



**BID AND PROJECT REQUIREMENTS  
AND CONTRACT**

*For*

***Emergency Center Cots and Supplies  
for***

***Iredell County Emergency Management***

***349 N. Center St.***

***Statesville, NC 28677***

**INFORMAL BID INVITATION  
19-546-IB-FG-01**

**DEADLINE FOR SUBMITTING BIDS**

***4:00 PM Wednesday, January 16, 2019***

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**ALL QUESTIONS REGARDING BIDDING, CONTRACT, SPECIFICATIONS &  
& PROPOSAL SUBMISSION**

*~Contact~*

**Antonia Stines**

Purchasing Specialist

200 S. Center St. /PO Box 788

Statesville, NC 28687

704-878-3045

[antonia.stines@co.iredell.nc.us](mailto:antonia.stines@co.iredell.nc.us)

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## A. INTRODUCTION

Iredell County is requesting informal bids to provide cots for use in Emergency Shelters for the Emergency Management Office. The intent of this solicitation is to award a purchase contract to a single vendor. Funding for this purchase will be by Federal grant awarded by Homeland Security and must meet the conditions of this document.

Award for this contract will be made to the lowest responsive, responsible bidder providing the specified products most advantageous to the County. Award will be made at the sole discretion of the County taking into consideration all factors as noted in the section of this document entitled “**Additional Contractual and Performance Requirements**”. Iredell County reserves the right to accept or reject any or all bids.

Please note that this document serves as the bid and contract document for this purchase and all terms and conditions contained herein shall govern performance hereunder. Submission of a signed Bid as contained within this document shall be evidence of vendor’s agreement to the terms and conditions contained herein and shall bind the company appearing on the document. Do not submit or attach additional or counter terms to this document when returning.

**This is an informal bid solicitation. By NC General Statute, Informal bids are not public knowledge until after award.**

After project award, the lead agency for product order management and oversight will be Iredell County Emergency Management.

All questions regarding this RFB must be submitted in writing no later than 12:00 PM, Wednesday, 1/09/2019 and sent to the following individual. Responses to all questions will be made in writing by addendum and sent to all known bid holders by email and posted to the County Website Bid Page at <https://www.co.iredell.nc.us/481/Current-Bids-RFPs>.

Antonia Stines  
Purchasing Specialist  
[antonia.stines@co.iredell.nc.us](mailto:antonia.stines@co.iredell.nc.us)  
Phone 704-878-3045

## SCHEDULE OF EVENTS:

1/03/2019	Bid Release
1/09/2019	Wednesday, 12:00 PM, Questions Due
1/16/2019	Wednesday, 4:00 PM, Bid Due Date

## B. GENERAL BID & DOCUMENT REQUIREMENTS

All bidders submitting bids in relation to this request should familiarize themselves with the following general bid and contract terms and conditions. Bidding Vendors not in compliance with these documents subject their bid proposals to rejection. Bid proposals must be submitted complete with all required signed documents, final pricing, signature pages, required samples, etc., at the time of submission and the lack thereof may subject a bid to rejection. Iredell County reserves the right to, or not to, request information after bid deadline.

It is the responsibility of all respondents to contact Iredell County prior to submitting a response to the RFB to ascertain if any addenda have been issued, and to obtain any and all addenda, execute them, and return acknowledgement of addenda with their response to the RFB.

1. The bidder and/or bidders to whom the contract is awarded must comply with all aspects of this bidding process, which are designed to meet the requirements of North Carolina G.S. 143-129 & 131, as amended and when applicable, which govern bidding requirements for government agencies in North Carolina.
2. Bids submitted in response to this request will be governed by N.C. General Statute, Iredell County Purchasing Ordinance and the general provisions outlined in this request.
3. Iredell County Government does not discriminate on the basis of race, color, sex, national origin, religion, age, or disability. Any contractors or vendors who provide services, programs or goods for Iredell County are expected to fully comply with the County's non-discrimination policy.
4. Iredell County reserves the right to accept or reject any or all bids, evaluate all bids, especially where there is a wide range in specifications, and make an award in the best interest of the County. Iredell County reserves the right to take exception to or waive any item in the bid.
5. **BID AND CONTRACT: Please Read Carefully:** Signed Proposals submitted in response to this Request for Bids will be evidence of acceptance of Iredell County's terms and conditions as well as attachment 2, Federal Terms and Conditions, and including here by reference Iredell County's Purchase Order Terms and Conditions which, all combined, make up the entirety of the contract to which Iredell County will be bound and will supersede, override and take precedence over any and all counter proposed terms and conditions presented in proposals and subsequent contracts.

Bid proposals offered to the County contingent upon the County's acceptance of any counter-terms and conditions will be rejected.

Iredell County reserves the right to accept or reject any or all bid proposals and will exercise that right when reviewing proposals containing any counter-proposed terms and conditions.

6. **Bid Submissions, Bid Evaluation and Contract Award:** Bidders should be careful to submit a complete bid proposal. Bids will be evaluated based on a combination of criteria, with price being only one. Product specifications submitted may assist in evaluation of product offered, services, delivery, etc., however submission of product samples are required for bid to be considered. All informal contracts for product shall be awarded to the lowest responsible, responsive bidder, taking into consideration product quality, performance, and the time specified in the bids for the performance of the contract. In making a determination of vendor responsiveness and responsibility, Iredell County may use criteria such as:
  - Price
  - Compliance with bid package

7. All bids for product must note the vendor's delivery period from order to delivery and other pertinent delivery or shipment data.
8. **OMISSIONS:** Omission in this bid solicitation of any provision herein described shall not be construed as to relieve the Contractor of any responsibility or obligation normally requisite to the complete and satisfactory delivery, installation, construction or satisfactory completion of this project.
9. All bid proposals must be written and submitted in the format prescribed by these documents, using the forms included herein. All bid proposals must be signed by an individual authorized to bind the contractor to a contract prior to submission. **Proposals Packages must include** the following elements:
  1. Signed Bid Proposal and Terms Acceptance Sheet
  2. Acknowledgement of all attachments
  3. Bid product information sheet describing quality of product.

Failure to include any of the above is grounds for rejection.

10. Bid Proposal Sheets should clearly present the following information:
  - a. Project Name: **IC EMGT COTS: 19-546-IB-FG-01.**
  - b. Price per piece
  - d. **Proposal Page must be signed by an individual authorized by the contractor to bind the company to a contract and must clearly show the individual's title, company name and date.**
11. **This is an informal bid process.** Bids should be submitted on the form included within this document clearly marked: **IC EMGT COTS: 19-546-IB-FG-01**
12. **DELIVERY OF BIDS:** Electronically transmitted bids will not be accepted.

To be considered, bid proposals must include One (1) originally signed bid sheet & contract terms acceptance proposal in 8-1/2 x 11 inch format, stapled once.

All bid proposal Packages shall be delivered or mailed **direct** to:

**Iredell County Purchasing**  
**Attn: Antonia Stines**  
**IC EMGT COTS: 19-546-IB-FG-01**  
**200 South Center Street, Statesville, North Carolina, 28687**

Bid Packages will be accepted up to the day and time of bid deadline, which is scheduled for **4:00 PM Wednesday, January 16, 2019.**

**This is an informal bid solicitation. By NC General Statute, Informal bids are not public knowledge until after award.**

**PROMPT DELIVERY OF BIDS IS THE SOLE RESPONSIBILITY OF THE BIDDER. BIDS RECEIVED AFTER THE BID DEADLINE, REGARDLESS OF REASON, WILL NOT BE CONSIDERED.**

13. Mailed bids or bids sent by any delivery service in that service's envelope must be included in a separate envelope clearly marked as above and placed inside the mailing envelope.
14. Iredell County shall not be held responsible for nor will it pay any costs or expense associated with the preparation or submission of a bid proposal or sample products submitted in response to this solicitation, such expenses and costs being the sole responsibility of the bidder. Nothing in this solicitation or any response submitted pursuant to shall obligate Iredell County to award a contract to a bidder.

15. Upon award, this document becomes the contract document for the noted project. In case of default of an awarded contractor, Iredell County may procure the articles and/or services from other sources and may hold the defaulting contractor responsible for any excess cost occasioned thereby.
16. **PAYMENT:** Items will be ordered as needed. Awarded vendor shall submit an invoice after delivery of ordered product. Iredell County Accounts Payable pays invoices net 30 days after an approved invoice is received from departments.
17. **TAXES:** It is Iredell County policy that no contract will be awarded to a contractor or vendor that is delinquent in paying Iredell County property taxes. In the event the lowest, responsive bidder is found delinquent, Iredell County reserves the right to a) reject said Contractor's bid as not responsible, (b) withhold award until taxes are paid in full, (c) withhold unpaid property taxes from all amounts payable from the resulting contract or (d) take any other actions deemed necessary by the County. Regardless, project award and start will not be postponed to accommodate delinquent contractor.
18. Iredell County requires that all contractors performing work on County property maintain minimum insurance coverage as outlined in its document **Minimum Insurance Requirements & Risk Control**. Acceptance of Iredell County's insurance and risk requirements *is a requisite* for award. Do not make changes to or take exception to these insurance and risk requirements. Bids offered contingent on any change or exception taken to this requirement will be deemed both non-responsive to this bid solicitation's requirements and specifications and not responsible. Such offers will be rejected.
19. **Terms & Conditions Acceptance:** By submitting a signed proposal in response to this solicitation, the individual is verifying that he/she is a duly authorized representative of the company and is able to legally bind the company to the bid amount and this agreement. Signature also denotes agreement that the terms and conditions of this bid & contract document shall override all other terms and conditions, regardless of form or delivery.

## **C. GENERAL CONTRACT TERMS AND CONDITIONS**

1. **DEFAULT:** In case of default by the awarded contractor, Iredell County may procure the articles or services from other sources and hold the bidder responsible for any excess cost occasioned thereby. In addition, in the event of default by the contractor under this contract, Iredell County may immediately terminate for cause all existing contracts between Iredell County and the vendor and de-bar the vendor from doing future business with the County. These in addition to any and all remedies provided by law.
2. **SITUS:** The place of this contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.
3. **GOVERNING LAWS:** This contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina.
4. **PERMITS & INSPECTIONS:** All Permits required by governing authorities shall be secured by contractor or contractor's agent. Proof of approved inspections for all required Permits relative to the Work shall be included with application for Final Payment.
5. **PAYMENT TERMS:** Payment terms are Net, not earlier than 30 days after receipt of correct invoice or acceptance of goods, whichever is later. Iredell County is responsible for all payments to the contractor under the contract.
6. **AFFIRMATIVE ACTION:** The contractor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning

the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or disability.

7. **CONDITION AND PACKAGING:** Unless otherwise provided by special terms and conditions or specifications, it is understood and agreed that any item offered or shipped has not been sold or used for any purpose and shall be in new condition. All containers and packaging shall be suitable for handling, storage or shipment.
  8. **PATENT:** The contractor shall hold and save Iredell County, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, on account of any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this contract, including use by the government.
  9. **ADVERTISING:** Contractor agrees not to use the results of this RFB or any resulting contract or the name of Iredell County as part of any commercial advertising.
  10. **ASSIGNMENT:** No assignment of the contractor's obligations or the contractor's right to receive payment hereunder shall be permitted. However, upon written request approved by the issuing purchasing authority and solely as a convenience to the contractor, Iredell County may:
    - a. Forward the contractor's payment check directly to any person or entity designated by the contractor, and
    - b. Include any person or entity designated by contractor as a joint payee on the contractor's payment check. In no event shall such approval and action obligate Iredell County to anyone other than the contractor and the contractor shall remain responsible for fulfillment of all contract obligations.
  11. **GENERAL INDEMNITY:** The contractor shall hold and save Iredell County, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the a firm, or corporation that may be injured or damaged by the contractor in the performance of this contract and that are attributable to the negligence or intentionally tortious acts of the contractor provided that the contractor is notified in writing within 30 days that Iredell County has knowledge of such claims. The contractor represents and warrants that it shall make no claim of any kind or nature against Iredell County's agents who are involved in the delivery or processing of contractor goods to Iredell County. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.
  12. **E-VERIFY:** E-Verify is the federal E-Verify program operated by the United States Department of Homeland Security used to verify the work authorization of newly hired employees pursuant to federal law. Article 2, Chapter 64 of the North Carolina General Statutes requires that all employers doing business in the state of North Carolina, who employ 25 or more employees in this State, use E-verify to verify the work status of newly hired employees. Additionally, North Carolina General Statute 153A-449 states that "Contractors Must Use E-Verify. - No county may enter into a contract unless the contractor and the contractor's subcontractors comply with the requirements of Article 2 of Chapter 64 of the General Statutes."
- Submission of a signed Bid in response to this solicitation indicates contractor's understanding of the requirements of this act. The seller and/or vendor acknowledges that payment by the County is conditioned upon the vendor's, or its subcontractor's, compliance with Article 2 of Chapter 64. Failure to comply may render any contract with the County void and unenforceable.
13. **IRAN Divestment Act** (N.C.G.S. 147 Article 6E): During the 2015 legislative session, the North Carolina General Assembly enacted the Iran Divestment Act ([S.L. 2015-118; SB455](#)) ("the Act") which prohibits state agencies and local governments from entering into contracts with entities that the North Carolina State Treasurer has determined are engaged in certain investment activities in the Iranian energy sector.

The Act requires the State Treasurer's Office to publish a list of entities it has identified as investing in the

Iranian energy sector and update the list every 180 days. This list can be found at <https://www.nctreasurer.com/inside-the-department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx>. An entity identified on the Treasurer’s list (called the “Final Divestment List”) is prohibited from contracting with state agencies and local governments. In addition, all entities contracting with the State and local governments are prohibited from subcontracting with any entity included on the Final Divestment List. Contracts entered into with an entity included on the Final Divestment List are rendered void by operation of the statute.

Submission of a signed Bid in response to this solicitation indicates contractor’s understanding of the requirements of this act and that any contract entered into with an entity included on the Final Divestment List is void and government entities in North Carolina are not authorized to issue payment for such a contract.

14. Divestment From Companies Boycotting Israel Act (NC G.S. 147, Article 6G) prohibits state agencies and local governments from entering into contracts costing over \$1,000.00 with any entity that the North Carolina State Treasurer has determined boycotts or is involved in a boycott of Israel.

The Article requires the State Treasurer’s Office to publish a list of entities it has determined boycotts or is involved in a boycott of Israel and update the list at least annually. An entity identified on the Treasurer’s list (called the “Final Divestment List”) is prohibited from contracting with state agencies and local governments. Contracts entered into with an entity included on the Final Divestment List are rendered void by operation of the statute.

15. **TERMINATION:** Iredell County may terminate this contract for cause if the contractor fails to perform according to the contract provisions or original offer or for convenience when there has been a change in program requirements or inadequate funding.

## **D. Federal Contracting Requirements – Bid 19-546-IBFG-01**

Federal Grant Contracting Requirements are incorporated into the Purchase Contract between the County and the Vendor. Capitalized terms not defined in this Attachment shall have the meanings assigned to such terms in the Contract. All references to the “Vendor” or “Company” or “Vendor” or “Provider” shall be deemed to mean the Vendor.

This Contract will be funded in whole or in part with federal funding. As such, federal laws, regulations, policies and related administrative practices apply to this Contract. The most recent of such federal requirements, including any amendments made after the execution of this Contract shall govern the Contract, unless the federal government determines otherwise. This Section D identifies the federal requirements that *may* be applicable to this contract. The Vendor is responsible for complying with all applicable provisions, updates or modifications that occur in the future relating to these clauses.

To the extent possible, the federal requirements contained in the most recent version of the Uniform Administrative Requirements for federal awards (Uniform Rules) codified at 2.C.F.R., Part 200, including any certifications and contractual provisions required by any federal statutes or regulation referenced therein to be included in this contract are deemed incorporated into this contract by reference and shall be incorporated into any sub-agreement or subcontract executed by the Vendor pursuant to its obligations under this Contract. The Vendor and its sub-contractors, if any, hereby represent and covenant that they have complied and shall comply in the future with the applicable provisions of the original contract then in effect and with all applicable federal, state, and local laws, regulations, and rules and local policies and procedures, as amended from time to time, relating to Work to be performed under this contract.

### **Drug Free Workplace Requirements**

Drug-free workplace requirements in accordance with Drug Free Workplace Act of 1988 (Pub 100-690, Title V, Subtitle D). All Vendors entering into federal funded contracts over \$100,000 must comply with Federal Drug Free workplace requirements as Drug Free Workplace Act of 1988.

### **Vendor Compliance**

The Vendor shall comply with all uniform administrative requirements, cost principles, and audit requirement for federal awards.

### **Conflict of Interest**

The Vendor must disclose in writing any potential conflict of interest to Iredell County or pass through entity in accordance with federal policy.

### **Mandatory Disclosures**

The Vendor must disclose in writing all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award.

### **Energy Conservation**

The Vendor and subcontractors agrees to comply with the 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, 42 U.S.C. § 6321, et seq.

### **Federal Water Pollution Control Act**

For contracts in excess of \$150,000, the Vendor 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 Vendor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

The Vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.”

### **Clean Air Act**

For contracts in excess of \$150,000, the Vendor 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. and the Federal Water Pollution Act as amended (33 USC § 1251-1387).

The Vendor agrees to report any violation to the County immediately upon discovery. The Vendor understands and agrees that the County will, in turn, report each violation as required to assure notification to the County, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency (EPA) Regional Office. Vendor must include this requirement in all subcontracts that exceed \$150,000.

The Vendor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

### **Access to Records and Reports**

The Vendor must maintain an acceptable cost accounting system. The Vendor agrees to provide the County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Vendor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.



The Vendor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Vendor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

All Vendors and their successors, transferees, assignees, and subcontractors acknowledge and agree to comply with applicable provisions governing Department and FEMA access to records, accounts, documents, information, facilities, and staff.

#### **No Obligation by Federal Government**

The County and the Vendor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the County, the Vendor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Vendor agrees to include the above clause in each subcontract financed in whole or in part with federal assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

#### **Program Fraud and False or Fraudulent Statements or Related Acts**

The Vendor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Vendor's actions pertaining to this contract. Upon execution of the underlying contract, the Vendor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the Federally assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Vendor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Vendor to the extent the Federal Government deems appropriate.

The Vendor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Vendor, to the extent the Federal Government deems appropriate.

The Vendor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

#### **Changes**

Any change in the contract cost, modification, change order, or constructive change must be allowable, allocable, within the scope of its funding, grant or cooperative agreement, and reasonable for the completion of project scope. All changes and/or amendments to the contract will be outlined in detail, formalized in writing, and signed by the authorized representative of each party. Vendors failure to do so shall constitute a material breach of the contract.

## **Termination**

***Termination Without Cause.*** The County may immediately terminate this Agreement at any time without cause by giving written notice to the Vendor.

***Termination for Default by Either Party.*** By giving written notice to the other party, either party may terminate this Agreement upon the occurrence of one or more of the following events:

The other party violates or fails to perform any covenant, provision, obligation, term or condition contained in this Agreement, provided that, unless otherwise stated in this Agreement, such failure or violation shall not be cause for termination if both of the following conditions are satisfied: (i) such default is reasonably susceptible to cure; and (ii) the other party cures such default within thirty (30) days of receipt of written notice of default from the non-defaulting party; or

The other party attempts to assign, terminate or cancel this Agreement contrary to the terms hereof; or

The other party ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under this Agreement shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of other party's assets or properties.

Any notice of default pursuant to this Section shall identify and state the party's intent to terminate this Agreement if the default is not cured within the specified period.

***Additional Grounds for Default Termination by the County.*** By giving written notice to the Vendor, the County may also terminate this Agreement upon the occurrence of one or more of the following events (which shall each constitute grounds for termination without a cure period and without the occurrence of any of the other events of default previously listed):

The Vendor makes or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with this Agreement, Vendor's Proposal, or any covenant, agreement, obligation, term or condition contained in this Agreement; or

The Vendor takes or fails to take any action which constitutes grounds for immediate termination under the terms of this Agreement, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by this Agreement, or failure to provide the proof of insurance as required by this Agreement.

***Cancellation of Orders and Subcontracts.*** In the event this Agreement is terminated by the County for any reason prior to the end of the term, the Vendor shall upon termination immediately discontinue all service in connection with this Agreement and promptly cancel all existing orders and subcontracts, which are chargeable to this Agreement. As soon as practicable after receipt of notice of termination, the Vendor shall submit a statement to the County showing in detail the services performed under this Agreement to the date of termination.

***No Effect on Taxes, Fees, Charges, or Reports.*** Any termination of the Agreement shall not relieve the Vendor of the obligation to pay any fees, taxes or other charges then due to the County, nor relieve the Vendor

of the obligation to file any daily, monthly, quarterly or annual reports covering the period to termination nor relieve the Vendor from any claim for damages previously accrued or then accruing against the Vendor.

***Obligations Upon Expiration or Termination.*** Upon expiration or termination of this Agreement, the Vendor shall promptly (a) return to the County all computer programs, files, documentation, data, media, related material and any other recording devices, information, or compact discs that are owned by the County; (b) deliver to the County all Work Product; (c) allow the County or a new vendor access to the systems, software, infrastructure, or processes of the Vendor that are necessary to migrate the Services to a new vendor; and (d) refund to the County all pre-paid sums for Products or Services that have been cancelled and will not be delivered.

***No Suspension.*** In the event that the County disputes in good faith an allegation of default by the Vendor, notwithstanding anything to the contrary in this Agreement, the Vendor agrees that it will not terminate this Agreement or suspend or limit the delivery of Products or Services or any warranties or repossess, disable or render unusable any Software supplied by the Vendor, unless (i) the parties agree in writing, or (ii) an order of a court of competent jurisdiction determines otherwise.

***Authority to Terminate.*** The County Manager or their designee is authorized to terminate this Agreement on behalf of the County.

***Audit.*** During the term of the Agreement and for a period of one (1) year after termination or expiration of this Agreement for any reason, the County shall have the right to audit, either itself or through a third party, all books and records (including but not limited to the technical records) and facilities of the Vendor necessary to evaluate Vendor's compliance with the terms and conditions of the Agreement or the County's payment obligations. The County shall pay its own expenses, relating to such audits, but shall not have to pay any expenses or additional costs of the Vendor. However, if non-compliance is found that would have cost the County in excess of \$5,000 but for the audit, then the Vendor shall be required to reimburse the County for the cost of the audit.

### **Remedies**

***Liquidated Damages:*** The County and the Vendor acknowledge and agree that the County may incur costs if the Vendor fails to meet the delivery times set forth in the Request for Proposal for the Products and Services. The parties further acknowledge and agree that: (a) the County may be damaged by such failures, including loss of goodwill and administrative costs; but that (b) the costs that the County might reasonably be anticipated to accrue as a result of such failures are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the Vendor agrees to pay liquidated damages at the rates set forth in the Request for Proposal (if applicable). The parties agree that the liquidated damages set forth in the Request for Proposal shall be the County's exclusive remedy for loss of goodwill and administrative costs, attributable to a failure by the Vendor to meet such delivery times but shall not be the remedy for the cost to cover or other direct damages.

***Right to Cover:*** If the Vendor fails to meet any completion date or resolution time set forth in this Agreement (including the Exhibits), and it fails to cure such default within one (1) business day after receiving written notice from the County of such failure, the County may take any of the following actions with or without terminating this Agreement, and in addition to and without limiting any other remedies it may have:

Employ such means as it may reasonably deem advisable and appropriate to perform itself or obtain the Services from a third party until the matter is resolved and the Vendor is again able to resume performance under this Agreement; and

Deduct any and all reasonable expenses incurred by the County in obtaining or performing the Services from any money then due or to become due the Vendor and, should the County's reasonable cost of obtaining or performing the services exceed the amount due the Vendor, collect the difference from the Vendor.

***Right to Withhold Payment.*** If the Vendor materially breaches any provision of this Agreement, the County shall have a right to withhold all payments due to the Vendor with respect to the services that are the subject of such breach until such breach has been fully cured.

***Specific Performance and Injunctive Relief.*** The Vendor agrees that due to the potential impact on public health, monetary damages may not be an adequate remedy for the Vendor's failure to provide the Services required by this Agreement, and monetary damages may not be the equivalent of the performance of such obligation. Accordingly, the Vendor hereby agrees that the County may seek an order granting specific performance of such obligations of the Vendor in a court of competent jurisdiction within the State of North Carolina. The Vendor further consents to the County seeking injunctive relief (including a temporary restraining order) to assure performance in the event the Vendor breaches the Agreement in any material respect.

***Setoff.*** Each party shall be entitled to setoff and deduct from any amounts owed to the other party pursuant to this Agreement all damages and expenses incurred as a result of the other party's breach of this Agreement, following any applicable cure periods, and provided such party has given notice of its intention to apply a setoff prior to making the payment deduction, together with documentary evidence demonstrating that such party has actually incurred the damages and/or expenses being setoff.

***Other Remedies.*** Except as specifically set forth in the main body of this Agreement, the remedies set forth above shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy

### **Debarment and Suspension**

A contract award (see C.R.F. 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. 180 that implement Executive Orders 12549 (3 C.F.R. part 1986 Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), "Debarment and Suspension." SAM exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Vendor shall certify compliance.

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 Vendor is required to verify that none of the Vendor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The Vendor is required to comply with 2 C.F.R. Part 180, Subpart C and 2 C.F.R. pt. 3000, Subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the bidder or proposer certifies that:

This certification in this clause is a material representation of fact relied upon by the County. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available by the County, the federal government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. Part 180, Subpart C 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.”

### **Equal Employment Opportunity**

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

1. The Vendor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Vendor 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 Vendor 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 Vendor will, in all solicitations or advertisements for employees placed by or on behalf of the Vendor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
3. The Vendor 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 Vendor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Vendor 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.
5. The Vendor 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.
6. In the event of the Vendor'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 Vendor 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.
7. The Vendor 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 Vendor 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 Vendor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Vendor may request the United States to enter into such litigation to protect the interests of the United States.

## **Davis-Bacon Requirements**

If applicable to this contract, the Vendor agrees to comply with all provisions of the Davis Bacon Act as amended (40 U.S.C. 3141-348).

### **1. *Minimum Wages.***

(i) All laborers and mechanics employed or working upon the site of the work 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 the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent 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 Vendor 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 provisions of paragraph (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 cover 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 on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 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 (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Vendor and its sub-contractors at the site of the work in a prominent and accessible place where it can easily be 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 officer 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;
- (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 Vendor 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, Employment Standards Administration, 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 Vendor, 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 subparagraphs (1)(ii) (B) or (C) of this paragraph, 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 Vendor 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 Vendor does not make payments to a trustee or other third person, the Vendor 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 Vendor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Vendor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## **2. *Withholding.***

The County 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 Vendor under this contract or any other Federal contract with the same prime Vendor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Vendor, 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 Vendor 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 work, all or part of the wages required by the contract, the Sponsor may, after written notice to the Vendor, 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 Vendor 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. 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 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 Vendor shall maintain records that 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 that show the costs anticipated or the actual costs incurred in providing such benefits. Vendors 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 Vendor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Sponsor if the agency is a party to the contract, but if the agency is not such a party, the Vendor will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Sponsor. 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 [www.dol.gov/whd/forms/wh347instr.htm](http://www.dol.gov/whd/forms/wh347instr.htm) or its successor site. The prime Vendor is responsible for the submission of copies of payrolls by all subcontractors. Vendors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Sponsor if the agency is a party to the contract, but if the agency is not such a party, the Vendor will submit them to the applicant, sponsor, or Owner, as the case may be, for transmission to the Sponsor, the Vendor, 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 Vendor to require a subcontractor to provide addresses and social security numbers to the prime Vendor 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 Vendor 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) The payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;

(2) Each laborer and 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) 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 (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Vendor 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 Vendor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the sponsor, the Sponsor, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Vendor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Vendor, 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, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, 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 Bureau of Apprenticeship and Training 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 Vendor 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 Vendor 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 Vendor's or sub-Vendor'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 Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Vendor 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 that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that 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 Vendor 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 Vendor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

#### ***6. Subcontracts.***

The Vendor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR Part 5.5(a)(1) through (10) and such other clauses as the Sponsor may by appropriate instructions require, and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime Vendor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 5.5.

#### ***7. Contract Termination: Debarment.***

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a Vendor 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 Vendor (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 Vendor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Vendor'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 USC 1001.

### **Copeland "Anti-Kickback" Act**

*Vendor.* The Vendor 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 C.F.R. Part 3 *as may be applicable*, which are incorporated by reference into this contract.

Vendor 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 Vendor 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 Vendor 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 Vendor shall be responsible for the compliance by any subcontractor or lower tier subcontractors 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 Vendor and sub-Vendor as provided in 29 C.F.R. § 5.12."

### **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 C.F.R. Part 5).

1. Overtime requirements. No Vendor 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 Vendor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Vendor 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 Vendor or subcontractor under any such contract or any other Federal contract with the same prime Vendor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Vendor, such sums as may be determined to be necessary to satisfy any liabilities of such Vendor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
4. Subcontractors. The Vendor 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 subcontractors to include these clauses in any lower tier subcontracts. The prime Vendor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.”

### **Rights to Inventions Made Under a Contract or Agreement**

#### ***Patent and Rights in Data***

#### **CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK.**

Rights in Data - The following requirements apply to each contract involving experimental, developmental or research work:

The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

Except for its own internal use, the Purchaser or Vendor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Vendor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)(i) and (2)(b)(ii) of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

Any subject data developed under that contract, whether or not a copyright has been obtained; and

Any rights of copyright purchased by the Purchaser or Vendor using Federal assistance in whole or in part. When federal assistance is awarded for experimental, developmental, or research work, it is the general intention to increase knowledge available to the public rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless determined otherwise, the Purchaser and the Vendor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agree to make available to the public, either the license in the copyright to any subject data developed in the course of that contract or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Vendor's use whose costs are financed in whole or in part with Federal assistance.

Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Vendor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Vendor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Vendor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

Nothing contained in this clause regarding rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

Data developed by the Purchaser or Vendor and financed entirely without the use of Federal assistance that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Vendor identifies that data in writing at the time of delivery of the contract work.

Unless determined otherwise, the Vendor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

Unless the Federal Government later makes a contrary determination in writing, irrespective of the Vendor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Vendor agree to take the necessary actions to provide those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

The Vendor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

Patent Rights - The following requirements apply to each contract involving experimental, developmental, or research work:

General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Vendor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier.

Unless the Federal Government later makes a contrary determination in writing, irrespective of the Vendor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Vendor agree to take the necessary actions to provide those rights in that invention due the Federal Government as described in U.S.

Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401. The Vendor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

### **Procurement of Recovered Materials**

Vendor and subcontractor must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Vendor and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

1. The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or
2. The Vendor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

Section 6002(c) establishes exceptions to the preferences for recovery EPA-Designed products if the Vendor can demonstrate the item is:

- Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
- Fails to meet reasonable contract performance requirements; or
- Is only available at an unreasonable price.

Information about this requirement, along with the list of EPA- designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

### **Safeguarding Personal Identifiable Information:**

Vendor will take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive by the awarding agency or is considered sensitive consistent with applicable federal, state, and/or local laws regarding privacy and obligations of confidentiality.

### **DHS Seal, Logo, and Flags**

The Vendor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without pre-approval by the specific federal agency.

# E. BID SHEET & CONTRACT TERMS ACCEPTANCE FORM

## Emergency Center Cots and Supplies

**Bid # 19-546-IBFG-01**

Company \_\_\_\_\_  
Address/City/State/Zip \_\_\_\_\_

**\*The following standard shipping quantities were noted. Bidder should price per the noted unit of measure OR clearly specify Bidder's standard unit of measure and related bid price.**

**\*\*Attach descriptive product specifications for each item bid.**

**Blankets: 56"x90", 100%Polyester** \$ \_\_\_\_\_ **Per Bale of 30**

**Cot Pillow: Inflatable, adjustable inflation, hypo-allergenic polyester** \$ \_\_\_\_\_ **Per case of 50**

**Cot, Military Style: 75"L x 25.5"W x 16"H, water resistant nylon cover, 350lbs min, lightweight heavy-duty frame, zippered storage pouch for personal items included, Nylon carry/storage bag**

**OFFER** \$ \_\_\_\_\_ **Each**

- A. This offer shall be open to acceptance and is irrevocable for a minimum of **Ninety Days** from the bid closing date.
- B. The following Addenda have been received. The modifications to the Bid Documents noted below have been considered and all costs are included in the Bid Sum.  
Addendum # \_\_\_\_\_ Dated: \_\_\_\_\_  
Addendum # \_\_\_\_\_ Dated: \_\_\_\_\_
- C. Guaranteed Delivery period will be \_\_\_\_\_ days from order date

### **Terms & Conditions Acceptance & Affidavit:**

Having examined the Bid and Contract Terms and conditions, Additional Requirements and Uniform Needs as prepared by Iredell County, I hereby acknowledge and accept all terms, conditions and additional requirements noted therein and as follows:

- a) All Bid Prices submitted for consideration include shipping & delivery charges FOB Destination, inside delivery. Iredell County will not be charged, nor shall it pay, any charge above or outside of the Bid Prices submitted. Bid Price does not include sales taxes, which will be charged separately on each invoice.
- b) Before an order is shipped or delivered, vendor will call designated number at IC EMGT.
- c) That he/she is a duly authorized representative of the company listed above and is able to legally bind this company to this agreement.
- d) Understanding & acceptance of all terms and conditions contained within this solicitation and that this solicitation, its terms and conditions, become the entire contract to which Iredell County and contractor will be bound for this contract, and shall override and supersede any and all other terms and conditions, regardless of form or delivery.
- e) That this offer is not a "sham" offer and is made without collusion.

\_\_\_\_\_  
Signature of Vendor Company's Authorized Individual

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone