



**AGREEMENT
FOR
CDBG-DR IMPLEMENTATION OF CONSTRUCTION
SERVICES**

Between

THE COUNTY OF VOLUSIA

AND

LEMOINE DISASTER RECOVERY, LLC

County of Volusia
Purchasing & Contracts Division
123 West Indiana Avenue, Suite 302
DeLand, Florida 32720-4608
386-736-5935

AGREEMENT FOR CDBG-DR IMPLEMENTATION OF CONSTRUCTION SERVICES

This Agreement for CDBG-DR Implementation of Construction Services (hereinafter "Agreement") is made and entered by and between Lemoine Disaster Recovery, LLC, which is duly authorized to conduct business in the State of Florida, and whose principal place of business is located at 1906 Eraste Landry Suite 200, Lafayette, Louisiana, 70506 ("Contractor") and COUNTY OF VOLUSIA, a body corporate and politic and a subdivision of the State of Florida, whose address is County of Volusia, 123 West Indiana Avenue, DeLand, Florida 32720 ("County").

RECITALS:

WHEREAS, the County desires to retain the services of a competent and qualified Contractor to provide CDBG-DR Implementation of Construction Services; and

WHEREAS, the County issued Request for Proposals 23-P-196KW (the "RFP") seeking a qualified firm to perform CDBG-DR Implementation of Construction Services, and has received responses from various potential vendors; and

WHEREAS, the County has determined that Contractor is fully qualified to render the required service; and

WHEREAS, in reliance on Contractor's response to the RFP, the County determined that the execution of this Agreement is beneficial to the people of County of Volusia, Florida.

NOW, THEREFORE, in consideration of the foregoing recitals which are incorporated herein by reference, and other specific consideration set forth in this Agreement, the receipt and sufficiency of which is acknowledged by Contractor and County, the parties agree and stipulate as follows:

1 DEFINITIONS

For this Agreement and any incorporated exhibits, certain terms, phrases, words and their respective derivations shall have the meaning set forth and defined therein and shall be applicable in both. Definition of terms in the Agreement shall first be governed by this Agreement, second by the incorporated Scope of Services (Exhibit A), and third by the incorporated Fee Schedule (Exhibit B). In the event of any conflict among the foregoing, the conflict shall be resolved in the order of priority set forth in the preceding sentence. If there is no applicable definition as described above, the terms, phrases, and words, and their respective derivations when used in this Agreement and the Scope of Services, shall have the meanings ascribed to them in the following order of precedence: first, in the most current edition of Black's Law Dictionary and last, in the most current edition of the Merriam-Webster Collegiate Dictionary, if a term is not defined in the Agreement or Black's Law Dictionary.

- 1.1. **Agreement:** The document resulting from this solicitation between the County and the awarded Respondent, including this RFP, and the awarded Respondent's response along with any written addenda and other written documents, which are expressly incorporated by reference. Used interchangeably with Contract.
- 1.2. **Construction Services:** Means all labor, services, and materials provided in connection with the construction, alteration, repair, demolition, reconstruction, or any other improvements to real property.

- 1.3. **Consultant:** The person with education and/or experience which uniquely qualifies him or her to perform a specialized service for the County.
- 1.4. **Consultant's Services:** Those services within the scope of work of this solicitation that are in an advisory nature to support policy development, decision-making, administration, or management of the government; normally provided by persons and/or organizations considered to have prerequisite knowledge or special abilities not generally available in the government.
- 1.5. **Contract:** The document resulting from this solicitation between the County and the awarded Respondent, including this RFP, and the awarded Respondent's response along with any written addenda and other written documents, which are expressly incorporated by reference. Used interchangeably with Agreement.
- 1.6. **Contractor:** That person or entity, including employees, servants, partners, principals, agents and assignees of the person or entity that has submitted a Bid or proposal for the purpose of obtaining business with the County to provide the product and/or services set forth herein.
- 1.7. **Contract Administrator:** The Director of Purchasing and Contracts or designee shall serve as Contract Administrator. The Contract Administrator shall be responsible for addressing any concerns within the scope of the Contract. Any changes to the resulting Contract shall be done in writing and authorized by the Director of Purchasing and Contracts.
- 1.8. **County:** Shall mean the County of Volusia (a body corporate and politic and a subdivision of the State of Florida) including its districts, authorities, separate units of government established by law (constitutional), ordinance or resolution, partners, elected and non-elected officials, employees, agents, volunteers, and any party with whom the County has agreed by contract to provide additional insured status.
- 1.9. **County's Project Manager(s):** The Project Manager(s) have responsibility for the day-to-day administration of the resulting Agreement for the County and will be designated prior to award of the resulting Master Agreement or Purchase Order.
- 1.10. **Day:** The word "day" means each calendar day or accumulation of calendar days.
- 1.11. **Deputy Project Manager:** professional staff person permanently assigned to the project full-time from the Implementation Contractor. This person will be the deputy reporting to the Project Manager and will also be responsible for all work performed by the implementation vendor team
- 1.12. **Director:** The Director of Purchasing and Contracts for the County of Volusia, Florida.
- 1.13. **Effective Date:** When this agreement is fully executed by all parties.
- 1.14. **Housing Quality Standards (HQS):** housing rehabilitation and reconstruction standards that establish the minimum criteria necessary for the health and safety of the home.
- 1.15. **HUD CDBG-DR Subject Matter Expert:** Professional staff who are qualified by years of experience as subject matter experts on a variety of topics under the program of CDBG-DR.

- 1.16. **Implementation Contractor:** The Contractor awarded a contract as a result of this solicitation. Used interchangeably with Contractor.
- 1.17. **Manufactured Housing Units (MHUs):** A structure, transportable in one or more sections which, in the traveling mode is eight body-feet or more in width, or forty body-feet or more in length or when erected on site, is at least 320 square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.
- 1.18. **Person or Persons:** An individual, firm, partnership, corporation, association, executor, administrator, trustee, or other legal entity, whether singular or plural, masculine, or feminine, as the context may require.
- 1.19. **Project manager:** professional staff person permanently assigned to the project full-time from the Implementation vendor. This person will be responsible for all work performed by the implementation vendor team. This person will have office space in the local office.
- 1.20. **Project Specialists:** Professional staff who are qualified by years of experience as subject matter experts on a variety of topics under the program of CDBG-DR or other speciality as needed.
- 1.21. **Proposal:** The document submitted by the Consultant in response to a formal solicitation used to determine if the Consultant is highly qualified.
- 1.22. **Proposer:** See Respondent.
- 1.23. **Protest:** See process at www.volusia.org/purchasing.
- 1.24. **Respondent:** That person or entity, including employees, servants, partners, principals, agents and assignees of the person or entity that submits a proposal for the purpose of obtaining a Contract with the County for the provision of the services requested in the RSQ.
- 1.25. **Respondent's Project Manager:** The Project Manager has responsibility for administering this Contract for the Respondent and will be designated prior to execution of the Contract.
- 1.26. **Special Case Panel (SCP):** The Special Case Panel consists of five senior recovery officials who will convene to address unique applicant issues/circumstances as they arise. The panel will issue decision memorandums or their equivalent for each matter it considers and will be chaired by the DRR Operations Manager. DRR may, at its discretion, refer any matter relating an applicant or contractor's project to its Special Case Panel for a decision. SCP decisions may be appealed to the Director of DRR.
- 1.27. **Task Assignment:** Specific, detailed services or work placed against an awarded and established continuing services Contract memorialized as an Amendment to this Contract by the parties prior to the commencement of such Work or Services by the Consultant.
- 1.28. **Working Days:** Monday through Friday except for County recognized holidays [Holiday observances \(county offices closed\) \(volusia.org\)](#).

2 EXHIBITS

2.1 The exhibits listed below are incorporated into and made a part of this Agreement.

2.1.1 Exhibit A—Scope of Services,

2.1.2 Exhibit B— Cost Proposal

2.1.3 Exhibit C—Insurance Requirements

2.1.4 Exhibit D— Federal Contract Provisions

3 ORDER OF PRECEDENCE

3.1 If Contractor finds any potential or possible inconsistency, conflict, error, or discrepancy in the Agreement, the order of precedence, Contractor shall immediately call it to the County Project Manager's attention, in writing, and request the County Project Manager's interpretation and direction before proceeding with the Services affected thereby.

In the event of any conflicts or inconsistencies between any exhibit to the Agreement and the Agreement itself, such conflict or inconsistency shall be resolved by giving precedence in the following order:

3.1.1 In the event of any conflicts or inconsistencies between Exhibit A – Scope of Services and any other exhibit of this Agreement in regard to the Scope of Services, Project specifications, performance criteria, or management metrics, Exhibit A – Scope of Services shall be controlling.

3.1.2 In the event of any conflicts or inconsistencies between Exhibit B – Fee Schedule and any exhibit in regard to the types of services to be provided under this Agreement, Exhibit B – Cost Proposal shall be controlling.

3.1.3 In the event of any conflicts or inconsistencies between the Agreement and any exhibit to the Agreement in regard to all terms and conditions addressed in the Agreement, the Agreement shall be controlling.

4 **SCOPE OF SERVICES.** Contractor shall provide Services under this Agreement and act as Contractor to the County in accordance with the Scope of Services as specifically set forth in this Agreement and its exhibits.

4.1 Contractor shall provide CDBG-DR Implementation of Construction Services in accordance with the Scope of Services and the Supplemental Scope of Services attached as Exhibit A.

4.2 **Performance Criteria:**

4.2.1 All Services shall be performed in accordance with the Agreement and carried out under the direction of the County Project Manager.

- 4.2.2 All labor necessary to complete the Scope of Services shall be performed in a good and competent workmanlike manner, in accordance with industry standards and to the satisfaction of the County.
- 4.2.3 **Changes to Scope of Services.** The County may, at any time, by written Change Order, make changes within the general Scope of Services to be performed under this Agreement; unless otherwise allowed by the County in the written Change Order, such changes to the Scope of Services (or Contractor's claim for adjustment, described below) shall not allow, permit, or excuse any delay in the performance of the Services. Except as otherwise stated herein, if any such change causes an increase or decrease in Contractor's cost of the Services or the time required for performance of the Services, the County may make an equitable adjustment by amending this Agreement and stating the equitable adjustment in such amendment. Determination of whether an increase or decrease in cost was caused by the change to the Scope of Services shall be in the County's reasonable discretion. In the event of a Change to the Scope of Services, County shall not unreasonably withhold any equitable adjustment to the Agreement price. Any claim by Contractor for adjustment under this article must be asserted in writing within thirty (30) days from the date of the County's notification to Contractor (whether made orally or in writing) of the change that caused the claim for adjustment; otherwise, the claim shall be deemed waived. Except as otherwise provided in this Agreement, no charge for any extra Services or materials shall be allowed or approved by the County. No additional Services shall be performed or extra materials purchased until a written Change Order has been approved by Contractor and County.
- 4.2.4 **Time is of the Essence.** Time is of the essence for all Services performed under this Agreement and all Projects performed in accordance herewith.
- 4.2.5 **Authority to Act on Behalf of County.** County's Purchasing and Contracts Director, or such other proper authority pursuant to County policies and procedures, shall have the authority to approve, award, and execute all documents or other instruments required to effectuate changes, modifications, or additional service, so long as the then cumulative financial obligation of County for such additional items does not exceed the Director of Purchasing and Contracts' authority under the County Code of Ordinances or policies and procedures. Any change, modification or additional service that causes the cumulative financial obligation of County for such additional items to exceed the Purchasing Director's or County Manager's authority under the Procurement Code shall be presented to the Volusia County Council for approval.

5 RESPONSIBILITY OF CONTRACTOR

- 5.1 Where questions exist as to the Scope of Services to be provided, Contractor shall promptly confer with the County Project Manager to ascertain the functional criteria of

the Scope of Services. The Services of Contractor shall also include the following:

5.1.1 Contractor shall keep the County informed of any changes or advancements in technology occurring any time prior to or during actual implementation of the Services to the extent that such changes and advancements may increase efficiency or otherwise allow for better services or reductions in costs to the County.

5.1.2 Contractor covenants and agrees as follows:

5.1.2.1 That its allegations and representations regarding its special talent, training, and experience caused the County to select Contractor to be the prime professional;

5.1.2.2 That Contractor possesses the special skills to recognize material errors or omissions that would result in failures to appropriately perform in accordance with the Scope of Services;

5.1.2.3 That Contractor shall adhere to the standard of care applicable to a contractor with the degree of skills and diligence normally employed by a licensed professional in its field or practice performing the same or similar Services in compliance with all applicable federal, state, and municipal laws, regulations, codes, and ordinances;

5.1.2.4 That Contractor shall provide any Project data, summaries, reports, or studies, pursuant to Subsection this 5.1.2.4, accurately with regard to the information contained therein. County's acceptance, approval, or reliance on any such documentation shall not release Contractor from any liability if such information is incorrect or inaccurate, it being understood that the County is relying on Contractor's status as an industry professional in accepting such documentation.

5.2 **Supervision.** Subject to Subsection 5.1.2.4, Contractor shall direct and supervise competent and qualified personnel and shall devote time and attention to the direction of the operation to ensure performance of obligations and duties as set forth herein. Contractor shall hire, compensate, supervise, and terminate members of its work force, and Contractor shall direct and control the manner in which Services are performed including conditions under which individuals shall be assigned duties, how individuals shall report, and the hours individuals shall perform. Contractor shall be responsible for all income tax, social security and Medicare taxes, federal unemployment taxes, and any other withholdings from the company's employees' and/or subcontractors' wages or salaries. Benefits, if any, for Contractor's employees and/or subcontractors shall be the responsibility of Contractor including, but not limited to, health and life insurance, retirement, liability/risk coverage, and worker's and unemployment compensation. Contractor shall be solely responsible for the means, methods, techniques, sequences and procedures in delivering Services pursuant to this Agreement. Further, Contractor shall be responsible for assuring the County that

finished or completed Deliverables comply with the requirements of this Agreement and the Scope of Services contained therein.

- 5.3 **Assurance.** Subject to Subsection 5.1.2.4, Contractor gives the County its assurance that all Services performed under this Agreement shall be timely performed in a competent and workmanlike manner and in accordance with the specifications and requirements of the Agreement and any approvals required under the Agreement. All Services not conforming to the specifications and requirements of the Scope of Services shall be considered materially defective and constitute a breach of this Agreement.
- 5.4 **Accuracy of Reports / Summaries.** Contractor shall be responsible for the professional and technical accuracy and the coordination of all data, reports, summaries, and any other Services furnished by Contractor under this Agreement. Contractor shall, without additional cost to the County, correct or revise any errors or deficiencies in its Services for which it is responsible.
- 5.5 **Services to Comply with Specifications and Law.** All Services performed by Contractor including all general provisions, special provisions, job specifications, drawings, addendum, amendments to the basic Agreement, written interpretations, and written orders for minor changes in Services, shall comply with the Scope of Services and all applicable local laws, codes, ordinances and statutes.
- 5.6 **Subcontractors.**
- 5.6.1 **Employment or Substitution of Subcontractors.** Contractor shall not employ any Subcontractor, other person, or organization of against whom the County may have reasonable objection, nor shall Contractor be required to employ any Subcontractor against whom it has reasonable objection. Contractor shall not make any substitution for any Subcontractor who has been accepted by the County without the County's approval.
- 5.6.2 **Disapproval of Subcontractors.** County's disapproval or requirement of removal or replacement of Contractor's employee or Subcontractor shall be deemed for lawful reasons if in County's reasonable judgment, such Contractor's employee or Subcontractor poses a threat or causes harm to the health, welfare, or safety, or morale of the County or its agencies, personnel or property or who fails any drug test administered in connection with this Agreement, or who has been convicted of a felony or a misdemeanor involving "moral turpitude" or has been released or dishonorably discharged or separated under conditions other than honorable from any of the Armed Forces of the United States.
- 5.6.3 **Contractor Responsible for Subcontractors.** Contractor shall be fully responsible for all negligent acts and omissions of its Subcontractor and of persons directly or indirectly employed by them and of persons for whose negligent acts any of them may be liable to the same extent that it is responsible for the negligent acts and omissions of persons directly employed by it. Nothing in the Agreement shall create any contractual relationship between any Subcontractor and the County or any

obligation on the part of the County to pay or to see to the payment of any monies due any Subcontractor, except as may otherwise be required by law. County may furnish to any Subcontractor to the extent practicable, evidence of amounts paid to Contractor on account of specific Services done in accordance with the schedule of values.

- 5.6.4 **Subcontractors to Act Pursuant to this Agreement.** Contractor agrees to bind specifically every Subcontractor to the applicable terms and conditions of the Agreement for the benefit of the County, and shall require all Subcontractors or other outside associates employed in connection with this Agreement to comply fully with the terms and conditions of this Agreement as such may apply to the Services being performed for Contractor.

6 TERM OF AGREEMENT

- 6.1 The term of this Agreement shall commence on the Effective Date of this Agreement or when it is fully executed by all parties, whichever is later, and shall terminate four (4) years from the Effective Date, except for those provisions which survive termination of the Agreement. Renewals may be permissible upon mutual written agreement between the parties.
- 6.2 The Services to be rendered by Contractor shall be commenced, as specified in this Agreement or as may be requested by the County and shall be completed within the time specified therein.

7 AGREEMENT PRICE AND COMPENSATION

- 7.1 **Payment Pursuant to Fee Schedule.** Contractor shall be paid Compensation for all Services. The total amount of fees to be paid to the Contractor under this contract for implementation of construction services shall not under any conditions, circumstances, or interpretations thereof exceed the sum of Seven Million Five Hundred Fifty Thousand, Four Hundred Dollars and No/Dollars (\$7,550,400.00) for Construction Management Services, as outlined in the proposal by Contractor. The total amount of fees to be paid to the Contractor for construction (the actual rehab or reconstruction of homes) shall not under any conditions, circumstances or interpretations thereof exceed the sum of and One Hundred Thirty-Three Million, Eight Hundred Twenty Four Thousand, Six Hundred Dollars (\$133,824,600.00) for construction over the base period of performance, unless the Agreement is modified in writing by County and Contractor. For implementation of construction services, the Contractor will only be paid for the time and effort expended to complete the actual requested scope of services required for this program; which may be substantially less than the total amount above. Compensation listed in Exhibit B – Fee Schedule constitutes complete payment for all Services rendered under this Agreement, including the cost of all Projects, materials, equipment, labor, expenses (including reimbursable expenses), all mark-ups for overhead and profit more particularly described in Exhibit B – Fee Schedule. The County agrees to pay Contractor in current funds, as compensation for its Services.
- 7.2 **Errors and Omissions in Pricing.** Compensation shall not be adjusted because of

errors or omissions not the fault of the County in computing the Services costs which result in an increase in the cost of this Agreement or because the time for completion varies from the original estimate, including completion or substantial completion of this Agreement prior to the scheduled or Agreement completion date or on account of County's election to furnish any of the Services. In addition, Contractor shall certify that the original Agreement price or Compensation for the Scope of Services and any additions thereto shall be adjusted to exclude any significant sums by which the County determines the price or Compensation was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs.

- 7.3 **Reimbursable Expenses.** County's payment to Contractor pursuant to the Fee Schedule, attached hereto and incorporated herein as Exhibit B, shall be full compensation for Services rendered and any expenses incurred in connection therewith, and Contractor shall not be eligible for reimbursement for any expenses incurred in connection with the performance of this Agreement.
- 7.4 **Payments.** Any payments shall be made in accordance with Exhibit B – Cost Proposal. The rates expressed in Exhibit B shall govern Compensation and provide for payments against specified Deliverables and performance.
- 7.4.1 **Payment Schedule for Construction Management.** Invoices for Construction Management services may be submitted monthly and itemized in accordance with Exhibit B – Cost Proposal.
- 7.4.2 **Payment Schedule for Construction.** A Task Assignment will be issued for each construction project. Invoices may be submitted according to the following schedule:
- 7.4.2.1 Mobile Home Units – Fifty percent (50%) when ordered. Fifty percent (50%) upon completion.
- 7.4.2.2 Rehabilitation Projects – Thirty-four percent (34%) at permitting, Sixty-six percent (66%) upon completion.
- 7.4.2.3 Reconstruction Projects - Thirty-four percent (34%) after completion of demolition, Sixty-six percent (66%) upon completion.
- 7.4.3 **Retainage.** Retainage shall be withheld in accordance with Florida Statute §218.735 for each construction project. Invoices submitted for shall include Contractor may submit a payment request for all retainage withheld in accordance with §218.735(7)(e); after submission of the final invoice.
- 7.4.4 **Approval of Payment.** If, on the basis of the County Project Manager's observation and review of Contractor's Services, the County Project Manager is satisfied that the Services has been completed and Contractor has fulfilled all of its obligations under the Agreement, the County Project Manager, after receipt of a proper invoice, shall indicate in writing his or her approval of payment and present the invoice to

Accounts Payable for payment. Otherwise, the County Project Manager shall return the invoice to Contractor, indicating in writing the reasons for refusing to approve final payment. Subsequent to receiving a returned invoice, Contractor will make the necessary corrections and resubmit the invoice and, if requested, provide explanation or substantiation for said invoice. Regardless of the foregoing, approval of payment pursuant to this section shall not prevent the County from recovering amounts paid when the County subsequently discovers material defects or deficiencies in the services or work provided by Contractor, which defects or deficiencies would have otherwise caused the County to withhold payment.

7.5 **Invoices.** Invoices or payment requests shall be addressed from Contractor and submitted to the County's Project Manager. All invoicing and payments, including the practices and procedures pertaining thereto, shall be governed by the applicable provisions of Office of Management and Budget 2 CFR Part 1315.

7.5.1 **Invoice Detail.** Contractor shall submit an invoice for which professional Services were rendered to the County upon the completion and acceptance of the Services. Each invoice shall show detailed explanations of the Services accomplished and, if requested, provide substantiation for same. Invoices shall be in accordance with the Agreement prices set forth by labor hours by classification, associated rates, any material or subcontracted costs and any indirect rates or costs in accordance with the Agreement prices set forth hereto. All of the above shall sum to the total amount requested.

7.5.2 Contractor's Invoice(s) shall be accompanied by supporting data as may be required by the County Project Manager. County Project Manager shall review Contractor's Invoice and supporting data and notify Contractor in writing within ten (10) days from receipt of the statement if any amounts requested are disputed or lack adequate support or documentation.

7.5.3 **Invoicing Pursuant to Agreement.** Pursuant to Exhibit B, Contractor shall invoice County for all payments due Contractor under this Agreement. County shall pay invoices in accordance with this Agreement. Invoices shall be sent to the address specified by the County.

7.5.4 **Withholding.** The County may withhold payment of any specific invoiced charges that it disputes in good faith and pay all undisputed charges on the invoice.

7.5.5 **Payment Due.** Within thirty (30) days of acceptance by the County Project Manager of all the Services for which Contractor has submitted an invoice of professional Services, Contractor shall be paid the unpaid balance of any money due for any undisputed Services covered by said invoice.

7.5.6 **Taxes.** County is a tax-exempt entity and shall not be charged or invoiced for the payment of taxes for Services performed under this Agreement.

7.6 **Contractor's Continuing Obligations.** Contractor's obligation to perform Services in accordance with the Agreement shall be absolute. Nothing, including without limitation, the following, shall constitute an acceptance of Services not in accordance with the Agreement: approval of any progress; final payment to Contractor; documentation confirming acceptance of the Services by the County; any payment by the County to Contractor under the Agreement; any act of acceptance by the County or any failure to do so; any correction of defective Services by the County.

7.7 **Non-appropriation.** Notwithstanding any other term or provision of this Agreement, the continuation of this Agreement beyond a single fiscal year of County is subject to the appropriation and availability of funds in accordance with Chapter 129, Florida Statutes. Termination by the County due to non-appropriation shall be without a termination charge by Contractor. The County shall not be obligated to pay Contractor under this Agreement beyond the date of termination except as set forth in this Agreement. County's obligation to pay Contractor is limited to the budgeted amount for a fiscal year approved by the Volusia County Council for the then-current fiscal year of this Agreement and is otherwise limited to legally available non-ad valorem tax revenues.

7.7.1 Contractor agrees that expenditure of funds by the County in support of this contract is contingent upon receipt by the County of grant funds from the U.S. Department of Housing and Urban Development (HUD) including Community Development Block Grant - Disaster Recovery (CDBG-DR). Work shall not begin prior to the County issuing the task assignment or NTP for each requested task.

7.8 **Price Redeterminations**

Once each year during the term of the Contract, including any extension or renewal periods thereof, the Contractor may, but is not obligated to, petition the Director of Purchasing and Contracts for one or more price redeterminations where such price redetermination(s) is/are necessitated by documented increases in the cost of wages and fuel. Petitions for price redeterminations shall be made within thirty (30) days of the anniversary date of the Contract (i.e., the calendar day and month when the Contract became effective) and only after the Contract has been in effect for at least one year. Any such petition shall be made pursuant to the provisions of this Section and only for those price redetermination categories specified herein. Unless otherwise expressly set forth in this Agreement, no other price redeterminations shall be allowed. All price redeterminations, once issued, shall be prospective from the date of approval unless otherwise approved by a duly executed amendment to this Agreement.

7.8.1 *Basis for Price Redeterminations.* The Contractor may petition the Director of Purchasing and Contracts for price redetermination based on the increased costs of wages and fuel. Price redeterminations will be based solely upon changes in pricing or costs documented by either the Employment Cost Index (ECI) or Producer Price Index (PPI), whichever is applicable, as published by the Bureau of Labor Statistics. The base index number for the ECI will be for

the quarter in which the RFP opens. The base index number for the PPI will be for the month the RFP opens. Any subsequent price redeterminations will use the last price redetermination approved for that price redetermination category as the "base index number." The County shall have the right to audit the Contractor's records, including, but not limited to, payroll, materials, and fuel cost records, to verify or otherwise investigate the validity of any price redetermination request.

7.8.2 *Wage Price Redetermination.* When requesting a price redetermination based upon an increase in wage costs, the Contractor shall refer to and utilize the Employment Cost Index, Total Compensation, Private Industry, Index Number, and Occupational Group as prepared by the Bureau of Labor Statistics in the U.S. Department of Labor <https://stats.bls.gov/data/>. The base figure will be tied to Management, professional, and related occupations under the heading Service Providing Industries. Wage price redetermination increases shall be granted only by reason of wage increases associated with the Contractor's employees or subcontractors performing work or services pursuant to the Agreement.

7.8.3 *Minimum Wage Price Redetermination.* If the minimum wage increases during the term of the Agreement, including any renewal or extension period thereunder, the Contractor may petition the Director of Purchasing and Contracts for price redetermination for those job categories where the pay to the Contractor's employee(s) is the current minimum wage. Upon verification of the information provided, the County will grant an increase of exactly the amount of the minimum wage increase (not the percentage increase). The Contractor must increase the pay to the employee(s) by the amount the Contractor has requested, which shall not exceed the amount of the minimum wage increase. The amount paid to the Contractor will be the increase plus any written and documented increase in FICA, Medicare, and Workers' Compensation insurance. The Contractor must supply written documentation of any other increase that is beyond the scope and control of the Contractor. All written documentation must satisfy the reasonable expectations of the Director of Purchasing and Contracts and Internal Auditor.

7.8.3.1 *Example:* Minimum wage increases from \$7.31 to \$7.56 per hour. The Contractor may petition for an increase of \$0.25 per hour to be paid to the affected employee(s) and shall provide written and documented cost increases for FICA, Medicare, and Workers' Compensation. The resulting increase in costs shall be incorporated into fees/rates billed to the County.

7.8.3.2 If the Contractor bills the County at a higher price according to any price redetermination granted by the County, and the Contractor fails to increase the hourly rate paid to the employee for the same period, the Contractor will be considered in Agreement default and the Agreement will be immediately terminated.

7.8.4 *Fuel Price Redetermination.* If/when the price of fuel increases by a minimum of ten (10%) percent, the Contractor may petition the Director of Purchasing

and Contracts for a fuel price redetermination. As a condition of petitioning for a fuel price increase, the Contractor shall be required to petition for a fuel price redetermination decrease if/when the price of fuel decreases by a minimum of ten (10%) percent. Failure to make such petition may be grounds for Agreement termination and shall entitle the County to a refund of the cumulative increase in pay to the Contractor due to any prior fuel price redetermination increase(s). Fuel price redetermination must be based solely upon changes as documented by the Producer Price Index (PPI) for the commodities “Unleaded Gasoline - WPU057104” or “#2 diesel fuel - WPU057303,” as such may be applicable to the Contractor’s operations in connection with the Contractor’s performance of the Agreement.

7.8.5 Price Redetermination Calculation. All Price Redeterminations shall be calculated as follows:

7.8.5.1 *Example:* Contractor indicated on the Submittal Form that thirty percent (30%) of the cost to provide the product/service is directly attributed to the redetermination category (wages or fuel).

Current applicable PPI = \$200.50
 Base index PPI = - \$179.20
 PPI increase dollars = \$21.30
 PPI increase percentage ($\$21.30 \div \$179.20 = .1189$) 11.9%
 Unit cost of the service is \$100.00
 30% of \$100.00 is directly attributed to the redetermination category.... \$30.00
 $\$30.00 \times 11.9\% = \dots\dots\dots \3.57
 New unit price for the product/service is ($\$100 + \3.57)... \$103.57

7.8.6 *Expiration Upon Failure to Agree to Price Redetermination.* If the County and the Contractor cannot agree to a price redetermination pursuant to the terms and conditions of this section, then the Agreement will automatically expire without penalty or further expense to either party after a period of six (6) months following the Contractor’s initial request for such price redetermination. Requests for price redeterminations not made in accordance with the provisions of this section shall be deemed null and void and shall not be a valid reason or pretext for expiration or termination of the Agreement. If the Agreement expires pursuant to the terms and conditions of this section, the County reserves the right, at no expense, penalty, or consequence to the County, to award any remaining tasks thereunder to the next available most responsive and responsible Contractor.

7.9 **Unusual Costs**

The Contractor may petition the County at any time for an additional rate adjustment on the basis of extraordinary and unusual changes in the costs of operation that could not reasonably be foreseen by a prudent operator and which, by all reasonable expectations, will continue for at least one (1) year. If the Contractor petitions for such an increase, the Contractor shall also petition for a rate reduction on the basis of extraordinary and unusual changes in the costs of operation that could not reasonably

be foreseen by a prudent operator and which, by all reasonable expectations, will continue for at least one (1) year; failure to make such petition may be grounds for Agreement termination.

The Contractor's request shall contain substantial proof and justification to support the need for the rate adjustment. The County may request from the Contractor and the Contractor shall provide such further information as may be reasonably necessary in making its determination. The County shall approve or deny the request, in whole or in part, within sixty (60) days of receipt of the request and all other additional information required by the County. Any price redetermination shall be solely based upon the documentation provided and the County reserves the right to rescind any price relief granted should the circumstances change and prices decrease.

8 PAYMENT OF SUBCONTRACTORS

- 8.1 **Payment.** Contractor shall pay its Subcontractors and suppliers, within thirty (30) days following receipt of payment from the County for such subcontracted Services or supplies. Contractor agrees that if it withholds an amount as retainage from such Subcontractors or suppliers, that it shall release such retainage and pay same within thirty (30) days following receipt of payment of retained amounts from County.
- 8.2 **Indemnification as to Payment of Subcontractors.** Contractor shall save, defend, and hold the County harmless from any and all claims and actions from Contractor's Subcontractors for payment for Services and Deliverables provided by Subcontractors for Contractor under this Agreement. Regardless of the foregoing, nothing in this Agreement shall create any contractual relationship between any Subcontractor and the County or any obligation on the part of the County to pay or to see the payment of any moneys due any Subcontractor, except as may otherwise be required by law.

9 LIMITATION OF LIABILITY AND INDEMNIFICATION OF COUNTY

Indemnification. Contractor shall indemnify, defend and hold harmless the County, including its districts, authorities, separate units of government established by law (constitutional), ordinance or resolution, partners, elected and non-elected officials, employees, agents, volunteers, and any party with whom the County has agreed by contract to provide additional insured status from and against all claims, damages, losses, and expenses, including, but not limited to, attorney's fees arising out of, resulting from, or incident to Contractor's performance of its obligations in whole or part of this Agreement, unless such injury or damage is occasioned solely by the fault, negligence, or willful misconduct of the County.

In all claims against the County, Contractor's indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or any benefits payable by or for Contractor, or its employees, agents, contractors, or subcontractors.

- 9.1 **Sovereign Immunity.** The County expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, (as amended) Florida Statutes. Notwithstanding anything set forth in any section of this Agreement to the contrary, nothing in this Agreement shall be deemed as a waiver of the County's immunity or limits of liability beyond any statutory limited waiver of immunity or limits

of liability that may have been or may be adopted by the Florida Legislature, and the cap on the amount and liability of the County for damages, regardless of the number or nature of claims in tort, equity, or contract, shall not exceed the dollar amount set by the legislature for tort. Nothing in this Agreement shall inure to the benefit of any third party for the purpose of allowing any claim against the County, which claim would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

10 INSURANCE

Contractor shall provide the required insurance detailed in Exhibit C for the entire term of the Agreement. Regardless of anything submitted as proof of insurance, Contractor shall comply with all requirements of Exhibit C.

11 PENALTIES

- 11.1 Customer Service - Implementation Contractor shall provide professional and responsive customer service through a variety of media. The Implementation Contractor must meet the County's designated level of communication and customer service outreach. All communications with the customers must be documented within the system of record. Should the Contractor fail to document such communication, the contractor shall be required to implement a corrective action plan, to be approved by the County. Failure to do so may result in penalties, up to and including termination.
- 11.2 Any failure on the part of the Contractor to maintain compliance with required Standards, or to provide required staffing, may result in monetary fines against the Contractor, at the sole discretion of the County Project Manager. Such fines will be in accordance with the fine schedule as detailed below and will be deducted from the monthly invoice immediately following the imposition of the fine by the County.
 - 11.2.1 Failure by Contractor to document customer communication in the DRR system of record within three (3) days after a communication with a customer will generate a fifty-dollar (\$50.00) charge per incident per failure to record each customer communication.
 - 11.2.2 Failure to provide monthly reports that are due no later than the fifteenth (15th) Day following the preceding month shall result in a two hundred fifty dollar (\$250.00) charge per incident and shall continue to generate a charge of fifty dollars (\$50.00) per Day for each Day the reports are not submitted.
 - 11.2.3 Failure to comply with a records or data request by the County Project Manager within forty-eight (48) hours (five (5) days for statistical and/or financial data) of the written request shall result in a two hundred fifty dollar (\$250.00) charge per occurrence.

11.2.4 County agrees to waive fines assessed during the first ninety (90) days from the Effective Date of the Contract.

11.3 Construction Delays - If applicable, should the Contractor fail to timely meet the Work requirements of the Project by the Completion Date, the parties hereto agree that the Contractor shall pay to the County for each day after the Completion Date, until the Project is completed, as certified by the County Project Manager. Fines will not be imposed for unavoidable delays that have been approved by the County Project Manager and are documented in the system of Record (i.e. inclement weather, documented shortage of materials etc.). The dollar amounts for each type of project are as follows:

11.3.1 One Hundred dollars (\$100) per day for Renovation projects over seventy-five (75) days.

11.3.2 One Hundred fifty dollars (\$150) per day for Reconstruction projects over one hundred twenty (120) days.

11.3.3 One Hundred dollars (\$100) per day for MHU projects over seventy-five (75) days.

12 TERMINATION

12.1 County may terminate this Agreement upon at least thirty (30) days prior written notice to Contractor.

12.2 Contractor may terminate this Agreement upon at least one-hundred eighty (180) days prior written notice to County.

12.3 Upon receipt of notice of termination by the County from Contractor or upon delivery of notice of termination from the County to Contractor, Contractor shall:

12.3.1 Stop work under the Agreement on the date and to the extent specified in County's notice of termination.

12.3.2 Inform the County, in writing, of the extent to which performance is completed.

12.3.3 Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the Services under the Agreement that is in progress but not yet completed.

12.3.4 Assign to the County, in the manner, at the times, and to the extent directed by the County, all of the right, title and interest of Contractor under the orders and subcontracts so terminated.

12.4 For all undisputed outstanding invoices submitted to the County prior to the effective date of the termination and subject to Article 6 - Term of Agreement, Article 7 - Agreement Price and Compensation, and this Article 12 - Termination, the County shall cause payments to be made to Contractor within forty five (45) days of receipt of invoice. Contractor shall invoice the County for any sums Contractor claims to be owed by County under this Agreement for work performed from the last invoice to the

effective date of termination. County shall review such invoice for payment and County shall pay any undisputed amount within forty five (45) days.

- 12.5 With the approval of the County and to the extent required by the County, settle all outstanding liabilities and all claims arising out of such termination. County's approval of such settlements shall be final for all the purposes of a termination under this Article 12 - Termination. In addition, Contractor shall transfer title and deliver to the County, in the manner, at the times, and to the extent, if any, directed by the County of Deliverables, work-in-progress, reports, models, studies, and other materials produced as a part of, or acquired in connection with the performance of the Services terminated.
- 12.6 If Contractor fails to cure a breach within ten (10) calendar days after receipt of notice from the County of said breach, the County may take over the Services and complete the Services and Contractor shall be liable to the County for any increased cost of the Services reasonably incurred by the County to complete Contractor's unfinished Services. As such, County may apply unpaid Compensation due and owing to Contractor prior to the default as a set off against the costs incurred by the County for taking over such Services.
- 12.7 The right of termination provided to the County and Contractor herein shall be cumulative of all other remedies available at law.
- 12.8 All provisions of this Agreement that impose or contemplate continuing obligations on a party will survive the expiration or termination of this Agreement.

13 Dispute Resolution

- 13.1 **Good Faith Efforts to Resolve.** The parties to this Agreement shall exercise their best efforts to negotiate and settle promptly any dispute that may arise with respect to this Agreement in accordance with the provisions set forth in this Article 13, Dispute Resolution. Contractor and County Project Manager shall use reasonable efforts to arrange personal meetings and/or telephone conferences as needed, at mutually convenient times and places, to address and work toward resolution of issues that arise in performance of this Agreement and any applicable statement of Services. Issues shall be escalated to successive management levels as needed.
- 13.2 **Informal Dispute Resolution.** If a dispute develops between the parties concerning any provision of this Agreement, or the interpretation thereof, or any conduct by the other party under this Agreements, and the parties are unable to resolve such dispute within five (5) business days or longer, that party, known as the Invoking Party, through its applicable Project Manager, shall promptly bring the disputed matter to the attention of the non-Invoking Party's Project Manager or designated representative, as the case may be, of the other party in writing ("Dispute Notice") in order to resolve such dispute.
- 13.3 **Discovery and Negotiation / Recommended Procedures.** Upon issuance of a Dispute Notice, the Project Managers or designated representatives shall furnish to each other all non-privileged information with respect to the dispute believed by them to be appropriate and germane. The Project Managers shall negotiate in an effort to resolve the dispute without the necessity of any formal proceeding. If such dispute is not resolved by the Project Managers or designated representatives within ten (10)

County Work Days (defined as weekdays [i.e. Monday, Tuesday, Wednesday, Thursday and Friday] not designated as holidays by the County) of issuance of the Dispute Notice, or such other time as may be mutually allowed by the Project Managers as being necessary given the scope and complexity of the dispute, the Project Managers may, depending upon the nature, scope, and severity of the dispute, escalate the dispute as indicated below:

County Work Days	Contractor's Representative	County Representative
10	Contractor's Project Manager	County Project Manager
10	Contractor's Sr. Vice President	Director of Purchasing and Contracts
20	Contractor's COO or President	Deputy County Manager

- 13.4 **Formal Dispute Resolution.** At any point after issuance of a Dispute Notice under this section, either party may request and initiate formal non-binding mediation before a single mediator, which mediation shall be completed within thirty (30) days of initiation or such longer time as may be agreed upon by both parties as being necessary for the mutual selection of a mediator and scheduling of such mediation. Any such mediation shall be convened and conducted in accordance with the rules of practice and procedure adopted by the Supreme Court of Florida for court-ordered mediation, Rule 1.700 et seq. of the Florida Rules of Civil Procedure, and Chapter 44, Florida Statutes. If the dispute remains unresolved after conducting such mediation, then either party may proceed to finalize any pending termination remedies and commence litigation in a court of competent jurisdiction. Each party shall bear its own costs and attorney's fees for mediation or arbitration of an issue arising under this Agreement.
- 13.5 **Right to Terminate Reserved.** Regardless of the dispute resolution procedures provided for in this Article 13, Dispute Resolution, nothing herein shall affect, delay, or otherwise preclude a party from terminating this Agreement in accordance with the provisions of Article 12, Termination, it being understood that these dispute resolution procedures are intended as a means of resolving disputes both during the term of this Agreement and after termination or expiration thereof.

14 COUNTY DATA

- 14.1 Contractor agrees and understands that all files and other information and data created in connection with the administration of this Agreement constitute a public record, except to the extent it is exempt or proprietary under Florida Law (Chapter 119, Florida Statutes) from disclosure or as preempted by federal law. Contractor agrees to maintain for public record access such files and to maintain for public access such files after termination of this Agreement to the extent required by the laws of the State of Florida.
- 14.2 Upon any termination or expiration of this Agreement, Contractor, upon County's written request, shall promptly deliver, but not more than thirty (30) days after County's request, to County an extract of County's data hosted in the System in XML format or such other format as mutually agreed upon by County and Contractor.

- 14.3 THE ABOVE DUTIES AND OBLIGATIONS SHALL SURVIVE THE CANCELLATION OR TERMINATION OF THIS AGREEMENT.

15 LOCAL GOVERNMENT REQUIREMENTS

- 15.1 Public Records Law. Pursuant to section 119.0701(2)(a), Florida Statutes, the County is required to provide Contractor with this statement and establish the following requirements as contractual obligations pursuant to the Agreement:

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 386-736-5935, purchasing@volusia.org, by mail, Purchasing and Contracts Division, Attn: Public Records Custodian, 123 W. Indiana Ave. RM 302 DeLand, FL 32720.

By entering into this Contract, Contractor acknowledges and agrees that any records maintained, generated, received, or kept in connection with, or related to the performance of services provided under, this Contract are public records subject to the public records disclosure requirements of section 119.07(1), Florida Statutes, and Article I, section 24 of the Florida Constitution. Pursuant to section 119.0701, Florida Statutes, any Contractor entering into a contract for services with the County is required to:

- A. Keep and maintain public records required by the County to perform the services and work provided pursuant to this Contract.
- B. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion or termination of the Contract if Contractor does not transfer the records to the County.
- D. Upon completion or termination of the Contract, transfer, at no cost, to the County all public records in the possession of Contractor or keep and maintain public records required by the County to perform the service. If Contractor transfers all public records to the County upon completion or termination of the Contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion or termination

of the Contract, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

Requests to inspect or copy public records relating to the County's Contract for services must be made directly to the County. If Contractor receives any such request, Contractor shall instruct the requestor to contact the County. If the County does not possess the records requested, the County shall immediately notify Contractor of such request, and Contractor must provide the records to the County or otherwise allow the records to be inspected or copied within a reasonable time.

Contractor acknowledges that failure to provide the public records to the County within a reasonable time may be subject to penalties under section 119.10, Florida Statutes. Contractor further agrees not to release any records that are statutorily confidential or otherwise exempt from disclosure without first receiving prior written authorization from the County. Contractor shall indemnify, defend, and hold the County harmless for and against any and all claims, damage awards, and causes of action arising from Contractor's failure to comply with the public records disclosure requirements of section 119.07(1), Florida Statutes, or by Contractor's failure to maintain public records that are exempt or confidential and exempt from the public records disclosure requirements, including, but not limited to, any third party claims or awards for attorneys' fees and costs arising therefrom. Contractor authorizes County to seek declaratory, injunctive, or other appropriate relief against Contractor from a Circuit Court in Volusia County on an expedited basis to enforce the requirements of this section.

- 15.2 **No Code Violation or Past Due Debt.** Contractor warrants and represents that neither the business, nor any officer or significant stakeholder of the business is in violation of the Volusia County Code of Ordinances, and does not owe the County any past due debt. Any breach of the foregoing warranty and representation shall be a material breach of this Agreement and the County shall have the right to terminate this Agreement as set forth herein.
- 15.3 **Changes Due to Public Welfare.** The County and Contractor agree to enter into good faith negotiations regarding modifications to this Agreement which may be required in order to implement changes in the interest of the public welfare or due to change in law or ordinance.
- 15.4 **Compliance with Applicable Laws.** Contractor shall perform its obligations hereunder in accordance with all applicable federal, state, local laws, ordinances, rules, regulations (including but not limited to the following statutes: Americans with Disabilities Act (ADA), Titles I, II and III of the ADA; Federal Immigration Reform and Control Act of 1986 (as amended); and Title VII of the Civil Rights Act of 1964 (as amended), and all orders and decrees of bodies or tribunals having jurisdiction or authority which in any manner affect the performance of this Agreement. Contractor shall indemnify, defend, and hold harmless the County and all its officers, agents, servants and employees against any claim or liability arising from or based on the violation of any such law, ordinance, rule, regulation, order or decree caused or

committed by Contractor, its representatives, subcontractors, professional associates, agents, servants or employees. Additionally, Contractor shall obtain and maintain at its own expense all applicable licenses and permits to conduct business pursuant to this Agreement from the federal government, State of Florida, County of Volusia and municipalities when legally required and maintain same in full force and effect during the term of this Agreement.

- 15.5 **Nondiscrimination and Americans with Disabilities Act.** Contractor shall not unlawfully discriminate against any person in the operations and activities in the use or expenditure of the funds or any portion of the funds provided by this Agreement or in the provision of goods or Services pursuant to this Agreement. Contractor agrees it shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing all goods and Services funded or paid for by County, including Titles I, II and III of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. For internet/web Services: For the purposes of this paragraph, any Services or products offered to public via the internet or online must comply with WCAG 2.0 AA in order to be deemed ADA compliant. The County will provide Contractor with prompt written notice with respect to any ADA deficiencies of which the County is aware and Contractor will promptly correct such deficiencies. If the County, the Department of Justice or other governmental entity tasked with the enforcement of the ADA (“Enforcement Agency”) notes any deficiency in the facilities, practices, services, or operations of Contractor furnished or provided in connection with this Agreement, Contractor shall, at no additional charge or cost to the County, immediately cure any such deficiencies without delay to the satisfaction of such Enforcement Agency. Contractor further agrees that it shall, to the extent permitted by law, indemnify, defend, and hold harmless the County against any and all claims, sanctions, or penalties assessed against the County, which claims, sanctions, or penalties arise or otherwise result from Contractor’s failure to comply with the ADA or WCAG 2.0 AA, for online or internet Services or products. In performing under this Agreement, Contractor agrees that it shall not commit an unfair employment practice in violation of any state or federal law and that it shall not discriminate against any member of the public, employee or applicant for employment for work under this Agreement because of race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability.
- 15.6 **Drug-Free Workplace.** The County of Volusia is a drug-free and smoke-free workplace. Contractor agrees that it shall provide a drug-free environment to its personnel during the term of this Agreement and will comply, subject to the prior receipt thereof, with the County’s policies on drug-free and smoke-free work place, as amended from time to time, during the term of this Agreement.
- 15.7 **Employment of Illegal Aliens.** Contractor certifies that it does not knowingly or willingly and will not during the performance of the Agreement employ illegal alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986, as amended.

15.8 **Equal Opportunity; Disadvantaged Business Enterprises.**

Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, gender, sexual orientation, age, national origin, political affiliation, disability, or family status. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex 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.

15.9 **Compliance with FEMA 2 CFR 200.318-326 and Appendix II Contract Provisions.**

This Agreement and the products/services provided may be utilized in the event of declared State/Federal Emergency, and Contractors shall comply with the applicable sections of Exhibit D, Federal Contract Provisions.

15.10 **Compliance with Federal E-Verify Regulations.**

Contractor covenants and agrees to the following provisions, as required by law:

- A. If and to the extent the Agreement meets the criteria set forth at 48 C.F.R. § 52.222-54(e), the criteria of 48 C.F.R. § 52.222-54 are hereby incorporated by reference into this Agreement as if fully set forth herein.
- B. Contractor and any of Contractor's Subcontractors shall register with and utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility and work authorization status of all new employees hired by Contractor (or Contractor's Subcontractors) on or after the effective date of this Agreement and thereafter during the remaining term of the Agreement.
- C. In the event Contractor enters into a subcontract, Contractor shall require, via written contract, the Subcontractor agree to: (i) register with and utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired on or after the effective date of the subcontract and thereafter during the remaining term of the subcontract; and (ii) provide Contractor with an affidavit stating that the Subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor shall maintain a copy of such affidavit for the duration of this Agreement or the subcontract, whichever is longer. Contractor shall provide a copy of such affidavit to the County before the Subcontractor begins any work associated with the Agreement. If the County has a good faith belief that a subcontractor knowingly violated the requirements set forth in this Section 14.10 or Sections 446.09(1) or 446.095 of the Florida Statutes, but also has a good faith belief Contractor otherwise complied with this Section 14.10 and applicable law, the County shall promptly notify Contractor and order Contractor to immediately terminate its contract with the Subcontractor. Failure to comply with said order shall constitute a material breach of this Agreement.

- D. If the County has a good faith belief Contractor has knowingly violated, or if Contractor is found to have violated, this Section 14.10; Section 446.09(1), Florida Statutes; Section 446.095, Florida Statutes; or the presidential Executive order and subsequent Federal Acquisition Regulation (FAR) rule requiring federal contractors to use E-Verify, if applicable, then the following shall be true: (i) such violation shall be a material breach of this Agreement by Contractor; (ii) Contractor shall indemnify, defend, and hold harmless the County from any resulting costs or expenses, including fines or penalties levied by a government agency and the County's loss or repayment of grant funds; (iii) the County may terminate this Agreement immediately and without penalty and such termination shall not be or be considered a breach of this Agreement; and (iv) Contractor shall be liable for any additional costs incurred by the County as a result of the termination of the Agreement. Contractor acknowledges and understands that if the County terminates this Agreement in accordance with this Section 14.10, Contractor shall be ineligible for award of a public contract for at least 1 year after the date on which the Agreement was terminated.

15.11 **Scrutinized Companies-FL Statutes Sections 287.135 and 215.473.**

Contractor certifies that neither the undersigned entity, nor any of its wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for the purpose of making profit have been placed on the Scrutinized Companies that Boycott Israel List created pursuant to s. 215.4725 of the Florida Statutes, or are engaged in a boycott of Israel.

In addition, if this Agreement amount equals or exceeds one million dollars, Contractor certifies that neither the undersigned entity, nor any of its wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of such entities or business associations, that exists for the purpose of making profit are on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to s.215.473 of the Florida Statutes, or are engaged in business operations in Cuba or Syria as defined in said statute.

Contractor understands and agrees that the County may immediately terminate this Agreement upon written notice if the undersigned entity (or any of those related entities of the Contractor as defined above by Florida law) are found to have certified falsely or if any of the following occur with respect to the company or a related entity: (i) it has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, or (ii) for any contract for goods or services of one million dollars or more, it has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or it is found to have been engaged in business operations in Cuba or Syria.

- 15.12 **Discriminatory Vendors.** Pursuant to paragraph 287.133(2)(a), Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may

not transact business with any public entity in excess of the threshold amount provided in section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

By entering into this [Contract/Agreement], the [Contractor/Consultant] represents and warrants that it is not on the convicted vendor list and not under investigation for violation of any state or federal law relating to public entity crimes. The [Contractor/Consultant] further represents and warrants that its subcontractors and implementer, if any, are not on the convicted vendor list and not under investigation for violation of any state or federal law relating to public entity crimes.

- 15.13 **Inspector General.** The Contractor agrees to comply with subsection 20.055(5), Florida Statutes, and to include in all subcontracts the obligation to comply with subsection 20.055(5), Florida Statutes: "It is the duty of every state officer, employee, agency, special district, board, commission, contractor, and subcontractor to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to this section."

16 MISCELLANEOUS PROVISIONS

- 16.1 **Independent Contractor.** Contractor shall provide the services required herein strictly in an independent contractor relationship with the County and, except as otherwise expressly set forth herein, is not, nor shall be, construed to be an agent or employee of the County. Nothing herein shall create any association, partnership, joint venture or agency relationship between Contractor and the County. The County shall not provide vehicles or equipment to Contractor to perform the duties required under this Agreement nor will the County pay for any business, travel, office, or training expense or any other Agreement performance expense not specifically set forth in the Scope of Services of this Agreement. Contractor is not exclusively bound to the County and may provide Services to other private and public entities, but agrees and covenants that any such services provided by Contractor or for such entities will not conflict or otherwise interfere with Contractor's provision of Services to the County under this Agreement.
- 16.2 **Other Agencies.** Contractor may, upon mutual agreement, permit any municipality or other governmental agency to participate in the Agreement under the same prices, terms, and conditions.

It is understood that at no time will any city or municipality or other agency be obligated for placing an order for any other city, municipality, or agency, nor will any city, municipality, or agency be obligated for any bills incurred by any other city, municipality, or agency. Further it is understood that each agency will issue its own purchase order to Contractor.

- 16.3 **Third Party Beneficiaries.** Neither Contractor nor County intends to directly or substantially benefit a third party by this Agreement. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement. Therefore, the Parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement, except as otherwise provided in this Agreement.

- 16.4 **Waiver of Claims.** Once the Agreement expires, or final payment has been made, Contractor shall have no more than thirty (30) calendar days to present or file any claims against the County concerning the Agreement. After that period, the County will consider Contractor to have waived any right to claims against the County concerning the Agreement.
- 16.5 **Safety.** Contractor shall take the necessary precautions and bear the sole responsibility for the safety of the methods employed in performing the work. Contractor shall at all times comply with the regulations set forth by federal, state, and local laws, rules, and regulations concerning "OSHA" and all applicable state labor laws, regulations, and standards. Contractor shall indemnify and hold harmless the County from and against all liabilities, suits, damages, costs, and expenses (including attorney's fees and court costs) which may be imposed on the County because of Contractor, Subcontractor, or supplier's failure to comply with the regulations.
- 16.6 **Notice.** All notice required under this Agreement shall be in writing and shall be sent by certified United States Mail or national parcel service, postage prepaid, return receipt requested, or by hand-delivery with a written receipt of delivery, addressed to the party for whom it is intended at the place last specified. When sent in accordance with the foregoing, notice shall be deemed delivered the sooner of (i) when received by the addressee or (ii) five (5) days after being deposited in the mail or with the parcel service. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

In the case of County:

County of Volusia
Attn: Director of Purchasing and Contracts
Address: 123 W. Indiana Ave., Room 302
DeLand, Florida 32720
Phone: (386) 736-5935

with copies of legal notices to:

County of Volusia
Attn: County Attorney
Address: 123 W. Indiana Ave., Room 301
DeLand, Florida 32720
Phone: (386) 736-5950

In the case of Contractor:

Lemoine Disaster Recovery, L.L.C.
Attn: Robert "Mike" Rice, President of Disaster Services
Address: 1906 Eraste Landry Suite 200
Lafayette, LA 70506
Phone: 225-383-3710

16.7 **Assignment.**

Contractor may not assign or otherwise convey Contractor's rights and/or obligations under this Agreement without obtaining the County's prior written consent, which consent the County may withhold, limit and/or condition in the County's sole discretion, including, but not limited to, requiring Contractor or his/her proposed successor in interest to post a performance bond. Any consent by the County under this section shall be by written Amendment to the Agreement in a form and substance specified by the County in its sole discretion. If Contractor desires to assign or otherwise convey its rights and/or obligations under this Agreement, Contractor shall provide the County with a written request for County's consent no less than thirty (30) days prior to the assignment's proposed effective date. Failure to provide such notice may result in the County assessing a processing fee of Five Hundred Dollars (US \$500.00); however, payment of such fee shall not entitle Contractor to the County's acceptance or approval of its request for assignment.

Nothing herein shall preclude the right of the County to waive its rights under this Section but no waiver shall be granted by the County without a written and duly executed amendment to the Agreement.

16.8 **Conflicts.** Neither Contractor nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment related to its performance under this Agreement. Contractor further agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against County in any legal or administrative proceeding in which he, she, or Contractor is not a party, unless compelled by court process. Further, Contractor agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of County in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude Contractor or any persons in any way from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding. In the event Contractor is permitted pursuant to this Agreement to utilize Subcontractors to perform any Services required by this Agreement, Contractor agrees to require such Subcontractors, by written Agreement, to comply with the provisions of this section to the same extent as Contractor.

16.9 **Audit Right and Retention of Records.** The County shall have the right to audit the books, records, and accounts of Contractor and its subcontractors that are related to this Agreement. Contractor and its subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Agreement. Contractor shall preserve and make available, at reasonable times for examination and audit by the County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for a retention period of five (5) years after completion or termination of this Agreement, and any renewals, as required by Item 65, General Records Schedule GS1-SL for State and Local Government Agencies, effective February 19, 2015 and the Florida Public Records Act (Chapter 119, Florida Statutes). Contractor shall, by written Agreement, require its subcontractors to agree; (i) to the requirements and obligations of this Article

16.9 – Audit Right and Retention of Records (ii) to be subject to applicable privacy and confidentiality laws and regulations and (iii) Contractor's privacy and confidentiality policies and procedures. All audits must be performed at Contractor's home office in Lafayette, Louisiana. Nothing in this Article 16.9 – Audit Right and Retention of Records shall require Contractor to violate any laws applicable to Contractor as a provider of CDBG-DR Implementation of Construction Services.

16.10 **Location of County Data.** Contractor shall not out-source any development and/or support for this Agreement or transfer any County Data outside the territorial limits of the United States of America, without the written approval of the Contract Administrator.

16.11 **Key Personnel.** The initial key personnel and any changes or substitutions in the key personnel must be made known to County or specified in the Scope of Services, and County must grant approval before any such initial personnel or change or substitution can become effective. County agrees not to unreasonably withhold any such approval. Contractor shall, except as agreed by the parties, provide the key personnel as long as said staff are in Contractor's employment. In the event of injury, illness, or death of Contractor's key personnel, or if such key personnel leave Contractor's employ, Contractor shall replace such individual within thirty (30) County work Days after such injury or illness, or from the date of departure from employment or of death. Contractor shall obtain prior written approval of the County Project Manager to replace key personnel, such approval not to be unreasonably withheld. Contractor shall provide the County Project Manager with such information as necessary for County to evaluate the new key personnel. In the event the County Project Manager has reasonable objections to any replacement of key personnel, County shall notify Contractor in writing regarding such objections. Promptly after its receipt of such objections, Contractor shall investigate the matters stated and discuss its findings with County. If County thereafter requests in good faith replacement of the key personnel, Contractor shall use its reasonable best efforts to replace the employee with a person of suitable ability and qualification. Contractor shall use its best efforts to avoid replacing or reassigning any key personnel under this Agreement. If, notwithstanding this commitment, it becomes necessary for Contractor to replace any key personnel under this Agreement, Contractor shall give County as much reasonable detail as possible concerning the proposed replacement. At a minimum, Contractor agrees, where reasonably possible, to provide County with at least thirty (30) days notice of changes to Contractor's Project team participants. Contractor agrees to provide County with resumes of new Project team participants and County may choose to interview new Project team members.

16.12 **References to County or Contractor.** Contractor agrees that during the term of this Agreement, except as provided herein, Contractor may not reference County in Contractor's website, and/or press releases, and, may not place County's name or logo on Contractor's website or in collateral marketing materials relating to Contractor's products and Services without prior review and written approval by County. Further, Contractor agrees that it may not use County's name, logo or any trademarks (including in any press releases, customer "case studies," and the like) without County's prior written consent. Termination or expiration of this Agreement shall not affect Contractor's obligation in this regard and such obligation shall survive the termination or cancellation of this Agreement.

16.13 **Force Majeure.** Neither party shall be liable for any failure or delay in the performance of its obligations under the Agreement to the extent such failure or delay necessarily results from the occurrence of a Force Majeure Event beyond the control or reasonable anticipation of either party, including, but not limited to, compliance with any unanticipated government law or regulation not otherwise in effect at the time of execution of this Agreement, acts of God, acts of domestic or international terrorism, any virus, bacterium, or other microorganism capable of inducing physical distress, illness, or disease, whether due to a pandemic or otherwise, unforeseeable governmental acts or omissions, fires, strikes, natural disasters, wars, riots, transportation problems, and/or any other unforeseeable cause whatsoever beyond the reasonable control of the parties (and such cause being referred to as a "Force Majeure Event"). Accordingly, the parties further agree that:

16.13.1 Upon the occurrence of a Force Majeure Event, the non-performing party shall be excused from any further performance of those obligations under this Agreement that are affected by the Force Majeure Event for as long as (a) the Force Majeure Event continues; and (b) the non-performing party continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

16.13.2 Upon the occurrence of a Force Majeure Event, the non-performing party shall notify the other party of the occurrence of such event and describe in reasonable detail the effect(s) of such event upon the party's performance of its obligations and duties pursuant to this Agreement. Such notice shall be delivered or otherwise communicated to the other party within three (3) business days following the failure or delay caused by the Force Majeure Event, or as soon as possible after such failure or delay if the Force Majeure Event precludes the non-performing party from providing notice within such time period.

16.13.3 In the event of a Force Majeure Event, the time for performance by the parties under the applicable Statement of Services shall be extended for a period of time equal to the time lost by reason of such cause through execution of a Change Order pursuant to the terms of the Agreement.

16.14 **Bankruptcy Rights of County.** All rights and licenses granted under or pursuant to this Agreement or any attachments hereto by Contractor to County are, and shall otherwise be deemed to be, for purposes of Section 365 (n) of the United States Bankruptcy Code (the "Code"), or replacement provision therefore, licenses to rights to "intellectual property" as defined in the Code. The parties agree that County, as licensee of such rights under this Agreement, shall retain and may fully exercise all of its rights and elections under the Code. The parties further agree that, in the event of the commencement of a bankruptcy proceeding by or against Contractor under the Code, County shall be entitled to retain all of its rights under this Agreement.

16.15 **Waiver of Breach and Materiality.** Failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

- 16.16 **Severance.** In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective to the extent practicable unless County or Contractor elects to terminate this Agreement.
- 16.17 **Entire Agreement.** This Agreement contains the entire agreement between Contractor and County. Any modifications to this Agreement shall not be binding unless in writing and signed by both parties.
- 16.18 **Applicable Law, Venue and Waiver of Jury Trial.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Jurisdiction over and venue for any controversies or legal issues arising out of this Agreement shall, if in state court, be exclusively in the 7th Judicial Circuit in and for the County of Volusia, Florida, or, if in federal court, be exclusively in the Middle District of Florida, Orlando Division. By entering into this Agreement, Contractor and the County hereby expressly waive any rights either party may have to a trial by jury of any civil litigation related to this Agreement, and, unless otherwise expressly provided herein, each agrees to bear its own costs and attorney's fees relating to any dispute arising under this Agreement.
- 16.19 **Prior Agreements.** This document represents the final and complete understanding of the Parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The Parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

17 ELECTRONIC SIGNATURES

The Contractor acknowledges that Robert "Mike" Rice, President of LEMOINE Disaster Services (the "Authorized Signatory") is authorized to execute contracts/agreements with the County of Volusia and any affixed electronic or conformed signature of the Authorized Signatory shall be the act of and attributable to the Authorized Signatory. By signing this Agreement electronically, the Authorized Signatory does thereby adopt the electronic or conformed signature as his or her own and designates a copy of same for use as an official record by the County of Volusia.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have made and executed this Agreement for CDBG-DR Implementation of Construction Services on the date last written below.

CONTRACTOR

Attest: DocuSigned by:
Amanda Messa
45EEA88F9A19437...
Amanda Messa
General Counsel

Date: 1/12/2024 | 19:39:34 EST

LEMOINE DISASTER RECOVERY, LLC

BY: DocuSigned by:
Robert "Mike" Rice
081136F9407E444...
Robert "Mike" Rice
President of LEMOINE
Disaster Services

Date: 1/12/2024 | 17:17:42 EST

COUNTY

Attest: DocuSigned by:
George Recktenwald
2285F6E1E09043E...
George Recktenwald
County Manager

Date: 2/20/2024 | 11:08:50 EST

**COUNTY OF VOLUSIA FLORIDA
COUNTY COUNCIL**

BY: DocuSigned by:
Jeffrey S. Brower
FF754386B8FD439...
Jeffrey S. Brower
County Chair

Date: 2/15/2024 | 12:06:53 EST

EXHIBIT A - Scope of Services

Contractor shall be capable of executing a complex recovery from the damage Volusia County suffered from Hurricane Ian in September 2022. The recovery is funded by a U.S. Dept. of Housing and Urban Development ("HUD") Community Development Block Grant for Disaster Recovery ("CDBG-DR"). Implementation Contractor (IC) shall be capable of maintaining high quality construction standards as well as high quality responsive customer service standards all of which shall be in full and complete accordance with all applicable laws, regulations, ordinances, and HUD grant requirements.

The County Office of Recovery and Resiliency will conduct the recovery beginning with its most vulnerable population and then working through its priority matrix. County believes in providing first-rate customer service during the conduct of this recovery combined with the strongest fiscal accountability of taxpayers' dollars. The Implementation Contractor shall provide exceptional management of the project and the County will not tolerate disallowable expenses, fraud, duplication of benefits, or any fiscal irresponsibility of taxpayer dollars.

County Responsibilities

- County will perform the initial client intake, application, eligibility, duplication of benefits, and signing event, as well as case management throughout the construction process.
- County will execute a damage assessment and scope development process through a separate vendor.
- County will manage the signing event to secure the projects with clients through a mortgage/lien process.

Implementation Contractor

- The Implementation Contractor shall be responsible for the execution of a large and complex housing recovery program.
- Implementation Contractor shall execute a construction and final inspection program.
- Implementation Contractor shall support the County buyout program if, and when, applicable.
- Implementation Contractor shall be responsible for coordination of strategic planning with County, project timeline compliance, and fiscal projections to ensure compliant grant spending from program start to the end of closeout.
- Implementation Contractor's fiscal management must be capable of withstanding a series of vigorous audits.

The Implementation Contractor shall conduct full spectrum construction recovery operations to repair, rebuild, or replace damaged homes. Based on the directives set forth in the HUD CDBG-DR grant for Hurricane Ian, *88 FR 32046*, in the presidentially declared disaster counties, County expects to repair, rebuild, or replace 1150 homes County, dependent on the number of repair vs replacement homes, plus 20 rental units. This is an estimate only and in no way represents a guarantee of future work.

The Implementation Contractor's requirements are as follows:

1. Implementation Contractor shall possess an understanding of the County's Hurricane Ian Disaster Recovery Action Plan. The Draft action plan is available at the following link: [Draft Action Plan](#). This plan may be modified as necessary.

2. Implementation Contractor shall possess Subject Matter Expertise regarding HUD's CDBG-DR program, HUD's National Objectives, the FEMA Mission Scoping Assessment, the FEMA Recovery Support Strategies, and the FEMA Community Lifelines strategy.

3. Implementation Contractor shall comply with all applicable grant and project requirements set forth in *88 FR 32046*.

4. Implementation Contractor shall ensure compliance with all aspects of the HUD approved Volusia County Hurricane Ian Action Plan.

5. County has a fully functional headquarters located in DeLand, Florida capable of recovery operations, recovery analysis, coordination, executive briefings, monitoring, auditing, and tracking of all aspects of the recovery operation. Implementation Contractor's key management team shall be located in DeLand. The office shall be staffed during regular business hours (8 a.m. to 5 p.m.) by at least two (2) Implementation Contractor employees, to include at a minimum the Project Manager and Deputy Project Manager.

6. Implementation Contractor shall:

- a. Process and assign work as applicable within established policy guidelines.
- b. Conduct extensive coordination with County case management to ensure no citizen receives any duplication of benefits prior to providing any program assistance.
- c. Use the County system of record to manage the client and construction data processes. Note: (County will not use the implementation contractor's system of record and requires that the County's system be used at all times. Utilizing one system of record will ensure appropriate communication between vendors, client, case management and provide for prompt payment to the vendor(s).)

7. Implementation Contractor shall follow County established recovery priorities. The County will begin the recovery process with the citizens who are identified as the most vulnerable under the County's prioritization matrix.

8. Implementation Contractor shall deploy enough construction capacity to:

- a. Repair or replace Manufactured Housing Units (MHUs);
- b. Repair traditional stick built or brick and mortar homes and repair modular homes;
- c. Construct new stick built or modular homes which at least meet County's minimum design and housing quality standards specifications;
- d. Perform demolition of all structures and permeable surfaces in the buyout projects; and
- e. Complete the construction phase of the recovery within five (5) years, if not sooner, of contract execution.

9. Implementation Contractor shall conduct final inspections for each project in conjunction with County field compliance staff.

10. All projects in a designated floodplain shall comply with the National Flood Insurance Program (NFIP) requirements.

11. Implementation Contractor shall provide an official Certificate of Occupancy or certificate of completion for each project and retain this certificate in the system of record.
12. Implementation Contractor shall ensure that a minimum of 25% of all those employed to execute the recovery operation are Volusia County residents with the goal of 75% of those employed being Volusia County residents. This percentage requirement applies to the Implementation Contractor, general contractors, and subcontractors.
13. Implementation Contractor shall have a demonstrated ability to expand operations should HUD grant supplemental CDBG-DR funding for the Volusia County Hurricane disaster. Implementation Contractor fees for the resulting increased recovery project scope from such supplemental funding shall be negotiated after the grant of any such supplemental funding.
14. Implementation Contractor's Project Manager shall provide all required reporting to the Office of Resiliency and Recovery Director and/or designee.
15. Implementation Contractor shall employ sufficient capable personnel to complete the Hurricane Ian recovery program. Implementation Contractor must employ personnel in at least the following positions whose primary place of work assignment is near County's headquarters – a Project manager, Deputy Project Manager, a HUD CDBG-DR Subject Matter Expert, and/or Project Specialists to timely complete the program according to the below metrics. Remote work by the latter staff may be allowed upon prior approval.
16. Implementation Contractor shall provide a project management capability which timelines all aspects of the recovery and estimated completion of all tasks and provide the County with this data in the formal weekly briefing.
17. Implementation Contractor shall provide a minimum of one executive briefing per week to the County which outlines all work to date, all work in progress, and all work planned both in the near term and long term. Briefings shall be conducted at County's headquarters. The briefing shall include a project timeline and spending compliance.
18. Implementation Contractor shall provide the County notice of all contractors it intends to hire to accomplish the recovery mission. All contractors and subcontractors shall meet Volusia County licensing and regulatory requirements for the field for which they are retained. All contractors and subcontractors shall comply with the County's policies, procedures, and guidelines. The County reserves the right to reject any contractors or subcontractors that do not meet the County's eligibility standards.
19. Implementation Contractor shall provide an on-site compliance capability to ensure internal fiscal responsibility and provide the County with the result of all internal reviews.
20. Implementation Contractor shall make all personnel, location, files, and other pertinent information available to the County (and/or to the Federal government) at any time during the term of the Contract.
21. Implementation Contractor shall abide by County's critical information requirements which requires reasonable notice as soon as possible to County of any of the following:
 - a. Any injury associated with the program resulting in immediate movement to a hospital or clinic for further treatment;
 - b. Any vehicle wreck associated with the program resulting in any program delay;

- c. Evidence that a citizen has perpetrated a fraud against the program;
- d. Any citizen's fraud complaint lodged against either the County, the Implementation Contractor, general contractor, or subcontractors associated with the program;
- e. Any non-routine inspection conducted by any entity regarding the program;
- f. Any complaint by any person regarding harassment or discriminatory conduct regarding any aspect of the program or operation;
- g. Any loss, or potential loss, of citizen Personally Identifiable Information (PII) in any form to include paper or electronic loss, to include the loss of a computer containing PII;
- h. Any allegation that the Implementation Contractor, its contractors, or sub-contractors have committed a crime while performing their work;
- i. Information that an applicant is living in unsafe conditions;
- j. Any home turned over to a client by a general contractor prior to a required governmental final inspection;
- k. Any instance in which a subcontractor places a construction lien on an applicant's home in the program; or,
- l. A highly communicable disease including but not limited to: Cholera; Diphtheria; Infectious Tuberculosis; Plague; Smallpox; Yellow Fever; viral hemorrhagic fevers; communicable severe acute respiratory syndromes; Flu, coronavirus, or respiratory illness that can cause a pandemic.

22. Implementation Contractor shall establish an escalation protocol for any citizen complaint/issue and must keep County informed as to the progress of all complaints.

23. County will provide an online appeals and complaint system capability which ensures citizens are informed and provided responses to questions, inquiries, and complaints within two (2) Working Days.

24. Implementation Contractor shall be responsible to ensure that all contract personnel (from prime to all subcontractors associated with the contract) are identified by a standard color collared shirt and photo identification. The words: 'Transform386' Disaster Recovery' and 'Contractor' are required to be clearly visible on both the shirt and photo identification badges. Contractor's field personnel and construction workers must wear a t-shirt or collared shirt with the words "Transform386 Disaster Recovery Contractor". The cost of the uniforms and badges shall be the responsibility of the Implementation Contractor.

25. Though County has a vigorous inspection and compliance/monitoring program, Implementation Contractor shall have its own inspection and compliance program to ensure construction work meets or exceeds applicable building code requirements and the program's housing quality standards. The Implementation Contractor inspectors shall conduct program housing quality standards compliance inspections for each project.

26. Implementation Contractor shall ensure compliance with all Federal, County, and local environmental requirements and standards and follow all established environmental standards

during the conduct of all work for the duration of the contract. The County will conduct a tiered environmental approach to the housing recovery projects. The County will conduct a County-wide environmental assessment prior to any work being conducted. Subsequent tiered assessments will be conducted by separate vendors.

27. Implementation Contractor shall ensure strict compliance with all HUD standards and shall adjust to any HUD updates. If the County decides to seek a HUD program waiver or an amendment to the Hurricane Ian Action Plan, Implementation Contractor may be responsible, at the direction of the County, for preparing the waiver or amendment along with all required supporting documentation.

28. Implementation Contractor shall provide customer service capability sufficient to provide eligible applicants with a phone call or communication outreach or application status update of at least a minimum of every other week. Written communication will be done through the system of record and any client contact by phone must be documented in the system of record.

29. Implementation Contractor shall provide expertise in the HUD CDBG-DR national objectives program and ensure compliance with information security requirements and employ defined security controls in accordance with applicable federal laws, Executive Orders, directives, policies, regulations, standards, and guidance.

30. Implementation Contractor shall utilize County's existing Special Case Panel process for approval of any eligibility determination outside of program guidelines, priority change outside of program guidelines, or proposed cost of replacement/repair estimates that exceed program guidelines for a type of repair or replacement or reconstruction; or a change order which exceeds program caps for a type of repair or replacement or reconstruction.

31. Implementation Contractor shall establish a process in conjunction with the County by which it assesses the cost effectiveness of each rehabilitation or reconstruction project undertaken to assist a household. For any residential rehabilitation or reconstruction program Implementation Contractor must assess the cost effectiveness of each proposed project undertaken to assist a household, including criteria for determining when the cost of the rehabilitation or reconstruction of the unit will not be cost-effective relative to other means of assisting the property-owner, including through buyout or acquisition of the property, or the construction of area-wide protective infrastructure, rather than individual building mitigation solutions designed to protect individual structures.

32. Implementation Contractor shall comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. §1701u) (Section 3) in order to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, County and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons. Implementation contractor shall take referrals for employment from the County construction job training program and wherever possible provide employment to those persons.

33. Implementation Contractor will utilize the County grant and project management system of record. County shall have administrative rights to the grant management system. The Office of Recovery and Resiliency Director will designate program personnel, including IC staff, who will have access to the system of record and designate their level of access. The grant management system shall have the capability to lock access to a project file once the project is closed out and

the file shall not be accessed further without notifying the Office of Recovery and Resiliency Director.

34. Implementation Contractor shall monitor, audit, and train its staff on the authorized sharing of personally identifiable information (PII) or other project sensitive data and the consequences of unauthorized use or sharing of such data. This will be done in conjunction with County Information Technology staff and the SOR project lead.

35. Implementation Contractor shall reimburse the County for any funds that HUD deems as having been spent for ineligible activities. Implementation Contractor will not be responsible for reimbursing the County for any funds HUD deems as spent for ineligible activity delivery costs if such costs relate to County's own employees' activities.

Communications

General Description: Strategic communications are the internal and external connections with audiences at all levels, including national, County, local municipalities, volunteer organizations, and most importantly, the individual citizens affected by Hurricane Ian in September 2022. Internal communications refer to communications between those who are actively involved in recovery efforts, ensuring synchronization of efforts in a prioritized manner, and focused on recovering those most vulnerable first. Communications shall always be customer-service focused. Additionally, communications are intentionally meant to be transparent, keeping all informed on the latest in recovery efforts and on the proper utilization of recovery funds.

The Implementation Contractor shall execute the following missions as part of the overall contract as it relates to Strategic Communications:

1. Implementation Contractor shall provide professional and responsive customer service through a variety of media. The Implementation Contractor must meet the County's designated level of communication and customer service outreach. All communications with the customers must be documented within the County system of record. Should the Contractor fail to document such communication, the contractor shall be required to implement a corrective action plan, to be approved by the County. Failure to do so may result in penalties, up to and including termination.
2. The County has established a website www.transform386.org that provides access to public information regarding the recovery. County is responsible for all content on the website in conjunction with the County's community information office.
 - a. Except for routine client communication, all public communication must be approved by the County.
 - b. The County system of record will provide a link to the transform386.org website with a dashboard of all progress and for clients to access the status of their application and subsequent construction process, if awarded.
3. Implementation Contractor's strategic communications program shall comply with the Fair Housing Act. Any outreach in furtherance of Fair Housing objectives will be approved by County staff prior to dissemination.
4. Implementation Contractor shall, prior to the public use of any document, provide to the County for approval a copy of the proposed document. The Implementation Contractor will also provide to County for approval any program form or document that Implementation Contractor seeks to utilize with program applicants.

Construction Management

General Description: Implementation Contractor shall provide quality and timely construction management services for disaster housing recovery assistance, including the repair or replacement of MHUs, the repair or construction of stick built or modular homes, progress inspections and payments, final inspection, securing the certificate of occupancy, and completion of the close-out process. The County and its damage assessment team shall conduct efficient and accurate damage assessments and cost of repair assessments. Environmental assessments will be provided to Implementation Contractor by County. The goal of the coordinated assessments is to efficiently and effectively conduct the needed assessments with as little interruption to the applicant as possible. County program personnel may also attend any assessment for compliance and monitoring purposes.

The Implementation Contractor shall execute the following missions as part of the overall contract as it relates to Construction Management:

1. The Implementation Contractor shall ensure that all of its personnel, including but not limited to contractors' field superintendents, and those personnel involved in the preparation of initial scopes of work or change orders, are knowledgeable and shall enforce program housing quality standards and housing policies (including, but not limited to: mobile home installation standards, mold remediation, lead based paint, asbestos, floodplain elevation requirements, etc.).
2. Each general contractor working in the program must have qualified field superintendent(s) to ensure building code compliance and program HQS compliance. Field superintendents must approve each project as complete and ready for municipal and program final inspections.
3. The Implementation Contractor shall review the initial damage inspection and repair estimate analysis on each home to establish the home's relative value to determine if it should be replaced/rebuilt or rehabilitated in accordance with established policies. It is imperative that the Implementation Contractor do a complete analysis of the damage assessments and cost of repair estimates to avoid and minimize change orders.
4. The Implementation Contractor must assess the cost effectiveness of each proposed project undertaken to assist a household, including criteria for determining when the cost of the rehabilitation or reconstruction of the unit will not be cost-effective relative to other means of assisting the property-owner, including through buyout of the property or the construction of area-wide protective infrastructure, rather than individual building mitigation solutions designed to protect individual structures.
5. Implementation Contractor shall provide a set of standard house construction plans and elevations which will be utilized by all general contractors in the program. The plan sets will include a two (2) bedroom two (2) bathroom model; three (3) bedroom two (2) bathroom model; and four (4) bedroom two (2) bathroom model. Each plan set must also provide a handicapped accessible/wheelchair friendly version. Additional basic requirements will be provided by the County. All plan sets shall be approved by the County prior to use in construction.
6. The County will pay for new stick-built homes and MHU replacements at a reasonable fixed price. Fixed price projects shall be inclusive of all goods and services to rebuild or replace the home including, but not limited to: demolition permitting, construction, ADA compliance, etc. The County intends to pay stick-built rehab and MHU rehab work on an Xactimate® based calculation that is cost reasonable for market and program conditions. Implementation Contractor contracts with construction contractors may be subject to review by the County and shall be made available to the County upon request.

7. The Implementation Contractor shall secure cost comparisons for each type of MHU or modular home that will be utilized in the program. The cost comparisons shall be sought from at least three (3) MHU manufacturers. If the lowest cost manufacturer is not selected, the Implementation Contractor shall provide its selection justification, and all cost comparison documents shall be made available to the County whether the bidder is selected or not. MHU models and floorplans must be approved by the County prior to purchase and installation.

8. The Implementation Contractor shall ensure that all new MHUs installed, or new modular or new stick-built homes built as a part of this program, comply with all local zoning and land development regulations (minimum building area, setbacks, etc.) and the Florida Building Code (FBC).

9. The Implementation Contractor shall follow established processes for all homes scheduled for demolition and dispose of mobile homes and all demolition/construction debris or hazardous materials in accordance with all local, County, and Federal guidelines, regulations, and ordinances.

10. The Implementation Contractor shall conduct site reconnaissance in accordance with established policies and coordinate with eligible applicants a minimum of 72 hours in advance of arrival.

11. The Implementation Contractor shall ensure all construction meets Florida building codes and established policies; shall ensure that the work performed is of good and workmanlike quality; and, must conduct progress and final inspections and approve and make timely payments to subcontractors accordingly.

12. The Implementation Contractor shall coordinate the timely move in/move out of applicants whose homes are being repaired or replaced to minimize the disruption to the applicant and minimize the amount of time the applicant is out of the home. The Implementation Contractor is also responsible for providing on-site storage units, if necessary, for the storage of an applicant's possessions during the time the home is being repaired. The management of on-site storage units shall be in accordance with the County or applicable Local Government's Land Development Code requirements.

13. The Implementation Contractor shall closely monitor all construction timelines and provide the County, at a minimum, with weekly briefings. The briefings shall provide an update on program metrics as requested and established by the County. Those metrics may change as needed.

14. The Implementation Contractor shall handle title registration with the Florida Department of Motor Vehicles for newly installed manufactured housing units and title retirement for manufactured housing units demolished as part of the program.

15. The Implementation Contractor shall maintain all construction records documenting compliance from start up to file close-out. These records shall be made part of the County system of record.

16. County will retain five percent (5%) of each project cost in accordance with Florida Statute 255.077 until outstanding project requirements are completed. County will develop a process to determine the "punch-list" items that must be completed prior to release of retainage in accordance with Florida Statute Section 255.075. Implementation Contractor shall ensure that any warranties for a project are assigned either to County or an applicant, as applicable, and shall ensure those warranties are assigned accordingly prior to completion of the project.

17. County will control the intake and documenting of warranty calls; however, Implementation Contractor shall be responsible for ensuring the satisfaction of warranty obligations. While the Implementation Contractor's general contractors shall be responsible for satisfying warranty obligations, if the GC fails to do so, the Implementation Contractor shall be responsible.

18. Implementation Contractor shall comply with all construction standards, housing quality standards, and energy efficiency standards set forth in *88 FR 32046*.

Compliance /Audit/Close-Out/Disallowed Costs

General Description: The Implementation Contractor shall execute the following missions as part of the overall contract as it relates to Compliance /Audit/Close-Out/Disallowed Costs:

1. The Implementation Contractor shall interact with the County's internal audit staff dedicated to this contract and program. The Implementation Contractor shall allow the County's internal audit staff to review compliance reports and other internal documentation.
2. The Implementation Contractor shall comply with the County's right to audit. The County has the right to audit all aspects of the recovery program, including but not limited to, all aspects of intake, eligibility, contracting, sub-contracting, materials purchases, equipment purchases, labor or employment costs, and the purchase of ancillary services. The County has the right to request all eligibility or construction project documents in connection with this right to audit.
3. The Implementation Contractor, in compliance with the County's right to audit, shall make all documents available to the County upon request. The documents include, but are not limited to, all documents relating to contracting, sub-contracting, materials purchases, equipment purchases, labor or employment costs, and the purchase of ancillary services.
4. The Implementation Contractor shall provide final grant close out procedures and a plan for the Implementation Contractor and the County to exchange all necessary grant, construction, case management and other programmatic files, whether paper or electronic copies, in order to meet HUD and County document retention requirements to the County.
5. The Implementation Contractor shall provide detailed information on how disallowed costs will be handled and addressed during this contract.

Projected Implementation Outcomes Based Payment Schedule

Start-Up Tasks:

- Implementation Contractor establishes a physical presence in DeLand within sixty (60) days
- All program policies reviewed and accepted. Any proposed changes by Implementation Contractor shall be approved by the County
- Review of MHU and stick built specifications, plans, and approval by County
- Implementation Contractor trains and certifies its employees
 - All employees must have and pass a second level background screening through ACHA

- Strategic Communications Plan completed and accepted by County

Recurring Quarterly Responsibilities:

- Review/Update all program policies with County
- Implementation Contractor provides training and certification for all its employees and contractors as well as any training beneficial for County
- Review/Update Strategic Communications Plan
- Review/Update construction progress and HQS quality compliance
- Review/Update warranty service responsiveness and work completion
- Review/Update project timeline projections and compliance
- Review/Update project financial projections and MID spending compliance

QUARTER	Projected Implementation Outcomes Schedule
Start-Up	Implementation Contractor established with a presence in Volusia County
	All program policies established and accepted by County
	Implementation Contractor trained and certified its employees and contractors
	Form of transparency website accepted by County
	Stick built plans for 2 BR/2 BA, 3 BR/2 BA, 4BR/2 BA and handicapped accessible version of each acquired by Offeror and reviewed and approved by County
	MHU models Implementation Contractor seeks to utilize in program are certified by Offeror as program compliant and reviewed and approved by County
	Strategic Communications Plan completed and accepted by County
	Intake Support / Eligibility Operations Plan approved by County
Year 1 1st Quarter	Eligible PDR Intakes transferred to Implementation Contractor
	Work plan for completion developed
	Hurricane Ian website established
	All Provision Training Requirements Complete
	Recurring Quarterly Responsibilities
2nd Quarter	Intake Support / Eligibility Operations Ongoing
	Projects Complete per work plan
	Recurring Quarterly Responsibilities
3rd Quarter	Projects Complete per work plan
	Complete and Brief Internal Audit to the County
	Recurring Quarterly Responsibilities
4th Quarter	Projects Complete per work plan
	Recurring Quarterly Responsibilities
Year 2 - Year 6 1st Quarter	Projects Complete per work plan
	Recurring Quarterly Responsibilities
2nd Quarter	Projects Complete per work plan
	Completed Internal Audit and Briefed to the County
	Recurring Quarterly Responsibilities
3rd Quarter	Projects Complete per work plan
	Recurring Quarterly Responsibilities
4th Quarter	All Audit Findings Reconciled with County
	Recurring Quarterly Responsibilities
	All Aspects of Program Prepared for Closeout
Year 6	Closeout and Customer Service
	Recurring Quarterly Responsibilities
	Final Payment

DELIVERY/PERFORMANCE LOCATION -- SPECIFIED (JAN 2024)

All deliveries shall be made and all services provided to the following address, unless otherwise specified:

The Volusia County Disaster Recovery Office
123 W. Indiana Ave
DeLand, FL 32724



COST PROPOSAL

General Management and Compliance / Audit/ Close-Out Operations Fee

LEMOINE proposes the following hourly rates for positions listed and to be staffed on-site, within Volusia County, or remote with permission:

Position	Rate Per Hour
Project Manager	\$195.00
Deputy Project Manager	\$160.00
HUD CDBG-DR Subject Matter Expert	\$175.00
Project Specialist	\$75.00

LEMOINE further defines the following additional support rates, to be utilized as needed, within the defined NOT TO EXCEED amount as fee:

Position	Rate Per Hour
Senior System Developer	\$175.00
Program Consultant	\$120.00
Inspector	\$105.00
Community Outreach Coordinator	\$80.00
Data Analyst	\$75.00
Case Management Supervisor	\$65.00
Case Manager	\$55.00

With a proposed contract delivery length quoted as 6 (six) years, LEMOINE requests a staffing based implementation fee not to exceed \$ 7,550,400.00 based on the provided rates and positions listed.

EXAMPLE:

	Rate Per Hour	Hours Per Week	Weeks Per Year	Years	Total
Project Manager	\$195.00	40	52	6	\$2,433,600.00
Deputy Project Manager	\$160.00	40	52	6	\$1,996,800.00
HUD CDBG-DR Subject Matter Expert	\$175.00	40	52	6	\$2,184,000.00
Project Specialist	\$75.00	40	52	6	\$936,000.00
				Not to Exceed	\$7,550,400.00

Above is an example fee usage structure. Outside of the required in person Project Manager and Deputy Project Manager, LEMOINE reserves the right to adjust hours of specific positions as needed within the proposed fee using the proposed required and support positions and rates.

LEMOINE's implementation costs include all fees associated with public notice postings or publications, all fees associated with construction permitting or licensing, and all fees relating to program lien filings and UCC filings.

LEMOINE agrees to use the Xactimate estimates for rehabilitations,

LEMOINE's implementation costs include all fees associated with public notice postings or publications, all fees associated with construction permitting or licensing, and all fees relating to program lien filings and UCC filings.

PRICING CLARIFICATION

LEMOINE commits to its proposed General Management and Compliance / Audit/ Close-Out Operations Fee of **\$ 7,550,400.00**, with a proposed contract delivery length quoted as a maximum of **six (6) years**.

LEMOINE clarifies that this fee is not a lump sum and is instead a NOT TO EXCEED amount.

Any savings created by performing this contract faster than six (6) years could generate savings that will be returned to Volusia County.

LEMOINE's implementation costs include all fees associated with public notice postings or publications, all fees associated with construction permitting or licensing, and all fees relating to program lien filings and UCC filings.

CONSTRUCTION MANAGEMENT FEE

Please accept the following as an amendment to our proposal.

Based on feedback from the review committee, LEMOINE withdraws the proposed BCM fee schedule as defined in our proposal.

We clarify that all Rehabilitation work will instead be done using Xactimate pricing plus 30%.

LEMOINE also agrees to use Xactimate pricing plus 30% for MHU replacements where suitable or qualify three bids from local providers to establish cost.

For reconstructions, LEMOINE commits that a thorough cost reasonableness analysis will be conducted soliciting cost base pricing from qualified builders after selection of the Implementation Contractor. No overhead and profit will be placed on top these costs.

EXHIBIT C – INSURANCE REQUIREMENTS

Required Types and Limits of Insurance:

TYPE OF INSURANCE		
WORKERS COMPENSATION <input checked="" type="checkbox"/> Waiver of Subrogation	Florida Statutory Coverage	
COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> Occurrence Basis <input checked="" type="checkbox"/> Contractual Liability <input checked="" type="checkbox"/> County Additional Insured <input checked="" type="checkbox"/> Waiver of Subrogation	EACH OCCURRENCE	\$ 1,000,000
	GENERAL AGGREGATE	\$ 2,000,000
	Premises-Operations	\$ 1,000,000
	Products & Completed Ops	
	Personal & Adv Inj.	\$1,000,000
	Fire Damage	\$
		\$
AUTO LIABILITY <input checked="" type="checkbox"/> Any Auto	Combined Single Limit	\$ 500,000
	Bodily Injury (Per person)	\$
	Bodily Injury (Per accident)	\$
	Property Damage (Per Accident)	\$
Note: If contractor does not own any vehicles, Contractor shall have coverage symbol 8 (Hired Autos) and coverage symbol 9 (Non-Owned Autos).		
<input checked="" type="checkbox"/> PROFESSIONAL LIABILITY	\$ 1,000,000 per Claim \$ 2,000,000 Aggregate	
CANCELLATION: Thirty (30) days written notice of cancellation is required to the Certificate Holder:		
Certificate Holder: County of Volusia Purchasing & Contracts Division 123 W. Indiana Avenue, Room 302 DeLand, FL 32720 ATTN: <u>Kathy Williams</u>		

3.52. Insurance Requirements

Required Types of Insurance

The Contractor shall purchase and maintain at its own expense, during the term of the Agreement, the types and amounts of insurance with limits no less than those shown in the Required Types and Limits of Insurance Chart associated with this solicitation, in the form and from companies satisfactory to the County. The Required Types and Limits of Insurance Chart is a listing and general summary of insurance policies required and is not intended to be comprehensive as to the requirements of each specific policy. Contractors shall review the additional requirements in this section and ensure that the insurance policies comply with the specific terms and conditions therein.

For the purposes of indemnification of the County or an endorsement or insurance coverage under this Agreement/Contract under which the County is a “named insured”, “additional named insured”, or “additional insured”, the term “County” includes the County of Volusia (a body corporate and politic and a subdivision of the State of Florida), including its districts, authorities, separate units of government established by law, ordinance or resolution, partners, elected and non-elected officials, employees, agents, volunteers, and any party with whom the County has agreed by contract to provide additional insured status.

3.53. Subcontractors and Independent Contractors

All subcontractors & independent contractors utilized by Contractor to provide services to County and its employees under this Agreement/Contract shall be required to maintain all insurance policies with the same terms, conditions, and requirements required of the Contractor in the Required Types and Limits of Insurance Chart and described below in this Exhibit.

3.54. Claims Made Basis Insurance Policies

All insurance policies written on a Claims Made Form shall maintain a retroactive date prior to or equal to the effective date of the Agreement. The Contractor shall purchase a Supplemental Extended Reporting Period (“SERP”) with a minimum reporting period of not less than three (3) years in the event the policy is canceled, not renewed, switched to occurrence form, or any other event which requires the purchase of a SERP to cover a gap in insurance for claims which may arise under or related to the Agreement. The Contractor’s purchase of the SERP shall not relieve the Contractor of the obligation to provide replacement coverage. In addition, the Contractor shall require the carrier immediately inform the Contractor, the County Risk Manager, and the Purchasing and Contracts Division of any contractual obligations that may alter its professional liability coverage under the Agreement.

3.55. Risk Retention Groups and Pools

Contractor shall not obtain an insurance policy required under this Agreement from a Risk Retention Group or Pool.

3.56. Minimum Required Policies and Limits

Minimum underlying policies, coverages, and limits shall include all policies listed in the Required Types and Limits of Insurance Chart.

3.57. Additional Insured, Policies, Coverages, Limits, Primary and Non-Contributory Basis

Under all insurance policies where the County is required to be an additional insured, the coverage and limits provided to the County under Contractor's insurance policies shall be that listed in the Required Types and Limits of Insurance Chart or the Contractor's actual limits, whichever is higher. All coverage provided to the County as an additional insured by said policies shall be primary and shall not be additional to or contributing with any other insurance carried by or for the benefit of the County with any other insurance available to the County. The Contractor shall utilize ISO Form CG 20 38 04 13 and CG 20 37 04 13 or equivalent to provide additional insured status to the County and any party to whom the County is contractually bound to provide additional insured status under a commercial general liability policy.

3.58. Workers' Compensation

Workers' Compensation insurance is required for all employees of the Contractor, employed or hired to perform or provide work or services under the Agreement or that is in any way connected with work or services performed under the Agreement, without exclusion for any class of employee, and shall comply fully with the Florida Workers' Compensation Law (Chapter 440, Florida Statutes, Workers' Compensation Insurance) and include Employers' Liability Insurance with limits no less than the statutory. Policy shall include a waiver of subrogation in favor of the County. If Contractor is using a "leased employee" or an employee obtained through a professional employer organization ("PEO"), Contractor is required to have such employees covered by worker's compensation insurance in accordance with Florida Worker's Compensation law and the insurance carrier of the PEO execute a waiver of subrogation in favor of the County, its employees and insurers.

(1) Contractor and its Subcontractors, or any associated or subsidiary company doing work on County property or under the Agreement must be named in the Workers' Compensation coverage or provide proof of their own Workers' Compensation coverage, without exclusion of any class of

employee, and with a minimum of the statutory limits per occurrence for Employer's liability coverage. Further, if the Contractor's Subcontractors fail to obtain Workers' Compensation insurance and a claim is made against the County by the uncovered employee of said Subcontractor of the Contractor, the Contractor shall indemnify, defend, and hold harmless the County from all claims for all costs including attorney's fees and costs arising under said employee(s) Workers' Compensation insurance claim(s).

3.59. Motor Vehicle Liability

The Contractor shall secure and maintain during the term of the Agreement motor vehicle coverage in the split limit amounts of no less than the amounts shown in the Required Types and Limits of Insurance Chart, per person, per occurrence for bodily injury and for property damage or a combined single limit of the amount shown above with "Any Auto", Coverage Symbol 1, providing coverage for all autos operated regardless of ownership, and protecting itself, its employees, agents or lessees, or subsidiaries and their employees or agents against claims arising from the ownership, maintenance, or use of a motor vehicle. The County shall be an additional insured under this policy when required in the Required Types and Limits of Insurance Chart.

3.60. Professional Liability

The Contractor shall ensure that it secures and maintains, during the term of the Agreement, Professional Liability insurance with limits of no less than the amount shown in the Required Types and Limits of Insurance Chart in respect only to the project(s) contemplated by the Agreement. Such policy shall cover all the Contractor's or its Subcontractor's professional liabilities whether occasioned by the Contractor or its Subcontractors, or its agents or employees [and broad enough to include errors and omissions specific to Contractor's professional liability for direct and contingent design errors and Architect's/Engineers professional liability with no exclusions for design-build work]. The County shall be an additional insured under this policy when required in the Required Types and Limits of Insurance Chart.

If the Contractor fails to secure and maintain the professional liability insurance coverage required herein, the Contractor shall be liable to the County and agrees to indemnify, defend, and hold harmless the County against all claims, actions, losses or damages that would have been covered by such insurance.

3.61. Primary and Excess Coverage

Any insurance required may be provided by primary and excess insurance policies.

3.62. Insurance Requirements

A. General Insurance Requirements:

(1) All insurance policies shall be issued by insurers licensed and/or duly authorized under Florida Law to do business in the State of Florida and all insuring companies are required to have a minimum rating of A- and a Financial category size of VIII or greater in the "Best Key Rating Guide" published by A.M. Best & Company, Inc.

(2) Approval by County of any policy of insurance shall not relieve Contractor from its responsibility to maintain the insurance coverage required herein for the performance of work or services by the Contractor or its Subcontractors for the entire term of the Agreement and for such longer periods of time as may be required under other clauses of the Agreement.

(3) Waiver of Subrogation. The Contractor hereby waives all rights against the County and its Subcontractors for damages by reason of any claim, demand, suit or settlement (including workers' compensation) for any claim for injuries or illness of anyone, or perils arising out of the Agreement. The Contractor shall require similar waivers from all its Subcontractors. Contractor's insurance policies shall include a waiver of subrogation in favor of the County. This provision applies to all policies of insurance required under the Agreement (including Workers' Compensation, and general liability).

(4) County Not Liable for Paying Deductibles. For all insurance required by Contractor, the County shall not be responsible or liable for paying deductibles for any claim arising out of or related to the Contractor's business or any Subcontractor performing work or services on behalf of the Contractor or for the Contractor's benefit under the Agreement.

(5) Cancellation Notices. During the term of the Agreement, Contractor shall be responsible for promptly advising and providing the County Risk Manager and the Purchasing and Contracts divisions with copies of notices of cancellation or any other changes in the terms and conditions of the original insurance policies approved by the County under the Agreement within two (2) business days of receipt of such notice or change.

(6) Deductibles. Contractors that maintain and administer a self-insured retention or a large deductible program exceeding the insurance requirements listed in this solicitation using a formal program to fund either program may submit an exception in accordance with the solicitation section detailing Questions, Exceptions, and Addenda, to be considered for this solicitation.

The request must include a summary of the program's design, funding method, and the program's supporting financial information. If additional information is necessary, the County will request more specific information, which must be provided by the Contractor. The County Risk Manager will review the information submitted and determine whether the program is acceptable to the County. Contractors with no formal risk management program in place to manage and fund deductibles or self-insured retentions may not be considered. Subject to County approval, Contractor may obtain a letter of credit in the amount equivalent to the deductible, which shall remain in effect during the term of the Agreement at no additional cost to the County.

(7) Contractor's obligations or services shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity or insurance defense of additional or named insureds which would otherwise exhaust or be unavailable as to a party or person described in this Contract.

3.63. Proof of Insurance

1. The Contractor shall be required to furnish evidence of all required insurance in the form of certificates of insurance, which shall clearly outline all hazards covered as itemized herein, the amounts of insurance applicable to each hazard and the expiration dates.
2. The Contractor shall furnish proof of insurance acceptable to the County prior to or at the time of execution of the Agreement and the Contractor shall not commence work or provide any service until the Contractor has obtained all the insurance required under the Agreement and such insurance has been filed with and approved by the County. Upon request from the County, the Contractor shall furnish copies of all requested policies and any changes or amendments thereto, immediately, to the County, the County Risk Manager, and Purchasing and Contracts Divisions, prior to the commencement of any contractual obligations. The Agreement may be terminated by the County, without penalty or expense to County, if at any time during the term of the Agreement proof of any insurance required hereunder is not provided to the County.
3. All certificates of insurance shall clearly indicate that the Contractor has obtained insurance of the type, amount and classification required by this Section. No work or services by Contractor or its Subcontractors shall be commenced until County has approved these policies or certificates of insurance. Further, the Contractor agrees that the County shall make no payments pursuant to the terms of the Agreement until all required proof or evidence of insurance has been provided to the County. The Agreement may be terminated by the County, without penalty or expense, if proof of any insurance required hereunder is not provided to the County.

4. The Contractor shall file replacement certificates with the County at the time of expiration or termination of the required insurance occurring during the term of the Agreement. In the event such insurance lapses, the County expressly reserves the right to renew the insurance policies at the Contractor's expense or terminate the Agreement but County has no obligation to renew any policies.
5. The provisions of this section, Required Types of Insurance, shall survive the cancellation or termination of the Agreement.

FEDERAL CONTRACT PROVISIONS

Contractor agrees to comply with all requirements checked below



Equal Employment Opportunity – for all contracts for construction work which is defined as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

This requirement applies to all FEMA/Federal grant and cooperative agreement programs.

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

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

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

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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

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

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

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

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



Davis Bacon Act Equal Employment Opportunity – applies to all contracts for construction work as defined above.

The Davis-Bacon Act only applies to the Emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. It DOES NOT apply to other FEMA/Federal grant and cooperative agreement programs, including the Public Assistance Program.

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



Copeland Anti-Kickback Act

This requirement applies to all contracts for construction or repair work above \$2,000 in situations where the Davis-Bacon Act also applies. It DOES NOT apply to the FEMA Public Assistance Program.

- a. Contractor. The contractor shall comply with 18 U.S.C. §874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- b. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. §5.12.”



Contract Work Hours and Safety Standards Act

This requirement applies to all FEMA/Federal contracts awarded by the non- federal entity in excess of \$100,000 under grant and cooperative agreement programs that involve the employment of mechanics or laborers. It is applicable to construction work. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Compliance with the Contract Work Hours and Safety Standards Act.

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



Rights to Inventions Made Under a Contract or Agreement

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

Agreements), and any implementing regulations issued by FEMA. See 2 C.F.R. Part 200, Appendix II(F)

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



Clean Air Act and the Federal Water Pollution Control Act

This requirement applies to contracts awarded by a non-federal entity of amounts in excess of \$150,000 under a federal grant.

Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the County of Volusia (County) and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

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



Debarment and Suspension

This requirement applies to all FEMA/Federal grant and cooperative agreement programs.

Suspension and Debarment

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

pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

If applicable, contractors must sign and submit to the non-federal entity the certification in Appendix A.



Byrd Anti-Lobbying Amendment

This requirement applies to all FEMA/Federal grant and cooperative agreement programs. Contractors that apply or bid for a contract of \$100,000 or more under a federal grant must file the required certification. See 2 C.F.R. Part 200, Appendix II(I); 31 U.S.C. § 1352; and 44 C.F.R. Part 18.

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 who in turn will forward the certification(s) to the awarding agency.

If applicable, contractors must sign and submit to the non-federal entity the certification in Appendix B.



Procurement Of Recovered Materials

This requirement applies to all contracts awarded by a non- federal entity under FEMA/Federal grant and cooperative agreement programs.

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

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

Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.



Access to Records

The following access to records requirements apply to this contract:

1. The Contractor agrees to provide State of Florida, County of Volusia, the FEMA (Federal grant) Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. The Contractor agrees to provide the FEMA (Federal grant) Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

4. In compliance with the Disaster Recovery Act of 2018, the State of Florida, County of Volusia, and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA (Federal grant) Administrator or the Comptroller General of the United States.

Changes

To be eligible for FEMA assistance under the non-Federal entity's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope.

FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

Department of Homeland Security (DHS) Seal, Logo, and Flags

Recipients must obtain permission prior to using the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials. See DHS Standard Terms and Conditions: Version 8.1 (2018).

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

Compliance with Federal Law, Regulations, and Executive Orders

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

No Obligation by Federal Government

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

Program Fraud and False or Fraudulent Statements or Related Acts

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

Domestic Preferences for Procurements

The Contractor acknowledges that they, as appropriate and to the extent consistent with law, shall, when practicable purchase, acquire, or use goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). **See 2 C.F.R. Part 200.322.**

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Exhibit D

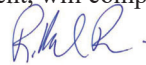
ITB 23-P-196KW

**Prohibition on certain telecommunications and video surveillance services or equipment.**

1. Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
 - (a) Procure or obtain;
 - (b) Extend or renew a contract to procure or obtain; or
 - (c) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
 - (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
2. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
3. See Public Law 115-232, section 889 for additional information.
4. See also 2 CFR §200.471. Telecommunication costs and video surveillance costs.
 - (a) Costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, cloud servers are allowable except for the following circumstances:
 - (b) Obligating or expending covered telecommunications and video surveillance services or equipment or services as described in §200.216 to:
 - (1) Procure or obtain, extend or renew a contract to procure or obtain;
 - (2) Enter into a contract (or extend or renew a contract) to procure; or
 - (3) Obtain the equipment, services, or systems.

I hereby certify that I have read and understand the requirements of these Federal Contract Provisions and that I, as the Respondent, will comply with all requirements.

x



Authorized Signature		
Robert "Mike" Rice		
Printed Name		
President of LEMOINE Disaster Services		12-8-23
Title		
Lemoine Disaster Recovery, L.L.C.		Date
Company Name		
1906 Eraste Landry RD # 200, Lafayette, LA 70506-1999		
Full Address		
225.383.3710	225.383.3978	disaster@1lemoine.com
Telephone	Fax	E-mail Address

APPENDIX A, CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION-

LOWER TIER COVERED TRANSACTIONS FOR FEDERAL AID CONTRACTS

It is certified that neither the below identified firm nor its principals are presently suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Name of Consultant/Contractor: Lemoine Disaster Recovery, L.L.C.

By: Robert "Mike" Rice

Date: 12-8-23

Title: President of LEMOINE Disaster Services

Instructions for Certification

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or sub-grantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or sub-grantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

Exhibit D

ITB 23-P-196KW

- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

APPENDIX B, CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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.
2. 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 undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients 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 section 1352, title 31, U.S. Code. 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.

Lemoine Disaster Recovery, L.L.C.

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. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.



Signature of Contractor's Authorized Official

Robert "Mike" Rice, President of LEMOINE Disaster Services

Name and Title of Contractor's Authorized Official

12-8-23

Date