

STATE OF TEXAS §
 §
COUNTY OF FORT BEND §

ADDENDUM TO AGREEMENT FOR PURCHASE OF TRENCH RESCUE TRUCK

THIS ADDENDUM is made and entered into by and between Fort Bend County, (hereinafter "County"), a body corporate and politic under the laws of the State of Texas acting herein by and through its Commissioner's Court and Houston Freightliner (hereinafter "FREIGHTLINER"), a company authorized to conduct business in the State of Texas, (hereinafter referred to collectively as "Parties.")

WITNESSETH

WHEREAS, subject to the changes herein, the parties have executed and accepted FREIGHTLINER's Proposal (the "Agreement") for the purchase of a Trench Rescue Truck vehicle to be utilized by the County's Office of Homeland Security & Emergency Management,(hereinafter the "Goods"); and

WHEREAS, County desires that FREIGHTLINER provide these goods; and

WHEREAS, FREIGHTLINER represents that it is qualified and desires to provide such Goods; and

WHEREAS, the parties wish to utilize HGAC Buy Contract # HT06-20, incorporated fully by reference, for the purchase of the goods; and

WHEREAS, this Agreement is funded in whole or in part by federal grants which impose procurement requirements for acquisition of property or services that comply with 2 CFR Section 320 unless circumstances for non-procurement apply to the purchase.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth below, the Parties agree as follows:

AGREEMENT

Section 1. Term and Scope of Services

FREIGHTLINER shall render goods to County as specifically defined in Exhibit "A" attached hereto and incorporated fully by reference. Delivery of goods shall occur on or before December 31, 2024.

Section 2. Compensation and Payment

- A. FREIGHTLINER's fees shall be calculated at the rates set forth in Exhibit A. The Maximum Compensation for the goods within the Scope of Services described in Exhibit A is Two Hundred Two Thousand Two Hundred Seventy dollars and 00/100 cents (\$202,270.00). In no case shall the amount paid by County under this Agreement exceed the Maximum Compensation without an approved change order.
- B. County will pay FREIGHTLINER based on the following procedures: Upon completion delivery of goods identified in the Scope of Services, FREIGHTLINER shall submit to County two (2) original copies of invoices showing the amounts due for goods provided in a form acceptable to County. County shall review such invoices and approve them within 30 calendar days with such modifications as are consistent with this Agreement and forward same to the Auditor for processing. County shall pay each such approved invoice within thirty (30) calendar days. County reserves the right to withhold payment pending verification of satisfactory goods provided.
- C. County is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request. Interest resulting from late payments by County shall be governed by Chapter 2251, TEXAS GOVERNMENT CODE.

Section 3. Limit of Appropriation

- A. FREIGHTLINER clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of Two Hundred Two Thousand Two Hundred Seventy dollars and 00/100 cents (\$202,270.00) specifically allocated to fully discharge any and all liabilities County may incur.
- B. FREIGHTLINER does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that FREIGHTLINER may become entitled to and the total maximum sum that County may become liable to pay to FREIGHTLINER shall not under any conditions, circumstances, or interpretations thereof exceed Two Hundred Two Thousand Two Hundred Seventy dollars and 00/100 cents (\$202,270.00).
- C. It is specifically understood and agreed that in the event no funds or insufficient funds are appropriated by County under this Agreement, County shall notify all necessary parties that this Agreement shall thereafter terminate and be null and void on the last day of the fiscal period for which appropriations were made without penalty, liability or expense to County.

Section 4. Modifications and Waivers

- A. The Parties may not amend or waive this Agreement, except by a written agreement executed by both Parties.
- B. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the Parties, operates as a waiver or estoppel of any right, remedy, or condition.
- C. The rights and remedies of the Parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.

Section 5. Confidential and Proprietary Information

- A. FREIGHTLINER acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by FREIGHTLINER or its employees or agents from County in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by FREIGHTLINER shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by FREIGHTLINER) publicly known or is contained in a publicly available document; (b) is rightfully in FREIGHTLINER's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (c) is independently developed by employees or agents of FREIGHTLINER who can be shown to have had no access to the Confidential Information.
- B. FREIGHTLINER agrees to hold Confidential Information in strict confidence, using at least the same degree of care that FREIGHTLINER uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. FREIGHTLINER shall use its best efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, FREIGHTLINER shall advise County immediately in the event FREIGHTLINER learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and FREIGHTLINER will at its

expense cooperate with County in seeking injunctive or other equitable relief in the name of County or FREIGHTLINER against any such person. FREIGHTLINER agrees that, except as directed by County, FREIGHTLINER will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, FREIGHTLINER will promptly turn over to County all documents, papers, and other matter in FREIGHTLINER's possession which embody Confidential Information.

- C. FREIGHTLINER acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. FREIGHTLINER acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.
- D. FREIGHTLINER in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.
- E. FREIGHTLINER expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 et seq., as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Consultant shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.

Section 6. Notices

- A. Each party giving any notice or making any request, demand, or other communication (each, a "Notice") pursuant to this Agreement shall do so in writing and shall use one of the following methods of delivery, each of which, for purposes of this Agreement, is a writing: personal delivery, registered or certified mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid).

- B. Each party giving a Notice shall address the Notice to the receiving party at the address listed below or to another address designated by a party in a Notice pursuant to this Section:

County: Fort Bend County Office of Homeland Security &
Emergency Management
Attn: Emergency Management Coordinator
1521 Eugene Heimann Circle
Richmond, Texas 77469

With a copy to: Fort Bend County
Attn: County Judge
401 Jackson Street, 1st Floor
Richmond, Texas 77469

Freightliner: Houston Freightliner
Attn: Adam Neuse

- C. Notice is effective only if the party giving or making the Notice has complied with subsections 6(A) and 6(B) and if the addressee has received the Notice. A Notice is deemed received as follows:

1. If the Notice is delivered in person, or sent by registered or certified mail or a nationally recognized overnight courier, upon receipt as indicated by the date on the signed receipt.
2. If the addressee rejects or otherwise refuses to accept the Notice, or if the Notice cannot be delivered because of a change in address for which no Notice was given, then upon the rejection, refusal, or inability to deliver.

Section 7. Compliance with Laws

FREIGHTLINER shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any matter affecting the performance of this Agreement, including, without limitation, Worker's Compensation laws, minimum and maximum salary and wage statutes and regulations, licensing laws and regulations. When required by County, FREIGHTLINER shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

Section 8. Applicable Law

The laws of the State of Texas govern all disputes arising out of or relating to this Agreement. The Parties hereto acknowledge that venue is proper in Fort Bend County, Texas, for all legal actions or proceedings arising out of or relating to this Agreement and waive the right to sue or be sued elsewhere. Nothing in the Agreement shall be construed to waive the County's sovereign immunity. County does not agree to submit disputes arising out of the Agreement to binding arbitration. Therefore, any references to binding arbitration or the waiver of a right to litigate a dispute are hereby deleted. County does not agree to pay any and/or all attorney fees incurred by FREIGHTLINER in any way associated with the Agreement

Section 9. Third Party Beneficiaries

This Agreement does not confer any enforceable rights or remedies upon any person other than the Parties.

Section 10. Severability

If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

Section 11. Certain State Law Requirements for Contracts

The Contents of this Section are required by Texas law and are included by County regarding of content.

Unless affirmatively declared by the United States government to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization, is not identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 806.051, 807.051, or 2252.153 of the Texas Government Code.

Section 12. Human Trafficking

By signature below, FREIGHTLINER acknowledges that Fort Bend County is opposed to human trafficking and that no County Funds will be used in support of services or activities that violate human trafficking laws.

Section 13. Federal Clauses

FREIGHTLINER understands and acknowledges that this Agreement may be totally or partially funded with federal and or state funds as stated in the Statement of Grant Award attached hereto as Exhibit "B", and incorporated fully by reference. **As a condition of receiving these funds, FREIGHTLINER represents that it is and will remain in compliance with all**

federal and/or state terms as specifically stated in Exhibit B and fully incorporated by reference as if recited verbatim herein; and that it is and will remain in compliance with all federal and/or state terms as specifically stated in Office of the Governor Public Safety Office Homeland Security Grants Division Fund Specific Grant Conditions, attached as Exhibit "C", and fully incorporated by reference as if recited verbatim herein. These terms flow down to all third-party FREIGHTLINERs and their subcontracts at every tier that exceed the simplified acquisition threshold, unless a particular award term or condition specifically indicates otherwise. The FREIGHTLINER shall require that these clauses shall be included in each covered transaction at any tier.

Section 14. Captions

The section captions used in this Addendum are for convenience of reference only and do not affect the interpretation or construction of this Addendum.

Section 15. Conflict

In the event there is a conflict between this Addendum and the attached exhibit(s), this Addendum controls to the extent of the conflict.

{EXECUTION PAGE FOLLOWS}

IN WITNESS WHEREOF, this Addendum is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Addendum and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will.

FORT BEND COUNTY

HOUSTON FREIGHTLINER

KP George
Fort Bend County Judge


Authorized Agent - Signature

Date

Adam Neuse
Authorized Agent- Printed Name

ATTEST:

Act Mgr
Title

Laura Richard, County Clerk

8/28/23
Date

AUDITOR'S CERTIFICATE

I hereby certify that funds in the amount of \$_____ are available to pay the obligation of Fort Bend County within the foregoing Agreement.

Robert Ed Sturdivant, County Auditor

Exhibit A: Houston Freightliner Quote

Exhibit B: Statement of Grant Award

Exhibit C: Office of the Governor Public Safety Office Homeland Security Grants Division Fund Specific Grant Conditions

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EXHIBIT A



CONTRACT PRICING WORKSHEET
For MOTOR VEHICLES Only

Contract
No.:

HT06-20

Date
Prepared:

7/11/2023

This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents MUST be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.

Buying Agency:	City of Missouri City	Contractor:	Houston Freightliner
Contact Person:	Mike Hafer	Prepared By:	Adam Neuse
Phone:		Phone:	713-580-8148
Fax:		Fax:	
Email:		Email:	adam.neuse@houstonfreightliner.com

Product Code:	D5	Description:	M2-106, Conventional Cab, SBFA, SRA (PRL-20M)
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A. Product Item Base Unit Price Per Contractor's H-GAC Contract: 69847

B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.

(Note: Published Options are options which were submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
B6.7 260 HP 660 LB FT TQ ENGINE	3302	LH/RH 8" Bright Convex Fender Mirrors	104
12,000 LB FLAT LEAF FRONT SUSPENSION	350	Premium Cab Insulation	140
21,000 LB AIRLINER REAR SUSPENSION	22	Basic High Back Air Driver Seat	159
Battery Disconnect MTD LH of Driver Seat	150	Basic High Back Air Susp Pass Seat	191
Positive and Negative Jump Starts Mtd on Frame Next to Start	69	Orange Visibility Seat Belts	20
270" Wheelbase	1228	Adjustable Steering Column	359
11/32x3-1/2x10-3/16" Frame 120KSI	368	Back Up Alarm	33
3 Piece Chromed Steel Bumper with Collapsible Ends	278	AM/FM/WB Radio with Bluetooth	368
Air Cab Mounts	91		
LED Marker Lights	26	Special General Truck Body Trench Rescue Truck	111320
LH/RH Electric Windows	164	Subtotal From Additional Sheet(s):	
Dual West Coast Mirrors w/LH-RH Remote	215	Subtotal B:	118957

C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.

(Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
SPL100 DANA SPICER MAIN DRIVELINE	758	ALLISON 2200 HS TRANSMISSION W PARK PAWL	551
FORWARD ROOF MOUNTED CONSOLE	568	Subtotal From Additional Sheet(s):	0
FRONT SWAYBAR	464	Subtotal C:	2341

Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B).

For this transaction the percentage is:

1%

D. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C)

Quantity Ordered:	1	X Subtotal of A + B + C:	191145	=	Subtotal D:	191145
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E. H-GAC Order Processing Charge (Amount Per Current Policy)

Subtotal E: 1000

F. Trade-Ins / Special Discounts / Other Allowances / Freight / Installation / Miscellaneous Charges

Description	Cost	Description	Cost
Freightliner Standard Destination Charge	3375	24MY/23CY Pricing Surcharge	3750
		M2/SD Plus Model	3000
		Subtotal F:	10125

Delivery Date:

G. Total Purchase Price (D+E+F):

202270



General Truck Body

Custom Division

6901 Ave V Houston, Texas 77011

04/24/2023

#001 (REV C)

Proposal For: April 24th 2023 – Mike Hafer @ Fort Bend County

General Truck Body is pleased to provide the following proposal to Fort Bend County. Unit will comply with all specifications attached and made part of this proposal. Freight is not included in this proposal.

Description: (TRT) Trench Rescue Truck, Freightliner Truck, 26FT Cargo Body.

Quantity: 1 Unit

Price breakdown

Vehicle = 2024 M2 106 Plus Conventional Cab, 26,000lbs GVW, CUM B6.7 260 HP @ 2400 RPM, ALLISON 2200 HS AUTOMATIC TRANSMISSION WITH PARK PAWL, NO PTO PROVISION

NOTE: Expected delivery of chassis end of Q4 2023

The price of the chassis is subjected to change depending on the time of order

Body = Lyncoach Cargo Body Ext (26' L x 102" H x 102" W) & Interior Inside Dimensions: (25' 10" L x 102 ½" H x 96 ¼" W) .040 Pre Painted White Alum. Sides With Rivets On 2" Centers Extruded Aluminum Z-Post On 16" Centers, 1/2" Exterior Plywood Lining On Front Wall, 3/8" Exterior Plywood Lining On Side Walls, Forklift Package (Includes Extra Cross Members 6" Spacing & 24" Crash Plate), Stainless Steel Rear-End (Designed With Flush Entry), Grab Handles On Rear, Composite Roll-Up Rear Door, No Bumper, Additional PS entry door. E-Trac mount system to meet customer specifications.

Liftgate = Install Tuck Under 2K LBS Lift Gate

Emergency Lights =

- 72" Freedom IV Lightbar (Qty. 1)
- M6R Lights M6 LED FLASHER RED (Qty. 2)
- M6RC Lights M6 LED FLASHER RED W/CLR LENS (Qty.4)
- PCH2 PIONEER+ DUAL COMBO 12V WHT (Qty. 5)
- M9RC M9 LED FLASHER RED W/CLR LENS (Qty. 4)
- M6DJ M6 DUO LED FLASHER RED/BLUE (Qty. 2)
- TLIR ION T-SERIES LINEAR LT RED (Qty. 2)
- M2J M2 LED FLASHER BLUE/RED (Qty. 2)

Shelving Unit =

- (1) Steel shelving unit, approximately (10' L X 5' T X 3' D)

Shore Panel & Wood Rack

- (2) Custom wood racks designed considering the customer specified required amounts and sizes. These units will be heavy duty and designed to securely transport the wood.

Bulkhead Storage Box

- Considering some of the large equipment, we will make this area storage. Need to discuss in more detail how we can position/mount things to maximize the amount of storage.

Struts & Wall Plates

- Position E Trac on the DS forward portion of the trailer to hold the struts and wall plates.

Underbody Storage Box.

- (1) Underbody Storage box installed on the DS of the truck body.

Paint

- The truck cab and cargo body will be painted (red), color to be provided upon order.

Graphics /Decal

- Onsite Decal customer approved decal / graphic schematics. Graphics include a two-tone grey wrap on the cab and all specified patches, striping, chevron, etc. shown on the Onsite Decal proof rendering.

Transportation = NOT INCLUDED

(Unit Price - \$202,270.00)

Total Sales Price = \$202,270.00

Delivery within 3-months of receipt of order and chassis.

PRICE GUARANTEED FOR 15 DAYS from 04/28/2023

Contract: HGAC Contract #HT06-20

Taxes: Tax is not included in this proposal. If the purchasing organization is not exempt from sales tax or any other applicable tax and or the proposed apparatus does not qualify for exempt status, it is the duty of the purchasing organization to pay all taxes due. Balance of sales price is due upon acceptance of the apparatus at the factory.

Payment Terms:

30% Down Payment and remaining final payment due upon completion and invoice.

Acceptance Clause: To ensure the above stated terms and conditions are understood and adhered to, General Truck body requires an authorized individual from the purchasing organization sign and date this proposal and include it with any purchase order. Upon signing of this proposal, the terms and conditions stated herein will be considered binding and excepted by the customer. The terms and acceptance of this proposal will be governed by the laws of The State of Texas. No additional terms or conditions will be binding upon General Truck Body unless agreed to in writing and signed by authorized personnel of General Truck body.

Respectfully,

Signature

Print Name

I, _____, the authorized representative of **Fort Bend County**, agree to purchase the proposed and agree to the terms of the proposal and the specifications attached hereto.

Signature & Date

EXHIBIT B

Statement of Grant Award (SOGA)

The Statement of Grant Award is the official notice of award from the Office of the Governor (OOG). This Grant Agreement and all terms, conditions, provisions and obligations set forth herein shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and all other State of Texas agencies and any other agencies, departments, divisions, governmental entities, public corporations, and other entities which shall be successors to each of the Parties or which shall succeed to or become obligated to perform or become bound by any of the covenants, agreements or obligations hereunder of each of the Parties hereto.

The approved project narrative and budget for this award are reflected in eGrants on the 'Narrative' and 'Budget/Details' tabs. By accepting the Grant Award in eGrants, the Grantee agrees to strictly comply with the requirements and obligations of this Grant Agreement including any and all applicable federal and state statutes, regulations, policies, guidelines and requirements. In instances where conflicting requirements apply to a Grantee, the more restrictive requirement applies.

The Grant Agreement includes the Statement of Grant Award; the OOG Grantee Conditions and Responsibilities; the Grant Application in eGrants; and the other identified documents in the Grant Application and Grant Award, including but not limited to: 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Chapter 783 of the Texas Government Code, Title 34, Part 1, Chapter 20, Subchapter E, Division 4 of the Texas Administrative Code, and the Uniform Grant Management Standards (UGMS) developed by the Comptroller of Public Accounts; the state Funding Announcement or Solicitation under which the grant application was made, and for federal funding, the Funding Announcement or Solicitation under which the OOG was awarded funds; and any applicable documents referenced in the documents listed above. For grants awarded from the U.S. Department of Justice, the current applicable version of the Department of Justice Grants Financial Guide and any applicable provisions in Title 28 of the CFR apply. For grants awarded from the Federal Emergency Management Agency (FEMA), all Information Bulletins and Policies published by the FEMA Grants Program Directorate apply. The OOG reserves the right to add additional responsibilities and requirements, with or without advance notice to the Grantee.

By clicking on the 'Accept' button within the 'Accept Award' tab, the Grantee accepts the responsibility for the grant project, agrees and certifies compliance with the requirements outlined in the Grant Agreement, including all provisions incorporated herein, and agrees with the following conditions of grant funding. The grantee's funds will not be released until the grantee has satisfied the requirements of the following Condition(s) of Funding and Other Fund-Specific Requirement(s), if any, cited below:

Grant Number:	2971408	Award Amount:	\$337,622.00
Date Awarded:	10/5/2022	Grantee Cash Match:	\$0.00
Grant Period:	01/01/2023 - 12/31/2023	Grantee In Kind Match:	\$0.00
Liquidation Date:	03/30/2024	Grantee GPI:	\$0.00
Program Fund:	HS-Homeland Security Grant Program (HSGP)	Total Project Cost:	\$337,622.00
Grantee Name:	Fort Bend County		
Project Title:	Fort Bend County - Collapse Search and Rescue		
Grant Manager:	Jim Hershey		
Unique Entity Identifier (UEI):	MJG8N8EPN2L3		

CFDA:	97.067 - Homeland Security Grant Program (HSGP)
Federal Awarding Agency:	U.S. Department of Homeland Security, Federal Emergency Management Agency
Federal Award Date:	9/12/2022
Federal/State Award ID Number:	EMW-2022-SS-00021
Total Federal Award/State	\$103,385,451.00

Funds**Appropriated:****Pass Thru****Entity Name:** Texas Office of the Governor – Homeland Security Grants Division (HSGD)**Is the Award****R&D:** No**Federal/State
Award****Description:**

The purpose of the HSGP is to support state and local efforts to prevent terrorism and other catastrophic events and to prepare the Nation for the threats and hazards that pose the greatest risk to the security of the United States. The HSGP provides funding to implement investments that build, sustain, and deliver the 31 core capabilities essential to achieving the National Preparedness Goal (the Goal) of a secure and resilient Nation. The building, sustainment, and delivery of these core capabilities are not exclusive to any single level of government, organization, or community, but rather, require the combined effort of the whole community.

EXHIBIT C

Contractor understands and acknowledges that this Agreement may be totally or partially funded with federal and or state funds from the Federal Emergency Management Agency (FEMA). As a condition of receiving these funds, Contractor represents that it is and will remain in compliance with all federal and or state terms as stated below. These terms flow down to all third party contractors and their subcontracts at every tier that exceed the simplified acquisition threshold, currently set at \$50,000, unless a particular award term or condition specifically indicates otherwise. The Contractor shall require that these clauses shall be included in each covered transaction at any tier.

The terms of the FEMA-State Agreement are incorporated by reference into this project award under the Public Assistance grant and the Contractor must comply with all applicable laws, regulations, policy, and guidance. This includes among others, the Robert T. Stafford Disaster Relief and Emergency Assistance Act; Title 44 of the Code of Federal Regulations; FEMA Policy No. 104-009-2, Public Assistance Policy and Program Guide; and other FEMA Policy and Guidance.

1. Davis Bacon Act

For all prime construction, alteration or repair contracts in excess of \$2,000 funded with awards from a federal agency, the Contractor shall comply with the Davis-Bacon Act, as amended (40 U.S.C. §§ 3141 – 3148) and as supplemented by Department of Labor regulations (29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). 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. In addition, Contractors' are required to pay wages not less than once a week.

The Contractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts.

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.

2. Debarment and Suspension.

This requirement applies to all contracts of \$25,000 or more.

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). 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.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

"The Certification in this clause is a material representation of fact relied upon by the County. If it is later determined by the County that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, 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."

3. Political Activities.

This requirement applies to all contracts regardless of amount.

Contractors are prohibited from using federal funds directly or indirectly for political purposes, including polling, lobbying or advocating for legislative programs or changes; campaigning for, endorsing, contributing to, or otherwise supporting political candidates or parties; and voter registration or get-out-the-vote campaigns. Generally, organizations or entities which receive federal funds by way of grants, contracts, or cooperative agreements do not lose their rights as organizations to use their own, private, non-federal resources for "political" activities because of or as a consequence of receiving such federal funds. These recipient organizations must thus use private or other non-federal money, receipts, contributions, or dues for their political activities, and may not charge off to or be reimbursed from federal contracts or grants for the costs of such activities.

4. Procurement of Recovered Materials.

This requirement applies to all contracts for goods or services for \$10,000 or more.

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

5. Access to Records.

This requirement applies to all contracts regardless of amount.

(1) The Contractor agrees to provide County, the FEMA Administrator, the Comptroller General of the United States, TDEM, the State Auditor's Office or any of their authorized representatives

access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Agreement 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 DHS/FEMA and or TDEM, through its authorized representatives access at all reasonable times to construction or other work sites pertaining to the work being completed under the contract. If any site visit is made by DHS/FEMA or TDEM Contractor shall provide all reasonable facilities and assistance for the safety and convenience of the government representatives in the performance of their duties. (4) In compliance with the Disaster Recovery Act of 2018, the County and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

6. Notice of Reporting Requirements.

This requirement applies to all contracts regardless of amount.

Money used to fund this Agreement may originate from a state funding agreement between FEMA and the State of Texas. FEMA requires the State to provide various financial and performance reporting. It is important that the contractor is aware of these reporting requirements, as the relevant state agency and or the County may require the contractor to provide certain information, documentation, and other reporting in order to satisfy reporting requirements to FEMA.

Failure of State to satisfy reporting requirements to FEMA is a material breach of the FEMA-State Agreement and could result in loss of Federal financial assistance awarded to fund this contract.

Reporting requirements include both financial and performance reporting. The applicable regulations, FEMA policy, and other sources setting forth these reporting requirements are as follows:

- a) 44 C.F.R. § 13.40 (Monitoring and Reporting Program Performance)
- b) 44 C.F.R. § 13.41 (Financial Reporting)
- c) 44 C.F.R. § 13.50(b) (Reports)
- d) 44 C.F.R. § 206.204(f) (Progress Reports)
- e) FEMA Standard Operating Procedure No. 9570.14, *Public Assistance Program Management and Grant Closeout Standard Operating Procedure* (Dec. 2013)
- f) FEMA-State (or Tribal) Agreement

7. DHS Seal, Logo, and Flags.

This requirement applies to all contracts regardless of amount.

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

8. Compliance with Federal Law, Regulations, and Executive Orders.

This requirement applies to all contracts regardless of amount.

The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

9. No Obligation by Federal Government.

This requirement applies to all contracts regardless of amount.

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



10. Civil Rights and Non-Discrimination.

This requirement applies to all contracts regardless of amount.

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

a) **Nondiscrimination on the Basis of Race, Color, and National Origin.**

Contractor will comply with state and federal anti-discrimination laws including Title VI of The Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*), FEMA's implementing regulations at 44 C.F.R. Part 7 (*Nondiscrimination in Federally Assisted Programs*), and the Department's implementing regulations at 6 C.F.R. Part 21 (*Nondiscrimination on the Basis of Race, Color, or National Origin in Programs or Activities Receiving Federal Financial Assistance*) which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

b) **Nondiscrimination on the Basis of Sex.**

Contractor will comply with Title IX of the Education Amendments of 1972 (codified as amended at 20 U.S.C. § 1681 *et seq.*), FEMA's implementing regulations at 44 C.F.R. Part 19 (*Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*), and the Department's implementing regulations at 6 C.F.R. Part 15 (*Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*) prohibit discrimination on the basis of sex in any education program or activity receiving Federal financial assistance.

c) **Nondiscrimination on the Basis of Disability.**

Contractor will comply with The Americans with Disability Act of 1990 (codified as amended at 42 U.S.C. §§ 12101-12213) prohibits discrimination against qualified individuals with disabilities

in programs, activities, and services, and imposes specific requirements on public and private public and private entities. Contractors must comply with the responsibilities under Titles I, II, III, IV, and V of the Americans with Disability Act of 1990 in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

d) Nondiscrimination on the Basis of Handicap.

Contractor will comply with Section 504 of the Rehabilitation Act of 1973 (codified as amended at 29 U.S.C. § 794) and FEMA's implementing regulations at 44 C.F.R. Part 16 (*Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Federal Emergency Management Agency*) provide that no otherwise qualified handicapped individual in the United States will, solely by reason of handicap, be excluded from participation in, be denied the benefits of, or be subjected to, discrimination under any program or activity receiving Federal financial assistance.

e) Nondiscrimination on the Basis of Age.

Contractor will comply with the Age Discrimination Act of 1975 (codified as amended at 42 U.S.C. § 6101 *et seq.*), and Department of Health and Human Services implementing regulations at 45 C.F.R. Part 90 (*Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance*) prohibit discrimination against individuals on the basis of age in any program or activity receiving Federal financial assistance.

f) Nondiscrimination on the Basis of Limited English Proficiency.

Contractor will comply with Title VI of the Civil Rights Act of 1964 prohibition against discrimination on the basis of national origin which requires that recipients and subrecipients of FEMA assistance take reasonable steps to provide meaningful access to persons with limited English proficiency.

Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, English proficiency, or disability. Contractor shall not, on the grounds of race, color, creed, national origin, sex, age, English proficiency, or disability, exclude a person from participation in, deny him/her benefits, or subject him/her to discrimination. Contractor shall adhere to any Federal implementing regulations and other requirements that the Department and the FEMA have with respect to nondiscrimination.

g) Nondiscrimination on the Basis of Drug Abuse

Contractor shall comply with the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;

h) Nondiscrimination Related to Housing

Contractor shall comply with Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing; and any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made

11. Contracting with Small, Minority Firms, Women's Business Enterprises and Labor Surplus Area Firms:

This requirement applies to all contracts regardless of amount.

Contractor will take all necessary, affirmative steps to assure that qualified small and minority businesses, women's business enterprises, and labor area surplus firms are used when possible by:

- a) Placing small and minority businesses and women's business enterprises on solicitation lists;
- b) Assuring that it solicits small and minority businesses and women's business enterprises whenever they are potential sources;
- c) Dividing total requirements, *when economically feasible*, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
- d) Establishing delivery schedules, *where the requirement permits*, which encourage participation by small and minority businesses and women's business enterprises;
- e) Utilizing the assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce;
- f) Contractor must require subcontractors to take the five affirmative steps described in a-e above.

12. Disaster Reservists.

This requirement applies to all contracts regardless of amount.

Contractor may not in the performance of this Agreement utilize employees who are also Disaster Reservists. Disaster Reservists are personnel authorized by the special hiring authority in the Stafford Act that are not full-time employees, but rather work on an on-call, intermittent basis to perform disaster response and recovery activities.

13. False Statements Act.

This requirement applies to all contracts regardless of amount.

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.

Contractor understands that in the event County becomes aware of any allegation or a finding of fraud, waste, or misuse of funds received from FEMA or the Office of the Governor, the County is required to immediately notify OOG of said allegation or finding and to continue to inform OOG of the status of any such on-going investigations. The County must also promptly refer to OOG any credible evidence that a principal, employee, agent, Contractor, subcontractor, or other person has -- (1) submitted a claim for award funds that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving award funds. County must also immediately notify OOG in writing of any misappropriation of funds, fraud, theft, embezzlement, forgery, or any other serious irregularities indicating noncompliance with grant requirements. County must notify the local prosecutor's office of any possible criminal violations.

14. Prompt Payment

This requirement applies to all contracts regardless of amount.

The Contractor is required to pay its subcontractors performing work related to the Underlying Agreement for satisfactory performance of that work no later than 30 days after the Contractor's receipt of payment for that work from County. In addition, the Contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work is satisfactorily completed.

15. Retention of Records.

This requirement applies to all contracts regardless of amount.

The Contractor agrees to maintain fiscal records and supporting documentation for all expenditures related to this Agreement pursuant to 2 CFR 200.333, UGMS, and state law. Contractor must retain, and will require its subcontractors of all tiers to retain, these records and any supporting documentation for a minimum period of not less than three (3) years after the date of termination or expiration of the Agreement or any litigation, dispute, or audit arising from the performance of the Agreement. Records related to real property and equipment acquired with grant funds shall be retained for three (3) years after final disposition.

16. Termination for Cause and Termination for Convenience.

Contractor understands that all contracts in excess of \$10,000, including subcontracts, must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

17. Whistleblower Protections

Contractor must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C Section 2409, 41 U.S.C. 4712, and 10 U.S.C. Section 2324, 41 U.S.C. Sections 4304 and 4310.

18. Health and Human Services, Public Safety or Law Enforcement Agency Compliance

Contractor certifies that it as owner, operator or administrator of a facility has not had any licenses, certificates, or permits revoked by any health and human service agency or public safety or law enforcement agency

19. Domestic Preferences for Procurements.

As appropriate and to the extent consistent with law, Contractor shall to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products procured with federal funds. For purposes of this clause, (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.

20. Assignment and Subcontracts

Contractor shall not assign, transfer, or delegate any rights, obligations, or duties under this Contract without the prior written consent of the County. Consent may be required from both the County and any federal or state agency associated with the funding for this agreement. In any approved subcontracts, Contractor shall legally bind such subcontractor to perform and make such subcontractor subject to all the duties, requirements, and obligations of Contractor as specified in this Contract. Nothing in this Contract shall be construed to relieve Contractor of the responsibility for ensuring that the goods delivered and/or the services rendered by Contractor and/or any of its subcontractors comply with all the terms and provisions of this Contract. Contractor will provide written notification to the County of any such subcontractor including the name and taxpayer identification number of subcontractor, the task(s) being performed, and the number of subcontractor employees expected to work on the task.