

**SUBJECT: APPROVAL OF 2024 CONTRACT AMENDMENT FOR FEMA
PROJECT CONSULTING SERVICES**

DATE: JANURARY 2, 2024

PRESENTED BY: KIANA FREEMAN, RECOVERY & RESILIENCE MANAGER

SUMMARY:

As a major part of the Marshall Fire recovery, the City of Louisville's internal teams have been working with Carlisle Thompson, LLC to continue closing out FEMA Public Assistance projects that were established in 2022. The original 2023 contract with Carlisle Thompson, LLC contained an end term of December 31, 2023.

FEMA requires timely and complete project information as work is completed to facilitate efficient and effective closeout of the grant awards. Before closeout can begin, staff must carefully analyze the insurance proceeds received by the City's insurance provider and the FEMA public assistance to determine which funding source pays for specific repairs. For instance, median restoration is ineligible for FEMA assistance but falls under the City's outdoor property coverage, which has a limit of \$250,000. Staff must go through each item to determine the best source to maximize recovery dollars.

With staff vacancies and the Recovery & Resilience Division being onboarded and brought up to speed about Marshall Fire Recovery, the City has not submitted for reimbursement. Therefore, Staff is recommending that the City extend the current contract term and increase the consulting services dollar allowance. This extension of services through 2024 would greatly benefit the new Division and continuing the expertise for reimbursement of projects already in progress.

The estimated cost for this additional work is \$5,000. While it is difficult to know the exact number of hours that the consultant will be needed, the contract lists an amount not to exceed an additional amount of \$5,000 with hourly rates for the consultant's staff.

This expense is an eligible cost under Category Z – Management Costs, and therefore can be reimbursed by FEMA. Management costs include any indirect costs, direct administrative costs and other administrative expenses related to FEMA Public Assistance.

FISCAL IMPACT

This amendment contract was not included in the 2024 budget and requires an amendment for the total cost of \$5,000 and the anticipated reimbursement from FEMA.

RECOMMENDATION:

Staff recommends approval of the 2024 Amendment Contract for FEMA Consulting Services.

SUBJECT: CONTRACT FOR FEMA PROJECT CONSULTING SERVICES

DATE: JANUARY 2, 2024

PAGE 2 OF 2

ATTACHMENT(S):

1. Amendment Contract for FEMA Project Consulting Services
2. Original Contract for FEMA Project Consulting Services

STRATEGIC PLAN IMPACT:

☒	 Financial Stewardship & Asset Management	☐	 Reliable Core Services
☐	 Vibrant Economic Climate	☐	 Quality Programs & Amenities
☐	 Engaged Community	☐	 Healthy Workforce
☐	 Supportive Technology	☐	 Collaborative Regional Partner

**AMENDMENT TO
AGREEMENT BY AND BETWEEN THE CITY OF LOUISVILLE
AND CARLISLE THOMPSON, LLC
FOR CONSULTING SERVICES**

This AMENDMENT TO AGREEMENT FOR CONSULTING SERVICES (this "Amendment") is made and entered into this ____ day of ____, 20__ (the "Effective Date"), by and between the City of Louisville, a Colorado home rule municipal corporation, hereinafter referred to as the "City", and Carlisle Thompson, LLC, a Florida Limited Liability Company, hereinafter referred to as the "Consultant".

WHEREAS, the City and Consultant are parties to that certain Agreement for Consulting Services, dated June 20, 2023 (the "Agreement") for insurance reconciliation and project closeout services in connection with the City's Marshall Fire (DR-4634) projects; and

WHEREAS, the City and Consultant desire to amend the Agreement to extend the term of the Agreement and increase the maximum contract amount.

NOW THEREFORE, in consideration of the foregoing and the mutual promises contained herein and in the Agreement, the Parties agree as follows:

Section 1. Section 4.1 is amended to replace the reference to \$20,000 with \$25,000.

Section 2. Section 6.1 of the Agreement is amended to read as follows:

6.1 The term of this Agreement shall be from the Effective Date to June 30, 2023, unless sooner terminated pursuant to Section 13, below. The Consultant's Services under this Agreement shall commence on the Effective Date and Consultant shall proceed with diligence and promptness so that the Services are completed in a timely fashion consistent with the City's requirements.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the Effective Date.

CITY OF LOUISVILLE,
a Colorado Municipal Corporation

CONSULTANT
Carlisle Thompson, LLC

By: _____
Christopher M. Leh, Mayor

By: _____

Title: _____

Attest: _____
Meredyth Muth, City Clerk

**AN AGREEMENT BY AND BETWEEN THE CITY OF LOUISVILLE
AND CARLISLE THOMPSON, LLC
FOR CONSULTING SERVICES**

1.0 PARTIES

This AGREEMENT FOR CONSULTING SERVICES (this “Agreement”) is made and entered into this 20th day of June, 2023 (the “Effective Date”), by and between the **City of Louisville**, a Colorado home rule municipal corporation, hereinafter referred to as the “City”, and Carlisle Thompson, LLC, a Florida Limited Liability Company hereinafter referred to as the “Consultant”.

2.0 RECITALS AND PURPOSE

- 2.1 The City desires to engage the Consultant for the purpose of providing grant consulting services as further set forth in the Consultant’s Scope of Services (which services are hereinafter referred to as the “Services”).
- 2.2 The Consultant represents that it has the special expertise, qualifications and background necessary to complete the Services.

3.0 SCOPE OF SERVICES

The Consultant agrees to provide the City with the specific Services and to perform the specific tasks, duties and responsibilities set forth in Scope of Services attached hereto as Exhibit “A” and incorporated herein by reference.

4.0 COMPENSATION

- 4.1 The City shall pay the Consultant for services under this agreement a total not to exceed \$20,000.00 as paid hourly as outlined in Exhibit A. The City shall not pay mileage and other reimbursable expenses (such as meals, parking, travel expenses, necessary memberships, etc.), unless such expenses are (1) clearly set forth in the Scope of Services, and (2) necessary for performance of the Services (“Pre-Approved Expenses”). The foregoing amounts of compensation shall be inclusive of all costs of whatsoever nature associated with the Consultant’s efforts, including but not limited to salaries, benefits, overhead, administration, profits, expenses, and outside consultant fees. The Scope of Services and payment therefor shall only be changed by a properly authorized amendment to this Agreement. No City employee has the authority to bind the City with regard to any payment for any services which exceeds the amount payable under the terms of this Agreement.
- 4.2 The Consultant shall submit monthly an invoice to the City for Services rendered and a detailed expense report for Pre-Approved Expenses incurred during the previous month.

The invoice shall document the Services provided during the preceding month, identifying by work category and subcategory the work and tasks performed and such other information as may be required by the City. The Consultant shall provide such additional backup documentation as may be required by the City. The City shall pay the invoice within thirty (30) days of receipt unless the Services or the documentation therefor are unsatisfactory. Payments made after thirty (30) days may be assessed an interest charge of one percent (1%) per month unless the delay in payment resulted from unsatisfactory work or documentation therefor.

5.0 PROJECT REPRESENTATION

- 5.1 The City designates City Manager Jeff Durbin as the responsible City staff to provide direction to the Consultant during the conduct of the Services. The Consultant shall comply with the directions given by Jeff Durbin and such person's designees.
- 5.2 The Consultant designates Jo Barrios as its project manager and as the principal in charge who shall be providing the Services under this Agreement. Should any of the representatives be replaced, particularly Jo Barrios, and such replacement require the City or the Consultant to undertake additional reevaluations, coordination, orientations, etc., the Consultant shall be fully responsible for all such additional costs and services.

6.0 TERM

- 6.1 The term of this Agreement shall be from the Effective Date to December 31, 2023, unless sooner terminated pursuant to Section 13, below. The Consultant's Services under this Agreement shall commence on [(the Effective Date) or (on another date desired by the City, after the Effective Date)] and Consultant shall proceed with diligence and promptness so that the Services are completed in a timely fashion consistent with the City's requirements.
- 6.2 Nothing in this Agreement is intended or shall be deemed or construed as creating any multiple-fiscal year direct or indirect debt or financial obligation on the part of the City within the meaning of Colorado Constitution Article X, Section 20 or any other constitutional or statutory provision. All financial obligations of the City under this Agreement are subject to annual budgeting and appropriation by the Louisville City Council, in its sole discretion. Notwithstanding anything in this Agreement to the contrary, in the event of non-appropriation, this Agreement shall terminate effective December 31 of the then-current fiscal year.

7.0 INSURANCE

- 7.1 The Consultant agrees to procure and maintain, at its own cost, the policies of insurance set forth in Subsections 7.1.1 through 7.1.4. The Consultant shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types. The coverages required

below shall be procured and maintained with forms and insurers acceptable to the City. All coverages shall be continuously maintained from the date of commencement of services hereunder. The required coverages are:

- 7.1.1 Workers' Compensation insurance as required by the Labor Code of the State of Colorado and Employers Liability Insurance. Evidence of qualified self-insured status may be substituted.
- 7.1.2 General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and TWO MILLION DOLLARS (\$2,000,000) aggregate. The policy shall include the City of Louisville, its officers and its employees, as additional insureds, with primary coverage as respects the City of Louisville, its officers and its employees, and shall contain a severability of interests provision.
- 7.1.3 Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than FOUR HUNDRED THOUSAND DOLLARS (\$400,000) per person in any one occurrence and ONE MILLION DOLLARS (\$1,000,000) for two or more persons in any one occurrence, and auto property damage insurance of at least FIFTY THOUSAND DOLLARS (\$50,000) per occurrence, with respect to each of Consultant's owned, hired or non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision. If the Consultant has no owned automobiles, the requirements of this paragraph shall be met by each employee of the Consultant providing services to the City of Louisville under this Agreement.
- 7.1.4 Professional Liability coverage with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate.
- 7.2 The Consultant's general liability insurance, automobile liability and physical damage insurance, and professional liability insurance shall be endorsed to include the City, and its elected and appointed officers and employees, as additional insureds, unless the City in its sole discretion waives such requirement. Every policy required above shall be primary insurance, and any insurance carried by the City, its officers, or its employees, shall be excess and not contributory insurance to that provided by the Consultant. Such policies shall contain a severability of interests provision. The Consultant shall be solely responsible for any deductible losses under each of the policies required above.
- 7.3 Certificates of insurance shall be provided by the Consultant as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by the City. No required coverage shall be cancelled, terminated or materially changed until at least 30 days' prior written notice has been given to the City. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

- 7.4 Failure on the part of the Consultant to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which the City may immediately terminate this Agreement, or at its discretion may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Consultant to the City upon demand, or the City may offset the cost of the premiums against any monies due to Consultant from the City.
- 7.5 The parties understand and agree that the City is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S., as from time to time amended, or otherwise available to the City, its officers, or its employees.

8.0 INDEMNIFICATION

To the fullest extent permitted by law, the Consultant agrees to indemnify and hold harmless the City, and its elected and appointed officers and its employees, from and against all liability, claims, and demands, on account of any injury, loss, or damage, which arise out of or are connected with the services hereunder, if and to the extent such injury, loss, or damage is caused by the negligent act, omission, or other fault of the Consultant or any subcontractor of the Consultant, or any officer, employee, or agent of the Consultant or any subcontractor, or any other person for whom Consultant is responsible. The Consultant shall investigate, handle, respond to, and provide defense for and defend against any such liability, claims, and demands. The Consultant shall further bear all other costs and expenses incurred by the City or Consultant and related to any such liability, claims and demands, including but not limited to court costs, expert witness fees and attorneys' fees if the court determines that these incurred costs and expenses are related to such negligent acts, errors, and omissions or other fault of the Consultant. The City shall be entitled to its costs and attorneys' fees incurred in any action to enforce the provisions of this Section 8.0. The Consultant's indemnification obligation shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the City.

9.0 QUALITY OF WORK

Consultant's professional services shall be in accordance with the prevailing standard of practice normally exercised in the performance of services of a similar nature in the Denver metropolitan area.

10.0 INDEPENDENT CONTRACTOR

It is the expressed intent of the parties that the Consultant is an independent contractor and not the agent, employee or servant of the City, and that:

- 10.1. Consultant shall satisfy all tax and other governmentally imposed responsibilities including but not limited to, payment of state, federal, and social security taxes, unemployment taxes, worker's compensation and self-employment taxes. No state, federal

or local taxes of any kind shall be withheld or paid by the City.

- 10.2. **Consultant is not entitled to worker's compensation benefits except as may be provided by the Consultant nor to unemployment insurance benefits unless unemployment compensation coverage is provided by the Consultant or some entity other than the City.**
- 10.3. Neither party has the authority to act for the other party, or to bind the other party in any respect whatsoever, or to incur any debts or liabilities in the name of or on behalf of the other party.
- 10.4. Consultant has and retains control of and supervision over the performance of Consultant's obligations hereunder and control over any persons employed by Consultant for performing the Services hereunder.
- 10.5. The City will not provide training or instruction to Consultant or any of its employees regarding the performance of the Services hereunder.
- 10.6. Neither the Consultant nor any of its officers or employees will receive benefits of any type from the City.
- 10.7. Consultant represents that it is engaged in providing similar services to other clients and/or the general public and is not required to work exclusively for the City.
- 10.8. Consultant shall take all precautions necessary for the proper performance of the Services.
- 10.9. Consultant will not combine its business operations in any way with the City's business operations and each party shall maintain their operations as separate and distinct.

11.0 ASSIGNMENT

Except as provided in section 22.0 hereof, Consultant shall not assign or delegate this Agreement or any portion thereof, or any monies due or to become due hereunder without the City's prior written consent.

12.0 DEFAULT

Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either party should fail or refuse to perform according to the terms of this Agreement, such party may be declared in default.

13.0 TERMINATION

- 13.1 This Agreement may be terminated by either party for material breach or default of this Agreement by the other party not caused by any action or omission of the other party by giving the other party written notice at least thirty (30) days in advance of the termination date. Termination pursuant to this subsection shall not prevent either party from exercising any other legal remedies which may be available to it.
- 13.2 In addition to the foregoing, this Agreement may be terminated by the City for its convenience and without cause of any nature by giving written notice at least ten (10) days in advance of the termination date. In the event of such termination, the Consultant will be paid based on the Compensation provisions in Section 4 for services rendered to the date of termination, and upon such payment, all obligations of the City to the Consultant under this Agreement will cease. Termination pursuant to this subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

14.0 INSPECTION AND AUDIT

The City and its duly authorized representatives shall have access to any books, documents, papers, and records of the Consultant that are related to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

15.0 DOCUMENTS

All computer input and output, analyses, plans, documents photographic images, tests, maps, surveys, electronic files and written material of any kind generated in the performance of this Agreement or developed for the City in performance of the Services are and shall remain the sole and exclusive property of the City. All such materials shall be promptly provided to the City upon request therefor and at the time of termination of this Agreement, without further charge or expense to the City. Consultant shall not provide copies of any such material to any other party without the prior written consent of the City.

16.0 ENFORCEMENT

- 16.1 In the event that suit is brought upon this Agreement to enforce its terms, the prevailing party shall be entitled to its reasonable attorneys' fees and related court costs.
- 16.2 This Agreement shall be deemed entered into in Boulder County, Colorado, and shall be governed by and interpreted under the laws of the State of Colorado. Any action arising out of, in connection with, or relating to this Agreement shall be filed in the District Court of Boulder County of the State of Colorado, and in no other court. Consultant hereby waives its right to challenge the personal jurisdiction of the District Court of Boulder County of the State of Colorado over it.

17.0 COMPLIANCE WITH LAWS

- 17.1 Consultant shall be solely responsible for compliance with all applicable federal, state, and local laws, including the ordinances, resolutions, rules, and regulations of the City; for payment of all applicable taxes; and obtaining and keeping in force all applicable permits and approvals.
- 17.2 Consultant acknowledges that the City of Louisville Code of Ethics provides that independent contractors who perform official actions on behalf of the City which involve the use of discretionary authority shall not receive any gifts seeking to influence their official actions on behalf of the City, and that City officers and employees similarly shall not receive such gifts. Consultant agrees to abide by the gift restrictions of the City's Code of Ethics.

18.0 INTEGRATION AND AMENDMENT

This Agreement represents the entire Agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties.

19.0 NOTICES

All notices required or permitted under this Agreement shall be in writing and shall be given by hand delivery, by United States first class mail, postage prepaid, registered or certified, return receipt requested, by national overnight carrier, or by facsimile transmission, addressed to the party for whom it is intended at the following address:

If to the City:

City of Louisville
Attn: City Manager
749 Main Street
Louisville, Colorado 80027
Telephone: (303) 335-4533
Fax: (303) 335-4550

If to the Consultant:

Carlisle Thompson, LLC
Attn: Connie Brice
405 W Sequoia Spur
Georgetown, TX 78628
Telephone: (407)-353-27872
Email: connie@carlislethompson.com

Any such notice or other communication shall be effective when received as indicated on the delivery receipt, if by hand delivery or overnight carrier; on the United States mail return receipt, if by United States mail; or on facsimile transmission receipt. Either party may by similar notice given, change the address to which future notices or other communications shall be sent.

20.0 EQUAL OPPORTUNITY EMPLOYER

- 20.1 Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability or national origin. Consultant will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, age, sex, disability, 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. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of the Equal Opportunity Laws.
- 20.2 Consultant shall be in compliance with the applicable provisions of the American with Disabilities Act of 1990 as enacted and from time to time amended and any other applicable federal, state, or local laws and regulations. A signed, written certificate stating compliance with the Americans with Disabilities Act may be requested at any time during the life of this Agreement or any renewal thereof.

21.0 NO THIRD PARTY BENEFICIARIES

It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to City and Consultant, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the parties that any person other than City or Consultant receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

22.0 SUBCONTRACTORS

Consultant may utilize subcontractors identified in its qualifications submittal to assist with non-specialized works as necessary to complete projects. Consultant will submit any proposed subcontractor and the description of its services to the City for approval. The City will not work directly with subcontractors.

23.0 AUTHORITY TO BIND

Each of the persons signing below on behalf of any party hereby represents and warrants that such person is signing with full and complete authority to bind the party on whose behalf of whom such person is signing, to each and every term of this Agreement.

24.0 ADDITIONAL CONTRACT PROVISIONS FOR FEDERAL AWARDS

The parties hereby incorporate those FEMA Contract Provisions set forth in Exhibit B as if fully set forth herein. In the event of any conflict between the provisions of Exhibit B and the main text of the Agreement, Exhibit B shall control.

In witness whereof, the parties have executed this Agreement to be effective on the date first above written.

CITY OF LOUISVILLE,
a Colorado Municipal Corporation

By: 
Dennis Maloney, Mayor

Attest: 
Meredyth Muth, City Clerk

CONSULTANT:
Carlisle Thompson, LLC

By: Connie Brice
Title: President

Exhibit A – Scope of Services & Consultant Service Pricing

Emily Hogan
Assistant City Manager
City of Louisville

RE: Proposal for DR 4634 Insurance Reconciliation and Project Closeout

Dear Ms. Hogan:

Per your request, Carlisle Thompson, LLC has prepared scope and costs for the DR 4634 projects. The proposed scope is as follows:

- ❖ Review City's insurance statement of loss and insurance payments received
- ❖ Reconcile and align actual insurance proceeds against FEMA anticipated insurance proceeds for each project worksheet.
- ❖ Coordinate with City and CO DHSEM representative on most efficient approach for insurance reconciliation
- ❖ Recommend adjustment to projects based on insurance reconciliation
- ❖ Attend status meeting with City to provide update on insurance reconciliation, and attend meetings with CO DHSEM, as requested
- ❖ Review project expenses and assist with project closeouts, as requested
- ❖ Assist City with any other PA related tasks, as requested

We estimate the completion of this scope of work will require \$20,000. (See NOTE, page 2)

Please contact Stephen Brice at sdbrice@carlislethompson.com or Johan Barrios at jobarrios@carlislethompson.com for any questions or comments. Thank you for considering us for this work. We look forward to supporting the City in closing out the Marshall Fire (DR-4634) projects.

Sincerely,



Stephen Brice
Vice President



Project Positions and Rates

Project Positions	Hourly Rate*	Estimated Percentage of Hours
Project Manager	\$195.00	35%
Grant/Insurance Specialist	\$160.00	35%
Grant Analyst	\$130.00	10%
Junior Consultant	\$100.00	10%
Accounting Tech/Admin	\$78.00	10%
Professional (Engineer or Estimator)	\$185.00	As Needed
Appeals Specialist	\$250.00	As Needed

**Rates do NOT include travel costs. Should personnel be required to be on-site, Carlisle Thompson will submit estimated travel expenses for review and pre-approval.*

NOTE: Due to the many variables, unknown, it is difficult at best to estimate the number of hours and associated costs to complete the insurance reconciliation. There are scenarios that the number of hours could be 30-50 hours, and it is possible that our efforts could be close to 200 hours.

Our approach will be to have Jo and an insurance specialist focus on the project. Jo will work closely with CO DHSEM to only complete the work necessary to reconcile the insurance proceeds, avoid any duplication of benefits, and efficiently closeout each PA recovery grant.

Jo will meet with the City designate to update progress, project hours and cost every two weeks.



Exhibit B – FEMA Contract Provisions
2 C.F.R. § 200, Appendix II
Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

FEMA CONTRACT PROVISIONS

TERMINATION FOR CAUSE AND CONVENIENCE

If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner their obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the Owner shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Contractor under this contract shall, at the option of the Owner, become the Owner's property and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the Contractor shall not be relieved of liability to the Owner for damages sustained by the Owner by virtue of any breach of the contract by the Contractor and the Owner may withhold any payments to the contractor for the purpose of set-off until such times as the exact amount of damages due to the Owner from the Contractor is determined.

The Owner may terminate this contract at any time by giving at least ten (10) days' notice in writing to the Contractor. If the contract is terminated by the Owner as provided herein, the Contractor will be paid for the time provided and expenses incurred up to the termination date.

BREACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the Contractor or the Contractor's subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this contract. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.

EQUAL EMPLOYMENT OPPORTUNITY

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

1. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:
 - a. Employment, upgrading, demotion, or transfer
 - b. Recruitment or recruitment advertising
 - c. Layoff or termination

- d. Rates of pay or other forms of compensation
- e. Selection for training, including apprenticeship

The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
4. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

8. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

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

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

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

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

1. *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
3. *Withholding for unpaid wages and liquidated damages.* (GRANT RECIPIENT OR SUBRECIPIENT) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
4. *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to (APPLICANT NAME) and understands and agrees that (APPLICANT NAME) will, in turn, report each violation as required to assure

notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

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

Federal Water Pollution Control Act

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

DEBARMENT AND SUSPENSION

1. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
2. The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters.
3. This certification is a material representation of fact relied upon by the Owner. 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 Owner, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
4. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

BYRD ANTI-LOBBYING AMENDMENT

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

PROCUREMENT OF RECOVERED MATERIALS

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

ACCESS TO RECORDS

1. The Contractor agrees to provide (APPLICANT NAME), (PASS THROUGH ENTITY NAME), 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 his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
4. In compliance with the Disaster Recovery Act of 2018, the applicant and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

DHS SEAL, LOGO, AND FLAGS

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

COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

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

NO OBLIGATION BY FEDERAL GOVERNMENT

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

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

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

PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

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 the following section 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.

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

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 the following paragraph 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 the preceding paragraph 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 (C)(b)(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.

Subcontracts

1. The contractor shall insert the substance of this clause, including this paragraph, in all subcontracts and other contractual instruments.

TERMINATION FOR CAUSE

****CLAUSE MUST BE INCLUDED THAT IS PURSUANT TO APPLICABLE LOCAL POLICIES/PROCEDURES**

NOT APPLICABLE TO PUBLIC ASSISTANCE

DAVIS-BACON ACT

1. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
2. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
3. Contractors are required to pay wages not less than once a week.

COPELAND ANTI-KICKBACK ACT

1. 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. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and 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 these contract clauses.
3. 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.”