

REQUEST FOR BOARD ACTION
HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: June 2, 2025

SUBJECT: Etowah Sewer System – Agreement Authorization

PRESENTER: Marcus Jones, P. E.
County Engineer

ATTACHMENTS: Yes
1. Proposed agreement

SUMMARY OF REQUEST:

During the Board’s March 12, 2025 meeting, WithersRavenel (WR) was selected as the most qualified responsive engineering firm for the subject project. Staff have since negotiated a proposed agreement with WR for \$163,000. The scope of the agreement is for engineering services to provide necessary planning and funding options for the replacement of the Etowah Sewer Treatment Plant.

The funding for this agreement is included in the system’s FY2025-2026 budget. In addition, staff are pursuing a State Revolving Fund bridge loan to fund the agreement. With the Board’s approval, and once the FY2025-2026 budget is adopted, staff will proceed with the procurement process.

BOARD ACTION REQUESTED: The Board is requested to authorize the County Engineer to execute the proposed agreement with WithersRavenel for \$163,000 once the FY2025-2026 budget is adopted.

Suggested Motion:

I move the Board authorize the County Engineer to execute the proposed agreement with WithersRavenel for \$163,000 once the FY2025-2026 budget is adopted.



May 16, 2025

Marcus Jones, County Engineer
Henderson County
1 Historic Courthouse Square Ste 6
Hendersonville, North Carolina 28792

RE: **Agreement for Henderson County
Etowah Sewer Wastewater Treatment Plant
Etowah, North Carolina 28729
WR Project No. 25-0095**

Dear Mr. Jones,

WithersRavenel is pleased to provide this Agreement for Etowah Sewer Wastewater Treatment Plant. We look forward to working with you on this project. If you have any questions or concerns about this agreement, please do not hesitate to call me at the number listed below.

Sincerely,
WithersRavenel

A handwritten signature in black ink that reads "Carolyn Hawkins".

Carolyn Hawkins, PE
Director of Water/Wastewater Treatment, Utilities

chawkins@withersravenel.com
Ph. 919.469.3340 | Direct. 919.238.0479

Henderson County Etowah, North Carolina Agreement for Professional Services

A. Project Description

This fee agreement is intended to provide the scope of services and associated fees to provide consulting services per request of Henderson County and formalize an agreement for the implementation and logistics for these services.

This agreement is based on the project site located at 131 Etowah Center Drive in Etowah, Henderson County, North Carolina.

Listed below is a summary of several key aspects of the project based on our discussions and preliminary research. Refer to the Scope of Services and Additional Services/Exclusions for further detailed information.

Henderson County obtained ownership of the Etowah Wastewater System in September 2024. The system includes the Etowah Wastewater Treatment Plant (WWTP) and its sewerage collection system. This agreement is focused on the Etowah WWTP. The National Pollutant Discharge Elimination System (NPDES) permit is written for the ultimate capacity of 0.500 million gallons per day (MGD). The physical plant is currently built to treat 0.125 MGD and the current NPDES Permit is written with that "Built Capacity" as the flow limit. The existing plant has reached its useful intended life, has had several violations, and has been receiving flows above its 0.125 MGD permitted capacity.

Based on initial discussions with the County, it is our understanding that the County's intention is to evaluate and determine if the existing Etowah WWTP can be rehabilitated/replaced and expanded at the existing site as well as to evaluate alternative sites for relocation and expansion of the Etowah WWTP. Considering the current NPDES discharge limits and at the County's request, the proposed treatment process that will be considered for the expansion and/or new WWTP will be extended aeration.

This agreement is to formalize services to prepare an Engineering Report (ER) that evaluates and includes the following:

- Desktop investigation of parcel identification number (PIN) 9539215454 to determine if the site is large enough to accommodate the new WWTP and support future expansion;
- Desktop investigation of up to five (5) other potential parcels of land near the discharge location that would be large enough to accommodate the new WWTP and support future expansion;
- Evaluate growth and impacts on flow needed at the Etowah WWTP;
- Alternatives Analysis;

For the purposes of this agreement and any subsequent agreements the following references shall apply:

1. Henderson County shall be known as the "Client";
2. WithersRavenel shall be known as the "Consultant";
3. The property and overall project shall be known as the "Project";
4. Etowah shall be known as an "Unincorporated Community";
5. North Carolina Department of Transportation shall be known as "NCDOT";

6. US Army Corps of Engineers shall be known as “USACE”;
7. North Carolina Department of Environmental Quality shall be known as “NCDEQ”;

B. Timeline for Services

Consultant will begin work upon receipt of executed Agreement and written notice to proceed from the Client. Estimated timeframe(s) for the basis of the services described in the Scope of Services are shown below.

Milestone	Time Frame
Basis of Design Technical Memorandum	3 Months from NTP
Engineering Report	6 Months from NTP

1. From the milestone time frames and factoring in variability in the approval process, Consultant estimates the total project timeframe for the Scope of Services to be six (6) months.
2. The estimated timeframe(s) may be impacted by, among other things:
 - a. Timeliness and additional permit and/or plan reviews of review agencies;
 - b. Timeliness and accuracy of information provided by the Client and Client consultants.
3. Timeframe will vary based on:
 - a. The Client’s schedule and phasing;
 - b. Client’s delivery of requested documents and information;
 - c. Client and/or Agencies requesting additional work.
4. If available, opportunities to adjust these estimated timeframes can be discussed. Implementation of agreed-upon adjustments may result in adjustments to Consultant fees.
5. Certain tasks, such as reviews and approvals, are performed by third parties, including governmental agencies, over which neither Client nor Consultant have control or responsibility. As such, neither party is responsible for delays or the resulting cost impacts caused by third parties.

C. Scope of Services

Consultant shall provide the services identified under each task below as its “Basic Services” under the Agreement.

Task 1 - Project Management

Consultant shall manage the project by:

- A. Keeping the Client regularly informed of progress, providing oversight of the tasks, and managing the monthly billing and invoicing for the project.
- B. Provide up to six (6) monthly progress updates via email or virtual progress meetings based on progress and Client’s request.
- C. Consultant will schedule one (1) site visit with the Client to identify key Project Team members, establish the project communication channels, and document existing conditions at the Etowah WWTP.

- D. Evaluate available documentation of the Etowah WWTP including but not limited to previously collected sampling data, discharge monitoring reports (DMRs), as-builts, and previous studies.

Deliverables

- Project Management Documentation
- Monthly Invoicing

Task 2 - Engineering Report

Consultant shall perform the following services.

- A. Consultant will review project information provided from the Client and develop a basis of design technical memorandum for the project.
- B. Consultant will prepare the ER in accordance with the “Guidance for the Preparation of Engineering Reports and Environmental Information Documents for Wastewater Treatment Plant Projects” as published by NCDWI which will include the following information:
1. Executive Summary
 2. Current/Future Situation
 - a. Desktop investigation of parcel identification number (PIN) 9539215454 to determine if the site is large enough to accommodate the new WWTP and support future expansion
 - b. Desktop investigation of up to five (5) other potential parcels of land near the discharge location that would be large enough to accommodate the new WWTP and support future expansion.
 - c. Evaluate growth and impacts on flow needed at the Etowah WWTP
 - (1) Review the current and future growth in the area and provide flow projections based on current flow data provided by the Client, County growth estimates, and any additional planning and zoning data provided by the Client.
 - (2) Quantify current needed flow for the WWTP expansion
 - (3) Evaluate the impacts on future flow due to the potential for the Client to purchase and connect three (3) additional privately owned systems to determine a long-range goal of increasing the “Built Capacity” of the Etowah WWTP
 3. Need and Purpose
 4. Alternative Analysis (Alternative Description/Present Worth Analysis)
 - a. Do nothing
 - b. Rehabilitate the existing WWTP and add treatment train(s) at existing site to accommodate expansion needed for current flow situation
 - c. New WWTP, relocated to a new site (near discharge, if possible), and utilizing an extended aeration process for the current flow situation
 - d. Regional Pump Station located at the existing WWTP site that pumps wastewater to the Metropolitan Sewerage District (MSD) Collection System
 - (1) Alternative does not include evaluation of downstream sewers
 - e. Regional Pump Station located at the existing WWTP site that pumps wastewater to the City of Hendersonville Collection System
 - (1) Alternative does not include evaluation of downstream sewers
 5. Proposed Project Description
 6. Financial Analysis

- C. Consultant will prepare an Opinion of Probable Construction Cost (OPCC) for Alternatives 2-5.
- D. Consultant will furnish one (1) hardcopy and one (1) electronic copy of the ER to the Client.

Deliverables

- ▶ Basis of Design Technical Memorandum
- ▶ OPCC
- ▶ ER Hardcopy and digital copy to Client

D. Exclusions/Additional Services

Services that are not included in the Scope of Services or are specifically excluded from this Agreement (see below) shall be considered Additional Services if those services can be performed by Consultant and its agents if requested in writing by the Client and accepted by Consultant. Additional services shall be paid by the Client in accordance with the Fee & Expense Schedule outlined in Exhibit II. The exclusions are described below but are not limited to the following:

General

- All plan submittal, review, or permitting fees;
- Any work previously provided in other agreements;
- Any other services not specifically listed within the Scope of Services.

Geomatics Services

- Annexation Plats
- Boundary/Topographic Surveys;
- Tree survey/cover report by Registered Forester;
- Subsurface Utility Engineering (SUE);
- Surveys for off-site improvements;
- Platting services;
- Plot Plans;
- ALTA Surveys;
- GIS mapping services;
- Construction staking
- Building staking;
- As-built (record drawing) surveys;
- Easements, Easement/ROW Plats;

Environmental Services

- Historic Resources Survey;
- Endangered Species' Habitat survey;
- Wetland Delineations;
- Wetland/Buffer Determinations;
- Phase I & II ESA's;

Offsite/Specialty

- Development agreements;
- Homeowner association documents;
- Utility allocation agreements;
- Preparation of electronic file suitable for GPS machine control;
- Expert witnesses;

Planning/Studies

- Entitlement services;

- Variance and Quasi-Judicial processes;
- Off-site Sewer Analysis.
- Traffic Impact Analysis;
- Signalization Studies;
- Hydrant flow determination and hydraulic analyses;
- Existing sewer hydraulic analyses;
- Town or regulatory approvals;
- Special & Conditional Use Permits;

Services During Construction

- Engineer's Opinion of Costs;
- Bidding/negotiation services;
- Pay application reviews;
- Change order reviews;
- Shop Drawing review;
- RFI's during bidding;
- Construction administration;
- Construction management;
- Dry utility coordination/design;
- NPDES monitoring/reporting;
- Loan draw certifications;
- Bonds and Bond Estimates;
- Record drawings/as-builts;
- Engineer Certifications;
- O&M/SWMP Manuals;

Stormwater Services

- Stormwater Management Plan;
- Stormwater Pollution Prevention Plan (SPPP) update or revision;
- Secondary containment designs;
- SCM design;
- Culvert design;
- Dam inspection, engineering, or analysis;
- Dam breach analysis;
- Flood studies, floodplain permitting or coordination with FEMA (such as for a LOMR-F, CLOMR/LOMR, etc.);

- Soil investigations (such as Seasonal high-water table determinations;
- Soil Media Mix Testing and Gradation Certification;
- Downstream impact analysis;
- Nutrient calculations;
- Peak flow analysis;
- SCM conversion;
- Permitting Services
- Building permits and associated work;
- Erosion Control permits;
- Water/Sewer permits;
- 401/404 permitting;
- Floodplain Development permit;
- NCDOT permitting;
- Sign permitting;

Landscape Architecture Services

- Landscape layout and design;
- Irrigation design;
- Hardscape design;
- Enhanced landscape design beyond minimum requirements;
- Entrance/signage feature design;
- Water feature and/or pool design;
- Renderings;
- Park improvements;
- Public art design or commissioning

Services by Others

- Geotechnical services;
- Architectural and MEP services;
- Structural Services;
- Arborist/Registered Forester Services;

Documents/Drawings

- Schematic Drawings as typically defined in the architectural industry;

- Conceptual Drawings;
- Sketch Plans;
- Site Plans;
- Construction Drawings;
- Technical specifications;
- Contract documents;
- Record (As-Built) Plans;
- Lot Matrix;

Design Services

- Detailed Builder focused lot fit matrix;
- Detailed lot grading;
- Off-site improvements;
- Offsite utility or road improvements;
- Pump Station design and permitting;
- Forcemain design and permitting;
- Reclaim waterline design;
- LEED certification coordination;
- Pavement design;
- Structural/foundation design;
- Greenway bridge design & permitting;
- Boardwalk design & permitting;
- Signal design;
- Dumpster enclosure details;
- Grease trap design;
- On-site water/sewer design;
- Equipment Selections/Design;
- Design associated with Amenity Site;
- Site Lighting is limited to fixture selection; electrical engineering not included;

Project Management

- Additional Meetings/Site Visits;
- Adjacent property owner discussions;
- Neighborhood meetings;
- Attendance at formal regulatory meetings unless noted above;

The above list is not all inclusive, and the Scope of Services defines the services to be provided by Consultant for this project.

E. Client Responsibilities

The following are responsibilities of the Client and Consultant will rely upon the accuracy and completeness of this information:

1. General:
 - a. Provide representative for communications and decisions;
 - b. Coordination and designation of a primary contact for architect, contractor, and other consultants engaged by the Client;
 - c. Preferred media platforms for communications with the Client;
 - d. Provide in writing, any information as to Client's requirements for design;
 - e. Provide any information needed to complete the Project not specifically addressed in the Scope of Services;
 - f. Provide all available information pertinent to the Project, including any GIS information, reports, maps, drawings, and any other data relative to the Project;

- g. Examine all agreements, reports, sketches, estimates and other documents presented by the Consultant and render in writing decisions pertaining thereto within a reasonable period so as not to delay the services of the Consultant;
 - h. Give prompt written notice to Consultant whenever Client observes or otherwise becomes aware of any defect in the Project or the services of Consultant;
 - i. Attend Town or City meetings as required/needed;
 - j. Provide access to property for Consultant and subconsultants;
 - k. Discussions/negotiations with adjacent landowners;
 - l. Acquire all off-site utility and/or construction easements required for this Project;
 - m. Manage and coordinate the work of any subconsultants/subcontractors that are not directly subcontracted through the Consultant;
 - n. All submittal, review, or permitting fees associated with the Project;
 - o. Any legal representation requiring an attorney at law.
2. Project Specific:
- a. Provide available WWTP documentation and data, such as but not limited to existing as-builts, discharge monitoring reports (DMRs), special order of consent (SOCs), moratorium, previous studies, and any recent additional sampling available.

F. Compensation for Services

Consultant proposes to provide the Basic Services outlined in the Scope of Services on a lump sum with budgets as shown below plus reimbursable expenses in accordance with the Fee & Expense schedule. The amounts set forth below have been determined based on the nature, scope and complexity of the Project as represented in the information provided to Consultant by Client prior to submittal of this agreement; subsequent changes thereto may result in additional fees.

Task No.	Task Name	Fee
1	Project Management	\$48,500
2	Engineering Report	\$114,500
TOTAL		\$163,000

- a. Consultant may alter the distribution of compensation between individual phases noted herein to be consistent with services rendered but shall not exceed the total Lump Sum amount unless approved in writing by the Client.
- b. The Lump Sum includes compensation for Consultant's services. Appropriate amounts have been incorporated in the Lump Sum to account for labor costs, overhead, profit, expenses, and Consultant charges.
- c. Consultant will bill the Client for subcontract expenses based on the unit prices charged for each class of work that has been accepted plus 15%.
- d. The portion of the Lump Sum amount billed for Consultant's services will be based upon Consultant's estimate of the percentage of the total services completed during the billing period.

G. Acceptance

This agreement is valid 60 days from the date it is transmitted to Client. Receipt of an executed copy of this agreement will serve as the written Agreement between WithersRavenel and Henderson County. All Exhibits identified after the signature blocks below, including the Standard Terms and Conditions (Exhibit I) and the Fee & Expense Schedule (Exhibit II), are incorporated herein and are integral parts of the Agreement.

OFFERED BY:

WITHERSRAVENEL

ACCEPTED BY:

HENDERSON COUNTY

Signature

Glynn Fleming PE, CFM

Name

Interim Practice Area Lead, Utilities

Title

Signature

Name

Title

Signature

Carolyn Hawkins, PE PMP

Name

Director of Water/Wastewater
Treatment, Utilities

Title

PREAUDIT STATEMENT: This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act (NC G.S. 159-28(a)).

Signature of Finance Officer: _____

Printed Name: _____

Date: _____

Attachments:

Exhibit I- Standard Terms and Conditions

Exhibit II- Fee & Expense Schedule

Exhibit A- FEMA Federal Contract Provisions

EXHIBIT I

Standard Terms and Conditions

WithersRavenel, Inc.

The proposal submitted by WithersRavenel, INC. ("CONSULTANT") is subject to the following terms and conditions, which form an integral part of the Agreement. By accepting the proposal, the services, or any part thereof, the CLIENT agrees and accepts the terms and conditions outlined below:

1. Payment:

- a) The CLIENT will pay CONSULTANT for services and expenses in accordance with periodic invoices to CLIENT and a final invoice upon completion of the services. Each invoice is due and payable in full upon presentation to CLIENT. Invoices are past due after 30 days. Past due amounts are subject to interest at a rate of one and one-half percent per month (18% per annum) on the outstanding balance from the date of the invoice.
- b) If the CLIENT fails to make payment to the CONSULTANT within 45 days after the transmittal of an invoice, the CONSULTANT may, after giving 7 days written notice to the CLIENT, suspend services under this Agreement until all amounts due hereunder are paid in full. If an invoice remains unpaid after 90 days from invoice date, the CONSULTANT may terminate the Agreement. If Consultant initiates legal proceedings to collect the fees owed, Consultant shall also be entitled to recover the reasonable expenses of collection including attorney's fees.

2. Notification of Breach or Default: The CLIENT shall provide prompt written notice to the CONSULTANT if CLIENT becomes aware of any breach, error, omission, or inconsistency arising out of CONSULTANT's services or any other alleged breach of contract or negligence by the CONSULTANT. The failure of CLIENT to provide such written notice within ten (10) days from the time CLIENT became aware of the fault, defect, error, omission, inconsistency or breach, shall constitute a waiver by CLIENT of any and all claims against the CONSULTANT arising out of such fault, defect, error, omission, inconsistency or breach. Emails shall be considered adequate written notice for purposes of this Agreement.

3. Standard of Care: CONSULTANT shall perform its services in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with the standards of professionals providing the same services in the same or a similar locality as the Project. THERE ARE NO OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE THAT WILL OR CAN ARISE OUT OF THE SERVICES PROVIDED BY CONSULTANT OR THIS AGREEMENT.

4. Waiver of Consequential Damages/Limitation of Liability: CLIENT agrees that CONSULTANT's aggregate liability for any and all claims that may be asserted by CLIENT is limited to \$50,000 or to the fee paid to CONSULTANT under this Agreement, whichever is greater. Both CLIENT and CONSULTANT hereby waive any right to pursue claims for consequential damages against one another, including any claims for lost profits.

5. Representations of CLIENT: CLIENT warrants and covenants that sufficient funds are available or will be available upon receipt of CONSULTANT's invoice to make payment in full for the services rendered by CONSULTANT.

6. Ownership of Instruments of Service: All reports, plans, specifications, field data and notes and other documents, including all documents on electronic media, prepared by the CONSULTANT as instrument of service, shall remain the property of the CONSULTANT. The CONSULTANT shall retain all common law, statutory and other rights, including the copyright thereto. In the event of termination of this Agreement and upon full payment of fees owed to CONSULTANT,

CONSULTANT shall make available to CLIENT copies of all plans and specifications.

7. Change Orders: CONSULTANT will treat as a proposed change order any written or oral order (including directions, instructions, interpretations, or determinations) from CLIENT which requests changes in the Agreement or CONSULTANT's Scope of Services. If CONSULTANT accepts the proposed change order, CONSULTANT will give CLIENT written notice within ten (10) days of acceptance of any resulting increase in CONSULTANT's fees.

8. Opinion of Cost/Cost Estimates: Since the CONSULTANT has no control over the cost of labor, materials, equipment or services furnished by others, or over methods of determining prices, or over competitive bidding or market conditions, any and all opinions as to costs rendered hereunder, including but not limited to opinions as to the costs of construction and materials, shall be made on the basis of CONSULTANT'S experience and qualifications and represent its reasonable judgment as an experienced and qualified professional familiar with the construction industry; but the CONSULTANT cannot and does not guarantee the proposals, bids or actual costs will not vary significantly from opinions of probable costs prepared by it. If at any time the CLIENT wishes assurances as to the amount of any costs, CLIENT shall employ an independent cost estimator to make such determination.

9. Assignment and Third Parties: Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the CLIENT and CONSULTANT, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the CLIENT and the CONSULTANT and not for the benefit of any other party. Neither the CLIENT nor the CONSULTANT shall assign, sublet, or transfer any rights under or interests in this Agreement without the written consent of the other, which shall not be unreasonably withheld. However, nothing contained herein shall prevent or restrict the CONSULTANT from employing independent subconsultants as the CONSULTANT may deem appropriate to assist in the performance of services hereunder.

10. Project Site: Should CLIENT not be owner of the Project site, then CLIENT agrees to notify the site owner of the possibility of unavoidable alteration and damage to the site. CLIENT further agrees to indemnify, defend, and hold harmless CONSULTANT against any claims by the CLIENT, the owner of the site, or persons having possession of the site which are related to such alteration or damage.

11. Access to Site: CLIENT is responsible for providing legal and unencumbered access to site, including securing all necessary site access agreements or easements, to the extent necessary for the CONSULTANT to carry out its services.

12. Survival: All of CLIENT's obligations and liabilities, including but not limited to, its indemnification obligations and limitations of liability, and CONSULTANT's rights and remedies with respect thereto, shall survive completion, expiration or termination of this Agreement.

13. Termination: Either party may terminate the Agreement with or without cause upon ten (10) days advance written notice, if the other party has not cured or taken reasonable steps to cure the breach giving rise to termination within the ten (10) day notice period. If CLIENT terminates without cause or if CONSULTANT terminates for cause, CLIENT will pay CONSULTANT for all costs incurred, non-cancelable commitments, and fees earned to the date of termination and through demobilization, including any cancellation charges of vendors and subcontractors, as well as demobilization costs.

14. Severability: If any provision of this Agreement, or application thereof to any person or circumstance, is found to be invalid then such provision shall be modified if possible, to fulfill the intent of the parties as reflected in the original provision. The remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by applicable law.

15. No Waiver: No waiver by either party of any default by the other party in the performance of any provision of this Agreement shall operate as or be construed as a waiver of any future default, whether like or different in character.

16. Merger, Amendment: This Agreement constitutes the entire Agreement between the CONSULTANT and the CLIENT and all negotiations, written and oral understandings between the parties are integrated and merged herein. This Agreement can be supplemented and/or amended only by a written document executed by both the CONSULTANT and the CLIENT.

17. Unforeseen Occurrences: If, during the performance of services hereunder, any unforeseen hazardous substance, material, element of constituent or other unforeseen conditions or occurrences are encountered which affects or may affect the services, the risk involved in providing the service, or the recommended scope of services, CONSULTANT will promptly notify CLIENT thereof. Subsequent to that notification, CONSULTANT may: (a) if practicable, in CONSULTANT's sole judgment and with approval of CLIENT, complete the original Scope of Services in accordance with the procedures originally intended in the Proposal; (b) Agree with CLIENT to modify the Scope of Services and the estimate of charges to include study of the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated herein; or (c) Terminate the services effective on the date of notification pursuant to the terms of the Agreement.

18. Force Majeure: Should completion of any portion of the Agreement be delayed for causes beyond the control of or without the fault or negligence of CONSULTANT, including force majeure, the reasonable time for performance shall be extended for a period at least equal to the delay and the parties shall mutually agree on the terms and conditions upon which Agreement may be continued. Force majeure includes but is not restricted to acts of God, acts or failures of governmental authorities, acts of CLIENT's contractors or agents, fire, floods, epidemics, pandemics, riots, quarantine restrictions, strikes, civil insurrections, freight embargoes, and unusually severe weather.

19. Safety: CONSULTANT is not responsible for site safety or compliance with the Occupational Safety and Health Act of 1970 ("OSHA"). Job site safety remains the sole exclusive responsibility of CLIENT or CLIENT's contractors, except with respect to CONSULTANT's own employees. Likewise, CONSULTANT shall have no right to direct or stop the work of CLIENT's contractors, agents, or employees.

20. Dispute Resolution/Arbitration: Any claim or other dispute arising out of or related to this Agreement shall first be subject to non-binding mediation in accordance with the then-current Construction Industry Mediation Procedures of the American Arbitration Association ("AAA"). If mediation is unsuccessful, such claim or other dispute shall be subject to arbitration in accordance with the AAA's then-current Construction Industry Arbitration Rules. Any demand for arbitration shall be filed in writing with the other party and with the American Arbitration Association. CLIENT agrees to the inclusion in such arbitration (whether by initial filing, by joinder or by consolidation) of any other parties and of any other claims arising out of or relating to the Project or to the transaction or occurrence giving rise to the claim or other dispute between CLIENT and CONSULTANT.

21. Independent Contractor: In carrying out its obligations, CONSULTANT shall always be acting as an independent contractor and not an employee, agent, partner or joint venturer of CLIENT. CONSULTANT's work does not include any supervision or direction of the work of other contractors, their employees or agents, and

CONSULTANT's presence shall in no way create any liability on behalf of CONSULTANT for failure of other contractors, their employees or agents to properly or correctly perform their work

22. Hazardous Substances: CLIENT agrees to advise CONSULTANT upon execution of this Agreement of any hazardous substances or any condition existing in, on or near the Project Site presenting a potential danger to human health, the environment or equipment. By virtue of entering into the Agreement or of providing services, CONSULTANT does not assume control of, or responsibility for, the Project site or the person in charge of the Project site or undertake responsibility for reporting to any federal, state or local public agencies, any conditions at the Project site that may present a potential danger to the public, health, safety or environment except where required of CONSULTANT by applicable law. In the event CONSULTANT encounters hazardous or toxic substances or contamination significantly beyond that originally represented by CLIENT, CONSULTANT may suspend or terminate the Agreement. CLIENT acknowledges that CONSULTANT has no responsibility as a generator, treater, storer, or disposer of hazardous or toxic substances found or identified at a site. Except to the extent that CONSULTANT has negligently caused such pollution or contamination, CLIENT agrees to defend, indemnify, and hold harmless CONSULTANT, from any claim or liability, arising out of CONSULTANT's performance of services under the Agreement and made or brought against CONSULTANT for any actual or threatened environmental pollution or contamination if the fault (as defined in N.C.G.S. 22B-1(f)(7)) of CLIENT or its derivative parties (as defined in N.C.G.S. 22B-1(f)(3)) is a proximate cause of such claim or liability.

23. Choice of Law: The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the law of the State of North Carolina, excluding only its conflicts of laws principles.

24. Construction Services: If construction administration and review services are requested by the CLIENT, CLIENT agrees that such administration, review, or interpretation of construction work or documents by CONSULTANT shall not relieve any contractor from liability in regard to its duty to comply with the applicable plans, specifications, and standards for the Project, and shall not give rise to a claim against CONSULTANT for contractor's failure to perform in accordance with the applicable plans, specifications or standards.

25. Field Representative: If CONSULTANT provides field services or construction observation services, the presence of the CONSULTANT's field personnel will only be for the purpose of providing observation and field testing of specific aspects of the Project. Should a contractor be involved in the Project, the CONSULTANT's responsibility does not include the supervision or direction of the actual work of any contractor, its employees, or agents. All contractors should be so advised. Contractors should also be informed that neither the presence of the CONSULTANT's field representative nor the observation and testing by the CONSULTANT shall excuse contractor in any way for defects in contractor's work. It is agreed that the CONSULTANT will not be responsible for job or site safety on the Project and that the CONSULTANT does not have the right to stop the work of any contractor.

26. Submittals: CONSULTANT's review of shop drawings and other submittals is to determine conformity with the design concept only. Review of shop drawings and submittals does not include means, methods, techniques, or procedures of construction, including but not limited to, safety requirements.



WithersRavenel
Our People. Your Success.

EXHIBIT II

2025 Fee & Expense Schedule

Description	Rate
Engineering, Landscape Architecture & Planning	
Construction Project Professional	\$ 160
Construction Manager I	\$ 165
Construction Manager II	\$ 180
Senior Construction Manager	\$ 205
CAD Technician I	\$ 110
CAD Technician II	\$ 125
Senior CAD Technician	\$ 150
Designer I	\$ 140
Designer II	\$ 160
Senior Designer	\$ 180
Landscape Architect I	\$ 160
Landscape Architect II	\$ 185
Landscape Architect III	\$ 205
Senior Landscape Architect	\$ 230
Landscape Designer I	\$ 140
Landscape Designer II	\$ 150
Landscape Designer III	\$ 155
Planning Technician	\$ 125
Planner I	\$ 135
Planner II	\$ 155
Planner III	\$ 180
Senior Planner	\$ 190
Project Engineer I	\$ 180
Project Engineer II	\$ 190
Project Engineer III	\$ 210
Senior Project Engineer	\$ 245
Assistant Project Manager	\$ 190
Project Manager I	\$ 210
Senior Project Manager	\$ 230
Resident Project Representative I	\$ 110
Resident Project Representative II	\$ 130
Resident Project Representative III	\$ 145
Senior Resident Project Representative	\$ 155
Staff Professional I	\$ 95
Staff Professional II	\$ 150
Staff Professional III	\$ 165
Senior Technical Consultant	\$ 270
Client Experience Manager	\$ 245
Director	\$ 265
Principal	\$ 280
Zoning Specialist	\$ 360
Project Coordinators	
Project Coordinator I	\$ 100
Project Coordinator II	\$ 120
Project Coordinator III	\$ 130
Senior Project Coordinator	\$ 140
Lead Project Coordinator	\$ 150
Other	
Implementation Consultant	\$ 160
Senior Implementation Consultant	\$ 170

Description	Rate
Funding & Asset Management	
GIS Senior Specialist	\$ 180
GIS Specialist	\$ 160
GIS Technician	\$ 105
GIS Analyst I	\$ 130
GIS Analyst II	\$ 145
GIS Project Manager	\$ 180
F&AM Assistant Project Manager	\$ 175
Intern I	\$ 70
Intern II	\$ 95
F&AM Project Consultant I	\$ 130
F&AM Project Consultant II	\$ 140
F&AM Project Consultant III	\$ 145
F&AM Project Consultant IV	\$ 150
F&AM Senior Project Consultant I	\$ 160
F&AM Senior Project Consultant II	\$ 165
F&AM Project Manager	\$ 180
F&AM Principal	\$ 280
F&AM Director	\$ 250
F&AM Staff Professional I	\$ 75
F&AM Staff Professional II	\$ 125
F&AM Staff Professional III	\$ 165
F&AM Staff Professional IV	\$ 205
F&AM Senior Project Manager	\$ 230
F&AM Senior Technical Consultant	\$ 265
Geomatics	
Geomatics CAD I	\$ 110
Geomatics CAD II	\$ 130
Geomatics CAD III	\$ 145
GIS Survey Technician I	\$ 85
GIS Survey Technician II	\$ 110
GIS Survey Technician III	\$ 130
GIS Survey Lead	\$ 145
Geomatics Project Manager I	\$ 180
Geomatics Project Manager II	\$ 190
Geomatics Project Manager III	\$ 220
Geomatics Project Professional I	\$ 160
Geomatics Project Professional II	\$ 185
Geomatics Principal	\$ 260
Geomatics Remote Sensing Crew I	\$ 230
Geomatics Remote Sensing Crew II	\$ 325
Geomatics Survey Crew I	\$ 165
Geomatics Survey Crew II (2 Man)	\$ 195
Geomatics Survey Crew III (3 Man)	\$ 245
Geomatics Senior Manager	\$ 230
Geomatics Survey Tech I	\$ 65
Geomatics Survey Tech II	\$ 100
Geomatics Survey Tech III	\$ 130
Geomatics Survey Tech IV	\$ 140
Geomatics Sr. Technical Consultant	\$ 235
Geomatics SUE Crew 1	\$ 195
Geomatics SUE Crew 2	\$ 275

Description	Rate
Environmental	
Environmental Technician I	\$ 90
Environmental Technician II	\$ 105
Environmental Technician III	\$ 110
Environmental Senior Technician	\$ 125
Environmental Project Geologist I	\$ 160
Environmental Project Geologist II	\$ 175
Environmental Project Geologist III	\$ 200
Environmental Senior Project Geologist	\$ 220
Environmental Assistant Project Manager	\$ 175
Environmental Project Manager	\$ 200
Environmental Senior Project Manager	\$ 220
Environmental Director	\$ 250
Environmental Project Engineer I	\$ 160
Environmental Project Engineer II	\$ 175
Environmental Project Engineer III	\$ 200
Environmental Senior Project Engineer	\$ 220
Environmental Principal	\$ 280
Environmental Project Scientist I	\$ 160
Environmental Project Scientist II	\$ 175
Environmental Project Scientist III	\$ 200
Environmental Senior Project Scientist	\$ 220
Environmental Scientist I	\$ 115
Environmental Scientist II	\$ 140
Environmental Scientist III	\$ 150
Environmental Geologist I	\$ 115
Environmental Geologist II	\$ 140
Environmental Geologist III	\$ 150
Environmental Professional I	\$ 115
Environmental Professional II	\$ 140
Environmental Professional III	\$ 150
Environmental Senior Technical Consultant	\$ 245
Administrative	
Administrative Assistant	\$ 70
Administrative Assistant I	\$ 90
Administrative Assistant II	\$ 100
Administrative Assistant III	\$ 110
Marketing Administration I	\$ 100
Marketing Administration II	\$ 130
Director of Marketing	\$ 160
Office Administration	\$ 75
Office Administrator I	\$ 130
Office Administrator II	\$ 135
Office Administrator III	\$ 140
Expenses	
Bond Prints (Per Sheet)	\$ 1.75
Mylar Prints (Per Sheet)	\$ 11.00
Mileage	Per IRS
Delivery – Project Specific (Distance & Priority)	
Subcontractor Fees (Markup)	1.15
Expenses / Reprod. / Permits (Markup)	1.15

EXHIBIT A

FEMA FEDERAL CONTRACT PROVISIONS (2 CFR PART 200.327)

For the purposes of this Exhibit A: The unit of local government shall be known as the “Owner” or “Client” and WithersRavenel shall be known as the “Consultant” or “Contractor”.

PRIOR TO PURCHASING GOODS AND SERVICES UNDER A FEMA AWARD, RECIPIENTS AND SUBRECIPIENTS MUST BE MINDFUL OF THE DATE THE FEDERAL AWARD IS MADE OR THE DISASTER DECLARED BECAUSE THIS DATE DETERMINES THE APPLICABLE FEDERAL PROCUREMENT STANDARDS INCLUDING THE REQUIRED CONTRACT PROVISIONS IN 2 C.F.R. PART 200.

THIS DOCUMENT CONTAINS ALL REQUIRED AND RECOMMENDED CONTRACT CLAUSES FOR FEMA PUBLIC ASSISTANCE (PA) AND FEMA HAZARD MITIGATION GRANT PROGRAM (HMGP) FUNDS. A SEPARATE DOCUMENT WILL BE PROVIDED FOR CDBG-DR FUNDING, IF THAT FUNDING IS MADE AVAILABLE TO THE LOCAL ENTITY SEEKING SUCH FUNDS.

1. LEGAL REMEDIES PROVISION

(As stated in 2 CFR Appendix II to Part 200, Section A—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards) “Contracts more than the simplified acquisition threshold” [(which amount is subject to inflation adjustment but is set at \$250,000 as of October 1, 2020) that are funded by a Federal award (including a FEMA grant or cooperative agreement program)], shall contain provisions or conditions which will allow for “administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.”¹

1. If an Event of Default shall occur, the CLIENT shall have the following rights and remedies, which are exercisable at the CLIENT’s sole discretion, and are cumulative, concurrent, and independent rights.
2. In the event that the CLIENT finds that it is inadvisable or impossible to continue the execution of the project; or if CONSULTANT shall fail to fulfill in a timely and proper manner its obligations under this Agreement; or, if CONSULTANT shall violate any of the covenants, agreements, or stipulations of this Agreement; or if CONSULTANT becomes subject to a voluntary or involuntary adjudication of bankruptcy or makes a general assignment for the benefit of creditors; then the CLIENT has the right to terminate at any time this Agreement or any task or phase of work being performed herein by providing thirty days written notice to CONSULTANT of such termination and specifying the effective date of such termination; provided, however, that during such period of thirty (30) days CONSULTANT shall have the opportunity to remedy such failures or violations to avoid such termination.
3. In the event of termination, as provided herein, CONSULTANT shall be paid for all services performed and actual expenses incurred up to the effective date of the termination of services and any fees or expenses post termination effective date that may be incurred associated with transitioning the work to the CLIENT or the CLIENT’s affiliate.

2. TERMINATION PROVISION

(As stated in 2 CFR Appendix II to Part 200, Section B—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards) “All contracts in excess of \$10,000 that are funded by a Federal award (including a FEMA grant or cooperative agreement program) shall contain suitable provisions for termination by the

¹ 2 C.F.R. Part 200, Appendix II, Section A. <https://www.ecfr.gov/on/2024-10-01/title-2/subtitle-A/chapter-II/part-200/appendix-Appendix%20II%20to%20Part%20200>

grantee including the manner by which it will be effected and the basis for settlement.”² In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

In addition to the termination provisions provided in the Agreement, the Owner may terminate the Agreement for cause and/or for convenience as follows:

1. CLIENT may terminate contract with written notice of violation or breach of contract provided, however, that no such violation shall occur until the CLIENT has been given written notice of the breach and thirty (30) days to cure have elapsed.
2. CLIENT may terminate contract for default in performance provided, however, that no such default shall occur until the CLIENT has been given written notice of the default and 30 days to cure have elapsed.
3. CLIENT may terminate contract for misrepresentation if any representation or warranty made by the CONSULTANT in connection with the Contract or any information, certificate, statement, or report heretofore or hereafter made shall be untrue or misleading in any material respect at the time made.
4. Upon the Owner's termination of the Contract, unless the Contractor is in breach of the Contract, the Contractor shall be paid for services rendered to the Owner's satisfaction through the date of termination. After receipt of a termination notice and except as otherwise directed by the Owner, the Contractor shall: (i) stop work on the date and to the extent specified; (ii) use its best efforts to mitigate the cost of terminating the applicable work; (iii) terminate and settle all orders and subcontracts relating to the performance of the terminated work; (iv) transfer all work in process, completed work, and other material related to the terminated work to the Owner; and (v) continue and complete all parts of the work that have not been terminated.

3. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT PROVISION (40 U.S.C. 3701-3708)

As stated in 2 CFR Appendix II to Part 200, Section E- Contract Provisions for Non-Federal Entity Contracts Under Federal Awards; 40 USC 3701-3708, 29 CFR Part 5) “Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). Under 40 U.S.C. 3702 of the Act, each contractor and any of his subcontractors must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.”³

The provisions of this Section E shall apply to all contracts in excess of \$100,000 that are funded by a Federal award (including a FEMA grant or cooperative agreement program) and that involve the employment of mechanics, laborers, and construction work. This Section E does not apply to the purchase

² 2 C.F.R. Part 200, Appendix II, Section B. <https://www.ecfr.gov/on/2024-10-01/title-2/subtitle-A/chapter-II/part-200/appendix-Appendix%20II%20to%20Part%20200>

³ Appendix II to 2 CFR 200, Section E <https://www.ecfr.gov/on/2024-10-01/title-2/subtitle-A/chapter-II/part-200/appendix-Appendix%20II%20to%20Part%20200>

of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

To comply with the Contract Work Hours and Safety Standards Act (CWHSSA), if applicable, the clauses contained at 29 CFR 5.5(b)(1)-(5) "Contract Work Hours and Safety Standards Act (CWHSSA)" shall be included into the contract and subcontracts.

- (1) **"Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in [paragraph \(b\)\(1\)](#) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in [paragraph \(b\)\(1\)](#) of this section, in the sum of \$33 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1).
- (3) **Withholding for unpaid wages and liquidated damages —**
 - (i) **Withholding process.** The [write in the name of the Federal agency or the recipient of Federal assistance] may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this [paragraph \(b\)](#) on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in [§ 5.2](#)). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.
 - (ii) **Priority to withheld funds.** The Department has priority to funds withheld or to be withheld in accordance with [paragraph \(a\)\(2\)\(i\)](#) or [\(b\)\(3\)\(i\)](#) of this section, or both, over claims to those funds by:
 - (A) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
 - (B) A contracting agency for its procurement costs;
 - (C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

- (D) A contractor's assignee(s);
 - (E) A contractor's successor(s); or
 - (F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.
- (4) **Subcontracts.** The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs (b)(1) through (5) of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (5). In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.
- (5) **Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:
- (i) Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;
 - (ii) Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;
 - (iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or
 - (iv) Informing any other person about their rights under CWHSSA or this part.⁴

In any contract subject only to the Contract Work Hours and Safety Standards Act and not to any other statutes cited in 29 C.F.R. § 5.1, then the following provisions also apply to the contract in accordance with 29 C.F.R. § 5.5(c):

- (1) "The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.
- (2) Records to be maintained under this provision shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.⁵"

⁴ 29 CFR 5.5 Contract provisions and related matters. <https://www.ecfr.gov/current/title-29/subtitle-A/part-5/subpart-A/section-5.5>

⁵ FEMA Contract Provisions Guide: Navigating Contract Provisions for recipient and Subrecipient Contracts under FEMA Awards.

Procurement Under Grants Division. October 1, 2024. FI-207-21-0001

https://www.fema.gov/sites/default/files/documents/fema_contract-provisions-guide_fy24.pdf

4. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

(As stated in 2 CFR Appendix II to Part 200, Section F—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards)

This clause is not required under the FEMA PA, HMGP, FMA, BRIC, PDM, FMAG, HMGP Post Fire, CCP, DCM, IHP-ONA, or Safeguarding Tomorrow RLF programs, as FEMA Awards under these programs do not meet the definition of “funding agreement”.

“If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.”⁶

This Section F applies to any contract where the applicable federal funding meets definition of a “funding agreement” (defined below). **This Section F does not apply to all FEMA grant and cooperative agreement programs.** Non-federal entities should refer to applicable Notice of Funding Opportunity or other program guidance or contact their applicable FEMA grant representative to determine if this provision is required for the procurement. However, **the Rights to Inventions Made Under a Contract or Agreement clause is not required for procurements under FEMA’s Public Assistance (PA) Program.**

“The regulation at 37 C.F.R. § 401.2(a) defines funding agreement as “any contract, grant, or cooperative agreement entered into between any federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.”⁷

“If the FEMA award meets the definition of funding agreement (per 37 CFR 401.2(a)) and the recipient or subrecipient enters any contract involving substitution of parties, assignment, or performance of experimental, developmental, or research work under that funding agreement, then the recipient or subrecipient must comply with the requirements of 37 C.F.R. Part 401 and any implementing regulations issued by FEMA.”⁸

5. CLEAN WATER, CLEAN AIR, E.O. 11738 AND EPA REGULATIONS PROVISION

As stated in 2 CFR Appendix II to Part 200, Section G- Contract Provisions for Non-Federal Entity Contracts Under Federal Awards) “Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water

⁶ Appendix II to 2 CFR 200, Section F <https://www.ecfr.gov/on/2024-10-01/title-2/subtitle-A/chapter-II/part-200/appendix-Appendix%20II%20to%20Part%20200>

⁷ FEMA Contract Provisions Guide: Navigating Contract Provisions for recipient and Subrecipient Contracts under FEMA Awards. Procurement Under Grants Division. October 1, 2024. FI-207-21-0001 https://www.fema.gov/sites/default/files/documents/fema_contract-provisions-guide_fy24.pdf

⁸ FEMA Contract Provisions Guide: Navigating Contract Provisions for recipient and Subrecipient Contracts under FEMA Awards. Procurement Under Grants Division. October 1, 2024. FI-207-21-0001 https://www.fema.gov/sites/default/files/documents/fema_contract-provisions-guide_fy24.pdf

Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).”⁹

The provisions of this Section G apply to all contracts that are funded by a Federal award (including a FEMA grant or cooperative agreement program) for amounts in excess of \$150,000.

Compliance with Air and Water Acts: Contracts and subcontracts of amounts in excess of \$150,000 are subject to the requirements of the Clean Air Act, as amended, (42 U.S.C. 7401-7671q.), the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251-1387 and the regulations of the Environmental Protection Agency (EPA) with respect thereto, as amended. The Contractor and any of its subcontractors for work funded under this Agreement which is in excess of \$150,000, agree to the following requirements:

- (1) Agreement by the Contractor to comply with all the applicable standards, orders, regulations, or requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 7401-7671q) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 and 1254 et seq.) relating to inspection, monitoring, entry, reports, and information, and all regulations and guidelines issued there under.
- (2) A stipulation by the contractor or subcontractors that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the EPA.
- (3) A stipulation that as a condition for the award of the contract prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the EPA List of Violating Facilities.
- (4) The Contractor agrees to report each violation to the Owner and understands and agrees that the Owner will, in turn, report each violation as required to assure notification to the pass-through entity, if applicable, FEMA or other Federal awarding agency, and the appropriate Environmental Protection Agency Regional Office.
- (5) Agreement by the Contractor that he will include or cause to be included the criteria and requirements in paragraph (1) through (5) of this section in every nonexempt subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by FEMA or other Federal awarding agency, and requiring that the contractor will take such action as the Government may direct as a means of enforcing such provisions.
- (6) In no event shall any amount of the assistance provided under this Agreement be utilized with respect to a facility which has given rise to a conviction under Section 113(c) (1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

6. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

(As stated in 2 CFR Appendix II to Part 200, Section H—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards; 2 CFR 180)

A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR

⁹ Appendix II to 2 CFR 200, Section G <https://www.ecfr.gov/on/2024-10-01/title-2/subtitle-A/chapter-II/part-200/appendix-Appendix%20II%20to%20Part%20200>

180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

This Section H applies to contracts that are "covered transactions" at either a primary or secondary tier and that arise under any contract funded by a Federal award (including a FEMA grant or cooperative agreement program). For the purposes of this Section H, the term "covered transaction" includes the following contracts for goods or services: (1) the contract is at least \$25,000; (b) the contract requires the approval of FEMA, regardless of amount; (3) the contract is for federally required audit services; (4) the contract is a subcontract for \$25,000 or more.

If this Section H applies, then the following provisions are incorporated into the Contract:

- (1) This Contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, the Contractor is required to verify, and by entering into this Contract it does verify, that none of the Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The Contractor must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by the Owner. If it is later determined that the Contractor did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to the Owner, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

In accordance with 2 CFR 200.214 and 2 CFR 180, by entering into this Agreement, the CONTRACTOR, its principals, its subcontractors, and its subcontractors' principals, certifies that they nor any person or firm who has an interest in the CONTRACTOR's firm is a person or firm ineligible to be awarded Government contracts by virtue of 29 CFR 5.12(a)(1), 2 CFR § 2424, 2 CFR § 180.220, and 40 U.S. Code § 3144, or, if applicable, by virtue of Section 3(a) of the Davis-Bacon Act. No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 29 CFR 5.12(a)(1), 29 CFR § 5.12, 2 CFR § 2424, 2 CFR § 180.220, and 40 U.S. Code § 3144, or, if applicable, by virtue of Section 3(a) of the Davis-Bacon Act. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001 and 18 U.S.C. 1010. The Federal List of Parties Excluded from Federal Procurement or Non-procurement Programs (www.sam.gov) and State of North Carolina Debarred Vendors List (<https://www.doa.nc.gov/divisions/purchase-contract/debarred-vendors>) have been checked, the contractor or subcontractor has been determined to be eligible to participate in a federally assisted project, and documentation proving eligibility is included in the contract.

See Appendix to this Exhibit A for a sample certification.

7. BYRD ANTI-LOBBYING AMENDMENT CLAUSE

(As stated in 2 CFR Appendix II to Part 200, Section I—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards,; 31 USC 1352)

As required by 31 U.S.C. Section 1352, Byrd Anti-Lobbying Amendment, Contractors that apply or bid for an award exceeding \$100,000 must 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 must 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 non-Federal award.

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any Federal loan, the entering into of any cooperative, agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid any person for influencing or attempting to influence an officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

See Appendix to this Exhibit A for a sample certification.

8. PROCUREMENT OF RECOVERED MATERIALS

(As stated in 2 CFR Appendix II to Part 200, Section J—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards; 2 CFR 200.323; Executive Order 14057)

In accordance with 2 CFR 200.323, Section J applies to all procurements over \$10,000 made by the local government or contractor under a contract that is funded by a federal award.

A recipient or subrecipient that is a state agency or agency of a political subdivision of a State and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 as amended, 42 U.S.C. 6962. The requirements of Section 6002 include procuring only items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or

the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. The recipient or subrecipient should, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. This may include purchasing compostable items and other products and services that reduce the use of single-use plastic products.

In the performance of this Contract, where the purchase price of the item is greater than \$10,000, or the value of the amount of items purchased in the preceding fiscal year was greater than \$10,000], the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired a) Competitively within a timeframe providing for compliance with the contract performance schedule; b) Meeting contract performance requirements; or c) At a reasonable price. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines webpage: (<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>). The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

9. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT OR SERVICES

(As stated in 2 CFR Appendix II to Part 200, Section K—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards; 2 CFR 200.216, Section 889 Public Law 115-232; FEMA Policy 405-143-1)

In accordance with 2 CFR 200.216, Section K applies to all contracts that are funded by a federal award (including a FEMA grant or cooperative agreement program). As of November 12, 2020, all FEMA recipients and subrecipients, and their contractors and subcontractors, are required to include this contract provision in all FEMA-funded contracts and subcontracts, including any purchase orders.

- A. Definitions. As used in this Section K, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim).
- B. Prohibitions. Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
 - 1. Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
 - (i) Procure or obtain any 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;
 - (ii) Enter into, extend, or renew a contract to procure or obtain any 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;

- (iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
- (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service 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.

C. Exceptions.

1. This clause does not prohibit contractors from providing—
 - (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - (ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
2. By necessary implication and regulation, the prohibitions also do not apply to:
 - (i) Covered telecommunications equipment or services that:
 - a. Are not used as a substantial or essential component of any system; and
 - b. Are not used as critical technology of any system.
 - (ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

D. Reporting requirement.

1. In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
2. The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:
 - (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

E. Subcontracts.

1. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

10. DOMESTIC PREFERENCES FOR PROCUREMENT

(As stated in 2 CFR Appendix II to Part 200, Section L—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards; 2 CFR 200.322; 2 CFR 184)

In accordance with 2 CFR 200.322, Section L applies to all contracts that are funded by a federal award (including a FEMA grant or cooperative agreement program). All FEMA recipients and subrecipients are required to include in all contracts and purchase orders for work or products a contract provision encouraging domestic preference for procurements.

- A. The local government, contractor, and lower tier subcontractors should, as appropriate, to the greatest extent practicable and consistent with law, 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, contracts, and purchase orders under Federal awards.
- B. For purposes of this Section:
 1. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
 2. “Manufactured products” mean 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.
- C. Federal agencies providing Federal financial assistance for infrastructure projects must implement the Buy America preferences set forth in 2 CFR part 184.

11. BUILD AMERICA, BUY AMERICA (BABA) ACT (BABAA) ACT CLAUSE

(As stated in 2 CFR 200.322; 2 CFR 184; OMB Memorandum M-22-11)

This Act does not apply to FEMA disaster recovery programs including Public Assistance and HMGP; other FEMA programs must conform to the Act. For a full list of which FEMA federal financial assistance programs are subject to and not subject to BABAA, visit <https://www.fema.gov/grants/policy-guidance/buy-america/programs-definitions>. The Office of Management and Budget (OMB) has revised Title 2 of the Code of Federal Regulations (2 C.F.R.) to add a new part 184 and revise 2 C.F.R. § 200.322, to provide guidance to federal agencies on how to apply the domestic preference requirements as set forth in BABAA. OMB also issued OMB Memorandum M-24-02, Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure, which provides supplemental implementation guidance to federal agencies on: (1) the application of a Buy America preference to federal financial assistance programs for infrastructure; and (2) the process for waiving such a Buy America preference, including the circumstances under which waivers may be justified as consistent with applicable law and policy. These revisions are effective for subject FEMA awards issued on or after Oct. 23, 2023.

- A. Contractors and their subcontractors who apply or bid for an award for an infrastructure project subject to the domestic preference requirement in the Build America, Buy America Act shall file the required certification to (insert name of recipient/subrecipient) with each bid or offer for an infrastructure project, unless a domestic preference requirement is waived by FEMA.
- B. Contractors and subcontractors certify that no federal financial assistance funding for infrastructure projects will be provided unless all the iron, steel, manufactured projects, and construction materials used in the project are produced in the United States. BABAA, Infrastructure Investment and Jobs Act of 2021 (IIJA) Pub. L. No. 117-58, §§ 70901-70953.

- C. Contractors and subcontractors shall also disclose any use of federal financial assistance for infrastructure projects that does not ensure compliance with BABAA domestic preference requirements. Such disclosures shall be forwarded to the recipient who, in turn, will forward the disclosures to FEMA, the federal agency; subrecipients will forward disclosures to the pass-through entity, who will, in turn, forward the disclosures to FEMA.
- D. Contractors and subcontractors agree to incorporate the Buy America Preference into planning and design when providing architectural and/or engineering professional services for infrastructure projects. Consistent with the Build America, Buy America Act (BABAA) Infrastructure Investment and Jobs Act of 2021 (IIJA) Pub. L. 117-58 §§ 70901-52, no federal financial assistance funding for infrastructure projects will be used unless all the iron, steel, manufactured projects, and construction materials used in the project are produced in the United States.

See Appendix to this Exhibit A for a sample certification.

12. ADDITIONAL FEMA PROVISIONS

The provisions of this Section shall apply to any contract that is funded by FEMA, a FEMA grant, or FEMA financial assistance.

1. **Access to Records.** (See 2 CFR 200.334-338 Record Retention and Access.) The following access to records requirements apply to this Contract:
 - a) In general, all official project records and documents, including personal property and financial records, adequate to identify and account for all costs pertaining to the Agreement and such other records as may be deemed necessary by the recipient to assure proper accounting for all project funds, both Federal and non-Federal shares, must be maintained during the operation of this project and for a period of three (3) years following close out in compliance with 2 CFR 200.334-338, unless permission to destroy them is granted by the recipient.
 - b) The Contractor agrees to provide the Owner, the applicable state agency or local government entity, if different from Owner, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions.
 - c) 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.
 - d) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
 - e) In compliance with section 1225 of the Disaster Recovery Reform Act of 2018, the Owner 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.
2. **DHS Seal, Logos, and Flags.** The Contractor shall not use the Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval. The Contractor shall include this provision in any subcontracts.
3. **Compliance with Federal Laws, Regulations, and Executive Orders and Acknowledgement of Federal Funding.** This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the Contract. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.
4. **No Obligation by Federal Government.** The federal government is not a party to this Contract and is not subject to any obligations or liabilities to the non-federal entity, contractor, or any other party pertaining to any matter resulting from the Contract.

5. **Program Fraud and False or Fraudulent Statements or Related Acts.** The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this Contract.
6. **Socioeconomic Contracting.** If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible.
7. **Copyrights and Data Rights.** See 2 CFR 200.315. The Contractor grants to the Owner, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this Contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the Contract but not first produced in the performance of this Contract, the Contractor will identify such data and grant to the Owner or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the Owner data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the Owner.
8. **Good, Safe Jobs to Workers.** Pursuant to FEMA Information Bulletin No. 520, the contractor will comply with all applicable federal labor and employment laws. To maximize cost efficiency and quality of work, the contractor commits to strong labor standards and protections for the project workforce by creating an effective plan for ensuring high-quality jobs and complying with federal labor and employment laws. The contractor acknowledges applicable minimum wage, overtime, prevailing wage, and health and safety requirements, and will incorporate Good Jobs Principles wherever appropriate and to the greatest extent practicable.
9. **Buy Clean.** *For FEMA PA, HMGP, HMGP Post Fire, BRIC and PDM grants, FEMA recommends that recipients and subrecipients include a provision encouraging the consideration of low-carbon materials. Recipients and subrecipients for other FEMA grant programs may also use this provision if they wish to encourage environmentally friendly construction practices.* The Owner and North Carolina Division of Emergency Management (NCEM) encourages the use of environmentally friendly construction practices in the performance of this Agreement. In particular, the Owner encourages that the performance of this agreement include considering the use of low-carbon materials which have substantially lower levels of embodied greenhouse-gas emissions associated with all relevant stages of production, use, and disposal, as compared to estimated industry averages of similar materials or products as demonstrated by their environmental product declaration.

13. CONFLICT OF INTEREST

(As stated in 2 CFR 200.318; General Procurement Standards)

1. **Interest of Members, Officers, or Employees of the Funding Recipient, Members of Local Governing Body, or Other Public Officials.** No member, officer, or employee of the CLIENT, consultant, or its agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any financial interest, either direct or indirect, in any contract or subcontract, or the proceeds under this Agreement. Immediate

family members of said members, officers, employees, and officials are similarly barred from having any financial interest in the program. The CLIENT and CONSULTANT shall incorporate, or cause to be incorporated, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section.

2. Interest of Consultant and Employees. The CONSULTANT covenants that they presently have no interest and shall not acquire interest, direct or indirect, in the project areas or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder.
3. Personnel & Subcontracting
 - a) The CONSULTANT represents that they have, or will secure at their own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of the CLIENT.
 - b) All of the services required hereunder will be performed by the CONSULTANT or under their supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services.
 - c) None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the CLIENT.
 - d) Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.

14. NONDISCRIMINATION CLAUSES

(As stated in 2 CFR 200.300; Statutory and National Policy Requirements)

Recipients of Federal financial assistance are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq.; Title VIII of the Civil Rights Act of 1968 (42 USSC 3601 et seq.), Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq.; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq.; and Title II of the Americans with Disabilities Act of 1990 (ADA), as amended (42 USC 12101 et seq.).

DEBARMENT STATUS CERTIFICATION

In accordance with 2 CFR 200.214 and 2 CFR 180, by entering into this Agreement, the CONTRACTOR, its principals, its subcontractors, and its subcontractors' principals, certifies that they nor any person or firm who has an interest in the CONTRACTOR's firm is a person or firm ineligible to be awarded Government contracts by virtue of 29 CFR 5.12(a)(1), 2 CFR § 2424, 2 CFR § 180.220, and 40 U.S. Code § 3144, or, if applicable, by virtue of Section 3(a) of the Davis-Bacon Act. No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 29 CFR 5.12(a)(1), 29 CFR § 5.12, 2 CFR § 2424, 2 CFR § 180.220, and 40 U.S. Code § 3144, or, if applicable, by virtue of Section 3(a) of the Davis-Bacon Act. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001 and 18 U.S.C. 1010. The Federal List of Parties Excluded from Federal Procurement or Non-procurement Programs (www.sam.gov) and State of North Carolina Debarred Vendors List (<https://www.doa.nc.gov/divisions/purchase-contract/debarred-vendors>) have been checked, the contractor or subcontractor has been determined to be eligible to participate in a federally assisted project, and documentation proving eligibility is included in the contract.

CONTRACTOR INFORMATION

(Authorized Signature)	WithersRavenel
Glynn Fleming, PE CFM Interim Practice Area Lead, Utilities	(Name of Contractor)
(Printed Name and Title)	167 E. Chatham Street, Suite 210
5/16/2025	(Street Address and/or PO Box)
(Date)	Cary, NC 27511
56-1740520	(City, State, Zip Code)
(Federal UEI, Tax Identification, or Social Security Number)	



WITHERSRAVENEL, INC

Unique Entity ID SK8ECFTPUEH7	CAGE / NCAGE 8T6L1	Purpose of Registration All Awards
Registration Status Active Registration	Expiration Date Nov 21, 2025	
Physical Address 115 Mackenan DR Cary, North Carolina 27511-7903 United States	Mailing Address 115 Mackenan DR Cary, North Carolina 27511-7903 United States	

Business Information

Doing Business as (blank)	Division Name (blank)	Division Number (blank)
Congressional District North Carolina 13	State / Country of Incorporation North Carolina / United States	URL www.withersravenel.com

Registration Dates

Activation Date Nov 25, 2024	Submission Date Nov 21, 2024	Initial Registration Date Aug 21, 2020
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Entity Dates

Entity Start Date Apr 23, 1991	Fiscal Year End Close Date Dec 31
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Immediate Owner

CAGE (blank)	Legal Business Name (blank)
------------------------	---------------------------------------

Highest Level Owner

CAGE (blank)	Legal Business Name (blank)
------------------------	---------------------------------------

Executive Compensation

Registrants in the System for Award Management (SAM) respond to the Executive Compensation questions in accordance with Section 6202 of P.L. 110-252, amending the Federal Funding Accountability and Transparency Act (P.L. 109-282). This information is not displayed in SAM. It is sent to USAspending.gov for display in association with an eligible award. Maintaining an active registration in SAM demonstrates the registrant responded to the questions.

Proceedings Questions

Registrants in the System for Award Management (SAM.gov) respond to proceedings questions in accordance with FAR 52.209-7, FAR 52.209-9, or 2. C.F.R. 200 Appendix XII. Their responses are displayed in the responsibility/qualification section of SAM.gov. Maintaining an active registration in SAM.gov demonstrates the registrant responded to the proceedings questions.

Exclusion Summary

Active Exclusions Records?

No

SAM Search Authorization

I authorize my entity's non-sensitive information to be displayed in SAM public search results:

Yes

Entity Types

Business Types

Entity Structure Corporate Entity (Not Tax Exempt)	Entity Type Business or Organization	Organization Factors Subchapter S Corporation
Profit Structure For Profit Organization		

Socio-Economic Types


Check the registrant's Reps & Certs, if present, under FAR 52.212-3 or FAR 52.219-1 to determine if the entity is an SBA-certified HUBZone small business concern. Additional small business information may be found in the SBA's Dynamic Small Business Search if the entity completed the SBA supplemental pages during registration.

Financial Information


Accepts Credit Card Payments Yes	Debt Subject To Offset No
EFT Indicator 0000	CAGE Code 8T6L1

Points of Contact

Electronic Business

 Christopher C Bryant	115 Mackenan Drive Cary, North Carolina 27511 United States
---	---

Government Business

 Kerry T Colwell	115 Mackenan Drive Cary, North Carolina 27511 United States
--	---

Service Classifications

NAICS Codes

Primary	NAICS Codes	NAICS Title
Yes	541330	Engineering Services
	237110	Water And Sewer Line And Related Structures Construction
	237210	Land Subdivision
	237310	Highway, Street, And Bridge Construction
	237990	Other Heavy And Civil Engineering Construction
	513210	Software Publishers
	518210	Computing Infrastructure Providers, Data Processing, Web Hosting, And Related Services
	541320	Landscape Architectural Services
	541340	Drafting Services
	541360	Geophysical Surveying And Mapping Services
	541370	Surveying And Mapping (Except Geophysical) Services
	541512	Computer Systems Design Services
	541620	Environmental Consulting Services
	541990	All Other Professional, Scientific, And Technical Services
	561990	All Other Support Services
	562212	Solid Waste Landfill
	562910	Remediation Services

Product and Service Codes

PSC	PSC Name
B510	Special Studies/Analysis- Environmental Assessments
B517	Special Studies/Analysis- Geological
B532	Special Studies/Analysis- Soil

C219	Architect And Engineering- General: Other
F109	Environmental Systems Protection- Leaking Underground Storage Tank Support
F110	Environmental Systems Protection- Development Of Environmental Impact Statements And Assessments, Technical Analysis And Environmental Audits
R404	Support- Professional: Land Surveys-Cadastral (Non-Construction)
R425	Support- Professional: Engineering/Technical

Disaster Response

Yes, this entity appears in the disaster response registry.

Bonding Levels	Dollars
(blank)	(blank)

States	Counties	Metropolitan Statistical Areas
North Carolina	(blank)	(blank)
South Carolina		
Virginia		

NC Debarment Search

<https://www.doa.nc.gov/divisions/purchase-contract/debarred-vendors>

NC Debarred Vendors

Associated Files



[Debarred_Vendors_06.01.2021.docx](#)

DOC • 77.91 KB

[Download](#)



[Debarred_Vendors_06.01.2021.csv](#)

TEXT • 16.74 KB

[Download](#)

	A	B	C	D
1	Vendor Name	City, State	Effective Da	Debarment Reason
29	Vu-Color	----	12/14/2005	NC E-Procurement Fee Default
30	W.S. Boone Drilling and Grading	Mars Hill, NC	1/14/2010	NC E-Procurement Fee Default
31	Watkins Fitness Equipment	Salisbury, NC	4/29/2010	NC E-Procurement Fee Default
32	Wellington House	Albany, GA	8/23/2002	Contract Default
33	Willis Manufacturing, Inc.	Conover, NC	9/14/2016	NC E-Procurement Fee Default
34	Worldview Trading Company	Alpharetta, GA	10/22/1998	Other
35	Wright Tool Company	Troy, MI	5/6/2010	Other
36	Yazoo Power Equipment	Jackson, MS	2/1/2001	Contract Default
37	Zynex Neurodiagnostics	Lone Tree, CO	9/14/2016	NC E-Procurement Fee Default

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ATTACHMENT C

E-VERIFY AFFIDAVIT

STATE OF NORTH CAROLINA

COUNTY OF Wake

I, C. CHAN BRYANT, (the individual attesting below), being duly authorized by and on behalf of WithersRavenel (the entity bidding on project hereinafter "Employer") after first being duly sworn hereby swears or affirms as follows:

1. Employer understands that E-Verify is the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law in accordance with NCGS §64-25(5).
2. Employer understands that Employers Must Use E-Verify. Each employer, after hiring an employee to work in the United States, shall verify the work authorization of the employee through E-Verify in accordance with NCGS§64-26(a).
3. Employer is a person, business entity, or other organization that transacts business in this State and that employs 25 or more employees in this State. (mark Yes or No)
 - a. YES X, or
 - b. NO _____
4. Employer's subcontractors comply with E-Verify, and if Employer is the winning bidder on this project Employer will ensure compliance with E-Verify by any subcontractors subsequently hired by Employer.

This 5 day of January, 2023

Signature of Affiant: C. Chan Bryant

Print or Type Name: C. CHAN BRYANT

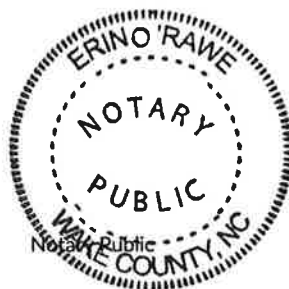
State of North Carolina County of Wake

Signed and sworn to (or affirmed) before me, this the 5

day of January, 2023

My Commission Expires:

10/18/26



(Affix Official/Notarial Seal)

CERTIFICATION REGARDING GOVERNMENT-WIDE RESTRICTION ON LOBBYING

(For contracts, grants, cooperative agreements, and loans over \$100,000)

Serves as equivalent to Standard Form-LLL

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards (at all tiers, including contracts under grants, loans, and cooperative agreements, subcontracts, and subgrants) over \$100,000, and that all subrecipients shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

WithersRavenel

(Name of Contractor)

Glynn Fleming, PE CFM

(Name of Authorized Official)

Interim Practice Area Lead, Utilities

(Title of Authorized Official)

(Signature of Authorized Official)

5/16/2025

(Date)

BUILD AMERICA, BUY AMERICA ACT (BABAA) CERTIFICATION

The BABAA contract provision and self-certification are required for contracts and subcontracts for infrastructure projects that are subject to the BABAA requirements unless the requirement is waived. For FEMA financial assistance programs subject to BABAA, contractors and subcontractors must sign and submit the following certification to the next tier (e.g., subcontractors submit to the contractor; contractors submit to the recipient or subrecipient) each bid or offer for an infrastructure project that has not been waived by a BABAA waiver:

The undersigned certifies, to the best of their knowledge and belief, that:

The Build America, Buy America Act (BABAA) requires that no federal financial assistance for **"infrastructure"** projects is provided "unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States." Section 70914 of Public Law No. 117-58, §§ 70901-52 (Infrastructure Investment and Jobs Act of 2021 (IIJA)).

The undersigned certifies that for the project that the **iron, steel, manufactured products, and construction materials** used in this contract are in full compliance with the BABAA requirements including:

1. All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
2. All manufactured products purchased with FEMA financial assistance must be produced in the United States. For a manufactured product to be considered produced in the United States, the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55% of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.
3. All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

The undersigned contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the undersigned contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

WithersRavenel

(Name of Contractor)

Glynn Fleming, PE CFM

(Name of Authorized Official)

Interim Practice Area Lead, Utilities

(Title of Authorized Official)

(Signature of Authorized Official)

05/16/2025

(Date)

CONSTRUCTION CONTRACTING

The following provisions are additional requirements for construction contracts.

1. EQUAL EMPLOYMENT OPPORTUNITY EXECUTIVE ORDER 11246 CLAUSE

As stated in 2 CFR Appendix II to Part 200, Section C—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards “Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor”.¹⁰”

In accordance with 2 CFR 200, Appx II, Section C provisions shall apply to all ““federally assisted construction contracts” (as such phrase is defined in 41 C.F.R. Part 60-1.3) applies to all contracts that are funded by a Federal award (including a FEMA grant or cooperative agreement program).

A. For the purposes of this Section C, definitions provided in 41 C.F.R. 60-1.3, as the same shall be updated or amended from time to time, shall apply. As of July 29, 2021, those definitions include the following:

- (1) “Applicant means an applicant for Federal assistance involving a construction contract, or other participant in a program involving a construction contract as determined by regulation of an administering agency. The term also includes such persons after they become recipients of such Federal assistance.”¹¹
- (2) “Construction work means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes supervision, inspection, and other onsite functions incidental to the actual construction.”¹²
- (3) Contract: The regulation at 41 C.F.R. § 60-1.3 defines contract as “any Government contractor subcontract or any federally assisted construction contract or subcontract.”¹³
- (4) “Federally assisted construction contract” means any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.”¹⁴

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

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their

¹⁰ 2 C.F.R. Part 200, Appendix II, Section C. <https://www.ecfr.gov/on/2024-10-01/title-2/subtitle-A/chapter-II/part-200/appendix-Appendix%20II%20to%20Part%20200>

¹¹ 41 CFR 60-1.3. <https://www.ecfr.gov/current/title-41/subtitle-B/chapter-60/part-60-1/subpart-A/section-60-1.3>

¹² 41 CFR 60-1.3. <https://www.ecfr.gov/current/title-41/subtitle-B/chapter-60/part-60-1/subpart-A/section-60-1.3>

¹³ 41 CFR 60-1.3. <https://www.ecfr.gov/current/title-41/subtitle-B/chapter-60/part-60-1/subpart-A/section-60-1.3>

¹⁴ 41 CFR 60-1.3. <https://www.ecfr.gov/current/title-41/subtitle-B/chapter-60/part-60-1/subpart-A/section-60-1.3>

race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- (3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advisor the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1964, and such other sanctions may be imposed and remedied involved as provided in Executive Order No. 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 provisions of paragraph (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 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 contracting 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 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.”¹⁵

2. DAVIS-BACON ACT

As stated in 2 CFR Appendix II to Part 200, Section D- Contract Provisions for Non-Federal Entity Contracts Under Federal Awards) “When required by Federal program legislation, all construction contracts, in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors and subcontractors must be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors and subcontractors shall be required to pay wages not less often than once a week. A copy of the current prevailing wage determination issued by the Department of Labor must be placed in each solicitation. The grantee shall report all suspected or reported violations to the Federal awarding agency.”¹⁶

¹⁵ 41 CFR 60-1.4 Equal Opportunity Clause. <https://www.ecfr.gov/current/title-41/subtitle-B/chapter-60/part-60-1/subpart-A/section-60-1.4>

¹⁶ Appendix II to 2 CFR 200, Section D <https://www.ecfr.gov/on/2024-10-01/title-2/subtitle-A/chapter-II/part-200/appendix-Appendix%20II%20to%20Part%20200>

Unless otherwise stated in a program's authorizing statute, Davis-Bacon does not apply to certain FEMA grant and cooperative agreement programs, including FEMA's Public Assistance (PA) Program.¹⁷ The Davis-Bacon Act and the Copeland "Anti-Kickback" Act, and thus this Section D, only apply to prime construction contracts in excess of \$2,000 that are funded by the following Programs: Emergency Management Performance Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, Transit Security Grant Program, Intercity Passenger Rail Program, and Rehabilitation of High Hazard Potential Dams Program.¹⁸

To comply with the Davis-Bacon Act, if applicable, the clauses contained at 29 CFR 5.5(a)(1)-(11) "Required Contract Clauses" shall be included into the construction contract and subcontracts. In addition, a copy of the current prevailing wage determination(s) issued by the Department of Labor shall be included in the construction Contract Documents and the award of a contract or subcontract shall be conditioned upon acceptance of the wage determination(s).

3. COPELAND "ANTI-KICKBACK" ACT

As stated in 2 CFR Appendix II to Part 200, Section D- Contract Provisions for Non-Federal Entity Contracts Under Federal Awards; 29 CFR Parts 3 and 5.1,5.2,5.5)

Unless otherwise stated in a program's authorizing statute, Davis-Bacon does not apply to certain FEMA grant and cooperative agreement programs, including FEMA's Public Assistance (PA) Program. The Davis-Bacon Act and the Copeland "Anti-Kickback" Act, and thus this Section D, only apply to prime construction contracts in excess of \$2,000 that are funded by the following Programs: Emergency Management Performance Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, Transit Security Grant Program, Intercity Passenger Rail Program, and Rehabilitation of High Hazard Potential Dams Program.¹⁹

All Contracts subject to the Davis-Bacon Act "must also include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874; 40 U.S.C. 3145) as supplemented in Department of Labor regulations (29 CFR, Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). This Act provides that each contractor and subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The funding recipient shall report all suspected or reported violations to the Federal Award agency."

²⁰

According to 29 C.F.R. § 5.5(a)(5), the regulatory requirements for the Copeland "Anti-Kickback" Act (29 CFR Part 3) are incorporated by reference. To further comply with the Davis-Bacon Act and Copeland "Anti-Kickback" Act, if applicable to this Contract, the provisions of 29 C.F.R. § 5.5(a)(1)-(11) are hereby incorporated into the Contract by reference, as permitted by 29 C.F.R. § 5.5(d).

Davis-Bacon Act, Copeland "Anti-Kickback" Act, and

¹⁷ FEMA Contract Provisions Guide: Navigating Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. Procurement Disaster Assistance Team (PDAT). June 2021. FI-207-21-0001

https://www.fema.gov/sites/default/files/documents/fema_contract-provisions-guide_6-14-2021.pdf

¹⁸ FEMA Contract Provisions Guide: Navigating Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. Procurement Disaster Assistance Team (PDAT). June 2021. FI-207-21-0001

https://www.fema.gov/sites/default/files/documents/fema_contract-provisions-guide_6-14-2021.pdf

¹⁹ FEMA Contract Provisions Guide: Navigating Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. Procurement Disaster Assistance Team (PDAT). June 2021. FI-207-21-0001

https://www.fema.gov/sites/default/files/documents/fema_contract-provisions-guide_6-14-2021.pdf

²⁰ Appendix II to 2 CFR 200, Section D <https://www.ecfr.gov/on/2024-10-01/title-2/subtitle-A/chapter-II/part-200/appendix-Appendix%20II%20to%20Part%20200>

Contract Work Hours and Safety Standards Act (CWHSSA)

To further comply with the Davis-Bacon Act and Copeland "Anti-Kickback" Act, if applicable to this Contract, the provisions of 29 C.F.R. § 5.5(a)(1)-(11) are hereby incorporated into the Contract. To further comply with the Contract Work Hours and Safety Standards Act (CWHSSA), if applicable, the clauses contained at 29 CFR 5.5(b)(1)-(5) "Contract Work Hours and Safety Standards Act (CWHSSA)" shall be included into the construction contract and subcontracts.

29 CFR § 5.5 Contract provisions and related matters.

(Insert latest regulation from website)