

STATE OF CALIFORNIA – DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 03/2019)

AGREEMENT NUMBER M13708-T15297	PURCHASING AUTHORITY NUMBER (if applicable)
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1. This Agreement is entered into between the contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

Department of General Services

CONTRACTOR NAME

McGrath's Catering

2. The term of this Agreement is:

START DATE

April 29, 2020

THROUGH END DATE

October 29, 2020

3. The maximum amount of this Agreement is:

\$1,356,678.00 - One Million Three Hundred and Fifty-Six Thousand Six Hundred and Seventy-Eight Dollars

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

EXHIBITS	TITLE	PAGE(S)
Exhibit A	Scope of Work	2
Exhibit B	Budget Detail and Payment Provisions	2
Exhibit B, Attachment 1	Cost Sheet	1
Exhibit C*	General Terms and Conditions	GTC 04/2017
Exhibit D	Special Terms and Conditions	3
Exhibit E	FEMA Provisions	6
Exhibit F	GC 19134 Minimum Wage and Benefits	2

Items shown with an asterisk (), are hereby incorporated by reference and made part of this agreement as if attached hereto.*

These documents can be viewed at: <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHERE OF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

McGrath's Catering

CONTRACTOR BUSINESS ADDRESS	CITY	STATE	ZIP
4092 10th St.	Riverside	CA	92501

PRINTED NAME OF PERSON SIGNING	TITLE
<i>Mark M. Grath</i>	President

CONTRACTOR AUTHORIZED SIGNATURE	DATE SIGNED
<i>Mark M. Grath</i>	4-25-20

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PURCHASING AUTHORITY NUMBER (if applicable)

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of General Services

CONTRACTING AGENCY ADDRESS

707 3rd St

CITY

West Sacramento

STATE

CA

ZIP

95605

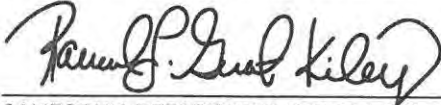
PRINTED NAME OF PERSON SIGNING

Rachel L. Grant Kiley

TITLE

OBAS Chief

CONTRACTING AGENCY AUTHORIZED SIGNATURE



DATE SIGNED

04/27/2020

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION, IF APPLICABLE

Proclamation of a State of Emergency /
GC 8625

DEPARTMENT OF GENERAL SERVICES
PROCUREMENT DIVISION

APPROVED

BY

DATE


4/27/2020

EXHIBIT A

SCOPE OF WORK

McGrath's Catering, herein called (Contractor) is entering into this agreement with the California Department of General Services hereinafter referred to as "State" to provide meal services on behalf of the State as described herein.

1. PURPOSE

DGS in partner with the Governor's Office of Emergency Services (CalOES) is seeking a Contractor that can provide meal services to support the Riverside #2 Federal Medical Station (FMS).

2. RESPONSIBILITIES & REQUIREMENTS

- A. Requirements for services provided include, but are not limited to, the following:
- Contractor shall ensure all updated CDC or County guidance as implemented as appropriate
 - Contractor shall comply with all Cal/OSHA and Federal OSHA requirements specific to worker safety
 - Contractor shall supply meal preparation, delivery and pickup service to support the Riverside # 2 Federal Medical Station
 - Services shall include hot breakfast with coffee/tea, juice and bottled water, bagged lunch and bottled water, which shall also be made available for night crew, and hot dinner with coffee/tea and juice
 - Contractor shall provide all disposable paperware and cutlery
 - This agreement assumes daily meal services for 200 people; actual needs may vary; contractor shall coordinate with Riverside # 2 FMS regarding frequency of service and number of meals
 - Riverside # 2 FMS shall notify contractor 24-48 hours in advance regarding which date meal services will commence
 - Riverside # 2 FMS shall notify contractor 48 hours in advance regarding how many people require meal services for the subsequent day(s)
 - Contractor shall take measures to ensure breakfast and dinner are hot at time of delivery
- B. Services shall be provided at the COVID-19 positive Federal Medical Station located at: 5261 Arlington Ave., Riverside, CA 92504

3. PROJECT REPRESENTATIVES DURING THE TERM OF THIS AGREEMENT

Representatives		
Agency Contractor:	Department of General Services	ServiceMaster Restoration Services (Contractor)
Name:	Jack LaFrancesca	McGrath's Catering
12629 Satio	707 3rd Street, 2nd Floor	4092 10 th St
City, State, Zip:	West Sacramento, CA 95605	Riverside, CA 92501
Phone Number:	(916) 636-3607	(951) 683-7063
E-mail Address:	Jack.LaFrancesca@dgs.ca.gov	mcgrathscatering@sbcglobal.net

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. INVOICING AND PAYMENT

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor in accordance with the rates/costs specified herein.
- B. Invoices must include:
- 1) Contract Number, Purchase Order Number, Mission/Task Numbers
 - 2) Invoice Number
 - 3) Date of Invoice
 - 4) Billing and/or performance period covered by invoice (Dates of Service)
 - 5) Location of Service
 - 6) Applicable rate and total contract dollar amount
 - 7) Invoice total
 - 8) Remittal Address
 - 9) Contact phone number for invoice questions
 - 10) Contractor's California Certified Small Business Certification Reference Number or Disabled Veteran Business Enterprise Reference Number, if applicable
- C. Contractor shall submit invoices related to Contractor's services electronically via email to: OBASHelpline@dgs.ca.gov. Should an invoice be disputed, Contractor will correct any/all disputed items on the invoice and resubmit the invoice as indicated above. Failure to provide and resubmit corrected invoice will result in a delay of payment. Under no circumstances will a credit memo be accepted in lieu of a corrected invoice.
- D. If Contractor has agreed to be paid by CAL-Card, Contractor will provide OBAS a copy of the itemized transaction receipt showing payment was processed and the balance due is zero dollars (A hand-written "paid by Visa" will not be accepted). The itemized transaction receipt must reflect the invoice number, the contract number and the CAL-Card verification number charged. The itemized transaction receipt must be provided immediately to the CAL-Card holder after payment transaction is processed.

2. BUDGET CONTINGENCY CLAUSE

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to the Contractor or to furnish any other considerations under this Agreement and the Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability

occurring to the State, or offer an Agreement Amendment to the Contractor to reflect the reduced amount.

3. PROMPT PAYMENT CLAUSE

- A. Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with section 927.

4. TIMELY SUBMISSION OF FINAL INVOICE

- A. A final undisputed invoice that is clearly marked "Final Invoice" shall be submitted for payment no more than thirty (30) calendar days following the expiration or termination date of this Agreement.
- B. If the State disputes the Final Invoice or any item in the Final Invoice, the State shall provide written notice to the Contractor describing the reason or reasons the State disputes the Final Invoice, and the Contractor shall be required to submit a corrected Final Invoice to the State no later than ten (10) calendar days after the date the Contractor received the State's written notice.
- C. If the Contractor fails to submit a corrected Final Invoice within the time required, or if the Contractor's corrected Final Invoice fails to correct the disputed item, the State shall have the right to elect to deny payment of the disputed item and pay only the undisputed amounts under the Final Invoice.
- D. The State may, at its discretion, choose not to honor any final invoice submitted after the deadline specified in Exhibit B, Budget Detail and Payment Provisions Section 5.A above if the Contractor fails to obtain prior written State approval of an alternate Final Invoice submission deadline.

5. CONTRACTOR OVERPAYMENTS

- A. If the State determines that an overpayment has been made to the Contractor, the State will seek recovery immediately upon discovery of the overpayment by: (a) calling the Contractor's accounting office to request a refund of the overpayment amount, or (b) offsetting subsequent Contractor payments by the amount of the overpayment if Contractor repayment or credit is not received within thirty (30) days from the date of notice.
- C. If Contractor discovers it has received an overpayment, Contractor must notify the State and refund the overpayment immediately.

EXHIBIT B, ATTACHMENT 1

COST SHEET

Table 1 - Daily Meal Preparation and Delivery

Description	A Daily Unit Price for 200 people	B Daily Quantity for 200 people	C Daily Total Cost
Breakfast	\$10.95	1	\$2,190.00
Bottled Water	\$0.75	2	\$300.00
Bag Lunch	\$9.95	1	\$1,990.00
Dinner	\$11.50	1	\$2,300
Disposable paperware & cutlery	<i>Included</i>	3	<i>Included</i>
Delivery, setup & pickup	<i>Included</i>	3	<i>Included</i>
Subtotal			\$6,780.00
Sales tax (8.75%)			\$593.25
Daily total for meal preparation and delivery			\$7,373.25
Contract total (daily total x 184 days)			\$1,356,678.00

EXHIBIT C

GENERAL TERMS AND CONDITIONS

PLEASE NOTE: This page will not be included with the final contract. The General Terms and Conditions will be included in the contract by reference to Internet site:

[http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx/GTC 04/2017](http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx/GTC%2004/2017)

If Contractor/bidder does not have Internet access, a hard copy will be provided by contacting the Acquisitions Analyst listed on the Notice to Prospective Bidders.

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EXHIBIT D

SPECIAL TERMS AND CONDITIONS

1. STANDARD CONDITIONS OF SERVICE

- A. Contractor will abide by all Local, State and Federal laws in performance of this contract.
- B. The Contractor shall maintain all license(s) required by law for accomplishing any work required with this agreement. In the event any license(s) expire at any time during the term of this agreement, Contractor agrees to provide to the State a copy of the renewed license(s) within thirty (30) days following the expiration date. In the event the Contractor fails to keep in effect at all times all required license(s), the State may, in addition to any other remedies it may have, terminate this agreement upon occurrence of such event.
- C. The Contractor certifies that it has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.
- D. If signing this contract as a sole proprietor, Contractor certifies that it is not an alien that is ineligible for state and local benefits, as defined in Subtitle B of the Personal Responsibility and Work Opportunity Act (8 U.S.C. § 1601 et seq.).
- E. Pursuant to Public Contract Code section 10295.4, persons or companies identified as the largest tax delinquents by the Franchise Tax Board (FTB) or the California Department of Tax and Fee Administration (CDTFA) are ineligible to enter into any contract with the state for non-IT goods or services. Any contract entered into in violation of section 10295.4 is void and unenforceable.
- F. In performance of this contract, Contractor must be aware and adhere to Public Resources Code § 42649.81 concerning organic waste recycling requirements, if applicable.

- 2. EXCISE TAX:** The State of California is exempt from Federal Excise Taxes, and no payment will be made for any taxes levied on employees' wages.

3. RIGHT TO TERMINATE

- A. The State reserves the right to cancel all or a portion of the service for any reason, subject to fifteen (15) days written notice to the Contractor.
- B. This agreement can be immediately terminated for cause. The term "for cause" means that the Contractor fails to meet the terms, conditions, and/or responsibilities of the contract. In this instance, the contract termination shall be effective as of the date indicated on the State's notification to the Contractor.

4. RESOLUTION OF CONTRACT DISPUTES

- A. In the event of a dispute, Contractor will attempt resolution with the State's Contract Administrator with a written explanation of the situation. If no resolution is found, Contractor shall file a "Notice of Dispute" with the Department of General Services within ten (10) days of the failed resolution at the following address:

Department of General Services, Procurement Division
Attn: Procurement Division Chief
707 3rd Street, 2nd Floor
West Sacramento, CA 95605

- B. Procurement Division (PD) Chief or designee shall meet with the Contractor for purposes of resolving the dispute. The decision of the PD Chief or the designee shall be final. In the event of a dispute, the language contained within this agreement and its attendant Exhibits shall prevail over any other language.
- C. Neither the pendency of a dispute nor its consideration by the PD Chief will excuse the Contractor from full and timely performance in accordance with the terms of the Agreement.

5. SUBCONTRACTORS

- A. Nothing contained in this Agreement or otherwise, shall create any contractual relationship between PD and any subcontractors, and no subcontract shall relieve the Contractor of its responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to PD for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from PD's obligation to make payments to the Contractor. As a result, PD shall have no obligation to pay or to enforce the payment of any monies to any subcontractor.

6. INSURANCE REQUIREMENT

- A. General Provisions Applying to All Policies
 - 1) Coverage Term – Coverage needs to be in force for the complete term of the contract. If insurance expires during the term of the contract, a new certificate must be received by the State at least thirty (30) days prior to the expiration of this insurance. Any new insurance must still comply to the original terms of the contract.
 - 2) Policy Cancellation or Termination & Notice of Non-Renewal – Contractor is responsible to notify the State within 5 business days of any cancellation, non-renewal or material change that affects required insurance coverage. In the event Contractor fails to keep in effect at all times the specified insurance coverage, the State may, in addition to any other remedies it may have, terminate this Contract upon the occurrence of such event, subject to the provisions of this Contract.
 - 3) Deductible – Contractor is responsible for any deductible or self-insured retention contained within their insurance program.
 - 4) Primary Clause – Any required insurance contained in this contract shall be primary, and not excess or contributory, to any other insurance carried by the State.
 - 5) Insurance Carrier Required Rating – All insurance companies must carry a rating acceptable to the Office of Risk and Insurance Management. If the Contractor is self-insured for a portion or all of its insurance, review of financial information including a letter of credit may be required.
 - 6) Endorsements – Any required endorsements requested by the State must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.
 - 7) Inadequate Insurance – Inadequate or lack of insurance does not negate the contractor's obligations under the contract.
- B. Commercial General Liability – Contractor and any subcontractors shall maintain general liability on an occurrence form with limits not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general

aggregate limits shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. If the aggregate applies "per project/location" it shall so state on the certificate. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal & advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Contractor's limit of liability. **The policy must be endorsed to include the State of California, its officers, agents and employees as additional insured, but only with respect to work performed under the contract. The additional insured endorsement shall be provided with the certificate of insurance.**

- C. Automobile Liability – Contractor shall maintain motor vehicle liability with limits not less than \$1,000,000 combined single limit per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles. **The policy must be endorsed to include the State of California, its officers, agents and employees as additional insured, but only with respect to work performed under the contract. The additional insured endorsement shall be provided with the certificate of insurance.**
- D. Workers Compensation and Employers Liability – Contractor shall maintain statutory worker's compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Contract. Employer's liability limits of \$1,000,000 are required. **The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the State.**
- E. Certificate of Insurance - The Contractor shall furnish a Certificate of Insurance. The Certificate of Insurance will provide the above listed liability coverages and the Certificate Holder shall read:

Department of General Services
Office of Business and Acquisition Services
707 Third Street, Suite 2-300, MS 508
West Sacramento, CA 95605

- 7. **AGENCY LIABILITY: (Only for contracts that use federal funds)** The Contractor warrants by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Agreement without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.
- 8. **NEWS RELEASES:** News releases pertaining to award of or work performed as a result of contract may not be made without prior written approval of:

The Public Information Officer
707 Third Street, MS 101
West Sacramento, CA 95605
Phone: (916) 376-5037
Email: DGSPublicAffairs@dgs.ca.gov

EXHIBIT E

FEMA PROVISIONS

1. REMEDIES

The rights and remedies set forth in this agreement are in addition to, and not in limitation of, any and all other rights and remedies at law or in equity, and exercise of one right or remedy will not be deemed a waiver of any other right or remedy.

2. EQUAL EMPLOYMENT OPPORTUNITY

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

- A. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:
Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. 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.
- C. 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.
- D. 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.
- E. 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.
- F. 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.

- G. 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.
- H. 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:
- 1) 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.
 - 2) 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.
 - 3) 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.
 - 4) 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 refused 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.

3. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Compliance with the Contract Work Hours and Safety Standards Act.

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

4. CLEAN AIR ACT

- A. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq.
- B. The contractor agrees to report each violation to the California Air Resources Board and understands and agrees that the California Air Resources Board will, in turn, report each violation as required to assure notification to the Department of Resources Recycling and Recovery, the California Governor's Office of Emergency Services, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

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

5. THE FEDERAL WATER POLLUTION CONTROL ACT

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

6. DEBARMENT AND SUSPENSION CLAUSE

- A. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- B. 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 into.
- C. This certification is a material representation of fact relied upon by the State. 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 State, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- D. 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.

7. BYRD ANTI-LOBBYING CLAUSE

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

APPENDIX A, 44 C.F.R. PART 18- CERTIFICATION REGARDING LOBBYING

The Contractor certifies, to the best of his or her knowledge, that:

- E. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal

contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- F. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- G. The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

8. **PROCUREMENT OF RECOVERED MATERIALS**

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

8. **ACCESS TO RECORDS**

The following access to records requirements apply to this contract:

- A. The Contractor agrees to provide the State, the FEMA Administrator, the Controller 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.
- B. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever of to copy excerpts and transcriptions as reasonably needed.

- C. The contractor agrees to provide the FEMA Administrator or his authorized representative access to construction or other work sites pertaining to the work being completed under the contract.
- D. In compliance with the Disaster Recovery Act of 2018, the State 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.

9. 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.

10. 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 only. The contractor will comply with all federal law, regulations, executive orders, FEMA policies, procedures, and directives.

11. 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.

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

The contractor acknowledges the 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's action pertaining to this contract.