

## Addendum

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Florida Gateway College  
New Building 102 – STEM Two  
FGC ITB # ST-24-01-06  
Lake City, Florida

Project

ST-24-01-06

FGC Project Number

2314

Architect's Project Number

01

Addendum Number

May 1, 2024

Date

Page 1 of 1  
and 4 Attachments

Pages and Attachments

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This Addendum is considered part of the Contract Documents and is incorporated integrally into them. Where provisions of the following supplementary data differ from those of the original Contract Documents, this Addendum takes precedence. Bidders are to acknowledge receipt of this Addendum on their Bid Form.

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1. **GENERAL:** Refer to the attached Mandatory Pre-Bid Conference Notes and Sign-In Sheet.
2. **PROJECT MANUAL, SECTION 00 5214 – AGREEMENT FORM:** Refer to the attached reissued page. Revisions are in red.
3. **PROJECT MANUAL - GENERAL:** Refer to the attached FEDERAL CONTRACTING REQUIREMENTS ADDENDUM provided by Florida Gateway College.
4. **MECHANICAL - GENERAL:** The design intent for the BAS is to connect to the existing controls system, which is a Siemens Building Automation system, note that this is outlined on Sheet M501 and M502.
5. **MECHANICAL - GENERAL:** Florida Gateway College requests that Nalco be used for chemical treatment of the new hydronic systems. This includes all water treatment and start up treatment to be included in the bid scope of work.
6. **DRAWINGS, SHEET C6.0 – UTILITY PLAN AND M211 – FIRST FLOOR PLAN - PIPING:** It is recommended that the mechanical contractor install the site chilled water piping, but it needs to be routed and installed based on the civil drawings to ensure proper coordination with the other site utilities. The new CHW underground service is to be 6" per civil and then tap 4" mains to the building per mechanical.

**END OF ADDENDUM 01**

**ATTACHMENTS INCLUDE MANDATORY PRE-BID CONFERENCE NOTES AND SIGN-IN SHEET, SECTION 00 5214 REISSUED PAGE AND FEDERAL CONTRACTING REQUIREMENTS ADDENDUM**

## Mandatory Pre-Bid Conference Notes

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Florida Gateway College  
 New Building 102 – STEM Two  
 FGC ITB # ST-24-01-06  
 Lake City, Florida

Project

2314

KP Project Number

April 30, 2024

Date

10:00 a.m.

Time

2

Pages

### Present:

Refer to Mandatory Pre-Bid Conference Sign-In Sheet for a list attendees.

### Items Noted:

All future Addenda will be issued from Kail Partners to Florida Gateway College. Addenda are available to the bidders via Kathrine Harris, Coordinator of Procurement and Contracts for Florida Gateway College. It is the responsibility of the bidders to request all future Addenda and to acknowledge Addenda on their submitted Bid Form.

1. The scope of work is as outlined in the Project Manual and Drawings and includes civil, architectural, structural, mechanical, plumbing, fire protection, electrical and fire alarm.
2. Bids are due on May 21, 2024 at 2:00 p.m. per the Invitation to Bid. Bids are to be submitted electronically per the instructions provided following the Invitation to Bid in the Project Manual.
3. Florida Gateway College has submitted the digitally signed and sealed Project Manual and Drawings to North East Florida Educational Consortium (NEFEC) for permitting. NEFEC will issue the permit. The General Contractor will be responsible for paying for the permit based on the Permit Fee Structures provided following Invitation to Bid in the Project Manual. Bidders are to include this cost in their submitted bids.
4. Please carefully review the Division 00 and 01 Sections of the Project Manual for instructions and requirements for bidding and what is to be submitted with the bid package.
5. All work is to be Substantially Complete by June 2, 2025 and Finally Complete by July 1, 2025.
6. Liquidated damages are specified at \$2,500.00 per calendar day for both Substantial and Final Completion.
7. In addition to the Base Bid, there is an Alternate One. Refer to Section 01 1000 Alternates in the Project Manual.

8. Any questions during the bidding phase are to be submitted via email to Kathrine Harris, Coordinator of Procurement and Contracts for Florida Gateway College. The last day and time for pre-bid questions is May 10, 2024 at 2:00 p.m.
9. Meeting adjourned around 11:00 a.m.

Kail Partners  
Architecture & Interiors



Daniel Kail, Architect, LEED GA  
Florida AR0017039 – NCARB 52880  
352-871-4935 or [danny@kailpartners.com](mailto:danny@kailpartners.com)

Bid opening  
5/21/24 @ 2 pm



**FLORIDA GATEWAY  
COLLEGE**

FLORIDA GATEWAY COLLEGE  
New Building 102- STEM 2  
PRE-BID MEETING

LOCATION: 419 SE College Place, Lake City, FL 32025 (Parking Lot # 10)  
4/30/24 @ 10:00 AM

SIGN-IN SHEET				
NAME	COMPANY	PHONE/CELL	EMAIL	INITIALS
Kyle Davis	Coburn and Associates	407-353-1159	KyleDavisPE@coburnandassociates.com	KD
Chad Fralick	" "	386-688-2770	Cfralickpe@coburnandassociates.com	CF
JOE WHITE	GRAY CONST.	352 403 3939	JWHITE@GRAY-CONSTRUCTION.COM	JW
CJ Harris	Gray Const.	352-949-6528	Csharris@gray-construction.com	CH
Danny Kail	Kail Partners	352-811-4935	danny@kailpartners.com	DK
Luke McInnis	McInnis Services	386 935 0014	lukemcinnis@hotmail.com	LM
Lance Jones	Jones Engineering	386-965-9000	ljones@jonesengineering.net	LJ
Dick Coburn	Coburn & Associates	352-538-0663	rcoburnpe@coburnandassociates.com	DC
Tom Le	Foresight Construction	352-282-5398	tle@foresightci.com	TL
Ken Brown	D.E. Scorpio	352-872-5642	ken@scorpioco.com	KB



# FLORIDA GATEWAY COLLEGE

FLORIDA GATEWAY COLLEGE  
New Building 102- STEM 2  
PRE-BID MEETING

LOCATION: 419 SE College Place, Lake City, FL 32025 (Parking Lot # 10)  
4/30/24 @ 10:00 AM

SIGN-IN SHEET				
NAME	COMPANY	PHONE/CELL	EMAIL	INITIALS
Chris Decker	Decker Con.	863-324-4828	chris@deckercon.com	CD
Ashlyn Conrad	Decker Con.	772-626-8975	ashlyn@deckercon.com	AC
Jeanie Costarides	HA Contracting	407-873-7076	Jeanie@hacontracting.com	JC
Randal Thomas	FGIC	386-754-4325	randal.thomas@fgc.edu	
Kathrine Harris	FGIC	386-754-4381	kathrine.harris@fgc.edu	

IN WITNESS WHEREOF, the parties have affixed their signatures, effective on the date first written above.

**DISTRICT BOARD OF TRUSTEES OF FLORIDA GATEWAY COLLEGE**

\_\_\_\_\_  
Mr. David Crawford, Chairperson

\_\_\_\_\_  
Dr. Lawrence Barrett, Secretary to the Board

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved as to Form and Legal Sufficiency:

\_\_\_\_\_  
Meagan Logan, General Counsel

STATE OF FLORIDA

COUNTY OF COLUMBIA

The foregoing instrument was acknowledged before me, by means of \_\_\_ physical presence or \_\_\_ online notarization this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_ who \_\_\_ is personally known to me or \_\_\_ has produced a Florida driver’s license as identification.

\_\_\_\_\_  
Notary Public, State of Florida

(NOTARIAL

SEAL)

My Commission Expires:

## **FEDERAL CONTRACTING REQUIREMENTS ADDENDUM**

The District Board of Trustees for Florida Gateway College (“the Board”), and \_\_\_\_\_ (“Contractor”), having entered into an agreement dated the \_\_\_\_\_ day of \_\_\_\_\_, 2024, (hereinafter “the Agreement”) which will be funded wholly or in part with federal funding. As such, federal laws, regulations, policies and related administrative practices apply to this Agreement. Contractor agrees to comply with all federal, state and local laws, regulations and rules as amended from time to time, including those required by Appendix II to 2 CFR §200.327 as set forth below, as applicable:

### **A) ADMINISTRATIVE, CONTRACTUAL OR LEGAL REMEDIES FOR VIOLATIONS OR BREACH OF CONTRACT**

Administrative, contractual or legal remedies for violations of breach of contract terms for contracts for more than the simplified acquisition threshold, are addressed within the Agreement.

### **B) TERMINATION FOR CAUSE AND FOR CONVENIENCE.**

This clause applies to all contracts in excess of \$10,000.

In addition to the termination for cause set forth within the Parties’ agreement, the Board may, at any time and without cause, terminate Contractor’s services and work at the Board’s convenience by providing written notice to Contractor. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement. at any time for its sole convenience and without any fault on the part of Contractor.

Upon such termination, Contractor shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with the Agreement, plus (2) such other costs actually incurred by Contractor as are permitted by the prime contract and approved by the Board; (3) plus ten percent (10% of the cost of the work referred to in subparagraph (1) above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Contractor prior to the date of the termination of this Agreement. Contractor shall not be entitled to any claim or claim of lien against Owner for any additional compensation or damages in the event of such termination and payment.

**C) EQUAL EMPLOYMENT OPPORTUNITY**

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 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 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 considerations 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 part of the employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
4. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.



5. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by executive Order 11375, and with the rules, regulations, and relevant orders of the Secretary of Labor.
6. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

**D) DAVIS BACON, AS AMENDED (40 U.S.C. 3141-3148)**

- (1) Minimum wages.
  - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR

part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics subject to the provision of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which over the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits not the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)

(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officers shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry' and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to

the wage rates contained in the wage determination

- (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
  - (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
  - (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
  - (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program,

*Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account, assets for the meeting of obligations under the plan or program.

(2) **Withholding.** The Contractor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records.**

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under [29 CFR 5.5\(a\)\(1\)\(iv\)](#) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under

approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)

(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under [29 CFR 5.5\(a\)\(3\)\(i\)](#), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, [29 CFR part 5](#), the appropriate information is being maintained under § 5.5 (a)(3)(i) of

Regulations, [29 CFR part 5](#), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, [29 CFR part 3](#);

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by [paragraph \(a\)\(3\)\(ii\)\(B\)](#) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under [paragraph \(a\)\(3\)\(i\)](#) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to [29 CFR 5.12](#).

(4) ***Apprentices and trainees*** —

(i) ***Apprentices.*** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary

employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in [29 CFR 5.16](#), trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee

program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

(5) **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of [29 CFR part 3](#), which are incorporated by reference in this contract.

(6) **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses contained in [29 CFR 5.5\(a\)\(1\)](#) through [\(10\)](#) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in [29 CFR 5.5](#).

(7) **Contract termination: debarment.** A breach of the contract clauses in [29 CFR 5.5](#) may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in [29 CFR 5.12](#).

(8) **Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in [29 CFR parts 1, 3, and 5](#) are herein incorporated by reference in this contract.

(9) **Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general



disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in [29 CFR parts 5, 6, and 7](#). Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**(10) *Certification of eligibility.***

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) 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 section 3(a) of the Davis-Bacon Act or [29 CFR 5.12\(a\)\(1\)](#).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or [29 CFR 5.12\(a\)\(1\)](#).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, [18 U.S.C. 1001](#).

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

Where applicable, all contracts awarded in excess of \$100,000 that involve the employment of mechanics or laborers must be in compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).

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 (1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of

\$10 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 (1) of this section.

3. Withholding for unpaid wages and liquidated damages. The Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
4. Subcontractors. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontracts to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any sub-contractors or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.”

**F) RIGHT TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT**

If this award meetings the definition of a “funding agreement” under 37 C.F.R. § 401.2(a), the following standard patent rights are applicable:

**Standard Patent Rights**

**(a) Definitions**

**(1) *Invention*** means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

**(2) *Subject invention*** means any invention of the *contractor* conceived or first actually reduced to practice in the performance of work under this *contract*, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of *contract* performance.

**(3) *Practical Application*** means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to

establish that the [invention](#) is being utilized and that its benefits are, to the extent permitted by law or government regulations, available to the public on reasonable terms.

**(4) *Made*** when used in relation to any [invention](#) means the conception or first actual reduction to practice of such [invention](#).

**(5) *Small Business Firm*** means a small business concern as defined at section 2 of [Pub. L. 85-536 \(15 U.S.C. 632\)](#) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in government procurement and subcontracting at [13 CFR 121.3-8](#) and [13 CFR 121.3-12](#), respectively, will be used.

**(6) *Nonprofit Organization*** means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the [Internal Revenue Code of 1954 \(26 U.S.C. 501\(c\)\)](#) and exempt from taxation under section 501(a) of the [Internal Revenue Code \(25 U.S.C. 501\(a\)\)](#) or any nonprofit scientific or educational organization qualified under a state [nonprofit organization](#) statute.

**(7) *Statutory period*** means the one-year period before the effective filing date of a claimed [invention](#) in a [patent application](#) during which exceptions to prior art exist per [35 U.S.C. 102\(b\)](#) as amended by the [Leahy-Smith America Invents Act, Public Law 112-29](#).

**(8) *Contractor*** means any person, [small business firm](#), or [nonprofit organization](#), or, as set forth in section 1, paragraph (b)(4) of [Executive Order 12591](#), as amended, any business firm regardless of size, which is a party to a [funding agreement](#).

#### **(b) Allocation of Principal Rights**

The *Contractor* may retain the entire right, title, and interest throughout the world to each [subject invention](#) subject to the provisions of this clause and [35 U.S.C. 203](#). With respect to any [subject invention](#) in which the *Contractor* retains title, the Federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the [subject invention](#) throughout the world.

#### **(c) Invention Disclosure, Election of Title and Filing of Patent Application by Contractor**

**(1)** The *contractor* will disclose each [subject invention](#) to the *Federal agency* within two months after the inventor discloses it in writing to *contractor* personnel responsible for patent matters. The disclosure to the agency shall be in the form of a written report and shall identify the *contract* under which the [invention](#) was [made](#) and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of

the invention. The disclosure shall also identify any publication, on sale or public use of the invention, and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to the *agency*, the *contractor* will promptly notify the *agency* of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the *contractor*. If required by the *Federal agency*, the *contractor* will provide periodic (but no more frequently than annual) listings of all subject inventions which were disclosed to the agency during the period covered by the report, and will provide a report prior to the close-out of a funding agreement listing all subject inventions or stating that there were none.

**(2)** The *contractor* will elect in writing whether or not to retain title to any such invention by notifying the *Federal agency* within two years of disclosure to the *Federal agency*. However, in any case where a patent, a printed publication, public use, sale, or other availability to the public has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the *agency* to a date that is no more than 60 days prior to the end of the statutory period.

**(3)**

**(i)** The *contractor* will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use.

**(ii)** If the *contractor* files a provisional application as its initial patent application, it shall file a nonprovisional application within 10 months of the filing of the provisional application. So long as there is a pending patent application for the subject invention and the statutory period wherein valid patent protection can be obtained in the United States has not expired, additional provisional applications may be filed within the initial 10 months or any extension period granted under paragraph (c)(5) of this clause. If an extension(s) is granted under paragraph (c)(5) of this clause, the *contractor* shall file a nonprovisional patent application prior to the expiration of the extension(s) or notify the agency of any decision not to file a nonprovisional application prior to the expiration of the extension(s), or if earlier, 60 days prior to the end of any statutory period wherein valid patent protection can be obtained in the United States.

**(iii)** The *contractor* will file patent applications in additional countries or international patent offices within either ten months of the first filed patent application or six months from the date permission is granted by the

Commissioner of Patents to file foreign [patent applications](#) where such filing has been prohibited by a Secrecy Order.

(iv) If required by the **Federal agency**, the *contractor* will provide the filing date, [patent application](#) number and title; a copy of the [patent application](#); and patent number and issue date for any [subject invention](#) in any country in which the *contractor* has applied for a patent.

(4) For any [subject invention](#) with *Federal agency* and *contractor* co-inventors, where the *Federal agency* employing such co-inventor determines that it would be in the interest of the government, pursuant to [35 U.S.C. 207\(a\)\(3\)](#), to file an [initial patent application](#) on the [subject invention](#), the *Federal agency* employing such co-inventor, at its discretion and in consultation with the *contractor*, may file such application at its own expense, provided that the *contractor* retains the ability to elect title pursuant to [35 U.S.C. 202\(a\)](#).

(5) Requests for extension of the time for disclosure, election, and filing under paragraphs (1), (2), and (3) of this clause may, at the discretion of the **Federal agency**, be granted. When a *contractor* has requested an extension for filing a non-provisional application after filing a provisional application, a one-year extension will be granted unless the *Federal agency* notifies the *contractor* within 60 days of receiving the request.

(6) In the event a [subject invention](#) is [made](#) under funding agreements of more than one agency, at the request of the *contractor* or on their own initiative the agencies shall designate one agency as responsible for administration of the rights of the government in the [invention](#).

**(d) Conditions When the Government May Obtain Title**

(1) A **Federal agency** may require the *contractor* to convey title to the *Federal agency* of any subject invention—

(i) If the **contractor** fails to disclose or elect title to the [subject invention](#) within the times specified in paragraph (c) of this clause, or elects not to retain title.

(ii) In those countries in which the **contractor** fails to file [patent applications](#) within the times specified in paragraph (c) of this clause; provided, however, that if the *contractor* has filed a [patent application](#) in a country after the times specified in paragraph (c) of this clause, but prior to its receipt of the written request of the *Federal agency*, the *contractor* shall continue to retain title in that country.

(iii) In any country in which the **contractor** decides not to continue the prosecution of any nonprovisional [patent application](#) for, to pay a maintenance, annuity or renewal fee on, or to defend in a reexamination or opposition proceeding on, a patent on a [subject invention](#).

(2) A **Federal agency**, at its discretion, may waive the requirement for the *contractor* to convey title to any [subject invention](#).

**(e) Minimum Rights to Contractor and Protection of the Contractor Right to File**

(1) The **contractor** will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the *contractor* fails to disclose the invention within the times specified in (c), above. The *contractor's* license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the *contractor* is a party and includes the right to grant sublicenses of the same scope to the extent the *contractor* was legally obligated to do so at the time the *contract* was awarded. The license is transferable only with the approval of the *Federal agency* except when transferred to the successor of that party of the *contractor's* business to which the invention pertains.

(2) The **contractor's** domestic license may be revoked or modified by the *funding Federal agency* to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR part 404 and *agency* licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the *contractor* has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the *funding Federal agency* to the extent the *contractor*, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, the **funding Federal agency** will furnish the *contractor* a written notice of its intention to revoke or modify the license, and the *contractor* will be allowed thirty days (or such other time as may be authorized by the *funding Federal agency* for good cause shown by the *contractor*) after the notice to show cause why the license should not be revoked or modified. The *contractor* has the right to appeal, in accordance with applicable regulations in 37 CFR part 404 and *agency* regulations (if any) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

**(f) Contractor Action to Protect the Government's Interest**

(1) The **contractor** agrees to execute or to have executed and promptly deliver to the *Federal agency* all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the *contractor* elects to retain title, and (ii) convey title to the *Federal agency* when requested under paragraph (d) above and to enable the government to obtain patent protection throughout the world in that subject invention.

(2) The **contractor** agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the *contractor* each subject invention made under contract in order that the *contractor* can comply with the disclosure provisions of paragraph (c) of this clause, to assign to the *contractor* the entire right, title and interest in and to each subject invention made under contract, and to execute all papers necessary to file patent applications on subject inventions and to establish the government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by paragraph (c)(1) of this clause. The *contractor* shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) For each subject invention, the *contractor* will, no less than 60 days prior to the expiration of the statutory deadline, notify the *Federal agency* of any decision: Not to continue the prosecution of a non-provisional patent application; not to pay a maintenance, annuity or renewal fee; not to defend in a reexamination or opposition proceeding on a patent, in any country; to request, be a party to, or take action in a trial proceeding before the Patent Trial and Appeals Board of the U.S. Patent and Trademark Office, including but not limited to post-grant review, review of a business method patent, *inter partes* review, and derivation proceeding; or to request, be a party to, or take action in a non-trial submission of art or information at the U.S. Patent and Trademark Office, including but not limited to a pre-issuance submission, a post-issuance submission, and supplemental examination.

(4) The **contractor** agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with government support under (identify the *contract*) awarded by (identify the Federal agency). The government has certain rights in the invention."

**(g) Subcontracts**

(1) The **contractor** will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work to be performed by a subcontractor.. The subcontractor will retain all rights provided for the *contractor* in this clause, and the *contractor* will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(2) The **contractor** will include in all other subcontracts, regardless of tier, for experimental developmental or research work the patent rights clause required by (cite section of agency implementing regulations or FAR).

(3) In the case of subcontracts, at any tier, when the prime award with the Federal agency was a contract (but not a grant or cooperative agreement), the **agency**, subcontractor, and the contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Federal agency with respect to the matters covered by the clause; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (j) of this clause.

#### **(h) Reporting on Utilization of Subject Inventions**

The *Contractor* agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the *contractor* or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the contractor, and such other data and information as the *agency* may reasonably specify. The *contractor* also agrees to provide additional reports as may be requested by the *agency* in connection with any march-in proceeding undertaken by the *agency* in accordance with paragraph (j) of this clause. As required by 35 U.S.C. 202(c)(5), the *agency* agrees it will not disclose such information to persons outside the government without permission of the *contractor*.

#### **(i) Preference for United States Industry**

Notwithstanding any other provision of this clause, the *contractor* agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the *Federal agency* upon a showing by the *contractor* or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

#### **(j) March-in Rights**

The *contractor* agrees that with respect to any subject invention in which it has acquired title, the *Federal agency* has the right in accordance with the procedures in 37 CFR 401.6 and any supplemental regulations of the *agency* to require the *contractor*, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under



the circumstances, and if the *contractor*, assignee, or exclusive licensee refuses such a request the *Federal agency* has the right to grant such a license itself if the *Federal agency* determines that:

- (1) Such action is necessary because the ***contractor*** or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.
- (2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the ***contractor***, assignee or their licensees;
- (3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the ***contractor***, assignee or licensees; or
- (4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

**(k) Special Provisions for Contracts with Nonprofit Organizations**

If the *contractor* is a nonprofit organization, it agrees that:

- (1) Rights to a subject invention in the United States may not be assigned without the approval of the *Federal agency*, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the *contractor*;
- (2) The ***contractor*** will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. 202(e) and 37 CFR 401.10;
- (3) The balance of any royalties or income earned by the ***contractor*** with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education; and
- (4) It will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms and that, when appropriate, it will give a preference to a small business firm when licensing a subject invention;
- (5) The ***Federal agency*** may review the *contractor's* licensing program and decisions regarding small business applicants, and the *contractor* will negotiate changes to its licensing policies, procedures, or practices with the *Federal agency* when the *Federal agency's* review discloses that the *contractor* could take reasonable steps to more effectively implement the requirements of paragraph (k)(4) of this clause; and

(6) The **Federal agency** may take into consideration concerns presented by small businesses in making such determinations in paragraph (k)(5) of this clause.

**(l) Communication**

[Complete according to instructions at [§ 401.5\(b\)](#)]

**(m) Electronic Filing**

(1) Unless otherwise requested or directed by the **Federal agency**—

(i) The written disclosure required in (c)(1) of this clause shall be [electronically filed](#);

(ii) The written election required in (c)(2) of this clause shall be [electronically filed](#); and

(iii) If required by the agency to be submitted, the close-out report in paragraph (c)(1) of this clause and the patent information and periodic reporting identified in paragraph (c)(3) of this clause shall be [electronically filed](#).

(2) Other written notices required in this clause may be electronically delivered to the agency or the **contractor** through an electronic database used for reporting subject inventions, patents, and utilization reports to the funding agency.

**G) CLEAN AIR ACT (42 U.S.C. 7401-7671q AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251-1387), AS AMENDED.**

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

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, et. seq. The Contractor agrees to report each violation to the Board and understands and agrees that the Board will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. The contractor agrees to include these

requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal Assistance.

**H) DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 and 12689)**

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R., pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enter into.
- (3) This certification is a material representation of fact relied upon by the Board. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Board, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

**I) BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352)**

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

**J) PROCUREMENT OF RECOVERED MATERIALS**

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

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

Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines website, <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.

**K) PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

Recipients of federal funds are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
  - (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company or Dahua Technology Company (or subsidiary or affiliate of such entities).
  - (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
  - (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National

Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign county.

**L) DOMESTIC PREFERENCES FOR PROCUREMENTS (BUY AMERICAN)**

In the performance of this contract and to the extent permitted by law, the Contractor shall maximize the use of goods, products, and materials produced in the United States unless the goods, products or materials cannot be acquired:

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

**M) COPELAND “ANTI-KICKBACK” ACT**

For all construction contracts greater than \$2,000, Contractor must comply with the requirements of the Copeland “Anti-Kickback” Act (18 U.S.C. § 874 and 40 U.S.C. § 3145) and the requirements of 29 CFR Part 3 *as may be applicable*, which are incorporated by reference into this contract.

Contractor and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor and each subcontractor must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week.

*Subcontracts.* The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

*Breach.* A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 CFR § 5.12.”

*Disputes Concerning Labor.* Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within

the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**N) DRUG FREE WORKPLACE REQUIREMENTS**

Drug-free workplace requirements in accordance with the Drug Free Workplace Act of 1988 (Pub 100-690, Title V, Subtitle D) requires that all contractors entering into federally funded contracts over \$100,000 must comply with Federal Drug Free workplace requirements.

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**IN WITNESS THEREOF**, the parties to this ADDENDUM through their duly authorized representatives have executed this ADDENDUM on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this ADDENDUM as set forth herein. All other terms and agreements of the Agreement remain in full force and effect.

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Signature of Contractor's Authorized Official

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Name and Title of Contractor's Authorized Official

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Date

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

Certification for Contracts, Grants, Loans and Cooperative Agreements

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, 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, 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 subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 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.

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



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Signature of Contractor's Authorized Official

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Name and Title of Contractor's Authorized Official

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Date