

STATE OF TEXAS

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COUNTY OF FORT BEND

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**ADDENDUM TO LOFTIN EQUIPMENT COMPANY’S PROPOSAL AGREEMENT**

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, and **Loftin Equipment Company**, (hereinafter “Loftin”), a company authorized to conduct business in the State of Texas, (hereinafter collectively referred to as “Parties.”)

**WHEREAS**, subject to the changes herein, the parties have executed and accepted Loftin’s Proposal dated April 30, 2025, (the “Agreement”), attached hereto as Exhibit “A” and incorporated by reference (hereinafter “Services”) utilizing Buy Board Contract No. 757-24; and; and

**WHEREAS**, County desires that Loftin provide services as will be more specifically described in this Agreement;

**WHEREAS**, Loftin represents that it is qualified and desires to perform such services;

**WHEREAS**, the following changes are incorporated as if a part of the Agreement; and

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

**AGREEMENT**

**Section 1. Scope of Services**

Subject to this Addendum, Loftin shall render Services to County as defined in Loftin’s Proposal attached hereto as Exhibit A) and incorporated by reference as if set forth verbatim herein, utilizing Buy Board Contract No. 757-24 which is incorporated by reference as if set forth verbatim herein.

**Section 2. Personnel**

2.1 Loftin represents that it presently has, or is able to obtain, adequate qualified personnel in its employment for the timely performance of the Scope of Services required under this Agreement and that Loftin shall furnish and maintain, at its own expense, adequate and sufficient personnel, in the opinion of County, to perform the Scope of Services when and as required and without delays.

2.2 All employees of Loftin shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of Loftin who, in the opinion of County, is incompetent or by his conduct becomes detrimental to the project shall, upon request of County, immediately be removed from association with the project.

### **Section 3. Compensation and Payment**

3.1 Loftin's fees shall be calculated at the rates set forth in the Proposal, attached hereto as Exhibit A. The Maximum Compensation for the performance of Services within the Scope of Services described in Exhibit A is One Hundred Eighty-Eight Thousand Eight Hundred Forty and 00/100 dollars (\$188,840.00). In no case shall the amount paid by County under this Agreement exceed the Maximum Compensation without an approved change order, excluding any applicable taxes and tariffs not included in the Loftin proposal. The parties acknowledge and agree that tariffs, levies, duties, taxes or laws/regulations of similar effect (collectively, "Tariffs") may go into effect after the date hereof and Loftin has not included the impact of any Tariffs in the Contract Sum. In the event that the cost of materials or equipment to be incorporated into the Work escalates prior to the expiration of the Contract Time due to Tariffs which were not reasonably foreseeable as of the date this Contract is signed, whether such escalation is the result of direct Tariff assessments or the impact of Tariffs on demand and price for domestically produced materials or equipment, Loftin shall: (i) inform County of such escalation and shall provide back-up documentation establishing such escalation; (ii) use commercially reasonable efforts to work with County, Subcontractors and Suppliers to develop mitigation strategies; (iii) be entitled to an increase in the Contract Sum to the extent of any substantiated material price escalation that could not be reduced through reasonable mitigation efforts. Loftin shall be responsible for any increased cost that could have been avoided had such reasonable mitigation steps been taken. If materials or equipment are delayed in delivery due to the imposition of a Tariff not reasonably foreseeable as of the date this Contract is signed, and Loftin is unable to reasonably mitigate that delay through other suppliers or types of materials or equipment, then Loftin shall be entitled to any extension of the Contract Time resulting from reasonably unavoidable delays to the critical path of the Schedule.

3.2 All performance of the Scope of Services by Loftin including any changes in the Scope of Services and revision of work satisfactorily performed will be performed only when approved in advance and authorized by County.

3.3 County will pay Loftin based on the following procedures: Upon completion of the tasks identified in the Scope of Services, Loftin shall submit to County two (2) original copies of invoices showing the amounts due for services performed in a form acceptable to County. Loftin may submit electronically via: [apauditor@fortbendcountytexas.gov](mailto:apauditor@fortbendcountytexas.gov). 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 work performed.

#### **Section 4. Limit of Appropriation**

4.1 Loftin 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 One Hundred Eighty-Eight Thousand Eight Hundred Forty and 00/100 dollars (\$188,840.00), specifically allocated to fully discharge any and all liabilities County may incur, excluding any applicable taxes and tariffs.

4.2 Loftin does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Loftin may become entitled to and the total maximum sum that County may become liable to pay to Loftin shall not under any conditions, circumstances, or interpretations thereof exceed ne Hundred Eighty-Eight Thousand Eight Hundred Forty and 00/100 dollars (\$188,840.00) , excluding any applicable taxes and tariffs.

#### **Section 5. Modifications and Waivers**

5.1 The parties may not amend or waive this Agreement, except by a written agreement executed by both parties.

5.2 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.

5.3 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 6. Termination**

6.1 Termination for Convenience

6.1.1 County may terminate this Agreement at any time upon thirty (30) days written notice.

6.2 Termination for Default

6.2.1 County may terminate the whole or any part of this Agreement for cause in the following circumstances:

6.2.1.1 If Loftin fails to perform services within the time specified in the Scope of Services or any extension thereof granted by the County in writing;

6.2.1.2 If Loftin materially breaches any of the covenants or terms and conditions set forth in this Agreement or fails to perform any of the other provisions of this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in any of these circumstances does not diligently commence to cure such breach or failure to County's reasonable satisfaction within a period of ten (10) calendar days after receipt of notice from County specifying such breach or failure.

6.2.2 If, after termination, it is determined for any reason whatsoever that Loftin was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the County in accordance with Section 6.1 above.

6.3 Upon termination of this Agreement, County shall compensate Loftin in accordance with Section 3, above, for those services which were provided under this Agreement prior to its termination and which have not been previously invoiced to County. Loftin's final invoice for said services will be presented to and paid by County in the same manner set forth in Section 3 above.

6.4 If County terminates this Agreement as provided in this Section, no fees of any type, other than fees due and payable at the Termination Date, shall thereafter be paid to Loftin.

#### **Section 7. Ownership and Reuse of Documents**

All documents, data, reports, research, graphic presentation materials, etc., developed by Loftin as a part of its work under this Agreement, shall become the property of County upon completion of this Agreement, or in the event of termination or cancellation thereof, at the time of payment under Section 3 for work performed. Loftin shall promptly furnish all such data and material to County on request.

#### **Section 8. Inspection of Books and Records**

Loftin will permit County, or any duly authorized agent of County, to inspect and examine the books and records of Loftin for the purpose of verifying the amount of work performed under the Scope of Services. County's right to inspect survives the termination of this Agreement for a period of four years.

#### **Section 9. Insurance**

9.1 Prior to commencement of the Services, Loftin shall furnish County with properly executed certificates of insurance which shall evidence all insurance required

and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. Loftin shall provide certified copies of insurance endorsements and/or policies if requested by County. Loftin shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. Loftin shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:

9.1.1 Workers' Compensation insurance. Substitutes to genuine Workers' Compensation Insurance will not be allowed. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.

9.1.2 Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.

9.1.3 Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.

9.1.4 Professional Liability insurance with limits not less than \$1,000,000.

9.2 County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation. All Liability policies including Workers' Compensation written on behalf of Loftin shall contain a waiver of subrogation in favor of County and members of Commissioners Court.

9.3 If required coverage is written on a claims-made basis, Loftin warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of two years beginning from the time that work under the Agreement is completed.

9.4 Certificates of Insurance and Additional Insured Endorsements as required by this Agreement will be mailed, or faxed, to the following County contact:

Name: Wyatt Scott, Director of Risk Management  
Address: 301 Jackson St., Suite 224, Richmond, TX 77469  
Facsimile Number: 281-341-3751

**Section 10. Indemnity**

**LOFTIN SHALL INDEMNIFY AND DEFEND COUNTY AGAINST ALL**

**LOSSES, LIABILITIES, CLAIMS, CAUSES OF ACTION, AND OTHER EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF LOFTIN, ITS AGENTS, SERVANTS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF LOFTIN OR ANY OF LOFTIN'S AGENTS, SERVANTS OR EMPLOYEES.**

**Section 11. Confidential and Proprietary Information**

11.1 Loftin 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 Loftin 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 Loftin 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 Loftin) publicly known or is contained in a publicly available document; (b) is rightfully in Loftin'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 Loftin who can be shown to have had no access to the Confidential Information.

11.2 Loftin agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Loftin 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. Loftin 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, Loftin shall advise County immediately in the event Loftin 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 Loftin will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Loftin against any such person. Loftin agrees that, except as directed by County, Loftin 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, Loftin will promptly turn over to County all documents, papers, and other matter in Loftin's possession which embody Confidential Information, with the exception of one archive copy retained for surviving contract and legal obligations .

11.3 Loftin 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. Loftin 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.

11.4 Loftin in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

11.5 Loftin 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 12. Independent Contractor**

12.1 In the performance of work or services hereunder, Loftin shall be deemed an independent contractor, and any of its agents, employees, officers, or volunteers performing work required hereunder shall be deemed solely as employees of Loftin or, where permitted, of its subcontractor.

12.2 Loftin and its agents, employees, officers, or volunteers shall not, by performing work pursuant to this Agreement, be deemed to be employees, agents, or servants of County and shall not be entitled to any of the privileges or benefits of County employment.

## **Section 13. Notices**

13.1 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).

13.2 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, 1<sup>st</sup> Floor  
Richmond, Texas 77469

Loftin: Loftin Equipment Company  
Attn: Rod Dode  
1220 N. 52<sup>nd</sup> St.  
Phoenix, AZ 85008

13.3 A Notice is effective only if the party giving or making the Notice has complied with subsections 13.1 and 13.2 and if the addressee has received the Notice. A Notice is deemed received as follows:

13.3.1 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.

13.3.2 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 14. Compliance with Laws**

Loftin 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, Loftin shall furnish County with certification of compliance with said laws, statutes, ordinances, rules, regulations, orders, and decrees above specified.

#### **Section 15. Performance Warranty**

15.1 Loftin warrants to County that Loftin has the skill and knowledge ordinarily possessed by well-informed members of its trade or profession practicing in the greater Houston metropolitan area and Loftin will apply that skill and knowledge with care and diligence to ensure that the Services provided hereunder will be performed and delivered in

accordance with the contract requirements.

15.2 Loftin warrants to County that the Services will be free from material errors and will materially conform to all requirements and specifications contained in the attached Exhibit A.

**Section 16. Assignment**

16.1 Neither party may assign any of its rights under this Agreement, except with the prior written consent of the other party. That party shall not unreasonably withhold its consent. All assignments of rights are prohibited under this subsection, whether they are voluntarily or involuntarily, by merger, consolidation, dissolution, operation of law, or any other manner.

16.2 Neither party may delegate any performance under this Agreement, without the express written consent of the other party.

16.3 Any purported assignment of rights or delegation of performance in violation of this Section is void.

**Section 17. 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.

**Section 18. Successors and Assigns**

County and Loftin bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of the other party, in respect to all covenants of this Agreement.

**Section 19. Attorney's Fees**

County does not agree to pay any and/or all attorney fees incurred by Loftin in any way associated with the Agreement.

**Section 20. Third Party Beneficiaries**

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

**Section 21. 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 22. Publicity**

Contact with citizens of Fort Bend County, media outlets, or governmental agencies shall be the sole responsibility of County. Under no circumstances whatsoever, shall Loftin release any material or information developed or received in the performance of the Services hereunder without the express written permission of County, except where required to do so by law.

**Section 23. Certain State Law Requirements for Contracts**

The Contents of this Section are required by Texas Law and are included by County regardless of content.

23.1 Agreement to Not Boycott Israel Chapter 2270 Texas Government Code. By signature below, Loftin verifies that Loftin does not boycott Israel and will not boycott Israel during the term of this Agreement.

23.2 Texas Government Code Section 2251.152 Acknowledgement. By signature below, Loftin represents pursuant to Section 2252.152 of the Texas Government Code, that Loftin is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under Section 806.051, Section 807.051 or Section 2253.153.

**Section 24. Captions**

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

**Section 25. Conflict**

In the event there is a conflict between this Agreement and the attached exhibit, this Agreement controls.

**Section 26. Human Trafficking**

BY ACCEPTANCE OF AGREEMENT, ATTORNEY ACKNOWLEDGES THAT THE 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 27. Federal Clauses**

Loftin understands and acknowledges that this Agreement may be totally or partially funded with federal and or state funds. As a condition of receiving these funds, Loftin represents that it is and will remain in compliance with all requirements in Exhibit B. These terms flow down to all third-party Loftins and their subcontracts at every tier that exceed the simplified acquisition threshold, unless a particular award term or condition specifically indicates otherwise. The Loftin shall require that these clauses shall be included in each covered transaction at any tier.

**Section 28. Recitals**

The recitals set forth above are incorporated herein by reference and made a part of this Agreement.

**Section 29. Entire Agreement**

This executed instrument is understood and intended to be the final expression of the parties' agreement and is a complete and exclusive statement of the terms and conditions with respect thereto, superseding all prior agreements or representations, oral or written, and all other communication between the parties relating to the subject matter of this agreement. Any oral representations or modifications concerning this instrument shall be of no force or effect excepting a subsequent modification in writing signed by all the parties hereto.

*{Remainder of page intentionally left blank}*

*{Execution to follow}*

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, to be signed to multiple counterparts. All parties hereby acknowledge that they have read and understood this Addendum and the attachments and exhibits hereto. This Agreement to be effective on the date of full execution as indicated below.

**FORT BEND COUNTY**

**LOFTIN EQUIPMENT COMPANY**

\_\_\_\_\_  
KP George, County Judge

Rod Dode  
\_\_\_\_\_  
Authorized Agent – Signature

\_\_\_\_\_  
Date

Rod Dode  
\_\_\_\_\_  
Authorized Agent- Printed Name

ATTEST:

Director of Contracts & Risk Management  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Laura Richard, County Clerk

8/26/2025  
\_\_\_\_\_  
Date

REVIEWED:   
\_\_\_\_\_  
Homeland Security & Emergency  
Management

**AUDITOR'S CERTIFICATE**

I hereby certify that funds are available in the amount of \$ \_\_\_\_\_ to accomplish and pay the obligation of Fort Bend County under this contract.

\_\_\_\_\_  
Robert E. Sturdivant, County Auditor

EXHIBIT A: Loftin's Proposal dated April 30, 2025

EXHIBIT B: Federal Clauses

# EXHIBIT A



6113 Brittmoore, Houston, TX 77449  
Phone: (281) 310-6858

**BuyBoard Proposal – Contract 757-24**

Shenae Theriot-Mericle  
Fort Bend County

Date: 04/30/2025

Proposal # 22162

*Thank you for your request. We are pleased to provide the following proposal:*

<u>MODEL</u>	<u>DESCRIPTION</u>	<u>QTY</u>	<u>PRICE</u>
<b>QAS330</b>	<b>Atlas Copco QAS 330-RS w/Trailer</b>	<b>1</b>	<b>\$184,790.00 EA</b>
	50' 4/0 Camlock cable	<b>9</b>	<b>\$375.00 EA</b>
	5' 4/0 Pigtail w/male camlock	<b>9</b>	<b>\$75.00 EA</b>
<b>TOTAL PRICE</b>			<b><u>\$188,840.00</u></b>
<small>FOB Houston, TX Start up and application review may be additional depending upon quantities ordered.</small>			

**CURRENT ESTIMATED LEAD TIMES**

12-16 weeks from order

**Russell Martin**

Rental Manager

Loftin Equipment Co. | [www.loftinequip.com](http://www.loftinequip.com)

Mobile: (713) 252-7069

E-mail: [Rmartin@loftinequip.com](mailto:Rmartin@loftinequip.com)



CANCELLATION OF ORDER

Custom built orders cannot be cancelled. This is a customer spec engine and the order cannot be cancelled or restocked once the purchase has been submitted to Atlas Copco, Scania or Kubota.

1. By signing below, you are approving the presented quote package and the terms of agreement listed below. By signing below, the customer understands and agrees this order can not be cancelled and customer agree to pay for this order in full immediately.
2. If the customer cancels the order after PO submission to Loftin Equipment, the customer will owe a cancellation fee in the amount of 100% (one-hundred per cent) of the total purchase order price; payable immediately.

MISCELLANEOUS

- A. This quote is designed to reflect the customer’s requested package. It is the responsibility of the customer to notify Loftin Equipment of any information that could impact the engine build or performance.
- B. No changes to the build will be permitted without a proper, signed change order and will require pricing changes as determined by Loftin Equipment.
- C. All drawings and/or documentation contained herein are the property of Loftin Equipment and may not be distributed, duplicated, or used in any form without the written consent of Loftin Equipment
- D. Loftin Equipment is the authorized distributor and warranty administrator for Scania and Kubota.
- E. Loftin Equipment warrants that goods manufactured by Loftin will be free from defects in workmanship and material for a period of one (1) year following the date of purchase: provided such goods are installed, operated, maintained in accordance with Loftin Equipment’s written instructions and application review. \*\*see the One Year General Limited Manufacturer Warranty insert for additional information \*\*.
- F. Package will require an application review to be completed on the first unit. The application review will remove the unit out of service for a minimum of 3 days while testing is being completed. The package should be at a location where it can perform under load in normal running conditions. It should not be on a working job. Technicians will remove thermostat for testing and may make modifications as needed.

SUBMITTAL

Submittal will consist of the following:

1. Drawings
2. BOM
3. Copy of the quote
4. Control panel brochure and specs
5. Wiring diagram for the harness
6. Submittal approval page

PAYMENT TERMS

1. A down payment of 25% (twenty-five per cent) is required upon the submission of the Purchase order to Loftin Equipment.
2. 25% (twenty-five per cent) is required when the unit(s) are ready to ship from the production facility.
3. The final 50% (fifty per cent) will be billed to an approved, open credit account.
4. Payment terms are Net 30 days from the date of invoice upon approved credit by Loftin Equipment.
5. Alternate payment terms must be negotiated prior to Purchase Order submission to Loftin Equipment.
6. COD (cash on delivery) customers (those that have not qualified for open, credit terms) are required to: Pay 50% (fifty per cent) upon purchase order submission and 50% (fifty per cent) prior to shipment from the production facility.

COLLECTION-LITIGATION COSTS

The customer agrees to pay all costs and collection expenses, including attorney fees, if collection of the amounts due require the assistance of a collection agency or attorney. Accrued interest on late payments: 1.50% per month.

ALL EQUIPMENT REMAINS THE PROPERTY OF LOFTIN EQUIPMENT UNTIL THE TOTAL BILL IS PAID IN FULL.

ACCEPTED BY; \_\_\_\_\_

\_\_\_\_\_  
PRINTED NAME

TITLE

DATE: \_\_\_\_\_

# **EXHIBIT B**

## **EXHIBIT B FEDERAL GRANT CLAUSES - FEMA**

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.

### **1. Equal Employment Opportunity.**

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

- (1) Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. 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) Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations 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) Contractor will send to each labor union or representative of workers with which he or she 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) 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) 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 Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement 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 as 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 (7) 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.

## 2. Clean Air Act and the Federal Water Pollution Control Act.

### a. Clean Air Act

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. The Contractor agrees to report each violation to the 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. 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.

### b. Federal Water Pollution Control Act.

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the 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. 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.

## 3. 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.”

#### 4. Byrd Anti-Lobbying Amendment.

***This requirement applies to all contracts of \$100,000 or more, and requires a copy of the Certification Regarding Lobbying.***

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.

#### 5. 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.

#### 6. Procurement of Recovered Materials.

***This requirement applies to all contracts for goods or services for \$10,000 or more funded by a FEMA grant.***

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

**7. Access to Records.**

***This requirement applies to all contracts funded by FEMA 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.

**8. Notice of Reporting Requirements.**

***This requirement applies to all contracts funded by FEMA 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

**9. DHS Seal, Logo, and Flags.**

***This requirement applies to all contracts funded by FEMA 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.

**10. Compliance with Federal Law, Regulations, and Executive Orders.**

***This requirement applies to all contracts funded by FEMA regardless of amount.***

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

**11. No Obligation by Federal Government.**

***This requirement applies to all contracts funded by FEMA 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.

**12. Civil Rights and Non-Discrimination.**

***This requirement applies to all contracts funded by FEMA 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

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

***This requirement applies to all contracts funded by FEMA 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.

#### **14. Hotel and Motel Fire Safety.**

***This requirement applies to all contracts regardless of amount.***

Contractor agrees to comply with the Hotel and Motel Fire Safety Act of 1990, Pub. L. No. 391 (1990) (codified at 15 U.S.C. § 2225a) which prohibits, us of federal funds to sponsor or fund in whole or in part a meeting, convention, conference, or training seminar that is conducted in, or that otherwise uses the rooms, facilities, or services of, a place of public accommodation that does not meet the requirements of the fire prevention and control guidelines described in section 29 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. § 2225).

#### **15. Disaster Reservists.**

***This requirement applies to all contracts funded by FEMA 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.

#### **16. False Statements Act.**

This requirement applies to all contracts funded by FEMA 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.

## **17. Prompt Payment**

***This requirement applies to all contracts funded by FEMA 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.

## **18. Retention of Records.**

***This requirement applies to all contracts funded by FEMA 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.

## **19. Dispute Resolution.**

Contractor understands that for all subcontracts of \$50,000 or more, the Contractor must include terms to address judicial remedies for breach of contract, including damages, specific performance, and rescission or restitution and procedures for dispute resolution between the parties who shall attempt in good faith to resolve promptly any dispute arising out of or relating to the Agreement by negotiation between the parties.

## **20. 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.

## **21. Contract Changes or Modifications**

Contractor understands that for all subcontracts of \$50,000 or more, the Contractor must include terms to address contract changes or modifications. All contract changes or modifications must be mutually agreed to in writing.

## 22. Prohibited Telecommunications and Video Surveillance Services and Equipment.

*This requirement applies to all contracts that include the purchase of equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system.*

Contractor understands and acknowledges that under 2 CFR 200.216, the County is prohibited from using federal funds to procure, obtain, extend or renew a contract to procure or obtain covered telecommunications equipment or services, including telecom equipment produced by Huawei Technologies Company or ZTE Corp. (or subsidiaries or affiliates of such entities).

Contractor, therefore, certifies that they are in compliance with the [John S. McCain National Defense Authorization Act for Fiscal Year 2019 \(FY 2019 NDAA\)](#), Pub. L. No. 115-232 (2018), and that in the performance of this agreement, it will not provide 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; or
- (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 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 People's Republic of China.

## 23. 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.

## 24. 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.

## **25. 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.

## **26. Child Support**

***This requirement applies to if the contract is funded by FEMA and the federal assistance may pass through a state agency.***

Per Texas Family Code 231.006, a child support obligor or business entity remains ineligible to receive payments from state funds under a contract to provide property, materials, or services; or a state funded loan until: (1) all arrearages have been paid; (2) the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency; or (3) the court of continuing jurisdiction over the child support order has granted the obligor an exemption from ineligibility as part of a court-supervised effort to improve earnings and child support payments.

Before payment can be released, Contractor will supply County with the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity.

Under Section 231.006, Family Code, the Contractor certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

## **27. 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.

**SEE NEXT PAGE FOR FY 2022 DHS STANDARD TERMS AND CONDITIONS**