

1. FEMA STANDARD PROVISIONS AND FUNDING REQUIREMENTS

The Contract may be funded in part by the federal grant funding received by the County of Monterey (hereinafter, “COUNTY”) from the Federal Emergency Management Agency (“FEMA”), which is part of the United States Department of Homeland Security (“DHS”). Therefore, CONTRACTOR must comply with all federal laws and regulations applicable to the receipt of FEMA grants, including, but not limited to, the contractual provision set forth in Title 2 of the Code of Federal Regulations, Part 200, in connection with the CONTRACTOR’s performance of the work or services covered by the Contract (the “Project”). All such federal laws and regulations shall be deemed to be inserted in the Contract and the Contract shall be read and enforced as though such federal laws and regulations were included therein.

Anything to the contrary herein notwithstanding, all FEMA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the Contract. The CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any COUNTY request that would cause the COUNTY to be in violation of these FEMA terms and conditions or any other federal law or regulation applicable to the receipt of FEMA grants. If any provision of the Contract shall be such as to effect noncompliance with any FEMA requirement, such provision shall not be deemed to form a part thereof, but the balance of the Contract shall remain in full force and effect.

2. FEMA Recipient and Subrecipient Clauses required under 2 C.F.R. Part 200 (Including Public Assistance (PA) Grants):

FEMA does not recommend incorporating by reference, therefore, clauses required for Contracts funded by PA grants awarded after October 1, 2024 are provided below in addition to the incorporation by reference above.

FEMA “Table A” Reference & Contract Provision Section (Appendix II Section)	Applicability	Provision Language
Section 3 - Equal Employment Opportunity (C)	Contracts and subcontracts for construction work; exact language from 41 C.F.R. §60-1.4(b) required.	<p>41 C.F.R. § 60-1.4(b) requires, except as otherwise provided or exempted in 41 C.F.R. Part 60, the insertion of the following contract clause:</p> <p>“During the performance of this contract, the Contractor agrees as follows:</p> <p>(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:</p> <p>Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms</p>

	<p>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.</p> <p>(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.</p> <p>(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.</p> <p>(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.</p> <p>(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.</p> <p>(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.</p> <p>(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.</p> <p>(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8)</p>
--	--

		<p>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:</p> <p><i>Provided</i>, 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.</p> <p>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: <i>Provided</i>, 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.</p> <p>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.</p> <p>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.</p>
Section 4 - Davis-Bacon Act (D)	Contracts and subcontracts for construction work over	See additional contract provisions below.

	\$2,000; required language at 29 C.F.R. § 5.5(a).	
Section 5 - Copeland “Anti-Kickback” Act (D)	Contracts and subcontracts for construction work over \$2,000.	Not Applicable for PA Grants per FEMA Contract Provisions Guide, Version 2 Effective October 1, 2024
Section 6 - Contract Work Hours and Safety Standards Act (E)	Contracts and subcontracts over \$100,000 and if for mechanics or laborers; exact language required from 29 C.F.R. § 5.5(b).	<p>“Compliance with the Contract Work Hours and Safety Standards Act.</p> <p>(1)<i>Overtime requirements.</i> 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.</p> <p>(2)<i>Violation; liability for unpaid wages; liquidated damages.</i> 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 \$32 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).</p> <p>(3) <i>Withholding for unpaid wages and liquidated damages—</i></p> <p>(i)<i>Withholding Process.</i> The (insert name of recipient or subrecipient) 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</p>

		<p>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.</p> <p>(ii) <i>Priority to withheld funds.</i> 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:</p> <ul style="list-style-type: none"> (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. <p>(4) <i>Subcontracts.</i> 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.</p> <p>(5) <i>Anti-retaliation.</i> 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:</p> <ul style="list-style-type: none"> (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;
--	--	---

		<p>(iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or</p> <p>(iv) Informing any other person about their rights under CWHSSA or this part.”</p>
Section 6.1 - Contract Work Hours and Safety Standards Act (E)	For contracts that are subject only to the Contract Work Hours and Safety Standards Act and are not subject to the other laws referenced by 29 C.F.R. § 5.1 where an additional contract provision is required,	<p>“Further Compliance with the Contract Work Hours and Safety Standards Act.</p> <p>(1) The contractor or subcontractor must maintain regular payrolls and other basic records during the course of the work and must preserve them for a period of three years after all the work on the prime contract is completed for all laborers and mechanics, including guards and watch persons, working on the contract. Such records must contain the name; last known address, telephone number, and email address; and social security number of each such worker; each worker’s correct classification(s) of work performed; hourly rates of wages paid; daily and weekly number of hours actually worked; deductions made; and actual wages paid.</p> <p>(2) Records to be maintained under this provision must 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 workers during working hours on the job.”</p>
Section 7 - Rights to Inventions made under a contract or agreement (F)	Funding agreement.	Rights to Inventions Made Under a Contract or Agreement clause is not required for procurements under FEMA’s PA Program.
Section 8 - Clean Air Act and federal Water Pollution Control Act (G)	Contracts and subcontracts greater than \$150,000.	<p>“Clean Air Act”</p> <p>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 <i>et seq.</i></p> <p>The contractor agrees to report each violation to the (name of recipient or subrecipient entering the contract) and understands and agrees that the (name of the recipient or subrecipient entering the contract) 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.</p> <p>The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by FEMA.</p> <p>“Federal Water Pollution Control Act”</p> <p>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 <i>et seq.</i></p> <p>The contractor agrees to report each violation to the (name of the</p>

		<p>recipient or subrecipient entering the contract) and understands and agrees that the (name of the recipient or subrecipient entering into the contract) will, in turn, report each violation as required to assure notification to the (name of the pass-through entity, if applicable), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.</p> <p>The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by FEMA.”</p>
Section 9 - Debarment and Suspension (H)	Contracts and subcontracts greater than \$25,000.	<p>“Suspension and Debarment”</p> <p>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 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 2C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).</p> <p>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.</p> <p>This certification is a material representation of fact relied upon by (insert name of recipient/subrecipient). 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 (insert name of recipient/subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.</p> <p>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.”</p>
Section 10 - Byrd Anti-Lobbying Amendment (I)	Contracts and subcontracts greater than \$100,000. Clause and certification required.	<p>“Byrd Anti-Lobbying Amendment, as amended, 31 U.S.C. § 1352. Contractors who apply or bid for an award <i>[emphasis added]</i> of more than \$100,000 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 federal agency.”</p>
Section 10.1 - Byrd Anti-Lobbying Amendment (I) Certification	Each bid or offer exceeding \$100,000:	See Certification on <u>PAGE 17</u> below.
Section 11 -	Only applies if a recipient	In the performance of this contract, the Contractor shall make maximum

<p>Procurement of Recovered Materials (J)</p>	<p>or subrecipient is a state or political subdivision of a state; work involves the use of materials, and the contract is for more than \$10,000.</p>	<p>use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—</p> <ul style="list-style-type: none"> a) Competitively within a timeframe providing for compliance with the contract performance schedule; b) Meeting contract performance requirements; or c) At a reasonable price. <p>Information about this requirement, along with the list of EPA-designated items, is available at Comprehensive Procurement Guideline (CPG) Program US EPA. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.</p> <p>The Contactor should, to the greatest extent practicable and consistent with the 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.</p>
<p>Section 12 - Prohibition on Contracting for Covered Telecommunications Equipment or Services (K)</p>	<p>Contracts and subcontracts under FEMA declaration or grant award issued on or after November 12, 2020.</p>	<p>Prohibition on Contracting for Covered Telecommunications Equipment or Services.</p> <p>(a) <i>Definitions.</i> As used in this clause, 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, as used in this clause—</p> <p>(b) <i>Prohibitions.</i></p> <ul style="list-style-type: none"> 1) 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. 2) 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: <ul style="list-style-type: none"> 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, 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;

		<p>iii. Enter, 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</p> <p>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.</p> <p>(c) <i>Exceptions.</i></p> <p>1) This clause does not prohibit contractors from providing</p> <p>i. A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or</p> <p>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.</p> <p>2) By necessary implication and regulation, the prohibitions also do not apply to:</p> <p>i. Covered telecommunications equipment or services that:</p> <p>a. Are not used as a substantial or essential component of any system; and</p> <p>b. Are not used as critical technology of any system.</p> <p>ii. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.</p> <p>(d) <i>Reporting requirement.</i></p> <p>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.</p> <p>2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:</p> <p>i. Within one business day from the date of such identification or notification: The contract number;</p>
--	--	--

		<p>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.</p> <p>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.</p> <p>(e) <i>Subcontracts</i>. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.”</p>
Section 13 - Domestic Preferences for Procurements (L)	Contracts and subcontracts under FEMA declaration or grant award issued on or after November 12, 2020.	<p>Domestic Preference for Procurements.</p> <p>The Contractor should, 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. This includes, but is not limited to, iron, aluminum, steel, cement, and other manufactured products.</p> <p>For purposes of this clause:</p> <p><i>Produced in the United States</i> 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.</p>
Section 14 - Build America, Buy America Act (BABAA) (M)	Infrastructure projects under applicable grant awards issued on or after January 2, 2023. FEMA financial assistance programs subject to BABBA.	<p>Public Assistance (PA) Grants are not subject to BABAA requirements. See https://www.fema.gov/grants/policy-guidance/buy-america/programs-definitions#not-subject for latest list of FEMA Grant Programs and applicability. If applicable, Certification on Page 18 to be completed for specific JOC Proposal.</p>
Affirmative Socioeconomic Steps (i.e., “Affirmative Steps”)	Contracts and subcontracts under FEMA	<p>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</p>

	declaration or grant award.	
--	-----------------------------------	--

3. Other Federal Provisions

In addition, the CONTRACTOR agrees to the following specific provisions, as applicable:

3.01 Debarment

- A. The CONTRACTOR and any prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- B. The COUNTY will ensure the CONTRACTOR and any lower participants are not debarred by checking the governments Excluded Parties List System at SAM.gov prior to executing the Contract and/or subsequent Job Orders.

3.02 Cost Plus Percentage Not Allowed

- A. Notwithstanding any provisions in the agreement to the contrary, the CONTRACTOR and any prospective lower tier participant are prohibited from using cost plus percentage contracts. This includes, but is not limited to the use of percentages for change orders or mark-ups on sub- contractors or materials. Cost plus fixed fee either lump sum or unit price is authorized.

3.03 Additional Federal Contracting Requirements

- A. The CONTRACTOR must comply with Executive Order 11246 of September 24, 1965, entitled Equal Employment Opportunity, as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41CFR chapter 60).
- B. The CONTRACTOR must comply with the requirements of the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.
- C. The CONTRACTOR must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, which prohibits recipients of federal funding from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12101–12213).
- D. The CONTRACTOR must comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or

activity receiving Federal financial assistance. Implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

E. The CONTRACTOR must comply with Title VIII of the Civil Rights Act of 1968, which prohibits CONTRACTORS from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (42 U.S.C. § 3601 et seq.), as implemented by the Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features (see 24 C.F.R. § 100.201).

F. The CONTRACTOR must comply with the Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).

G. The CONTRACTOR must comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a7) as supplemented by Department of Labor regulations (29 CFR Part 5).

a. This project is a public work in the State of California, funded in whole or in part with public funds. Therefore, the higher of the two applicable prevailing wage rates, federal or state, will be enforced.

H. The CONTRACTOR must comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327330) as supplemented by Department of Labor regulations (29 CFR Part 5).

I. The CONTRACTOR must provide reporting as specified in the plans, specifications and deliverables section of the Contract.

J. The COUNTY shall have patent rights with respect to any discovery or invention which arises or is developed in the course of or under such Contract.

K. The COUNTY shall have copyrights and rights respective to any data which arises or is developed in the course of or under such Contract.

L. The COUNTY, State, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

M. The CONTRACTOR must maintain records for three years after grantees or subgrantees make final payments and all other pending matters are closed.

N. The CONTRACTOR must comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (Contracts, subcontracts, and subgrants of

amounts in excess of \$100,000).

O. The CONTRACTOR must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. 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 by 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.

P. The CONTRACTOR must comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94163, 89 Stat. 871).

Q. The COUNTY is entitled to exercise all administrative, contractual, or other legal remedies permitted by law to enforce the CONTRACTOR's compliance with the terms of the Contract.

R. The CONTRACTOR must acknowledge its use of federal funding when issuing requests for proposals, bid invitations, and other documents describing the Project in connection with performing the Contract.

S. If the CONTRACTOR collects PII (Personally Identifiable Information) in connection with the Project, the CONTRACTOR is required to have a publicly available privacy policy that describes what PII they collect, how they use the PII, whether they share PII with third parties, and how individuals may have their PII corrected where appropriate.

T. The CONTRACTOR must comply with the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 et seq.), which is adopted at 2 C.F.R Part 3001, which requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace.

U. The CONTRACTOR must comply with the requirements of 31 U.S.C. § 3729 which sets forth that no recipient of federal payments shall submit a false claim for payment. See also 38 U.S.C. § 3801- 3812 which details the administrative remedies for false claims and statements made.

V. The CONTRACTOR must comply with Preference for U.S. Flag Air Carriers: (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. § 40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

W. The CONTRACTOR must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) prohibition against discrimination on the basis of national origin, which requires

that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (“LEP”) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation.

X. The CONTRACTOR must comply with 31 U.S.C. §1352, which provides that none of the funds provided under an award may be expended by the CONTRACTOR to pay any person to influence, or attempt 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 any Federal action concerning the award or renewal.

Y. Unless otherwise provided by law, the CONTRACTOR is subject to the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. § 200 et seq. The CONTRACTOR is subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards in 37 C.F.R. Part 401 and the standard patent rights clause in 37 C.F.R. § 401.14.

Z. The CONTRACTOR must comply with U.S. Executive Order 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism.

AA. The CONTRACTOR must comply with the requirements of the government-wide award term which implements Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104). This is implemented in accordance with OMB Interim Final Guidance, Federal Register, Volume 72, No. 218, November 13, 2007. Full text of the award term is located at 2 CFR § 175.15.

BB. The CONTRACTOR must comply with the Rehabilitation Act of 1973, including all sections, that prohibits discrimination on the basis of disability. The standards for deciding if employment discrimination exists under the Rehabilitation Act are the same as those used in Title I of the Americans with Disabilities Act.

CC. The CONTRACTOR must maintain the currency of the information in the Universal Identifier and System of Award Management (SAM) until submission of the final financial report required under the award or until the CONTRACTOR receives final payment, whichever is later, as required by 2 C.F.R. Part 25.

DD. The CONTRACTOR must comply with requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§ 175–175c. Among other things, the USA PATRIOT Act prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose.

EE. The CONTRACTOR must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C § 2409, 41 U.S.C. 4712, and 10 U.S.C. § 2324, 41 U.S.C. §§ 4304 and 4310.

FF. The CONTRACTOR must obtain DHS's approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

GG. The CONTRACTOR must acknowledge and agree—and require any sub-CONTRACTORS, successors, transferees, and assignees to acknowledge and agree—to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff. Additionally:

- a. the CONTRACTOR must cooperate with any compliance review or complaint investigation conducted by DHS;
- b. the CONTRACTOR must give DHS access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance;
- c. the CONTRACTOR must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports;
- d. the CONTRACTOR must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance;
- e. if, during the past three years, the CONTRACTOR has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the CONTRACTOR must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS awarding office (FEMA) and the DHS Office of Civil Rights and Civil Liberties; and
- f. in the event any court or administrative agency makes a finding of discrimination on grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status against the CONTRACTOR, or the CONTRACTOR settles a case or matter alleging such discrimination, the CONTRACTOR must forward a copy of the complaint and findings to the DHS Component and/or awarding office (FEMA).

The United States has the right to seek judicial enforcement of these obligations.

HH. **Build America, Buy America Act (BABAA).** *SEE CERTIFICATION ON PAGE 18 BELOW.* Contractors and their subcontractors who apply or **bid for an award** [*emphasis added*] 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. 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, Pub. L. No. 117-58, §§ 70901-52. 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.

CERTIFICATION REGARDING LOBBYING

44 C.F.R. PART 18, APPENDIX A

Certification for Contracts, Grants, Loans, and Cooperative Agreements

[CERTIFICATION IS DUE WITH JOC CONTRACT BID]

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

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

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.

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

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

Build America, Buy America Act (BABAA) Self-Certification

[CERTIFICATION IS DUE AT TIME OF JOC PROPOSAL BID FOR APPLICABLE WORK]

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.

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

Signature of (insert name of contractor or subcontractor) Authorized Official

Name and Title of (insert name of contractor or subcontractor) Authorized Official

Affirmative Socioeconomic Steps (i.e., “6 Affirmative Steps”)

Subcontractor Steps Documentation – Sample Memo

Date: July 16, 2025
To: [COUNTY JOC CONTACT]
From: [CONTRACTOR]
Subject: JOC 2026-[PROJECT] JOA# - 6 Affirmative Steps Documentation

[FEMA Public Assistance \(PA\) grant rules require contractors and subcontractors to follow 2 C.F.R. § 200.321\(b\)\(1\)-\(5\)](#), also known as the “6 Affirmative Steps” when competitively procuring goods and services. This memo documents [CONTRACTOR’S] compliance with these sections and the 6 Affirmative Steps:

Step 1. Solicitation Lists

NFEs must include small and minority businesses and women’s business enterprises on solicitation lists. NFEs must provide documentation of all prequalified lists or solicitation lists used in the procurement.

Response:

CONTRACTOR used the [Cal eProcure AND/OR Small Business Administration] business database to identify all Construction small business self-registered with the State of California as:

- Having a valid [TYPE] contracting license(s)
- Providing services within Monterey County.

Step 2. Soliciting

NFEs must ensure that it solicits small and minority businesses and women’s business enterprises whenever they are potential sources. An NFE must provide documentation to demonstrate compliance with this step (any communication, email, etc.).

Response:

Step 3. Dividing Requirements

NFEs must divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women’s business enterprises. When applying this requirement, it is important to recognize that intentionally dividing up a large procurement into smaller parts in an effort to fall beneath the federal SAT or the micro-purchase threshold is prohibited. Additionally, bundling requirements so that small businesses, minority businesses, and women’s business enterprises would be unable to compete is prohibited.

Response:

Step 4. Delivery Schedules

NFEs must establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women’s business enterprises.

Response:

Step 5. Obtaining Assistance

NFEs must use the services and assistance, as appropriate, of such organizations as the Small Business Administration (SBA) and the Minority Business Development Agency (MBDA) of the Department of Commerce.

Response:

CONTRACTOR used the [Cal eProcure AND/OR Small Business Administration] business database to identify all Construction small business self-registered with the State of California as:

- **Having a valid [TYPE] contracting license(s)**
- **Providing services within Monterey County.**

Step 6. Prime Contractor Requirements

NFEs must require the prime contractor, if subcontracts are anticipated or used, to take the five previous affirmative steps. FEMA recommends that the NFE include this requirement in the solicitation, as well as in the contract, to ensure contractor compliance.

NFEs must document its compliance with the six affirmative steps discussed above.

Response:

These requirements are incorporated into the Job Order Contract between COUNTY and [CONTRACTOR] as Prime Contractor. [CONTRACTOR'S] compliance with Steps 1 through 5 are documented above.