



## Request for Proposals 2020-140

### Kitsap County Emergency Operations Center's Joint Information Center Marketing Campaign for Covid-19 Recovery

**Response Deadline: Monday, November 16, 2020 at 3:00 PM**

**OFFERORS ARE STRONGLY ENCOURAGED TO READ THE ENTIRE SOLICITATION.**

Kitsap County's Emergency Operations Center's Joint Information Center (KCEOC JIC) Request for Proposals (RFP) invites Statements of Qualifications (SOQ) from qualified individuals, firms and organizations who can provide professional marketing services for the Kitsap County's marketing campaign for Covid-19 recovery (Project). The successful consultant is expected to enter into a professional services contract with Kitsap County. The parties to the contract will negotiate a detailed scope of work, budget, and schedule.

Kitsap County's Emergency Operations Center's Joint Information Center (KCEOC JIC) invites creative proposals for a campaign to unite the community and point the county toward recovery by stimulating the behavior changes necessary to contain COVID-19.

This Request for Proposal is available on the Internet at:

<https://www.kitsapgov.com/das/Pages/Online-Bids.aspx> or by contacting Vicki Martin at: Kitsap County Purchasing Department, 614 Division Street, MS-7, Port Orchard, Washington 98366, 360.337.4788, fax 360.337.4638, email: [vmartin@co.kitsap.wa.us](mailto:vmartin@co.kitsap.wa.us).

**Objective:** Kitsap County's Emergency Operations Center's Joint Information Center (KCEOC JIC) invites creative proposals for an adaptable and Kitsap-centric outreach campaign to unite the community and point the county toward recovery from the health crisis as well as the associated economic and social impacts by reinforcing the behavior changes necessary to contain COVID-19. We intend to do this with a little original content and a lot of repurposed and co-branded content from others such as Washington State Department of Health.

**Target:** All Kitsap residents.

## **Minority and Women Owned Business Enterprise Participation**

Pursuant to RCW 39.19, it is the policy of Kitsap County to foster an environment that encourages economic growth and diversification, business development and retention, increases competition and reduces unemployment. In support of that policy, Kitsap County reaffirms its commitment to maximize opportunities in public contracting for all contractors including minority and women owned business enterprises. Bidders are encouraged to utilize qualified, local businesses in Kitsap County and Washington State where cost effectiveness is deemed competitive. In addition, Bidders are encouraged to subcontract with firms certified by the Washington State Office of Minority and Women's Business Enterprises (MWBE).

**Background:** Eight months into the COVID-19 response in Kitsap County, the only predictable aspect of this pandemic is its unpredictability. Communications goals have shifted with conditions that have changed before plans could be finished. We started with a simple "Stay Home" message and, as reopening loomed, we segued into a theme of personal responsibility to keep us on track. When reopening brought a surge in cases, we focused on stemming that. Now, Kitsap County is experiencing a decline in the rate of new COVID-19 cases. To ensure continuation of this positive trend, we must provide the community with engaging reminders about Kitsap County's recovery goals and the necessary steps to achievement. Conventional messages from federal, state and local public health agencies on how to stop the spread of COVID-19 (i.e. "Wear a face covering," "Maintain six feet of distance from others in public whenever possible," and "Wash your hands," etc.) are communicated often in both traditional and new media. Some residents are resisting public health guidelines for political reasons, believing that these mandates are the result of government overreach rather than seeing these steps as gestures of kindness and community. Disproportionate spread within the Spanish-speaking community suggests that current messaging is not reaching this subset of the population. At the same time, fatigue and frustration are setting in among some who have been diligently following the rules and seeing no progress. Division is deepening between groups on the national, state, and local stages. It is clear that, despite changing conditions and target audiences, it's the right time for approaches that are uplifting and unifying.

The KCEOC JIC envisions an inclusive campaign that does not exclude any demographics. Additionally, the campaign should not focus on individual harm reduction behaviors but provide a holistic, overarching and unifying theme under which specific messages and components could be communicated – a framework into which changing original and repurposed content can be inserted. The KCEOC JIC's campaign must be compatible with the state's campaign as it's our intent to use as many of the state's existing and multilingual "Stop the Spread" campaign materials as possible. Secondly, our campaign should also pair well with Kitsap Transit's "Make it a Habit" campaign which will be introduced this fall, promoting positive behaviors and informing the community of measures by Kitsap Transit to make their buses and fast ferries safe way to travel.

The following points should also be considered in development of the campaign:

- People are hungry for inspiration and positivity.
- Engagement and empowerment of the entire community will be more effective than lectures.
- Those who have acquired good “pandemic-safe” habits must be supported in their efforts to continue these desirable behaviors.
- The virus poses a threat to people of all ages and backgrounds.
- The on-going pandemic threatens much more than lives and physical health; the ripple effects of this pandemic have adversely impacted individuals, families, businesses, and community organizations.
- Encouraging support and investment in the people, businesses and organizations of Kitsap County can add to community cohesion.
- We can rally the community by celebrating the extraordinary efforts of our local heroes as they respond to the medical, emotional, social, and financial needs of our neighbors.
- Emphasize the importance of valuing each person who calls Kitsap County home and supporting one another with kindness, patience and good-will.
- The campaign must be open enough to be adjustable as the situation shifts again.

**Deliverables:** Speed and creativity are paramount. It is likely that the pandemic will remain with us for a long time and, while Kitsap County’s current trends are encouraging, the need to reach our community with positive reinforcement is urgent to maintain the trend.

- Kitsap-specific campaign theme
- Kitsap-specific campaign hashtag
- Emphasis on the above two deliverables rather than on Kitsap-specific campaign messaging
- Social media: Initial messaging and graphic design as well as design standards for future messaging
- Print: Design standards for future publications
- Mobile advertising: Development and production of three initial spots – youth, Spanish-language and general – with estimate of costs (not included in this scope) to place the targeted ads. Other tools as recommended to meet the stated objectives

**Budget:** \$12,000.00

**Evaluation Criteria:** An evaluation committee will evaluate and numerically score each offer based on the criteria below and weight assigned to each. The committee may also have the offers or portions of the offers reviewed and evaluated by independent third parties or various County personnel with technical or professional experience that relates to the services or criteria in the evaluation process. The committee may also seek reviews of end users of the services or advice or evaluations of subject matter experts. In seeking such reviews, evaluations, and advice, the committee will first decide how to incorporate the results in the scoring. The committee may adopt or reject any recommendations it receives.

### **Related strategies, not included in this scope:**

- Repurpose/co-brand KPHD materials whenever possible; repurpose/co-brand DOH marketing materials with Kitsap branding whenever possible to improve efficiency in terms of both cost and message reach.
- Affirm KCEOC JIC, in partnership with KPHD PIO, as the source for information about local pandemic response
  - Strengthen network of key communicators (County, cities, fire, law enforcement, schools, Navy, KEDA, Chambers) with regular tools that can be retransmitted through each partner's channels
  - Provide agile and responsive service to partners
- Partner with Kitsap Strong to access their network and leverage those channels
- Continue development of partnerships with hard-to reach populations to leverage those channels
- BKAT-produced video(s) based on KPHD script, using Kitsap locales and well-known figures and/or,
- State-funded videos in Spanish and English with well-known Kitsap figures
  - Firefighter, Olympic College student body president, physician, active elderly, child, law enforcement (K9 officer?)

### **Submittal Requirements**

**Proposals must be received by Monday, November 16, 2020 at 3:00PM. Late submittals will not be considered.**

Offers shall be submitted to the Purchasing Agent at the location specified below in a sealed envelope or package provided by the offeror and shall include (1) the offeror's name and address, (2) the solicitation name and number, and (3) the submittal due date clearly identified on the outside of the envelope or package. The offeror is responsible for the timely delivery of submitted offers, regardless of the delivery method. Offerors should allow enough time to ensure timely receipt by the County. Offers received after the submittal due date and time will not be opened or considered. Kitsap County accepts no responsibility for lost or misdirected submittals. The timeliness of offer submissions is determined by the County.

Submit one (1) original and four (4) copies.

Kitsap County reserves the right to reject any or all proposals and waive any irregularities. The County is not liable for any costs incurred by the consultant before issuance of a contract. All costs incurred in responding to this RFP are solely the responsibility of the consultant. All materials submitted in response to this RFP become the property of Kitsap County, are public record, and will not be returned.

Please submit proposals by **mail** to:

Vicki Martin  
Kitsap County Department of Administrative Services  
Purchasing Office  
614 Division Street MS-7  
Port Orchard, WA 98366  
Phone: 360-337-4788

Or **hand-deliver** Monday-Friday (excluding holidays) 8:00 AM to 5:00 PM to the **Purchasing Office, Kitsap County Administration Building, Fourth Floor, Room 413, 619 Division Street, Port Orchard, Washington.**

**Questions**

Please direct all questions in writing to:

Vicki Martin, Buyer  
Kitsap County Department of Administrative Services  
614 Division Street MS-7  
Port Orchard WA 98366  
[vmartin@co.kitsap.wa.us](mailto:vmartin@co.kitsap.wa.us)

**SELECTION CRITERIA AND POINTS SYSTEM FOR  
EOC/JIC COVID-19 Outreach Campaign**

Candidate	Killer Criteria		Technical Criteria			Deliverable Criteria		Total Score	Qualitative Assessment of Proposal and Theme			
(By Number Only)	Rate 1 – 6	Points		Rate 1 – 3	Points		Points					
	Max	Score	Max	Score	Max	Score	Max	Score				
	Understood objective	5		Inspiration and positivity	5		Campaign theme	5				
	Understood target audience	5		Whole community engagement	5		Campaign hashtag	5				
	Understood compatibility with state campaign	5		Appreciation for good habits	5		Social media design standards	5				
	Proven experience with examples	5		Virus affects all	5		Print materials design standards	5				
	Stated ability to work within budget	5		More than lives at stake	5		Mobile ads x 3	5				
				Community cohesion	5		Ad buys and printing cost estimates	5				
				Rally community	5		Other recommendations	n/a				
				Value each person	5							
				Flexible, adaptable framework	5							
		25			45			30			Total	100





Meeting Date:  
Agenda Item No:

<u><b>Kitsap County Board of Commissioners</b></u>			
<b>Office/Department:</b>		[County OfficeDept]	
<b>Staff Contact:</b>		[Contract Administrator]	
<b>Agenda Item Title:</b>		[Contract Number] - [Contract Name]	
<b>Recommended Action:</b> [Recommended Action] [Contract Number] - [Contract Name]			
<b>Summary:</b>			
<b>Attachments:</b>		1. Contract Review Sheet 2.	
<b>Fiscal Impact for this Specific Action</b>			
<b>Expenditure required for this specific action:</b>		[\$[Contract Amount]	
<b>Related Revenue for this specific action:</b>		[\$[Contract Related Rev]	
<b>Cost Savings for this specific action:</b>		[\$[Cost Savings]	
<b>Net Fiscal Impact:</b>		[\$[Net Fiscal Impact]	
<b>Source of Funds:</b>		[Funds Source]	
<b>Fiscal Impact for Total Project</b>			
<b>Project Costs:</b>		[\$[Project Costs]	
<b>Project Costs Savings:</b>		[\$[Project Cost Savings]	
<b>Project Related Revenue:</b>		[\$[Project Related Rev]	
<b>Project Net Total:</b>		[\$[Project Net Total]	
<b>Fiscal Impact (DAS) Review</b>			
<b>Office/Department Review &amp; Coordination</b>			
<b>Office/Department</b>		<b>Elected Official/Department Director</b>	
[County OfficeDept]			
<b>Contract Information</b>			
<b>Contract Number</b>	<b>Date Original Contract or Amendment Approved</b>	<b>Amount of Original Contract Amendment</b>	<b>Total Amount of Amended Contract</b>
[Contract Number]			



**Kitsap County**  
**CONTRACT REVIEW SHEET**  
(Chapter 3.56 KCC)

<b>A. CONTRACT INFORMATION</b>			
1. Contractor	[Contractor Name]		
2. Purpose	_____		
3. Contract Amount	[\$[Contract Amount]]	Disburse	<input type="checkbox"/> Receive <input type="checkbox"/>
4. Contract Term	_____		
5. Contract Administrator	[County Rep Name]	Phone	[County Rep Phone]
<b>Approved:</b>	_____	<b>Date</b>	_____
	Department Director		
<b>B. AUDITOR – ACCOUNTING INFORMATION</b>			
1. Contract Control Number	[Contract Number]		
2. Fund Name	[Funds Source]		
3. Payment from-Revenue to CC/Account Nbr	_____		
4. Encumbered By	_____	<b>Date</b>	_____
<b>C. AUDITOR'S ACCOUNTING – GRANTS REVIEW</b> <i>Signature required only if contract is grant funded</i>			
1. <input type="checkbox"/> Approved	<input type="checkbox"/> Not Approved	<b>Reviewer</b>	<b>Date</b>
2. Comments: _____			
<b>D. ADMINISTRATIVE SERVICES DEPARTMENT – RISK MANAGER REVIEW</b>			
1. <input type="checkbox"/> Approved	<input type="checkbox"/> Not Approved	<b>Reviewer</b>	<b>Date</b>
2. Comments: _____			
<b>E. ADMINISTRATIVE SERVICES DEPARTMENT – BUDGET MANAGER REVIEW</b> <i>Signature required only if contract is for \$50,000 or more, OR it will be signed by board of commissioners (regardless of dollar amount)</i>			
1. <input type="checkbox"/> Approved	<input type="checkbox"/> Not Approved	<b>Reviewer</b>	<b>Date</b>
2. Comments: _____			
<b>F. PERSONNEL DEPARTMENT – PERSONNEL DIRECTOR REVIEW</b> <i>Signature required only if union or employment contract</i>			
1. <input type="checkbox"/> Approved	<input type="checkbox"/> Not Approved	<b>Reviewer</b>	<b>Date</b>
2. Comments: _____			
<b>G. PROSECUTING ATTORNEY</b>			
1. <input type="checkbox"/> Approved as to Form	<input type="checkbox"/> Not Approved as to Form	<b>Reviewer</b>	<b>Date</b>
2. Comments: _____			
<b>H. CERTIFICATION BY CONTRACT ADMINISTRATOR: THIS CONTRACT IS READY FOR CONSIDERATION BY THE AUTHORIZED CONTRACT SIGNER.</b> <i>(For contract signing authority, see KCC 3.56.075)</i>			

Date Approved by Authorized Contract Signer: \_\_\_\_\_ Date \_\_\_\_\_  
RETURN SIGNED ORIGINALS TO: [Contract Preparer] @ MS- \_\_\_\_\_

**CONTRACT NO. [Contract Number]**  
**Professional Services Contract**

This Professional Services Contract (“Contract”) is between Kitsap County, a Washington state political subdivision, having its principal offices at 614 Division Street, Port Orchard, Washington 98366 (“County”) and [Contractor Name], a [Contractor Type] having its principal offices at [Contractor Addr] (“Contractor”).

In consideration of the terms and conditions of this Contract, the parties agree as follows:

**SECTION 1. TERM AND EFFECTIVE DATE**

1.1 The Contract will become effective [Contract Start Date] and terminate [Contract End Date], unless terminated or extended. The Contract may be extended for additional consecutive terms at the mutual agreement of the parties, not to exceed a total of [Contract Length]. In no event will the Contract become effective unless and until it is approved and executed by the duly authorized representative of Kitsap County.

**SECTION 2. SERVICES**

2.1. Scope of Work. The Contractor shall provide all “Services” identified in Attachment A: (Scope of Work), which is incorporated herein by reference. The Contractor shall provide its own equipment, labor, and materials.

2.2. Contract. “Contract” means this Contract and any exhibits, amendments, and solicitation documents accepted by the County, and Attachments A (Scope of Work), B (Compensation)[List Additional Attachments, if any]. All such documents are incorporated herein in full by this reference.

2.3. Personnel. The Contractor shall have and maintain complete responsibility for its Personnel. “Personnel” means Contractor and Contractor’s employees, subcontractors, volunteers, interns, agents, and any other person utilized by the Contractor directly or indirectly or through third parties to perform any Services under the Contract. The Contractor shall promptly remove any Personnel performing Services on request from the County Representative.

2.4. Standards. The Contractor warrants that i) Contractor has the qualifications, knowledge, experience, skills, and resources necessary to provide all Services; ii) all Services shall be provided by Personnel experienced in their respective fields and in a manner consistent with the standards of care, skill, diligence, and knowledge commonly possessed and exercised by experienced professionals in the same discipline in the same or similar circumstances; and iii) all Services shall be performed to the County’s reasonable satisfaction and according to the schedule agreed to by the parties.

2.5. Communication. The Contractor shall keep the County informed of the progress of the Services in the manner, method, and intervals requested by the County.

**SECTION 3. COMPENSATION AND PAYMENT**

3.1. Compensation. The maximum amount of compensation paid under the Contract by the County shall not exceed \$[Contract Amount]. A description of the compensation is provided in Attachment B: Compensation, which is incorporated herein by reference.

- 3.2. Invoice. The Contractor will submit one (1) invoice to the County per month for payment of Services completed to date, unless otherwise provided herein. Each invoice shall identify the Services performed, dates performed, and any other information requested by the County.
- 3.3. Payment. The County will make reasonable efforts to pay the Contractor within thirty (30) days from the date the County receives a complete and correct invoice, unless otherwise provided herein. All funds disbursed to the Contractor will be processed by Direct Deposit via Automated Clearing House (ACH), unless otherwise agreed to by the parties.
- 3.4. Insurance/W-9 Compliance. All payments are expressly conditioned upon the Contractor's compliance with all insurance requirements and submission of a current IRS W-9 form to the County. Payments may be suspended in full in the event of noncompliance. Upon full compliance, payments will be released to the Contractor unless otherwise provided herein.
- 3.5. Restrictions. The Contractor will only be entitled to receive payment for Services expressly authorized in the Contract, and received during the Contract term and accepted by the County. The Contractor acknowledges oral requests and approvals of additional services or additional compensation are prohibited and unenforceable. Advance payments are not authorized.

#### **SECTION 4. TERMINATION**

- 4.1. For Convenience. The County may terminate the Contract, in whole or in part, without penalty, for any reason or no reason, with ten days prior notice to the Contractor.
- 4.2. For Funding issues. If any funding for Services is not available, withdrawn, reduced, or limited in any way, or if additional or modified conditions are placed on the funding after the Contract becomes effective, the County may: (1) accept a decreased price offered by the Contractor; (2) terminate the Contract; or (3) terminate the Contract and re-solicit the requirements.
- 4.3. Termination for Default. The County may immediately terminate the Contract, in whole or part, due to the failure of the Contractor to comply with any Contract term or condition, or to make satisfactory progress in performing the Contract, subject to the provisions of 11.1, or if the County determines the Contractor has been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity. The Contractor shall immediately notify the County if the Contractor becomes suspended or debarred.
- 4.4. Procedures. Upon receipt of notice of termination, the Contractor shall stop all Services as directed in the notice, notify Personnel of the termination date, and minimize further costs. All goods, materials, documents, data, and reports prepared by the Contractor under the Contract shall become the property of, and delivered to, the County on demand. A final payment will be made to the Contractor only for Services performed and accepted by the County through the effective date of termination. No costs incurred after the effective date of the termination will be paid.

#### **SECTION 5. INDEMNIFICATION**

- 5.1. To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless Kitsap County and its elected and appointed officials, officers, employees, and agents (collectively "Indemnitees") from and against all Claims resulting from or arising out of the performance of the Contract, whether such Claims arise from the acts, errors,

or omissions of the Contractor, its Personnel, third parties, or Kitsap County, or anyone directly or indirectly employed by any of them or anyone for whose acts, errors, or omissions any of them may be liable. It is the specific intent of the parties that the Indemnitees shall, in all instances, except Claims arising from the sole negligence or willful misconduct of the Indemnitees, be indemnified by the Contractor from and against any and all Claims.

- 5.2. With regard to any Claim against any Indemnitee by any of the Contractor's Personnel, or anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the Contractor's indemnification obligation shall not be limited in any way by a limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or Contractor's Personnel under workers compensation acts, disability benefit acts, or other employee benefit acts. Solely for the purposes of this indemnification provision, the Contractor expressly waives its immunity under Title 51 RCW (Industrial Insurance) and acknowledges this waiver was mutually negotiated by the parties.
- 5.3. Architectural, Landscape Architectural, Engineering, or Land Surveying Services. Should a court of competent jurisdiction determine the Contract is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the County, its officers, officials, employees, and agents, the Contractor's liability hereunder, including the duty and cost to defend, will be only to the extent of the Contractor's negligence.
- 5.4. Claim. "Claim" means all losses, claims, suits, actions, liabilities, damages, demands, judgments, settlements, expenses, fines, or other liabilities of any kind or nature whatsoever, including without limitation, all costs including costs of Claim processing, investigation, reasonable attorneys' fees, and damages, for any personal or bodily injury, sickness, disease, disability, or death, or loss or damage to tangible or intangible business or property, including the loss of use. Claim includes any infringement of copyright, patent, trademark, or other proprietary rights of any third parties arising out of Contract performance or use by the County of materials furnished or work performed under the Contract.
- 5.5. Obligations/Notice of Claim. The County will provide the Contractor notice of the assertion of liability by a third party that may give rise to a Claim by County against the Contractor based on the indemnity contained herein. The Contractor shall respond to the County's tender of defense of a claim in writing within fourteen (14) calendar days from the notice date, and will advise the County if the Contractor accepts or denies tender of the claim. The County may in its discretion withhold all or part of any payment due the Contractor under the Contract until the Contractor responds to such notice. The Contractor shall keep the County timely and fully informed through all stages of the defense and promptly respond to and comply with County's requests for information. The County at all times reserves the right, but has no obligation to participate in the defense and settlement of any Claim. Such participation shall not constitute a waiver of the Contractor's indemnity and defense obligations under the Contract. The Contractor shall not settle or compromise any Claim in any manner that imposes any obligations upon the County without the prior written consent of the County. The Contractor shall promptly advise the County of any occurrence or information known to the Contractor that could reasonably result in a Claim against the County. The violation of any provisions of this Section, including improper refusal to accept tender, is a material breach.

## SECTION 6. INSURANCE

- 6.1. Minimum Insurance Required. The Contractor and its subcontractors, if any, shall procure and maintain, until all of the Contract obligations have been fully discharged, including any warranty period, all insurance required in this Section with an insurance company duly licensed in Washington State with an A.M. Best Company ratings of not less than A-VIII and a category rating of not less than “8”, with policies and forms satisfactory to the County. Use of alternative insurers requires prior written approval from the County. Coverage limits shall be at minimum the limits identified in this Section, or the limits available under the policies maintained by the Contractor without regard to the Contract, whichever is greater.
- 6.2. Professional Liability. Not less than \$1,000,000 per claim and \$2,000,000 annual aggregate. Coverage will apply to liability for professional error, act or omission arising out of or in connection with the Contractor’s Services under the Contract. The coverage shall not exclude bodily injury, property damage or hazards related to the work rendered as part of the Contract or within the scope of the Contractor’s services under the Contract, including testing, monitoring, measuring operations or laboratory analysis where such Services are rendered under the Contract.
- 6.3. Commercial General Liability (“CGL”). Not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Coverage shall include personal injury, bodily injury, and property damage for premise-operations liability, products/completed operations, personal/advertising injury, contractual liability, independent contractor liability, and stop gap/employer’s liability. Coverage shall not exclude or contain sub-limits less than the minimum limits required herein, without the prior written approval of the County. The certificate of insurance for the CGL policy shall expressly cover the indemnification obligations required by the Contract.
- 6.4. Automobile Liability.
- Contractor shall maintain personal automobile insurance on all vehicles used for Contract purposes as required by law.
  - Not less than \$100,000 per occurrence and \$300,000 annual aggregate. If a personal automobile liability policy is used to meet this requirement, it must include a business rider and cover each vehicle to be used in the performance of the Contract. If Contractor will use non-owned vehicles in performance of the Contract, the coverage shall include owned, hired, and non-owned automobiles.
  - Not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. Coverage shall include liability for any and all owned, hired, and non-owned vehicles. Coverage may be satisfied with an endorsement to the CGL policy.
- 6.5. Umbrella or Excess Liability. The Contractor may satisfy the minimum liability limits required for the CGL and Automobile Liability under an Umbrella or Excess Liability policy. There is no minimum per occurrence limit of liability under the Umbrella or Excess Liability; however, the annual aggregate limit shall not be less than the highest “Each Occurrence” limit for either CGL or Automobile Liability. The Contractor agrees to an endorsement naming the County as an additional insured as provided in this Section, unless the Umbrella or Excess Liability provides coverage on a “Follow-Form” basis.

- 6.6. Workers' Compensation and Employer Liability. If applicable, the Contractor shall maintain workers' compensation insurance as required under the Title 51 RCW (Industrial Insurance), for all Contractor's Personnel eligible for such coverage. If the Contract is for over \$50,000, then the Contractor shall also maintain employer liability coverage with a limit of not less than \$1,000,000.
- 6.7. Primary, Non-Contributory Insurance/Subcontractors. The Contractor's and its subcontractors' insurance policies and additional named insured endorsements will provide primary insurance coverage and be non-contributory. Any insurance or self-insurance programs maintained or participated in by the County will be excess and not contributory to such insurance policies. All Contractor's and its subcontractors' liability insurance policies must be endorsed to show as primary coverage. The Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All subcontractors shall comply with all insurance and indemnification requirements herein.
- 6.8. Review of Policy Provisions. Upon request, the Contractor shall provide a full and complete copy of all requested insurance policies to the County. The County reserves the right without limitation, but has no obligation to revise any insurance requirement, or to reject any insurance policies that fail to meet the requirements of the Contract. The County also has the right, but no obligation to review and reject any proposed insurer providing coverage based upon the insurer's financial condition or licensing status in Washington. The County has the right to request and review the self-insurance retention limits and deductibles, and the Contractor's most recent annual financial reports and audited financial statements, as conditions of approval. Failure to demand evidence of full compliance with the insurance requirements or failure to identify any insurance deficiency shall not relieve the Contractor from, nor be construed or deemed a waiver, of its obligation to maintain all the required insurance at all times as required herein.
- 6.9. Waiver of Subrogation. In consideration of the Contract award, the Contractor agrees to waive all rights of subrogation against the County, its elected and appointed officials, officers, employees, and agents. This waiver does not apply to any policy that includes a condition that expressly prohibits waiver of subrogation by the insured or that voids coverage should the Contractor enter into a waiver of subrogation on a pre-loss basis.
- 6.10. Additional Insured, Endorsement and Certificate of Insurance. All required insurance coverage, other than the workers' compensation and professional liability, shall name the County, its elected and appointed officials, officers, employees, and agents, as additional insureds and be properly endorsed for the full available limits of coverage maintained by Contractor and its subcontractors. Endorsement is not required if the Contractor is a self-insured government entity, or insured through a government risk pool authorized by Washington State.

The Certificate of Insurance and endorsement shall identify the Contract number and shall require not less than thirty (30) days' prior notice of termination, cancellation, nonrenewal or reduction in coverage. At the time of execution, the Contractor shall provide the Certificate of Insurance, endorsement, and all insurance notices to: Risk Management Division, Kitsap County Department of Administrative Services, 614 Division Street, MS-7, Port Orchard, Washington 98366.

- 6.11. General. The coverage limits identified herein are minimum requirements only and will not in any manner limit or qualify the liabilities or obligations of the Contractor under the Contract. All insurance policy deductibles and self-insured retentions for policies maintained under the Contract shall be paid by the Contractor. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County, its elected and appointed officials, officers, employees, or agents. The Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, subject to the limits of the insurer's liability.
- 6.12. Claims-Made. If the Contractor's liability coverage is written as a claims-made policy, the Contractor shall purchase an extended-reporting period or "tail" coverage for a minimum of three (3) years following completion of the performance or attempted performance of the provisions of this Contract.

**SECTION 7. NOTICE AND CONTRACT REPRESENTATIVES**

- 7.1. Any notices, demands and other communications required by the Contract will be effective if personally served upon the other party or if mailed by registered or certified mail, postage prepaid, return receipt requested, to the other party's Contract Representative at the address below. Notice may also be given by facsimile with the original to follow by regular mail. Notice will be deemed to be given three (3) days following the date of mailing, or immediately if personally served. For service by facsimile, service will be effective at the beginning of the next working day. Each party will designate a "Contract Representative", which may be changed by providing fifteen (15) days prior notice to the other party.

County's Contract Representative

Name: [County Rep Name]  
 Title: [County Rep Title]  
 Address: [County Rep Addr]  
 Phone: [County Rep Phone]  
 Email: [County Rep Email]

Contractor's Contract Representative

Name: [Contractor Rep Name]  
 Title: [Contractor Rep Title]  
 Address: [Contractor Rep Addr]  
 Phone: [Contractor Rep Phone]  
 Email: [Contractor Rep Email]

**SECTION 8. AMENDMENTS, SUBCONTRACTS, INDEPENDENT CONTRACTOR**

- 8.1. Amendment. No amendment or modification to the Contract will be effective without the prior written consent of the authorized representatives of the parties.
- 8.2. Successors and Assigns. To the extent permitted by law, the Contract is binding on the parties' respective partners, successors, assigns, executors, and legal representatives.

- 8.3. Assignments. Except with the prior written consent of the other party, each party shall not assign or transfer, including by merger (whether that party is the surviving or disappearing entity), consolidation, dissolution, or operation of law any right, duty, obligation, or remedy under the Contract. Any purported assignment or transfer in violation of this section shall be void.
- 8.4. Subcontracts. The Contractor shall provide the County a list of all subcontractors and the subcontractors' proposed responsibilities. "Subcontract" means any contract, express or implied, between the Contractor and another party or between a subcontractor and another party delegating or assigning, in whole or in part, the making or furnishing of any material or service for the performance of the Contract. All subcontracts shall incorporate by reference the terms and conditions of this Contract. The Contractor is solely responsible for the performance and payment of its subcontractors.
- 8.5. Independent Contractor. Each party under the Contract shall be for all purposes an independent contractor. Nothing contained herein will be deemed to create an association, a partnership, a joint venture, or a relationship of principal and agent, or employer and employee between the parties. The Contractor shall have complete responsibility and control over its Personnel. Neither the Contractor nor its Personnel shall be, or be deemed to be, or act or purport to act, as an employee, agent or representative of the County. The Contractor and its Personnel shall have no County employee-type benefits of any kind whatsoever, including without limitation, insurance, pension plan, vacation pay or sick pay, or other right or privilege afforded to County employees. The Contractor and its Personnel shall be responsible for payment of all insurance, taxes, and benefits.

## **SECTION 9. OWNERSHIP, CONFIDENTIAL INFORMATION AND BREACH**

- 9.1. Ownership. Any and all data, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films, or any other materials created, prepared, produced, constructed, assembled, made performed, or otherwise produced by the Contractor or its Personnel for delivery to the County under this Contract shall be the sole and absolute property of the County. All such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material the Contractor uses to perform this Contract that is not created, prepared, constructed, assembled, made, performed, or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of the Contract.
- 9.2. Confidential Information/Breach. The Contractor shall ensure that all personal identifying information, financial information, and other information submitted or made available to the Contractor by, or on behalf of, the County, or acquired or developed by the Contractor in the performance of the Contract (unless publicly available) is kept confidential, secured, and protected to prevent unauthorized access. Such information will be utilized by the Contractor solely as necessary for the performance of Services under the Contract and not made available to any other person without the County's prior written consent. In the event of unauthorized access or other security breach, the Contractor shall immediately notify the Contract Representative and shall at its sole expense comply with all requirements of RCW 19.255.010, in effect at any given time. Upon expiration or termination of the Contract, all confidential information shall be returned to the County or destroyed at the County's discretion.

## SECTION 10. REPRESENTATIONS AND RECORDS

- 10.1. No Fee. The Contractor certifies it has not received, nor paid or agreed to pay, another person or entity, other than a bona fide employee working exclusively for the Contractor, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of the Contract.
- 10.2. Licenses, Permits and Taxes. The Contractor shall, at its own expense, have and maintain all licenses, registrations, permits, and approvals necessary for the performance of the Contract, including without limitation, registration with the Washington State Department of Revenue. The Contractor shall pay all fees (including licensing fees) and applicable federal, state, and local taxes.
- 10.3. Compliance. The Contractor and its Personnel, and the Services provided by the Contractor and its Personnel, shall comply with all applicable laws, codes, and standards in effect at any given time regardless as to whether such laws are referred to by the County. If required for the Services provided, the Contractor and its Personnel shall submit to a background check as directed by the County.
- 10.4. Nondiscrimination. The Contractor and its Personnel shall not discriminate against any person on the basis of race, color, creed, religion, national origin, age, sex, marital status, sexual orientation, veteran status, disability, or other circumstance prohibited by federal, state, or local law, and shall comply with Title VI of the Civil Rights Act of 1964, P.L. 88-354 and Americans with Disabilities Act of 1990 in the performance of the Contract.
- 10.5. Public Records. The Contractor acknowledges the Contract and all public records associated with the Contract shall be available to the County for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW ("Act"). To the extent that public records in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor shall make them promptly available to the County at no cost to the County. If the Contractor considers any portion of any record provided to the County under the Contract, whether electronic or hard copy, to be protected from disclosure under the law, the Contractor shall clearly identify all specific information it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information that has been identified by the Contractor as protected from disclosure and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligation will be to make a reasonable effort to notify the Contractor of the request and the date that such protected information will be released to the requester unless the Contractor obtains a court order to enjoin disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified. The County has, and by this Section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County will not be liable to the Contractor for releasing records in compliance with the Act, this Section or court order.
- 10.6. Advertising, Logo. The Contractor shall not use, advertise, or promote for commercial benefit information concerning the Contract or use any trade name, trademark, or logo of the County, without the County's prior written consent.

- 10.7. Audit and Record Retention. The Contractor and its Personnel shall retain all books, documents, and records relating to performance of the Contract and Services provided in connection with this Contract for six (6) years after completion of the Contract or longer if requested by the County. All records shall be subject to inspection and audit by the County. Upon request, the Contractor shall promptly make available to the County a legible copy of all books, documents, and records at no cost to the County.

## **SECTION 11. RIGHTS AND REMEDIES**

- 11.1. Failure to Perform. If County determines the Contractor has failed to perform any material obligation of the Contract, and such failure has not been cured within ten (10) days' following notice from the County, the County may without penalty, in its discretion, withhold all monies due the Contractor until such failure is cured to the reasonable satisfaction of the County.
- 11.2. Right of Assurance. If the County in good faith has reason to believe the Contractor does not intend, or is unable to perform, or continue performing under the Contract, the County may demand in writing that the Contractor give a written assurance of intent to perform. Should the Contractor fail to provide adequate assurance to the reasonable satisfaction of the County, by the date specified the demand, the County may terminate all or part of the Contract and pursue all other rights and remedies available at law and in equity.
- 11.3. Responsibility for Errors. All Services shall be completed to the reasonable satisfaction of the County and as required herein. Upon request, the Contractor shall provide any clarifications and/or explanations regarding any Services provided as required by the County, at no additional cost to the County. In the event of an error or omission under the Contract, the Contractor shall, at no cost to the County, provide all necessary design drawings, estimates, and all other professional services the County deems necessary to rectify and correct the matter to the satisfaction of the County. The Contractor shall continue to be responsible for the accuracy of Services, even after the Work is accepted by the County and the termination or expiration of the Contract.
- 11.4. Remedies. All County rights and remedies under the Contract are in addition to, and shall in no way limit, any other rights and remedies that may be available to the County at law and in equity.
- 11.5. Right of Off-Set; Reimbursement. The County will be entitled to offset against any sums due the Contractor and to reimbursement from the Contractor for any damages, expenses, or costs incurred by the County due to the Contractor's nonconforming performance or failure to perform the Services under the Contract.
- 11.6. Waiver. Either party's failure to insist upon the strict performance of any provision of the Contract, or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach, will not constitute a waiver of any right or remedy under the Contract unless expressly so agreed in writing by an authorized representative.
- 11.7. Breach. In the event of a material breach by the Contractor, the County may procure, on terms and in the manner that it deems appropriate, Services to replace those under the Contract. The Contractor shall be liable to the County for any and all costs, expenses, penalties, and fees incurred by the County in procuring such Services in substitution for those due from the Contractor under the Contract.

## **SECTION 12. GOVERNING LAW, DISPUTES**

- 12.1. Governing Law; Venue. The Contract will be governed in all respects by the laws of the State of Washington, both as to interpretation and performance, without regard to conflicts of law or choice of law provisions. Any action arising out of or in connection with the Contract may be instituted and maintained only in a court of competent jurisdiction in Kitsap County, Washington or as provided by RCW 36.01.050.
- 12.2. Disputes. Conflicts and disagreements between the parties related to the Contract will be promptly brought to the attention of the County. Any dispute relating to the quality or acceptability of performance or compensation due the Contractor will be decided by the County's Contract Representative. All decisions of the County's contract Representative are considered final; however, nothing herein prohibits either party from seeking judicial relief.

## **SECTION 13. PREVAILING WAGE**

[Prevailing Wage]

## **SECTION 14. GENERAL PROVISIONS**

- 14.1. Implied Contract Terms. Each provision of law and any terms required by law to be in the Contract are made a part of the Contract as if fully stated in it.
- 14.2. Headings/Captions. Headings and captions used are for convenience only and are not a part of the Contract and do not in any way limit or amplify the terms and provisions hereof.
- 14.3. No Party the Drafter. The Contract is the product of negotiation between the parties, and no party is deemed the drafter of the Contract.
- 14.4. No Third Party Beneficiary. No provision of the Contract is intended to, nor will it be construed to, create any third party beneficiary or provide any rights or benefits to any person or entity other than the County and the Contractor.
- 14.5. Severability. If a court of competent jurisdiction holds any provision of the Contract to be illegal, invalid, or unenforceable, in whole or in part, the validity of the remaining provisions will not be affected, and the parties' rights and obligations will be construed and enforced as if the Contract did not contain the particular provision held to be invalid. If any provision of the Contract conflicts with any statutory provision of the State of Washington, the provision will be deemed inoperative to the extent of the conflict or modified to conform to statutory requirements.
- 14.6. Counterparts. The Contract may be executed in several counterparts, each of which will be deemed an original, but all of which together will constitute one and the same agreement.
- 14.7. Non-Exclusive Contract. The County may at its discretion enter into multiple agreements to obtain the same or similar services that are the subject of this Contract or may have its own employees perform the same or similar services contemplated by the Contract.

- 14.8. Survival. Those provisions of this Contract that by their sense and purpose should survive expiration or termination of the Contract shall so survive. Those provisions include, without limitation: Sections 5 (Indemnification), 6 (Insurance), 8.5 (Independent Contractor), 9 (Ownership, Confidential Information and Breach), 11 (Rights and Remedies), 12 (Governing Law, Disputes), and 14 (General Provisions).
- 14.9. Entire Agreement. The parties acknowledge the Contract is the product of negotiation between the parties and represents the entire agreement of the parties with respect to its subject matter. All previous agreements and representations, whether oral or written, entered into prior to this Contract are hereby revoked and superseded by the Contract.
- 14.10. Authorization. Each party signing below warrants to the other party, that they have the full power and authority to execute this Contract on behalf of the party for whom they sign.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

**CONTRACTOR NAME**

**KITSAP COUNTY, WASHINGTON**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
**SIGNATORY NAME**  
SIGNATORY TITLE

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

**CONTRACTOR NAME**

**BOARD OF COUNTY COMMISSIONERS  
KITSAP COUNTY, WASHINGTON**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
**ROBERT GELDER, CHAIR**

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
**EDWARD E. WOLFE, COMMISSIONER**

\_\_\_\_\_  
Title

\_\_\_\_\_  
**CHARLOTTE GARRIDO, COMMISSIONER**

**ATTEST:**

\_\_\_\_\_  
Dana Daniels, CLERK OF THE BOARD

**ATTACHMENT A**  
**SCOPE OF WORK**

**Purpose**

**Objective**

**Scope**

**Requirements**

**Technical Considerations**

**Schedule/Deliverables**

**Compliance/Acceptance**

**Warranties**

**Support/Maintenance**

**ATTACHMENT B**  
**COMPENSATION**

Payment amount and schedule is set forth below.

**ATTACHMENT C**  
**SPECIFIC TERMS AND CONDITIONS**

## **ADDENDUM: FEMA CONTRACT PROVISIONS**

To the extent applicable, the following provisions apply to this contract:

- 1. PURPOSE.** The parties are entering into this contract for emergency protective measures at the direction and/or guidance of public health officials in response to COVID-19.
- 2. REMEDIES.** All administrative, contractual, or other legal remedies available by law, including sanctions and penalties, are available to the parties in the event of a breach of contract.
- 3. TERMINATION FOR CAUSE OR CONVENIENCE.** This Contract may be terminated by the County with or without cause upon ten (10) days prior notice to the other party.
- 4. EQUAL EMPLOYMENT OPPORTUNITY.** During the performance of this contract, the contractor agrees as follows:
  - a. 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.
  - b. Such action shall include, but not be limited to the following:
    1. Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
    2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
    3. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

4. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
5. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
6. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
7. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
8. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The County further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the County so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The County agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and

relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The County 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 County 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 County under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such County; and refer the case to the Department of Justice for appropriate legal proceedings.

**5. DAVIS-BACON ACT.** All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. Additionally, contractors are required to pay wages not less than once a week.

**6. COPELAND ANTI-KICKBACK ACT.**

Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

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

Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

**7. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

(1) Overtime Requirements. As required by 29 C.F.R. § 5.5(b), no contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 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 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 any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor 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.

**8. RIGHTS TO INVENTIONS.** All materials produced under this contract shall be considered “works for hire” as defined by the U.S. Copyright Act and shall be owned by the County.

**9. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT.**

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

Federal Water Pollution Control Act. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

## **10. DEBARMENT AND SUSPENSION**

If this contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by the County. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the 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. pt. 180, subpart C and 2 C.F.R. pt. 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.

**11. PROCUREMENT OF RECOVERED MATERIALS.** In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired i) competitively within a timeframe providing for compliance with the contract performance schedule; ii) meeting contract performance requirements; or ii) at a reasonable price. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/ismm/comprehensive-procurement-guideline-cpg-program>. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

**12. ACCESS TO RECORDS.** The contractor 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 contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions, to the extent allowed by law. The contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. The contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract. In compliance with the Disaster Recovery Act of 2018, the County and the contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

**13. CONTRACT AMENDMENTS.** This contract may only be amended upon the mutual written agreement of the parties.

**14. DHS SEAL, LOGO, AND FLAGS.** The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

**15. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS.** This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the

contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

**16. NO OBLIGATION BY FEDERAL GOVERNMENT.** The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from this contract.

**17. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS.** The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

**18. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (AS AMENDED)**

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

Required Certification. If applicable, contractors must sign and submit to the non-federal entity the following certification.

APPENDIX A, 44 C.F.R. PART 18 — CERTIFICATION REGARDING LOBBYING  
Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of 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.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including 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.

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Signature of Contractor's Authorized Official

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Name and Title of Authorized Official

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Date

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION  
AND OTHER RESPONSIBILITY MATTERS**

***Lower Tier Covered Transactions 48 CFR 9.4***

- A.** Contractor, defined as the primary participant and its principals, certifies by signing these General Terms and Conditions that to the best of its knowledge and belief that they:
- i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
  - ii. Have not within a three-year period preceding this Contract, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
  - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of federal Executive Order 12549; and
  - iv. Have not within a three-year period preceding the signing of this Contract had one or more public transactions (Federal, State, or local) terminated for cause of default.
- B.** Where the Contractor is unable to certify to any of the statements in this Contract, the Contractor shall attach an explanation to this Contract.
- C.** The Contractor agrees by signing this Contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by COMMERCE.
- D.** The Contractor further agrees by signing this Contract that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," as follows, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

**LOWER TIER COVERED TRANSACTIONS**

- i. The lower tier Contractor certifies, by signing this Contract 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.

ii. Where the lower tier Contractor is unable to certify to any of the statements in this Contract, such contractor shall attach an explanation to this Contract.

E. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded**, as used in this section, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact COMMERCE for assistance in obtaining a copy of these regulations.

This Certification is executed by the person(s) signing below who warrant they have authority to execute this Certification as the Subrecipient/Contractor.

**SUBRECIPIENT/CONTRACTOR**

**Signature:**

\_\_\_\_\_

**Name:**

\_\_\_\_\_

**Title**

\_\_\_\_\_

**Date:**

\_\_\_\_\_