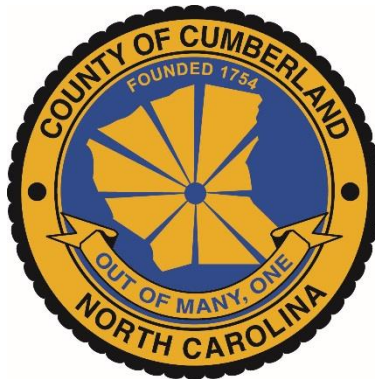


# REQUEST FOR PROPOSALS

For

## FEMA PUBLIC ASSISTANCE PROGRAM CONSULTING



**Cumberland County  
North Carolina**

***Proposal Number Bid #17-14-ES***

***Proposal Deadline October 28, 2016 1:00 P.M***



## FINANCE DEPARTMENT PURCHASING DIVISION

4<sup>th</sup> Floor, New Courthouse • PO Box 1829 • Suite 451, • Fayetteville, North Carolina 28302  
(910) 678-7743 / (910) 678-7746 • Fax (910) 323-6120

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October 24, 2016

### MEMORANDUM

**TO: Prospective Bidders**  
**FROM: Amanda Bullard, Purchasing Buyer**  
**RE: FEMA Public Assistance Program Consulting**

Cumberland County, North Carolina is seeking qualified firms to provide FEMA public assistance program consulting in response to Hurricane Matthew.

The proposals will be received in the Purchasing Department, 4<sup>th</sup> Floor, Courthouse, 117 Dick Street, Fayetteville, North Carolina, 28301 at any time before 1:00 P.M., October 28, 2016. If submitted by mail, properly mark envelope to read "Sealed Proposal 17-14-ES" and send to Cumberland County Finance, Attention: Amanda Bullard, Purchasing Buyer, PO Box 1829, Fayetteville, NC 29302-1829. Mailed proposals must arrive prior to 1:00 P.M., October 28, 2016.

Proposals will also be accepted in electronic (email) format as well. Proposals can be emailed to [abullard@co.cumberland.nc.us](mailto:abullard@co.cumberland.nc.us) & CC: [CumberlandPurchasing@co.cumberland.nc.us](mailto:CumberlandPurchasing@co.cumberland.nc.us). Vendors are advised to request notification that submission is received, if sending by email.

To be considered for award/selection, proposals must be received by the Purchasing office by the designated date and hour. Proposals received in the Purchasing office after the date and hour designated are automatically disqualified and will not be considered. The Purchasing office is not responsible for delays in the delivery of the mail by the U.S. Postal Service or private couriers. It is the sole responsibility of the bidder to ensure that the proposal reaches the Purchasing office by the designated time and hour.

Cumberland County reserves the right to waive any informality, to reject any and all request for proposals, and to accept any proposal which in its opinion may be in the best interest of Cumberland County.

Firms providing proposals shall be responsible for complying with North Carolina Laws and local ordinances and all applicable FEMA regulations.

*Celebrating Our Past. . . Embracing Our Future*

## 1. INTRODUCTION

Cumberland County (hereafter referred to as the COUNTY) is soliciting proposals for a unit cost contract from qualified vendors to provide FEMA Public Assistance Program Consulting services in the recovery efforts associated with Hurricane Matthew and any proceeding disasters during the term of this contract. The selected vendor shall assist the COUNTY in establishing and implementing an assistance program that complies with all FEMA regulations. Such Federal Programs may include, but are not limited to: FEMA Public Assistance (PA), FEMA 404 Hazard Mitigation Grant Program (HMGP), HUD Community Development Block Grant Disaster Recovery, Federal Highway Emergency Relief Program, Federal Transit Administration, and Small Business Administration.

THE COUNTY has established the following objectives for this project:

### **Primary Tasks:**

- Coordinate and develop all project work sheets as required documentation requirements of FEMA
- Assist to resolve Insurance and possible duplication of funding issues
- Assist in getting the necessary legal documents for proper filing
- Advise the COUNTY on document retention strategies
- Coordinate with the COUNTY staff to obtain all cost and necessary backup documentation to develop, revise and submit Project worksheets
- Coordinate with FEMA representatives to provide additional information needed to quickly process worksheets
- Track status of FEMA reimbursement and serve as a co-liaison between FEMA and the COUNTY
- Prepare the necessary reports to FEMA and assist the COUNTY with extension requests
- Advise the COUNTY on the management of the closeout process
- Assist the COUNTY in responding to Request for Information requests from FEMA
- Advise the COUNTY on handling disputed issues with FEMA/State Staff
- Provide detailed and periodic management reports on the status of Project Worksheets including developments, revisions, submissions/approvals, open issues, financial overview, etc.
- Provide Cash Management reports showing the projected schedule for reimbursement requests and the actual status of reimbursements received
- Provide the COUNTY accurate and current analysis on FEMA regulations and best strategies for maximizing reimbursements and to secure other funding sources when applicable, possibly grants
- Develop a process/system to efficiently submit Federal grant applications, identify eligible projects, capture costs, prepare cost reports, reconcile invoices, and close-out projects
- Attend meetings with relevant local, state, and federal officials to address eligibility and process issues, at the request of the client
- Proactively identify and resolve issues that may arise related to the funding of work completed or to be completed
- Obtain, analyze and gather field documentation, including gathering relevant records in order to extract pertinent information necessary for submittal including timekeeping and staff assignment records

- Review all data and supporting documentation to determine whether costs appear eligible and are adequately supported
- Evaluate and assist in the formulation of FEMA PA Emergency and Permanent Work Project Worksheets. This will involve expertise in Cost Estimating, developing Detailed Damage Descriptions and Dimensions (DDD's) and a project's Scope of Work (SOW)
- Prepare first and second appeals, and arbitration as required
- Monitor reconstruction efforts, actual versus Project Worksheet scope of repair, and progress payments
- Perform Project Worksheet closeouts
- Respond to audit findings, as required

## 2. BACKGROUND

On October 8, 2016, Hurricane Matthew affected the COUNTY's infrastructure with winds over 60 mph and rain totaling over 15 inches. On Monday, October 10, 2016, Cumberland County, received a federal disaster declaration, which could aid the COUNTY in debris management, monitoring, clearing and removal and the recovery efforts and planning costs in the aftermath of Hurricane Matthew.

## 3. PROPOSAL DUE DATE AND TIME/SUBMISSION REQUIREMENTS

- 3.1 Cumberland County shall accept proposals until **1:00 p.m., Friday, October 28, 2016** in the Purchasing Department, 4th floor, the Cumberland County Courthouse, 117 Dick Street, Fayetteville, NC 28301.
- 3.2 Bidders shall plainly mark the proposals with the following information: Bidder's name and address, bid title and bid due date and time.
- 3.3 Proposals may be mailed, delivered in person, or by express mail to the Cumberland County Purchasing Office, Attention: Amanda Bullard, Buyer, 4<sup>th</sup> floor, the Cumberland County Courthouse, 117 Dick Street, Fayetteville, NC 28301. Electronic (e-mailed) proposals will be also be accepted. **Emailed proposals shall be sent to [abullard@co.cumberland.nc.us](mailto:abullard@co.cumberland.nc.us) & CC: [CumberlandPurchasing@co.cumberland.nc.us](mailto:CumberlandPurchasing@co.cumberland.nc.us).**
- 3.4 **Regardless of the manner of submission by the bidder, no proposal received after the stated date and time will be considered.**

## 4. QUESTIONS/ADDENDA

Questions regarding this Request for Proposal shall be submitted by e-mail to Amanda Bullard, Purchasing Buyer, [abullard@co.cumberland.nc.us](mailto:abullard@co.cumberland.nc.us) & CC: [CumberlandPurchasing@co.cumberland.nc.us](mailto:CumberlandPurchasing@co.cumberland.nc.us), no later than **5:00 p.m., Wednesday, October 26, 2016.** Question and their corresponding answers, will be provided to all vendors.

Any changes to the specifications will be made in the form of an Addendum and will be supplied to all prospective bidders.

**Bidders are expressly prohibited from contacting any COUNTY official or employee associated with this Request for Proposals, except in the manner noted in this section. Violation of this provision is grounds for the immediate disqualification of the bidder.**

## **5. VENDOR RESPONSIBILITIES**

**5.1** The vendor shall provide and maintain insurance throughout the life of the project as follows:

- Worker's Compensation Insurance as required by State law.
- Automobile Liability Insurance on any owned, non-owned or rented vehicles with limits of at least \$1,000,000 per occurrence combined single limit bodily injury and property damage.
- Commercial General Liability Insurance with a combined single limit of liability of not less than \$1,000,000 for each occurrence of bodily injury and/or property damage and an annual aggregate of liability of not less than \$1,000,000 for bodily injury and/or property damage, and an annual aggregate of liability of not less than \$1,000,000 for Complete Operations and Products Liability.
- Additional Insured the COUNTY, its officials, employees and agents shall be named an additional insured in the Comprehensive Automobile and Commercial Liability Insurance policies and the Commercial General Liability coverage shall be written on an "Occurrence" basis.

**5.2** The vendor shall agree to protect, indemnify and hold harmless the COUNTY, its agents, officers and employees from and against any and all losses resulting directly or indirectly from negligent acts, errors, or omissions of the vendor, or vendor's agents, officers, employees, and subcontractors, in the performance of services under this contract.

**5.3** The vendor shall ensure that any subcontractors engaged in work under this project are included as insured's under its policies OR shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

**5.4** All insurance policies shall be written by insurers licensed and lawfully authorized to underwrite and transact business in the State of North Carolina and must have an A.M. Best rating of not less than A-VII.

**5.5** Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to:

Cumberland County  
Purchasing Department  
P.O. Box 1829  
Fayetteville, NC 28302-1089

- 5.6 The insurance requirements outlined shall be maintained in force by the vendor throughout the term of this contract without lapse, and in no manner should deviate from these requirements. In the event vendor fails to maintain insurance as outlined herein, the COUNTY may, at its option, but not at the responsibility of the COUNTY, obtain the required insurance at the expense of the vendor.
- 5.7 The COUNTY, its officials, employees and volunteers are to be covered as additional insured as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, leased or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the COUNTY, its officials, employees or volunteers.
- 5.8 The vendor shall submit, with their proposal, the names of any and all subcontractors expected to work on this project. The COUNTY reserves the right to accept or reject any proposed subcontractor.
- 5.9 The contractor will be required to track all of hours and costs to facilitate reimbursement by FEMA, when applicable. Timesheets will include specific descriptions of tasks performed and results achieved.

## 6. VENDOR PROPOSED SOLUTION

**Incomplete proposals or proposals inconsistent with the recommended format may be disqualified from consideration.**

- 6.1 The vendor shall include a cover letter signed by an authorized individual who commits to the terms and conditions of the company's proposal. **It must be stated in the cover letter that they agree to the terms and conditions.**
- 6.2 The vendor shall include a description of their company and background. Provide a minimum of three references for which the firm has performed services in the past that are similar to the requirements in the Scope of Services. Provide a description of the project, the reference contact name, title, e-mail address, telephone numbers, date of the contract/period of performance, and any prior assessments they've completed of your work. In addition, provide any additional evidence of consistently successful experience on past projects. **References will be contacted.**
- 6.3 The vendor shall include a statement of qualifications to demonstrate their ability to perform to proposal requirements. Also, include the names of any sub-contractors expected to be engaged for this project and their credentials, with the estimated percentage of the project that each sub-contractor will perform before and after acceptance.
- 6.4 The vendor shall provide a full description of the services and processes that will be undertaken to complete the project in the most efficient, timely and comprehensive manner. The description of implementation services should outline

in detail the implementation approach towards and include start-up procedures, process to prepare Project Worksheets and accompanying documentation, project management and quality control procedures an implementation plan and project schedule.

Provide knowledge, experience and technical competence in the planning, administration, and implementation of eligible CDBG activities as identified at 24 CFR 570 and modified or waived under the Federal Register allocation of the CDBG-DR funds Conduct unmet needs assessments that identify type and location of the community's disaster recovery needs especially in the three core aspects of recovery – housing, infrastructure, and the economy.

- 6.5** Vendor must comply with all federal, state, and local laws, ordinances, rules, orders and regulations relating to performance of the contracted work.
- 6.6** The vendor shall provide sample reports that exemplify data produced through their analysis process.
- 6.7** This RFP and the vendor's response will consist of the final contract terms and conditions between vendor and the COUNTY.
  - 6.7.1** The terms and conditions of this RFP will preempt those of other documents unless exceptions are noted herein. Thus, all variances, substitutions, exclusions, exceptions and clarifications to the RFP's requirements and specifications, and terms and conditions, must be listed in this section if they are to be considered as part of the final agreement, regardless if they appear elsewhere in your response. Each shall identify the applicable section/sub-section number(s) it references.

THE COUNTY reserves the right to accept or reject any variances, substitutions, exclusions and exceptions.

## **7. PROPOSAL CONDITIONS**

- 7.1** Submission of a proposal indicates explicit acceptance by the vendor of the conditions contained in this request. The COUNTY reserves the right to reject without prejudice or explanation any or all responses. The COUNTY reserves the right to waive informalities. The COUNTY reserves the right to amend the specifications of this Request for Proposal and request new proposals at any time prior to award of contract. The decision of the COUNTY shall be final.
- 7.2** The vendor shall supply the following:
  - 7.2.1** A single point of contact through proposal acceptance. The COUNTY will communicate solely through this contact regarding all issues through acceptance.
  - 7.2.2** Resumes of key team members assigned to the project. Team members

should represent relevant and diverse knowledge and expertise.

**7.2.3** The vendor's single point of contact after acceptance. The COUNTY will communicate solely through this contact regarding all issues after acceptance.

**7.2.4** These contacts must be willing and able to assume full account responsibility and act as an agent of the vendor.

**7.2.5** Clearly define and detail customer responsibilities before, during and after the assessment, both prior to acceptance, and after acceptance.

**7.3** The vendor shall use the following position descriptions to quote hourly rates:

**7.3.1 Senior Advisor for Disaster Recovery**

Provides technical assistance to the County Manager or designee. This individual should demonstrate an extensive knowledge of the operational and regulatory aspects of FEMA Public Assistance Programs and have a minimum of 5 years' experience as a senior member of a state or federal recovery operation, or equivalent experience commensurate with the ability to perform the necessary duties.

**7.3.2 Technical Assistance Liaison**

Reviews and determines the technical requirements and cost analysis of projects. Reviews and approves project worksheets, gathers and evaluates technical data, reviews construction contracts for compliance with state, federal, and local laws, regulations and policies, provides expert assistance on payment issues regarding permanent work and alternate/improved projects. Individual should have training and education in one or more technical fields of construction, engineering, architecture, environmental assessments, historic preservation, insurance and knowledge of federal regulations pertaining to FEMA Public Assistance Programs. The individual should possess the appropriate professional license.

**7.3.3 Appeals Specialist**

Provides information and technical assistance to the COUNTY prior and throughout the appeals process. Assists the COUNTY in the preparation of any appeals. Individual should be a graduate of an accredited law school and admitted to the bar of any state or District of Columbia for the past five years, have knowledge of state and federal laws, regulations, and policies applicable to the FEMA Public Assistance and Hazard Mitigation Assistance programs, possess analytical skills and experience preparing legal briefs and courtroom presentations.



#### **7.3.4 Debris Specialist**

Serves as the COUNTY's coordinator and primary point of contact with the contracted debris management team. This individual should possess the experience commensurate with the proven ability to perform the above stated duties.

#### **7.3.5 Mitigation Specialist**

Responsible for providing oversight to the COUNTY relative to all FEMA Hazard Mitigation Assistance Programs (HMGP – PDM – FMA – RFC – SRL), Section 404 / 406 mitigation measures, benefit cost analysis, mitigation planning, and floodplain management regulations; Section 106 HP knowledge and experience recommended. Reviews applications for programmatic compliance; reviews mitigation plans for programmatic compliance; assists Disaster Recover Specialists in the performance of their duties, performs QC/QA on applications for funding; assists with the submission of projects into NEMIS; makes recommendations for HMA Program projects; ensures compliance with flood plain management regulations. This individual should demonstrate an extensive knowledge of the operational and regulatory aspects of the FEMA Hazard Mitigation Assistance Programs and have a minimum of 5 years' experience as a senior member of a state or federal recovery operation, or equivalent experience commensurate with ability to perform the necessary duties.

#### **7.3.6 Disaster Recovery Specialist**

Will provide subject-matter expertise in a wide range of duties directly related to the FEMA Public Assistance program. The subject-matter expertise may include but not limited to: debris monitoring, grant administrators, paralegals, GIS Specialist, Cost Estimators.

#### **7.3.7 Project Manager**

Required to perform the following tasks:

1. Serve as the day-to-day principal point of contact for the Contractor and to assure that Contractor personnel are performing within the contract scope of services
2. Execute all task orders signed by the COUNTY representative
3. Ensure that all deliverables are produced, including the following:
  - a. Monthly time sheets for all personnel evidencing the assigned task(s) worked, the time worked on the task(s), and the names of all individuals performing the work (due on the 15th day of the following month); and
  - b. Weekly report evidencing the task(s) worked, percentage of completion

of the task(s), and a report showing the progress and accomplishments since the prior week (due on the Monday following the week for which the report is prepared).

- c. Monthly reports summarizing the activities of the Contractor staff and providing appropriate advice and courses of action in accordance with the Contract and Scope of Services.
- d. Quarterly reports summarizing its activities measured against the goals and objectives of this contract demonstrating the use of strategies and tactics outlined in its proposals to the COUNTY. Such quarterly reports shall be due to the COUNTY not later than December 31, March 31, June 30, and September 30, of each calendar year during the term or extended term of this agreement. The Final Report shall be the report that is due December 31, of each year that the contractor is engaged in contract work with the COUNTY.
- e. Provide oversight of contractors' billing to ensure that they invoice in accordance with their contract, and that all costs eligible for the disaster grant funding are documented and claimed.

### **7.3 TERMS:**

The work shall begin once contract documents have been issued and properly executed and continue for no longer than one (1) year, unless mutually extended by the selected Contractor and the COUNTY.

## **8. RFP COMMUNICATION**

Communication regarding this Request for Proposal shall only be made in email to the Attention of Amanda Bullard, Purchasing Buyer, to e-mail to [abullard@co.cumberland.nc.us](mailto:abullard@co.cumberland.nc.us). Verbal communications will not be binding upon the COUNTY.

## **9. VENDOR CONTACT**

- 9.1** Communication regarding this Request for Proposal via any medium other than the designated e-mail address; including phone, personal visits, etc., is prohibited.
- 9.2** Violation of this provision constitutes grounds for the immediate disqualification of the vendor from consideration in the award of the bid.

## **10. CONSIDERATION OF REJECTION AND WITHDRAWAL OF PROPOSAL**

### **10.1 Correspondence**

After deposit of the proposal with the COUNTY, no proposal may be withdrawn by the vendor for a period of 90 days after the opening of the

proposals. Until that time, the proposal will remain firm and irrevocable or any required bond will be forfeited.

**10.2 A proposal may be rejected if the vendor fails to:**

- Submit their proposal in the format specified.
- Supply the minimum information requested in the RFP.
- Submit all addenda, addenda responses and templates.
- Submit their proposal by the date and time required.
- Submit a cost proposal with unbundled, detailed, itemized pricing.
- Provide truthful and accurate information in its proposal.

**10.3 No Acceptance**

The COUNTY reserves the right to reject any or all proposals, to waive any informalities in proposals, and to accept any proposal deemed most favorable to the COUNTY. The COUNTY specifically reserves the exclusive right to reject any or all proposals and to waive any technical defects in proposals.

**10.4 Competency of Vendor**

The COUNTY shall make such investigation as it deems necessary to determine the ability of the vendor to perform the work, and/or provide the services required by this RFP. Upon request, the proposer shall furnish evidence satisfactory to the COUNTY that it has the necessary facilities, ability, and financial resources to fulfill the specifications and conditions of the contract.

**10.5 Similar Project Experience**

As part of their proposal, vendor shall include a list of at least three (3) references similar in size and scope completed over the past three (3) years. Information provided shall include client name, address, phone number and contact name. Failure to provide this information may result in disqualification of the proposal from consideration.

**11. NORTH CAROLINA FREEDOM OF INFORMATION ACT**

All proposals received by the COUNTY shall be considered public information subject to lawful disclosure under the North Carolina Freedom of Information Act. Any proposal material deemed by the vendor to constitute either proprietary or trade secret material shall be designated as such, and each sheet or section of a sheet containing such material shall be so marked by the vendor. In addition, it shall be the sole responsibility of the vendor to demonstrate to a court of competent jurisdiction that their designation is proper. The COUNTY shall not make public any material determined by the court to be proprietary or trade secret. Vendor hereby agrees to indemnify and hold The COUNTY free and harmless from any claims, suits, damages, penalties or expenses arising out of

vendor's proprietary or trade secret designation.

## **12. ERRORS**

When an error is made in extending prices, the correct extension of the unit price times the quantity will govern. Carelessness in quoting prices, or in preparation of the proposal otherwise, will not relieve the vendor. Erasures in proposals must be explained over signature of the vendor.

## **13. WORK/CHANGE ORDERS**

After project award, work will be authorized by either the COUNTY purchase order or formal contract, whichever is deemed to be in the best interest of the COUNTY. Change orders are required for any changes in scope to the project that add, delete or modify any billable component(s). Each work/change order will contain the date of issue and a unique number used for identification and cross-reference purpose on invoices.

## **14. PROJECT PLAN**

The COUNTY requires that each bidder prepare a detailed plan outlining the primary tasks, estimated hours, responsibility, major deliverables, timing and anticipated start date. At a minimum, the RFP response will cover the following areas:

- FEMA Program Assistance approach.
- Methods to be used to gather and document detailed departmental information on business functions in order comply with FEMA processes and regulations.
- Strategies planned in order to implement FEMA Program Assistance.
- Detail related to the format of all documentation to be presented (i.e. Microsoft Visio, Excel, Word, etc.).

## **15. PROJECT MANAGEMENT**

The vendor must provide a full description of the services and processes that will be performed during the program management process in the most efficient, timely and comprehensive manner.

The vendor shall assign a single Project Manager dedicated and available for the entire duration of the project, who will be co-located with County Finance staff, located at 117 Dick Street, Fayetteville, NC, 4<sup>th</sup> Floor. The Project Manager may only be replaced upon approval by, or at the request of the COUNTY.

At a minimum, the vendor's Project Manager shall be responsible for oversight and management of the Primary Tasks outlined in Section 1 of this RFP.

## **16. PROJECT DELIVERABLES**

1. Action Plan, including project phases, major tasks, responsibilities to be undertaken by the COUNTY/Vendor, and milestone objectives.

2. Weekly or bi-weekly project conference calls to be held throughout the project, with meeting agendas and minutes provided by the vendor.
3. Ongoing action item list maintained by the vendor.
4. The vendor will provide a template and procedure for formal reporting of issues by the customer.
5. Final Report that summarizes the engagement within the outlined within section 7.3.7 (d).

**17. E-VERIFY**

Vendor hereby acknowledges that "E-Verify" is the federal E-Verify program operated by the US Department of Homeland Security and other federal agencies which is used to verify the work authorization of newly hired employees pursuant to federal law and in accordance with Article 2, Chapter 64 of the North Carolina General Statutes. Vendor further acknowledges that all employers, as defined by Article 2, Chapter 64 of the North Carolina General Statutes, must use E-Verify and after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS §64-26(a).

Vendor hereby pledges, attests and warrants through execution of this Agreement that Vendor complies with the requirements of Article 2, Chapter 64 of the North Carolina General Statutes and further pledges, attests and warrants that any subcontractors currently employed by or subsequently hired by Vendor shall comply with any and all E-Verify requirements. Failure to comply with the above requirements shall be considered a breach of this Agreement.

**18. IRAN DIVESTMENT ACT**

As mandated by N.C.G.S. 147-86.59(a), Vendor hereby certifies that it is not listed on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58. Vendor further certifies that in accordance with N.C.G.S. 146-86.58(b) that it shall not utilize any subcontractor found on the State Treasurer's Final Divestment List. Vendor certifies that the signatory to this Proposal is authorized by the Vendor to make the foregoing statement.

**19. UTILIZATION OF SMALL BUSINESS CONCERNS**

- 1) Definitions. As used in this contract –
  - a) HUBZone small business concern means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.
  - b) Service-disabled veteran-owned small business concern –
    - i) Means a small business concern -
      - (1) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-

- disabled veterans; and
  - (2) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.
  - ii) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16). Small business concern means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. Small disadvantaged business concern, consistent with 13 CFR 124.1002, means a small business concern under the size standard applicable to the acquisition, that –
  - iii) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by –
    - (1) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States; and
    - (2) Each individual claiming economic disadvantage has a net worth not exceeding \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and
  - iv) The management and daily business operations of which are controlled (as defined at 13.CFR 124.106) by individuals, who meet the criteria in paragraphs (1) (i) and (ii) of this definition.
  - c) Veteran-owned small business concern means a small business concern –
    - i) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
    - ii) The management and daily business operations of which are controlled by one or more veterans.
  - d) Women-owned small business concern means a small business concern –
    - i) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
    - ii) Whose management and daily business operations are controlled by one or more women.
- 2) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.
- 3) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor

further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

- 4) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a small disadvantaged business concern, or a women-owned small business concern.
- 5) The Contractor shall confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern by accessing the System for Award Management database or by contacting the SBA. Options for contacting the SBA include –
  - a) HUBZone small business database search application Web page at [http://dsbs.sba.gov/dsbs/search/dsp\\_searchhubzone.cfm](http://dsbs.sba.gov/dsbs/search/dsp_searchhubzone.cfm); or <http://www.sba.gov/hubzone>;
  - b) In writing to the Director/HUB, U.S. Small Business Administration, 409 3rd Street, SW., Washington DC 20416; or
  - c) The SBA HUBZone Help Desk at [hubzone@sba.gov](mailto:hubzone@sba.gov).

## 20. ADDITIONAL TERMS AND CONDITIONS

### **DISCLAIMER OF FEDERAL GOVERNMENT OBLIGATIONS OR LIABILITY**

The Contractor, and any subcontractors acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Contractor, or any other party (whether or not a party to this Contract) pertaining to any matter resulting from this Contract. It is further agreed that the clause shall be included in each subcontract and shall not be modified, except to identify the subcontractor who will be subject to its provision.

### **PROTEST PROCEDURES**

Protests related to this procurement must be addressed to the Cumberland County Purchasing Department, 117 Dick Street, Fayetteville, NC 28301 and shall be received, in writing, within 5 calendar days of bid award. Responses will be supplied not later than (7) calendar days following receipt of said protest. A protester must exhaust all administrative remedies before pursuing a protest with the Federal grantor agency. Reviews of protests by the Federal grantor agency are limited to:

- (1) Violations of federal law or regulations and the standard of this section (violations of state or local law will be under the jurisdiction of state and local authorities) AND
- (2) Violations of the grantee's protest procedures for failure to review a complaint or protest. Protests received by the Federal grantor agency other than those specified above will be referred to the grantee.

## **ACCESS TO RECORDS AND REPORTS**

49 U.S.C. 5325  
18 CFR 18.36 (i)  
49 CFR 633.17

The following access to records requirements apply to this Contract:

Where the Purchaser is not a State but a local government and is the Federal Recipient or a subgrantee of the Federal Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the Federal grantor agency, 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. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the Federal grantor agency or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

Where any Purchaser which is the Federal grant recipient or a subgrantee of the Federal grant recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Federal grantor agency and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

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.

The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the Federal grantor agency, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

## **FEDERAL CHANGES**

49 CFR Part 18

Contractor shall at all times comply with all applicable Federal regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the COUNTY and the Federal grantor agency, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.



### **NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

### **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**

31 U.S.C. 3801 et seq.  
49 CFR Part 31 18 U.S.C. 1001  
49 U.S.C. 5307

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the Federal assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n) (1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

## **CIVIL RIGHTS**

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements the Federal grantor agency may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. 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. In addition, the Contractor agrees to comply with any implementing requirements the Federal grantor agency may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements the Federal grantor agency may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity COUNTY, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements the Federal grantor agency may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance, modified only if necessary to identify the affected parties.

**ENERGY CONSERVATION REQUIREMENTS**

**42 U.S.C. 6321 et seq.**

**49 CFR Part 18**

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

**COMPLIANCE WITH FEDERALLY REQUIRED CLAUSES  
AND  
REQUIREMENTS**

Contractor (bidder) is responsible for ensuring its compliance with all applicable Federal requirements. Additionally, Contractor is responsible for ensuring that subcontractors, at as many tiers of the Project as required, perform in accordance with the terms, conditions and specifications of the contract, including all applicable Federal requirements. Upon request of the City of Fayetteville or the Federal government, Contractor shall provide evidence of the steps it has taken to ensure its compliance with the Federal requirements, as well as evidence of the steps it has taken to ensure subcontractor performance, and/or submit evidence of subcontractor's compliance, at all tiers.

**AMERICANS WITH DISABILITIES ACT (ADA)**

Americans with Disabilities Act (ADA). The Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC § 12101 et seq.; section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; 49 USC § 5301(d); and any implementing requirements the Federal Government. These regulations provide that no handicapped individual, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity included in or resulting from this Agreement.

**PRIVACY ACT  
**5 U.S.C. 552****

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance.

### **CIVIL RIGHTS REQUIREMENTS**

29 U.S.C. § 623, 42 U.S.C. § 2000  
42 U.S.C. § 6102, 42 U.S.C. § 12112  
42 U.S.C. § 12132, 49 U.S.C. § 5332  
29 CFR Part 1630, 41 CFR Parts 60 et seq.

The Recipient agrees to comply with all applicable civil rights laws and implementing regulations including, but not limited to, the following:

a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to comply, and assures the compliance of each third party contractor at any tier and each subrecipient at any tier of the Project, with the provisions of 49 U.S.C. § 5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.

b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to comply, and assures the compliance of each third party contractor at any tier and each subrecipient at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d *et seq.*, and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21. Except to the extent FEMA determines otherwise in writing, the Recipient also agrees to comply with any applicable implementing Federal directives that may be issued.

c. Equal Employment Opportunity. The Recipient agrees to comply, and assures the compliance of each third party contractor at any tier of the Project and each subrecipient at any tier of the Project, with all equal employment opportunity (EEO) provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and implementing Federal regulations and any subsequent amendments thereto. Except to the extent FEMA determines otherwise in writing, the Recipient also agrees to comply with any applicable Federal EEO directives that may be issued. Accordingly:

(1) General. The Recipient agrees as follows:

(a) The Recipient agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age, or national origin. The Recipient agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, sex, disability, age, or national origin. Such action shall include, but not be limited

to, 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.

(b) If the Recipient is required to submit and obtain Federal Government approval of its EEO program, that EEO program approved by the Federal Government is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. Failure by the Recipient to carry out the terms of that EEO program shall be treated as a violation of the Grant Agreement or Cooperative Agreement. Upon notification to the Recipient of its failure to carry out the approved EEO program, the Federal Government may impose such remedies as it considers appropriate, including termination of Federal assistance in accordance with Section 11 of this Master Agreement, or other measures that may affect the Recipient's eligibility to obtain future Federal assistance for transportation Projects.

(2) Equal Employment Opportunity Requirements for Construction Activities. For activities determined by the U.S. Department of Labor (U.S. DOL) to qualify as "construction," the Recipient agrees to comply and assures the compliance of each third party contractor at any tier or subrecipient at any tier of the Project, with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.*, which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000(e) note, and also with any Federal laws, regulations, and directives affecting construction undertaken as part of the Project.

(3) Disadvantaged Business Enterprise. To the extent authorized by Federal law, the Recipient agrees to facilitate participation by DBEs in the Project and assures that each third party contractor at any tier of the Project and each subrecipient at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable. Therefore:

c. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and with implementing Federal regulations that prohibit discrimination on the basis of sex that may be applicable.

d. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and with implementing regulations, which prohibit employment and other discrimination against individuals on the basis of age.

e. Access for Individuals with Disabilities. The Recipient agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public

transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Recipient also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities. In addition, the Recipient agrees to comply with applicable Federal regulations and directives and any subsequent amendments thereto, except to the extent the Federal Government determines otherwise in writing, as follows:

- (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
- (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
- (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
- (6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- (7) U.S. Equal Employment Opportunity COUNTY , "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications COUNTY regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and
- (9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;
- (10) FEMA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and

(11) Federal civil rights and nondiscrimination directives implementing the foregoing regulations.

f. Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections. To the extent applicable, the Recipient agrees to comply with the confidentiality and other civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1174 *et seq.*, with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4581 *et seq.*, and with the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd-3 and 290ee-3, and any subsequent amendments to these acts.

g. Access to Services for Persons with Limited English Proficiency. To the extent applicable and except to the extent that FEMA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 66 *Fed. Reg.* 6733 *et seq.*, January 22, 2001.

h. Environmental Justice. The Recipient agrees to comply with the policies of Executive Order No.12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Federal Government determines otherwise in writing.

i. Other Nondiscrimination Laws. The Recipient agrees to comply with all applicable provisions of other Federal laws, regulations, and directives pertaining to and prohibiting discrimination that are applicable, except to the extent the Federal Government determines otherwise in writing.

## **LOBBYING**

Clause and specific language therein are mandated by 49 CFR Part 19, Appendix

Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*]

Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A.

Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995.

Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

**Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.]** - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." 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 the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

#### **CLEAN AIR**

(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. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FEMA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.

#### **CLEAN WATER**

(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. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FEMA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.



## **RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION**

**Disputes** - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the COUNTY 's Director of Legal, Risk, and Procurement Services. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the COUNTY 's Director of Legal, Risk, and Procurement Services. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the COUNTY's Director of Legal, Risk, and Procurement Services shall be binding upon the Contractor and the Contractor shall abide by the decision.

**Performance During Dispute** - Unless otherwise directed by the COUNTY, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

**Claims for Damages** - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

**Remedies** - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the COUNTY and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the COUNTY is located.

**Rights and Remedies** - 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. No action or failure to act by the COUNTY, (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

## CONTRACTOR ASSURANCE

The Contractor, by submitting a proposal, shall adhere to all the applicable Federal provisions listed above. Failure to comply with Federal provisions shall be considered a breach of contract.

### CONTRACT WORK HOURS AND SAFETY STANDARDS

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 for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3. **Withholding for unpaid wages and liquidated damages** - The (write in the name of the grantee) 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.

### **DEBARMENT AND SUSPENSION**

The Contractor, by submitting a proposal, certifies that to the best of its knowledge that they are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department agency; have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for the commission of fraud or a criminal offense in connection with obtaining attempting to obtain, or performing a public transaction or contract under public transaction; violation of Federal or State antitrust statutes or the commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; are not presently indicted for or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses enumerated in the above statements of this section; have not within a three-year period preceding this application/proposal had one or more public transactions terminated for default.

### **DRUG-FREE WORK PLACE**

The Contractor, by submitting a proposal, shall adhere Federal Drug Free Workplace requirements as outlined in 2 C.F.R. 182.

Contractor shall make good faith efforts to maintain a drug-free workplace, publish workplace statement and establish drug-free awareness programs for employees. Contractor should take action concerning who are convicted of violating drug statutes in the work place. Contractor shall contact the COUNTY if Contractor cannot adhere to the requirements of the Federal Regulations noted above. Failure to comply provisions shall be considered a breach of contract.

## FORM OF EXCEPTIONS

Bidder shall identify each exception or deviation from the specifications. The omission of exceptions implies complete compliance with the Bid Documents and Specifications.

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**BID PROPOSAL**

**FEMA PROGRAM ASSISTANCE CONSULTING  
PER THE COUNTY SPECIFICATIONS**

Note to Proposers: All costs proposed are to be inclusive of labor, materials, equipment, incidentals, etc. necessary to provide the scope of services outlined in this RFP for the below listed hourly rates. Rates proposed are also to include all expenses, including general overhead, equipment, field overhead, profit, travel per diem, all necessary food, water, restroom and lodging facilities needed to provide these services.

<b>Position Descriptions</b>	<b>Hourly Rate<sup>1</sup></b>
<b><u>Senior Advisor for Disaster Recovery</u></b>	<b>\$ _____</b>
<b><u>Technical Assistance Liaison</u></b>	<b>\$ _____</b>
<b><u>Appeals Specialist</u></b>	<b>\$ _____</b>
<b><u>Debris Specialist</u></b>	<b>\$ _____</b>
<b><u>Mitigation Specialist</u></b>	<b>\$ _____</b>
<b><u>Disaster Recovery Specialist</u></b>	<b>\$ _____</b>
<b><u>Project Manager</u></b>	<b>\$ _____</b>
_____	<b>\$ _____</b>
_____	<b>\$ _____</b>
_____	<b>\$ _____</b>
_____	<b>\$ _____</b>
_____	<b>\$ _____</b>
_____	<b>\$ _____</b>

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<sup>1</sup> Hourly rates listed in response to the above rate table may be decreased through negotiation in any contract entered into as a result of this RFP, including the original contract and renewals, but cannot be increased.

**BIDDER INFORMATION**

**Name of Company** \_\_\_\_\_

**Address** \_\_\_\_\_

\_\_\_\_\_

**Phone No.** \_\_\_\_\_ **Fax No.** \_\_\_\_\_

**E-Mail Address** \_\_\_\_\_

**Federal I.D. No.** \_\_\_\_\_

**SDBE, Minority or Woman Owned Business Enterprise** \_\_\_\_\_ **Yes** \_\_\_\_\_ **No**

**Bid Submitted By:** \_\_\_\_\_

(Name Printed Out)

\_\_\_\_\_

(Signature)

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_