or has engaged in business operations in Cuba or Syria, the Contractor will be in breach of this Contract and the City may terminate this Contract.
- D. Penalty.
 - (1) A Contractor that has been found to have provided a false certification may be subject to a civil penalty equal to the greater of \$2 million or twice the amount of this Contract, plus all reasonable attorneys' fees and costs, including any costs for investigations that led to the finding of the false certification; and
 - (2) Will be ineligible to bid on any contract with the City for three (3) years after the date the City determined that the Contractor submitted a false certification.

18. NOTICES

Any notice, demand, communication, or request required or permitted by this Contract must be sent by certified mail, return receipt requested, or by delivery through any nationally recognized courier service (Federal Express, UPS, USPS, and others) that provides evidence of delivery, at the address provided for receipt of notices in this Contract and e-mailed to:

As to CITY: Deputy Emergency Manager
City of North Port Fire Rescue
4970 City Hall Blvd.
North Port, Florida 34286
Tel: 941-240-8165

With required electronic copy to: mnevarez@northportfl.gov

**With copies of Notices
And Demands to:** City of North Port, Florida
City Attorney's Office
4970 City Hall Blvd.
North Port, Florida 34286
Tel: 941-429-7260

With required electronic copy to: CityAttorney@northportfl.gov

As to Contractor: James Scaife
Cotton Commercial USA, Inc
5443 Katy Hockley Cut-Off Road
Katy, Texas 77493
Tel: 346-445-4482
howard.wood@cottonteam.com

Notice is effective when received at the physical addresses specified above. Changes in the respective addresses may be made from time to time by either party by written notice. This Section must not be construed to restrict the transmission of routine communications between representatives of the CMAR and the City.

19. ATTORNEYS' FEES

In any proceedings between the parties arising out of or related to this Agreement, the prevailing party must be reimbursed all costs, expenses, and reasonable attorneys' fees through all proceedings, at both trial and appellate levels, and in all proceedings including hearings and matters to determine entitlement to fees and reasonableness of amount.

20. GOVERNING LAW, VENUE, AND SEVERABILITY

- A. 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. If any term, condition, or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall be valid and binding on each party.

- B. In the event any court shall hold any provision of this Agreement to be illegal, invalid, or unenforceable, such provision shall be deemed separate and severable and the remaining provisions shall be valid and binding upon the parties.

21. PARAGRAPH HEADINGS

The descriptive titles appearing in each respective paragraph thereof are for convenience only and are not a part of this Agreement and do not affect its construction.

22. ENTIRE AGREEMENT

This Agreement (with all referenced attachments, addenda, and provisions incorporated by reference) contains and embodies all the representations, covenants, and promises made by the parties and supersedes all agreements between them, whether oral or written with respect to the subject matter.

23. ASSIGNMENT

The Contractor shall not assign any interest in this Agreement and shall not transfer any interest in same (whether by assignment or novation) without prior written consent of the City Manager or designee, except that claim for the money due or to become due the Contractor from the City under this Agreement may be assigned to a financial institution or to a trustee in bankruptcy without such approval from the City. Notice of such transfer or assignment due to bankruptcy shall be promptly given to the City.

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IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated below.

CONTRACTOR
Cotton Commercial USA, Inc



Printed Name: Travis Bice
Title: EVP of Logistics & Culinary Divisions

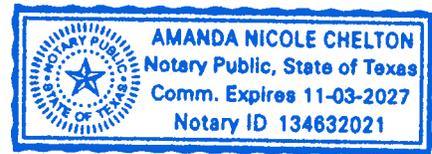
ACKNOWLEDGEMENT

STATE OF Texas
COUNTY OF Harris

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, on this 5th day of February 2026, by Travis Bice as EVP of Logistics & Culinary Divisions for Cotton Commercial USA, Inc.


Notary Public

Personally Known OR Produced Identification
Type of Identification Produced _____



APPROVED by the City Commission of the City of North Port, Florida on _____, 202__.

CITY OF NORTH PORT, FLORIDA

A. JEROME FLETCHER II, ICMA-CM, MPA

ATTEST

HEATHER FAUST, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

MICHAEL FUINO, B.C.S.
CITY ATTORNEY

EXHIBIT A
SCOPE OF WORK

INTRODUCTION

The City is vulnerable to a range of hazards or disasters that may impact the City at any time. City employees may be activated to respond to these disasters. The scope of services is for a qualified catering company to cook and provide nutritious meals to responders working during an emergency.

SCOPE OF WORK

A. SPECIFICATIONS

- a. When an emergency or disaster occurs or is imminent, the City may, in its sole and absolute discretion, issue a Notice to Proceed to Contractor. At the discretion of the City, the Agreement may be activated immediately before, during, and/or after an emergency or disaster impacting the City of North Port
- b. No guarantee is expressed or implied as to the quantity of work that will be performed under this contract. No amount of work is guaranteed.
- c. Feeding requirements and needs shall be based on the severity of the disaster and should be scalable as to the needs of the City. Feeding may be requested at one location or several throughout the City.
- d. Contractor shall be prepared to supply and provide all supplies, food, materials, and equipment necessary to perform all cooking and serving. The City of North Port has extremely limited cooking, refrigeration, and storage capabilities, and will not be able to support the Contractor with cooking, refrigeration, or other equipment.

B. Activation Preparation and Response

- a. Depending on the nature of the emergency and/or disaster, the City will strive to provide at least 48 hours notice of activation. At this time, the City will inform the Contractor(s), either verbally or in writing, of the nature of the emergency, site or location for setup, type of food and/or meals required, estimated quantity of food/meals to be served, serving times, name and contact information for the City's feeding liaison, and other relevant information.
- b. The Contractor shall provide all food and beverage services during activation as described herein, beginning within 24 hours after notice by the City, unless the City provides for a longer response time with the request.
- c. If the disaster requires a lockdown period in which it is unsafe to leave a facility, and lockdown feeding services is requested by the City, the Contractor shall embed no less than 2, but no more than 4 people within each designated city facility to provide meals. The City will provide safe sleeping quarters, but the Contractor must provide for its own bedding, hygiene, and other overnight supplies. The City does not have indoor storage

capabilities for large equipment, so the Contractor will need to stage equipment elsewhere while the emergency passes. Therefore, all food must be cooked in preparation for this period as the building enters lockdown and cannot be opened or ventilated. During this timeframe, food will still be served to City responders located within the facility in accordance with the meal times designated by the City.

- d. Contractor must understand, depending on the nature of the disaster and/or emergency, normal food suppliers and/or fuel providers in the area may be closed or inoperable and shall prepare accordingly to ensure services as requested herein are met to their full expectations.
- e. The City will provide the Contractor(s) a written 24-hour notice to the extent possible to shut down operations. At that time, the City will coordinate with the Contractor(s) the safe and appropriate termination of operations. The City liaison shall also identify and provide the Contractor(s) any clean-up requirements.

C. City Responsibilities

- a. The City will provide site or location information for set up and operation.
- b. The City will provide an estimated daily count for all meals to be provided at each site and/or location.
- c. The City will appoint a primary liaison and/or point of contact.
- d. The City will notify the Vendor promptly of any cancellation and/or changes.
- e. The City will provide a space within or outside one or more designated City facilities for the Contractor to set up. If the Contractor's services are requested during the duration of an incident, the City will provide space for Contractor's staff to safely remain and sleep within the facility.

D. Estimated Scope and Quantity of Feeding Needs

- a. **No work is guaranteed under this contract. The quantities provided within the RFP are for estimated informational purposes only.**
- b. Scale of feeding needs will vary depending upon the scope and impact of a disaster.
- c. The City estimates a minimum need of feeding per contract activation of one feeding setup within the Emergency Operations Center, located in North Port City Hall to feed approximately 70 people for 3 meals/day for 1-2 days. The location of the Emergency Operation Center may change based on the disaster and as the City constructs a hardened EOC in the future.
- d. The City estimates a maximum need for disaster feeding to be for a total of 500 responders for 3-4 meals/day for a period of up to 2 weeks. This may be done through one centralized feeding setup or several locations spread throughout the City for distribution.

E. Contractor's Responsibilities

- a. The Contractor shall obtain all licenses and/or permits required, in its business name and at their own expense, prior to the start of operations, including compliance with Florida Statute 509.241.
- b. All meals shall be prepared under national, state, and local health safety and sanitary conditions. If the food is served in and/or from a Mobile Food Dispensing Vehicle(s), the Contractor must provide a copy of license and shall meet the minimum specifications as required in section 61C4.0161, Florida Administrative Code. <https://www.flrules.org/gateway/chapterhome.asp?chapter=61c-4>
- c. The Contractor shall comply with all Federal, State, and Local guidelines governing health and food service sanitation.
- d. The Contractor shall provide all management, supervision, labor, materials, supplies, and all equipment needed to establish and operate a food service facility for dispensing food and beverages. Service shall be prompt, efficient, sanitary, and courteous and avoid undue interference with the operation of the facility in which services are provided. The variety, menu, and appearance of food shall be consistent with food service industry standards.
- e. The Contractor shall provide an adequate number of employees to operate each site and/or location based on the number of meals being served at that location. The Contractor employees shall be clean and courteous to the public. Employees must have a current health department certification and have completed all required instructions and medical requirements.
 - i. Contractor shall maintain current health inspection records as applicable and required for the services provided herein.
 - ii. If requested by the City, the Contractor may be required to embed within one or more city facilities during a disaster. The Contractor must designate no less than 2, but no more than 4 employees to embed in a City facility around the clock while a hurricane or other disaster. The City will provide safe sleeping quarters, but the Contractor must provide for its own bedding, hygiene, and other overnight supplies. The City does not have indoor storage capabilities for large equipment, so the Contractor will need to stage equipment elsewhere while the storm passes.
- f. The Contractor shall provide proper containers (microwave-safe for boxed hot meals) and utensils for all meals. Recyclable materials shall be used when commercially available.
- g. The Contractor shall furnish all items required for service, including, but not limited to, dishes, glassware, utensils, serving spoons, food tables, chafing dishes, beverage urns, hot/cold cups, napkins, and condiments in single serve packets.

- h. The Contractor shall maintain adequate supplies on hand and shall be responsible for re-stocking all supplies.
- i. The Contractor shall promptly dispose of all refuse and waste material, created by the Contractor's operation, after each meal service. Trash removal and cleaning of cooking and serving areas shall be the Contractor's responsibility.
- j. The Contractor is prohibited to serve leftovers.
 - i. All leftover meals purchased by the City shall become the property of the City, and therefore, shall remain with the City after each meal service.
 - ii. The Contractor shall box up, label, and date leftovers and store as necessary.
- k. The Contractor's invoice must itemize the actual meal count and reflect the firm fixed contract price per meal. Additionally, the invoice must itemize the actual meal count per location and/or department and reflect firm fixed price for each meal.
- l. The Contractor shall provide emergency contact telephone numbers that will allow twenty-four (24) hours, seven (7) days per week contact.
- m. The Contractor shall appoint one of its employees as the primary liaison and key contact for approval by the City during an active event.
- n. The City has extremely limited cooking, refrigeration, and storage capabilities, and will not be able to support the Contractor with cooking, refrigeration, or other equipment.
- o. Contractor will come prepared to be self-sufficient.

F. Meal Requirements

- a. In an emergency event setting, City employees may be working outside under extremely difficult and stressful conditions that may also be potentially hazardous. Working in these elements will require stamina and the expenditure of a great deal of energy during the course of recovery operations. The weather will play a significant role (i.e. hot and humid conditions) and will necessitate adequate hydration and proper nutrition to ensure relief of employee's stress and maintenance of their overall well-being. Calorie counts may also differ based on the employees being served (ex EOC staff vs field responders).
- b. During an event, the Contractor shall provide a daily menu that includes foods that are visually appealing, appetizing, and nutritionally sound. Three nutritional and well-balanced meals per day (breakfast, lunch, and dinner) shall be required. An additional late service meal may be required for 24-hour activation operations. In the event of this additional late service, the City will make every attempt to notify the Contractor 24-hours in advance. Meal times will be determined by the City on an event-by-event basis.
- c. Each meal served shall include the USDA recommended servings of protein, grains, fruits, and vegetables.

- i. Breakfast shall consist of a standard portion of protein, fruit, and dairy, and served as a hot meal with cold meal choices.
 - ii. Lunch, dinner, and late shift meals shall contain an entree of either meat, pasta, or fish and include a salad or lunch option.
 - iii. Contractor shall only be required to provide one entree per meal.
 - iv. During the disaster lockdown period when available space and ventilation is limited, provision of boxed meals are sufficient during this time period. All boxed meals must be stored appropriately to ensure food safety regulations are adhered to per national, state, and local health safety and sanitary conditions section 61C4 of the Florida Administrative Code:
<https://flrules.org/gateway/chapterhome.asp?chapter=61c-4>.
 - v. Meals Ready to Eat (MREs) are not permitted to substitute a prepared meal under this contract.
- d. All meals shall be a minimum of one and one-half serving size.
- e. Contractor shall ensure availability to supply three 16oz. Bottles of water per person, per day.
- f. Consideration must be given to providing a variety of goods at each meal to ensure a choice for special dietary needs (i.e. vegetarian, diabetic kosher, gluten free, etc.) upon notice.
 - i. Contractor shall display signage in serving area indicating to inform a member of staff if allergen information is required.
- g. Boxed meals shall travel well.
- h. Boxed meals shall include a deli style sandwich, bag of chips, piece of fruit, cookie, napkin, and bottle of water.
- i. The Contractor shall provide insulated gel packs for use in boxed meals as appropriate.
- j. Contractor shall make available coffee and tea service with cups, sugar, creamer, stirrers, etc. On a 24/7 basis. Coffee (caffeinated and decaffeinated) shall be brewed onsite. Hot water and tea bags shall be made available.
 - i. All materials required to brew and consume the coffee and tea shall be provided by the Contractor, including, but not limited to: coffee maker, coffee, filters, cups, sugar, sugar substitute, creamer, flavored creamer, etc.
- k. Contractor shall make available at the City's request the following items: soft drinks (can and/or bottles), regular and diet, iced tea, juice, milk, lemonade, snacks (chips, crackers, cereal bars, nuts, etc.), and desserts (candy, brownies, etc.).

G. Meal Count Process

- a. The Contractor shall track each meal consumed and shall be responsible for managing the distribution process to ensure each person served is being accounted for and an accurate meal count is provided to the City following each meal. Tracking shall be accomplished through a monitored paper-based signature process or by electronic means.
- b. The meal count shall be provided to the City no later than two hours after each meal is complete. The number of meals counted shall be recorded and reconciled between the City and the Contractor at the end of each meal.

H. Price Per Meal

- a. The Contractor's price per meal shall include the actual labor costs and total cost of doing business.

I. WORK ASSIGNMENTS: Work assignments will be used to administer the Agreement.

- a. For each proposed work assignment, the Contractor shall prepare and submit a time schedule and list of personnel and sub-contractors necessary for the completion of the proposed tasks. Any work Assignment over \$100,000 will require Commission approval. The City may, in its sole discretion, procure the services of any Contractor at any time for any project as the City deems appropriate.
- b. The Contractor shall not commence any Work until the Contractor has received a **fully executed Work Assignment** from the City serving as written Notice to Proceed ("NTP").
- c. The completion time will be as specified in approved work assignments and that all work shall be prosecuted regularly, diligently, and uninterrupted at such rate of progress as will ensure full completion thereof as specified in the Scope of Services.

**EHIBIT B
PRICE SCHEDULE**

DocuSign Envelope ID: AA8522FB-E198-469B-AFD4-312C3DF22495

**RFP 2025-14
DISASTER FEEDING AND CATERING SERVICES**

**Bidders shall use this Excel Spreadsheet BID FORM (DO NOT PRINT BY HAND)
Items listed in categories during contract term will change as menus change**

| ITEM CATEGORY | ESTIMATED QTY (1 DAY) | UNIT PRICE | TOTAL |
|--|-----------------------|------------|---------------------|
| Bundled Meal Service (Three Meals Per Day including 16 oz Bottle of Water or other beverage) | 100 | \$ 109.26 | \$ 10,926.00 |
| Breakfast option - Hot breakfast based on vendor's menu with juice and bottled water. | 100 | \$ 36.42 | \$ 3,642.00 |
| Lunch - Assortment of sandwiches (to include wraps and subs). Cookies and chips for each lunch. Iced tea (sweet and non-sweetened), assorted soda, and bottled water | 100 | \$ 36.42 | \$ 3,642.00 |
| Boxed lunch - Shall be individually packaged and consist of sandwiches (to include wraps or subs) or salads. Cookies and chips for each lunch. Includes all condiments, buns, iced tea, assorted soda, and water | 100 | \$ 36.42 | \$ 3,642.00 |
| Dinner - Hot cooked Dinner consisting of items such as a choice of two (2) proteins, starch, vegetable side, salad, and soup. Buns, iced tea (sweet and non-sweetened), assorted soda, and bottled water | 100 | \$ 36.42 | \$ 3,642.00 |
| Overnight Dinner(after 10:00pm) - Shall consist of items such as a choice of two (2) proteins, starch, vegetable side, salad, and soup. Buns, iced tea (sweet and non-sweetened), assorted soda, and bottled water | 100 | \$ 36.42 | \$ 3,642.00 |
| Snacks - Shall consist of items such as an assortment of fruit, individually packaged snacks, individually packaged peanut-free granola bars, assortment of individually packaged potato chips, cookies | 50 | \$ 8.00 | \$ 400.00 |
| Deserts - Shall consist of items such as assorted cakes/cupcakes, cookies, pies, ice cream, or standard size candy bar | 50 | \$ 2.00 | \$ 100.00 |
| Hot beverages - metal container(s) with minimum capacity for 30 servings for: hot coffee and hot water coffee grounds with individual creamers (liquid or powered), individual tea bags. Metal container shall hold the appropriate temperature for a reasonable length of time. Hot Beverages should be available at all times of the day | 300 | \$ 2.50 | \$ 750.00 |
| TOTAL | | | \$ 30,386.00 |

INSTRUCTIONS

Bids must be received no later than the date and time stated in the Advertisement.
Bids received after that time & date will not be considered.

This form must be returned with bid. Bids on any other form will not be accepted.

Cotton Commercial USA, Inc.
Company Name

Travis Bice
Name of Authorized Representative (Print)

5433 Katy Hockley Cut-Off Road
Street Address

EVP of Logistics and Culinary
Title

Katy, TX, 77493

travis.bice@cottonteam.com

EXHIBIT C
SUPPLEMENTAL FEMA
FEDERAL COMPLIANCE REQUIREMENTS

Contractor must comply with the Federal requirements as they apply for **APPENDIX II TO PART 200— CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS** and all applicable Federal requirements for this RFP. The Contract may be funded in whole or in part with federal funds and as such, any resulting contract shall be subject to federal requirements including, but no limited to, those set forth in 2 C.F.R. Part 200, Appendix II, as amended, and as may be amended from time to time, and as otherwise may be listed herein. Should there be any conflict between the provisions contained in the solicitation or any resulting agreement the applicable federal requirements shall prevail.

1. FEDERAL FUNDING

- A. When property or services are procured using funds derived from a Federal grant or agreement, whether direct to the City or “pass-through” from another entity, the City is required to and will follow the Federal procurement standards set forth in the “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 C.F.R. Sections 200.213 and 200.317 through 200.326.
- B. Contract Cost and Price: For every procurement in excess of \$100,000, including Change Orders or Contract Amendments greater than \$100,000, the City shall perform a cost or price analysis in connection with every procurement subject to Federal procurement guidelines, which shall include an independent estimate of cost prior to issuing bids or proposals. For proposals where price is not considered in the award, profit shall be negotiated as a separate element of the price. In determining whether profit is fair and reasonable, the City shall consider the complexity of work, the risk to be borne by the contractor, the contractor’s investment, the amount of subcontracting necessary, the quality of the contractor’s record and past performance, and industry profit rates for the surrounding geographical area. “Cost Plus Percentage” methods for determining profit shall not be used.

2. RECIPIENTS AND SUBCONTRACTS

Awarded Contractor(s)/Vendor(s) and all associated contractor(s) are also considered recipients and therefore, the following provisions must be included in all contract provisions; inclusive those of the subcontractor(s) when and where applicable.

3. 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) 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. Vendors/Contractors shall enroll in the E-Verify program and provide the City with evidence of their enrollment as an attachment to their proposal. Evidence of enrollment may include, but is not limited to, the following:
 - 1. A copy of the properly completed E-Verify Company Profile page; or
 - 2. A copy of the fully executed E-Verify Memorandum of Understanding for the company.
- C. Vendors/Contractors shall provide the City with an executed affidavit certifying they shall comply with the E-Verify Program. The affidavit is attached to the solicitation documents.
- D. If a vendor/Contractor does not provide the City with evidence of their E-Verify enrollment and an executed affidavit of compliance, the vendor's/Contractor's proposal may be deemed non-responsive.
- E. Subcontractor requirement: Vendors/Contractors shall require all contracts or agreements that they enter into with a subcontractor to include a requirement that the subcontractor enroll and participate in the E-Verify program.
- F. The vendor/Contractor is responsible for familiarizing themselves with all rules and regulations governing the E-Verify program. For additional information regarding the Employment Eligibility Verification System (E-Verify) program visit the following website: <http://www.dhs.gov/E-Verify>

4. ENERGY POLICY AND CONSERVATION ACT

Contractor must follow any mandatory standards and policies relating to energy efficiency in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

5. SMALL AND MINORITY BUSINESS, WOMEN'S BUSINESS ENTERPRISES, DISADVANTAGE BUSINESS ENTERPRISES, VETERAN BUSINESS ENTERPRIS, AND LABOR SURPLUS AREA FIRMS

- A. The Contractor agrees to ensure that Small and Minority Businesses, Women's and Disadvantage Business Enterprises, veteran owned businesses, and labor surplus area firms have the maximum opportunity to participate in the performance of contracts and this agreement. In this regard, Contractor shall take all necessary and reasonable affirmative steps in accordance with 2 C.F.R., Part 200.321, as amended, to ensure that these enterprises and areas have the maximum opportunity to compete for and perform contracts.

Affirmative steps must include:

- 1. Contractor shall place qualified small and minority businesses and women's business enterprises on solicitation lists.
- 2. Whenever they are potential sources, Contractor shall include small and minority businesses, and women's business enterprises, in all solicitations.
- 3. Whenever possible, Contractor shall use 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.

4. When economically feasible, Contractor shall divide total requirements, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
5. Where the requirement permit, Contractor shall establish delivery schedules which encourage participation by small and minority businesses, and women's business enterprises.
6. Where subcontracts are to be let, Contractor shall require its subcontractor(s) to take the above-listed affirmative steps.

6. SYSTEM FOR AWARD MANAGEMENT MAINTENANCE UNDER 48 CFR 52.204-13 – CONTRACTOR'S REQUIREMENT FOR MAINTAINING SAMS REGISTRATION

- A. The Contractor(s) shall obtain and maintain a current Unique Entity Identifier (UEI) issued through the federal system for award management for the duration of this Agreement.
- B. The following definitions apply to the terms used in this section:
 1. "Registered in the System for Award Management (SAM) database" means that:
 - a. The Contractor has entered all mandatory information, the Contractor and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see subpart 4.14), into the SAM database;
 - b. The Contractor has completed the Core, Assertions, Representations and Certifications, and Points of Contact sections of the registration in the SAM database;
 - c. The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The Contractor will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and
 - d. The Government has marked the record "Active."
 2. "System for Award Management (SAM)" means the primary Government repository for prospective Federal awardee and Federal awardee information and the centralized Government system for certain contracting, grants, and other assistance-related processes. It includes:
 - a. Data collected from prospective Federal awardees required for the conduct of business with the Government;
 - b. Prospective contractor-submitted annual representations and certifications in accordance with FAR subpart 4.12; and iii. Identification of those parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-financial assistance and benefits.

- C. Contractor is responsible for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis, from the date of initial registration or subsequent updates, its information in the SAM database to ensure it is current, accurate and complete. Updating information in the SAM does not alter the terms and conditions of this Contract and is not a substitute for a properly executed contractual document.
- D. If the Contractor does not become registered in the SAM database in the time prescribed in this solicitation, the City will proceed to award to the next lowest responsive and responsible registered Contractor.
- E. Processing time, which normally takes 48 hours, should be taken into consideration when registering in the SAM database. Contractors who are not registered should consider applying for registration immediately upon receipt of this solicitation.
- F. By submission of a Proposal, the Contractor acknowledges the requirement that a prospective awardee shall be registered in the System for Award Management prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation. If registration prior to award is not possible, the awardee shall be registered in the System for Award Management within 30 days after award or before three days prior to submission of the first invoice, whichever occurs first.
- G. Contractor changes: If a Contractor has legally changed its business name, doing business as name, or division name (whichever is shown on the Contract), or has transferred the assets used in performing the Contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in 48 CFR Part 42, subpart 42.12, the Contractor shall provide the City's Contract Administrator a minimum of one (1) business day's written notification of its intention to:
 - 1. Change the name in the SAM database;
 - 2. Comply with the requirements of subpart 42.12 of the FAR; and
 - 3. Agree in writing to the timeline and procedures specified by the responsible Contract Administrator. The Contractor shall provide with the notification sufficient documentation to support the legally changed name.
- H. If the Contractor fails to comply with the requirements of this section, , and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the Contract will be considered to be incorrect information and breach of this Contract.
- I. The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see FAR subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the SAM.

Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information and breach of this Contract.

- J. The Contractor shall ensure that the UEI is maintained throughout the life of the Contract. The Contractor shall communicate any change to its UEI to the City within thirty (30) days after the change, so an appropriate modification can be issued to update the data on the Contract. A change in the UEI does not necessarily require a novation be accomplished. Dun & Bradstreet may be contacted.

7. RECORDS RETENTION

The contractor shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this contract. Such records shall include but not be limited to:

1. Records required to demonstrate that the payment was for an eligible use under the funding program;
2. Copies of disbursements paid to contractors;
3. Financial records as required by 24 CFR 570.502, and 2 CFR Subpart D and F and any applicable Appendices; and
4. Other records necessary to document compliance with the applicable provisions of 24 CFR Part 570 and 24 CFR Part 75.

8. FEDERAL EQUAL OPPORTUNITY LAWS

Contractor agrees to comply with all federal equal opportunity laws and implementing regulations, including but not limited to:

1. Certification of Non-segregated Facilities (for contracts over \$10,000)
2. Title VI of the Civil Rights Act of 1964 and implementing regulations thereof
3. Section 109 of the Housing & Community Development Act of 1974
4. Section 503 Handicapped (for contracts \$2,500 or over)
5. Age Discrimination Act of 1975, as amended
6. Section 504 of the Rehabilitation Act of 1973, as amended
7. Fair Housing Act, Title VIII-IX of the Civil Rights Act of 1968

9. RESTRICTION ON ALL PUBLIC WORKS PROJECTS

No contractor, or subcontractor, of a foreign country included on the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR) may be awarded a contract or a subcontract for public works projects. Nor may any product of a country included on this list be provided under a public works project. Any Contractor unable to certify compliance with this provision shall submit with its offer a written explanation fully describing the reasons for its inability to comply.

10. DRUG-FREE WORKPLACE REQUIREMENTS

The Drug-Free Workplace Act of 1988 (42 U.S.C. 701) requires grantees (including individuals) of federal agencies, as a prior condition of being awarded a grant, to certify that they will provide drug-free workplaces. Contractor is required to comply with drug-free workplace requirements in accordance with the Act.

11. BUILD AMERICA, BUY AMERICA ACT

This agreement may be for services related to a project that is subject to the Build America, Buy America Act (BABAA) requirements under Title IX of the Infrastructure Investment and Jobs Act (“IIJA”), Pub. L. 117-58. Absent an approved waiver, all iron, steel, manufactured products, and construction materials used in this project must be produced in the United States, as further outlined by the Office of Management and Budget’s Memorandum M-22-11, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure, April 18, 2022.

12. ADA REQUIREMENTS

The Contractor Agrees to comply with the Americans With Disabilities Act (Public Law 101-338, 42 U.S.C., Section 12101 et seq.), which prohibits discrimination by public and private entities on the basis of disability in employment, public accommodations, transportation, State and local government services, and telecommunications.

The Contractor agrees to comply with Title II, Subtitle A of the Americans with Disabilities Act (ADA) (1990).

13. TEXT MESSAGING

Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

14. SEAT BELT POLICY

Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

15. Title VI of the Civil Rights Act of 1964

The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury’s Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with “Limited English Proficiency” in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as

implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement."

17. EQUAL EMPLOYMENT OPPORTUNITY

A. During the Performance of this Contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The Contractor will not 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 Title VI of the Civil Rights Act of 1964 and implementing regulations thereof, Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375, 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 as 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.

9. The City 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 City 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.
10. The City 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.
11. The City 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 City 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.

- B. Subcontracts: Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

18. DAVIS BACON ACT AND COPELAND ANTI-KICKBACK ACT

*The Davis-Bacon Act and Copeland-Anti-Kickback Act only apply to the Emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. **These Acts do not apply to other FEMA grant and cooperative agreement programs, such as FEMA's Public Assistance Grant Program.***

18.1 DAVIS BACON ACT:

- A. Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- B. Contractor shall pay wages not less than once a week.
- C. If applicable, the City has placed a copy of the current prevailing wage determination issued by the Department of Labor in the underlying solicitation for this Contract. The decision to award this Contract or any subcontract shall be conditioned upon the acceptance of the provided wage determination. The City shall report all suspected or reported violations to the Federal awarding agency.

18.2 COPELAND ANTI-KICKBACK ACT:

- A. Compliance with the Copeland "Anti-Kickback" Act.
 - 1. Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3, as may be applicable, which are incorporated by reference into this Contract.
 - 2. Subcontracts. The Contractor, or subcontractor, shall insert in any subcontracts the clause above and such other clauses as the 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.
 - 3. 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.

19. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

This requirement applies to all FEMA grant and cooperative agreement programs valued at over \$100,000 and that involve employment of mechanics, laborers, and construction work.²⁹ These requirements do not apply to the purchase of supplies, materials, or articles ordinarily available on the open market, contracts for transportation or transmission of intelligence.

- A. Pursuant to 40 U.S.C. § 3702, Contractor shall compute the wages of every mechanic and laborer on the basis of a standard work week of forty (40) hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of forty (40) hours in the work week.
- B. Pursuant to 40 U.S.C. § 3704, if the Contract is for construction work, Contractor shall not require any laborer or mechanic to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. However, these requirements do not apply to the purchases of property or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

20. COMPLIANCE WITH THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- 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 (40) 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 (40) 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 (A) 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 (A) 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 (40) hours without payment of the overtime wages required by the clause set forth in paragraph (A) of this section.
- C. Withholding for unpaid wages and liquidated damages. The City may, upon its own action or must 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. The necessary funds may be withheld from the Contractor under this contract, any other federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other

contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. The Department of Labor has priority to funds withheld or to be withheld in accordance with this paragraph over claims to those funds by: (A) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties; (B) A contracting agency for its re-procurement costs; (C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate; (D) A contractor's assignee(s); (E) A contractor's successor(s); or (F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

- A. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (A) through (D) 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 (A) through (D) of this section. In the event of any violations of these clauses, the prime contractor, and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.
- B. Anti-retaliation. It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:
 - (i) Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;
 - (ii) Filing any complaint, initiating, or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;
 - (iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or
 - (iv) Informing any other person about their rights under CWHSSA or this part.

21. FURTHER COMPLIANCE WITH THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

A. The contractor or subcontractor must maintain regular payrolls and other basic records during the course of the work and must preserve them for a period of three years after all the work on the prime contract is completed for all laborers and mechanics, including guards and watchpersons, working on the contract. Such records must contain the name; last known address, telephone number, and email address; and social security number of each such worker; each worker's correct classification(s) of work performed; hourly rates of wages paid; daily and weekly number of hours actually worked; deductions made; and actual wages paid.

B. Records to be maintained under this provision must 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 workers during working hours on the job.”

22. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

Stafford Act Disaster Grants. This requirement does not apply to the Public Assistance, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of “funding agreement.”

If the FEMA award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a), and the City wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the City must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by FEMA. See 2 C.F.R. Part 200, Appendix II, ¶ F.

The regulation at 37 C.F.R. § 401.2(a) currently defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

Pursuant to 37 C.F.R. Part 401, each funding agreement awarded to a small business firm or nonprofit organization (except those subject to 35 U.S.C. 212) shall contain the clause found in § 401.14(a) with such modifications and tailoring as authorized or required elsewhere in this part.

23. PATENT RIGHTS (SMALL BUSINESS FIRMS AND NONPROFIT ORGANIZATIONS)

A. Definitions

1. Invention means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. 2321et seq.).
2. Subject invention means any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this Contract, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of Contract performance.
3. Practical Application means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or government regulations, available to the public on reasonable terms.

4. Made when used in relation to any invention means the conception or first actual reduction to practice of such invention.
5. Small Business Firm means a small business concern as defined at section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.
6. Nonprofit Organization means a university or other institution of higher education, or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c) and exempt from taxation under section 501(a) of the Internal Revenue Code (25 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

B. Allocation of Principal Rights

The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

When the agency head or duly authorized designee determines at the time of contracting with a small business firm or nonprofit organization that it would be in the national interest to acquire the right to sublicense foreign governments or international organizations pursuant to any existing treaty or international agreement, the following sentence may be added at the end of paragraph B.:

This license will include the right of the government to sublicense foreign governments, their nationals, and international organizations, pursuant to the following treaties or international agreements:

If the funding agreement involves performance over an extended period of time, such as the typical funding agreement for the operation of a government-owned facility, the following language may also be added:

The agency reserves the right to unilaterally amend this funding agreement to identify specific treaties or international agreements entered into or to be entered into by the government after the effective date of this funding agreement and effectuate those license or other rights which are necessary for the government to meet its obligations to foreign governments, their nationals and international organizations under such treaties or international agreements with respect to subject inventions made after the date of the amendment.

C. Invention Disclosure, Election of Title, and Filing of Patent Application by Contractor

1. The Contractor will disclose each subject invention to the Federal Agency within two months after the inventor discloses it in writing to contractor personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently

complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological, or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the agency, the Contractor will promptly notify the agency of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the contractor.

2. The Contractor will elect in writing whether to retain title to any such invention by notifying the Federal agency within two years of disclosure to the Federal agency. However, in any case where publication, on sale or public use has initiated the one-year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the agency to a date that is no more than 60 days prior to the end of the statutory period.
3. The Contractor will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The contractor will file patent applications in additional countries or international patent offices within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.
4. Requests for extension of the time for disclosure, election, and filing under subparagraphs (1), (2), and (3) may, at the discretion of the agency, be granted.

D. Conditions When the Government May Obtain Title

The contractor will convey to the Federal agency, upon written request, title to any subject invention.

1. If the Contractor fails to disclose or elect title to the subject invention within the times specified in (c), above, or elects not to retain title; provided that the agency may only request title within sixty (60) days after learning of the failure of the contractor to disclose or elect within the specified times.
2. In those countries in which the Contractor fails to file patent applications within the times specified in (c) above; provided, however, that if the Contractor has filed a patent application in a country after the times specified in (c) above, but prior to its receipt of the written request of the Federal agency, the Contractor shall continue to retain title in that country.
3. In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

E. Minimum Rights to Contractor and Protection of the Contractor Right to File

1. The Contractor will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the contractor fails to disclose the invention within the times specified in (c), above. The Contractor's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the Contract was awarded. The license is transferable only with the approval of the Federal agency except when transferred to the successor of that party of the Contractor's business to which the invention pertains.
2. The Contractor's domestic license may be revoked or modified by the funding Federal agency to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR part 404 and agency licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the funding Federal agency to the extent the Contractor, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.
3. Before revocation or modification of the license, the funding Federal agency will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed thirty (30) days (or such other time as may be authorized by the funding Federal agency for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and agency regulations (if any) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

F. Contractor Action to Protect the Government's Interest

1. The Contractor agrees to execute or to have executed and promptly deliver to the Federal agency all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Contractor elects to retain title, and (ii) convey title to the Federal agency when requested under paragraph (d) above and to enable the government to obtain patent protection throughout the world in that subject invention.
2. The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph C., above, and to execute all papers necessary to file patent applications on subject inventions and to establish the government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by C.1., above. The Contractor shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign

statutory bars.

3. The Contractor will notify the Federal agency of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.
4. The Contractor agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with government support under (identify the contract) awarded by (identify the Federal agency). The government has certain rights in the invention."

If the Contract is for the operation of a government-owned facility, the City may add the following at the end of paragraph F.:

5. The Contractor shall establish and maintain active and effective procedures to ensure that subject inventions are promptly identified and timely disclosed and shall submit a description of the procedures to the contracting officer so that the contracting officer may evaluate and determine their effectiveness.

The City may add additional subparagraphs to paragraph F. to require the Contractor to do one or more of the following:

1. Provide a report prior to the close-out of a funding agreement listing all subject inventions or stating that there were none.
2. Provide, upon request, the filing date, patent application number and title; a copy of the patent application; and patent number and issue date for any subject invention in any country in which the contractor has applied for a patent.
3. Provide periodic (but no more frequently than annual) listings of all subject inventions which were disclosed to the agency during the period covered by the report.

G. Subcontracts

1. The Contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work. The subcontractor will retain all rights provided for the Contractor in this clause, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

H. Reporting on Utilization of Subject Inventions

The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the agency may reasonably specify. The contractor also agrees to

provide additional reports as may be requested by the agency in connection with any march-in proceeding undertaken by the agency in accordance with paragraph J. of this clause. As required by 35 U.S.C. 202(c)(5), the agency agrees it will not disclose such information to persons outside the government without permission of the Contractor.

I. Preference for United States Industry

Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Federal agency upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

J. March-in Rights

The Contractor agrees that with respect to any subject invention in which it has acquired title, the Federal agency has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the agency to require the contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the contractor, assignee, or exclusive licensee refuses such a request the Federal agency has the right to grant such a license itself if the Federal agency determines that:

1. Such action is necessary because the contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.
2. Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the contractor, assignee, or their licensees;
3. Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the contractor, assignee, or licensees;
or
4. Such action is necessary because the agreement required by paragraph I. of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

K. Special Provisions for Contracts with Nonprofit Organizations

If the Contractor is a nonprofit organization, it agrees that:

1. Rights to a subject invention in the United States may not be assigned without the approval of the Federal agency, except where such assignment is made to an organization which has

as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the Contractor;

2. The Contractor will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;
3. The balance of any royalties or income earned by the Contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education; and

If the Contract is with a nonprofit organization and is for the operation of a government-owned, contractor-operated facility, the following will be substituted for paragraph K.3.:

3. After payment of patenting costs, licensing costs, payments to inventors, and other expenses incidental to the administration of subject inventions, the balance of any royalties or income earned and retained by the contractor during any fiscal year on subject inventions under this or any successor contract containing the same requirement, up to any amount equal to five percent of the budget of the facility for that fiscal year, shall be used by the contractor for scientific research, development, and education consistent with the research and development mission and objectives of the facility, including activities that increase the licensing potential of other inventions of the facility. If the balance exceeds five percent, 75 percent of the excess above five percent shall be paid by the contractor to the Treasury of the United States and the remaining 25 percent shall be used by the contractor only for the same purposes as described above. To the extent it provides the most effective technology transfer, the licensing of subject inventions shall be administered by contractor employees on location at the facility.
4. It will make efforts that are reasonable under the circumstances to attract licensees of subject invention that are small business firms and that it will give a preference to a small business firm when licensing a subject invention if the contractor determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided, that the contractor is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the contractor. However, the contractor agrees that the Secretary may review the contractor's licensing program and decisions regarding small business applicants, and the contractor will negotiate changes to its licensing policies, procedures, or practices with the Secretary when the Secretary's review discloses that the Contractor could take reasonable steps to implement more effectively the requirements of this paragraph K.4.

- L. COMMUNICATION- For all matters relating to the clause above, Contractor shall communicate with the City's Public Information Officer (PIO) or Communications Manager at 941-429-7077.
- K. COPYRIGHTS - The Grantee is free to copyright original work developed in the course of or under the agreement. FEMA reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes.

Publication resulting from work performed under this agreement shall include an acknowledgement of FEMA financial support, by grant number, and a statement that the publication does not constitute an endorsement by FEMA or reflect FEMA views.

24. 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 City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Florida Department of Health or Florida Department of Business and Professional Responsibility, 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 FEMA.

25. 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 City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the City, 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 FEMA.

26. DEBARMENT AND SUSPENSION

- A. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000, because it is a contract for goods or services that includes the below listed items. As such the Contractor shall verify that neither the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are “excluded,” as defined at 2 C.F.R. § 180.940, or “disqualified,” as defined at 2 C.F.R. § 180.935 because:
 - 1. The Contract is awarded by the City in the amount of at least \$25,000.
 - 2. The Contract requires the approval of FEMA, regardless of amount.
 - 3. The Contract is for federally required audit services; or
 - 4. A subcontract is also a covered transaction if it is awarded by the Contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.

- B. The Contractor shall comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and shall 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 City. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- D. The Contractor 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 Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.
- E. The Contractor shall have completed the Certification Regarding Debarment, Suspension, and Other Responsibility Matters- Primary Covered Transactions Form, and returned it to the City with their Proposal.
- F. A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

27. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (AS AMENDED)

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

28. 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:
 1. Competitively within a timeframe providing for compliance with the Contract performance schedule; or
 2. Meeting Contract performance requirements; or
 3. At a reasonable price.

- B. Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site:
<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- C. The Contractor agrees to comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C § 6962).

29. ACCESS TO RECORDS

A. Access to Records.

1. The Contractor agrees to provide the City, 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.
2. 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.
3. The Contractor agrees to provide the FEMA Administrator or its authorized representatives access to construction or other work sites pertaining to the work being completed under the Contract.
4. Such records will be maintained for five (5) years after the completion of the work done under the Contract and until claims or audit findings have been resolved which were initiated prior to the expiration of the five (5) year period. The City retains a firm, which annually audits records; should records be required within that period, Contractor will be notified in writing.

- B. Federal Records Requirements: If applicable, records retention and access to records shall comply with the Federal Highway Administration and the Office of the Inspector General.

30. DHS SEAL, LOGO, AND FLAGS

The Contractor must obtain written permission from the Department of Homeland Security ("DHS") prior to using the DHS seals, logos, crests, or reproductions of flags, or likenesses of DHS agency officials. This includes use of DHS component (e.g., FEMA, CISA, etc.) seals, logos, crests, or reproductions of flags, or likenesses of component officials.

31. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

The parties to this Contract acknowledge that FEMA financial assistance will be used to fund this Contract. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

32. NO OBLIGATION BY FEDERAL GOVERNMENT

The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the City, Contractor, or any other party pertaining to any matter resulting from this Contract.

33. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

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

34. FDOT ROADWAY SAFETY REQUIREMENTS

- A. All High Visibility Safety Apparel shall comply with FDOT – Index 600, Sheet 3 Design Standards Revision (R1303), Dated July 23, 2012 requirements.
- B. All high-visibility safety apparel shall meet the requirements of the International Safety Equipment Association (ISEA) and the American National Standards Institute (ANSI) for High-Visibility Safety Apparel and labeled as ANSI/ISEA 107-2004 or ANSI/ISEA 107-2010.

35. DOMESTIC PREFERENCES FOR PROCUREMENTS (200.322)

The Contractor should, to the greatest extent practicable and consistent with law, 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 section:

"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" means 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.

36. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

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

(b) *Prohibitions.*

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

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

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

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

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

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

(c) *Exceptions.*

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

(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.

37. SOCIOECONOMIC CONTRACTING

The Contractor is encouraged 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, veteran-owned businesses, and labor surplus area firms are used when possible.

38. 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.

39. CREATING GOOD JOBS

Pursuant to FEMA Information Bulletin No. 520, the contractor will comply with all applicable federal labor and employment laws. To maximize cost efficiency and quality of work, the contractor commits to strong labor standards and protections for the project workforce by creating an effective plan for ensuring high-quality jobs and complying with federal labor and

employment laws. The contractor acknowledges applicable minimum wage, overtime, prevailing wage, and health and safety requirements, and will incorporate Good Jobs Principles wherever appropriate and to the greatest extent practicable.

40. BUY CLEAN

The City encourages the use of environmentally friendly construction practices in the performance of this Agreement. In particular, the City encourages that the performance of this agreement include considering the use of low-carbon materials which have substantially lower levels of embodied greenhouse-gas emissions associated with all relevant stages of production, use, and disposal, as compared to estimated industry averages of similar materials or products as demonstrated by their environmental product declaration.

END OF FEDERAL COMPLIANCE REQUIREMENTS

EXHIBIT D

CITY WORK ASSIGNMENT FORM/NOTICE TO PROCEED



City of North Port
PURCHASING
Office: 941.429.7170
Fax: 941.429.7173
Email: purchasing@northportfl.gov



WORK ASSIGNMENT: EXHIBIT C

CONSULTANT: Cotton Logistics, Inc.
CONTINUING CONTRACT NO. & TITLE: XX

THIS WORK ASSIGNMENT

WORK ASSIGNMENT #: _____

SHORT TITLE: _____

DATE SUBMITTED: _____

AMOUNT (LUMP SUM): _____

SCHEDULED COMPLETION: _____

CONTRACT AND BUDGET OVERVIEW FOR FISCAL YEAR 20____

| | DEPARTMENT | CITYWIDE (completed by |
|-------------------------------|------------|------------------------|
| Purchasing) | | |
| TOTAL OF PREVIOUS ASSIGNMENTS | _____ | _____ |
| THIS WORK ASSIGNMENT | _____ | _____ |
| TOTAL WORK ASSIGNMENTS | _____ | _____ |
| ACCOUNT NO/PROJECT NO | _____ | _____ |

All work assignments require City Manager approval. In presenting this Work Assignment, it is understood that:

1. All associated supporting documentation and justification for this Work Assignment Change Order/Amendment is attached hereto.
2. Unless specified herein, work does not involve watercraft, boat piers and/or other activities requiring additional workers compensation endorsements.
3. Contact or involvement with hazardous materials is not anticipated, should hazardous materials be encountered, the City shall be informed.
4. THIS TOTAL WORK ASSIGNMENT, INCLUDING CHANGE ORDERS AND/OR AMENDMENTS SHALL NOT EXCEED \$500,000, UNLESS MUTUALLY AGREED UPON. ANY RESULTING CONSTRUCTION SHALL NOT EXCEED \$500,000 & ANY RESULTING CONSTRUCTION SHALL NOT EXCEED \$ 7,500,000 PER FLORIDA STATUTE. Maximum construction threshold will be adjusted annually by Legislature beginning July 1, 2025 & each July 1st thereafter.

SUBMITTED BY:

CONSULTANT

DATE

APPROVED BY:

| | | | |
|---------------------------------|---------------|-------------------------------|---------------|
| _____ DEPARTMENT DIRECTOR | _____ DATE | _____ BUDGET ADMINISTRATOR | _____ DATE |
| _____ PURCHASING | _____ DATE | _____ FINANCE DIRECTOR | _____ DATE |
| _____ ASSISTANT CITY MANAGER | _____ DATE | _____ CITY MANAGER | _____ DATE |

EXHIBIT E



**CITY OF NORTH PORT
CHANGE ORDER/CONTRACT AMENDMENT FORM**

WA #: _____

CO#: _____ Amendment #: _____

City's Contract No.: _____

Project Manager/Engineer: _____

Project Name: _____

Description:

Purpose of Change Order:

Attachments (provide documents below from Consultant supporting change):

Attachment A - Fee Schedule with contracted hourly rates/number of hours breakdown

Attachment B - Consultants written scope/quote (for this work assignment)

Attachment C - Supporting documentation (includes time extensions if requested)

| CHANGE IN CONTRACT PRICE | | | | CONTINGENCY FUNDS | |
|---|----------------|-------|------|-------------------------------------|--|
| Original Contract Amount: | | | | Use of Contingency Funds? | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Previous | Amendment/ | # | to # | Original Contingency Amount: | |
| | Change Orders: | # | to # | | |
| Approved Amount: | | Amend | | Approved Use of Contingency Amount: | |
| Amendments/Change Orders | | CO | | | |
| Current Contract Price: | | | | Increase/(Decrease): | |
| This Change Add/(Deduct): | | | | | |
| Total Contract Amount w/this change (pending approval): | | | | Contingency Balance: | |

| CHANGE IN CONTRACT TIME | | | | |
|--|------------|-------------------------|---|-------------------|
| Please fill in the Initial & Final Dates and Days of the original contract and the Dates and Difference (days) for each subsequent change order. | | | | |
| Initial Date | Final Date | Days/Difference (days)* | Action | Basic Description |
| Enter dates & number of days in Cells Below | | | Add Action and Description in Cells Below | |
| | | | Original | Initial Execution |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| Total Days* | | | | |
| * Calendar days (not working days) | | | | |

SIGNATURES ON NEXT PAGE

RECOMMENDED BY:

By: _____
Consultant Date

By: _____
City POC/Project Manager Date

APPROVED BY:

By: _____
Department Director Date

By: _____
Budget Administrator Date

By: _____
Purchasing Date

By: _____
Finance Director Date

By: _____
Assistant City Manager Date

By: _____
City Manager Date

By: _____
City Clerk (If applicable) Date

By: _____
City Attorney (If applicable) Date