

**MADISON COUNTY FISCAL COURT
MADISON COUNTY, KY
RESOLUTION 2024-41**

**A RESOLUTION TO APPROVE AN AMENDED AGREEMENT BETWEEN JOHN WADE
OF 12 PERKINS ASHCRAFT ROAD, RICHMOND, KENTUCKY, AND THE MADISON
COUNTY FISCAL COURT FOR A HAZARD MITIGATION GRANT PROGRAM PROJECT.
THIS RESOLUTION SUPERSEDES RESOLUTION 2021-133.**

WHEREAS, with the assistance of Madison County Emergency Management Agency, Mr. Wade is applying for a grant with the Federal Emergency Management Agency (hereinafter referred to as "FEMA") to raise his home above the flood plain level (hereinafter referred to as "the Project"), as originally contemplated and set forth in Resolution 2021-133, passed on December 14, 2021; and

WHEREAS, the terms of the Agreement as contemplated by Resolution 2021-133 have changed, in that reimbursement percentages from FEMA and from the Commonwealth of Kentucky have substantially changed, requiring modification of the parties' Agreement, as originally contemplated; and

WHEREAS, as part of said grant, the terms of the Amended Agreement state that FEMA will pay 90% of the allowed costs for the construction, the Commonwealth of Kentucky will pay 4.8% of the allowable costs, and Mr. Wade will pay the remaining 5.2% of the allowable costs; and

WHEREAS, Mr. Wade will also pay incidental costs, which are not considered allowable costs as part of the grant; and

WHEREAS, the County will not be required to contribute any of its funds to the Project; and

WHEREAS, the contemplated grant is a reimbursement grant in which the homeowner must first incur the expense and then submit an invoice, proof of payment and original receipt to the Fiscal Court; and

WHEREAS, Mr. Wade shall be responsible for procuring all materials and services required in connection with completion of the Project prior to seeking reimbursement for same; and

WHEREAS, Mr. Wade shall comply with all applicable State, Federal and Local laws in procuring all materials and services in connection with the Project, and to hold the County harmless with regard to any violations of same; as well as from any liability in connection with completion of the Project; and

WHEREAS, the requested funds for this Project are not expected to exceed \$197,803.00, however this amount may increase or decrease as the development of the Project proceeds; and

WHEREAS, both parties agree that the terms of the attached Amended Agreement will further the best interests of both Mr. Wade and the County;

**NOW, THEREFORE, BE IT RESOLVED THAT THE FISCAL COURT DOES HEREBY
APPROVE THIS RESOLUTION TO SUPERSEDE RESOLUTION 2021-133 AND**

AUTHORIZES THE JUDGE EXECUTIVE AND/OR HIS DESIGNEE TO EXECUTE THE AMENDED AGREEMENT ON BEHALF OF THE COUNTY.

Motion made by Bathin, seconded by Hayden.

Vote:

Yes

No

Judge Executive Reagan Taylor
Magistrate James Brian Combs
Magistrate Stephen Lochmueller
Magistrate Billy Ray Hughes
Magistrate Tom Botkin

<u>✓</u>	<u> </u>
<u>✓</u>	<u> </u>
<u>✓</u>	<u> </u>
<u>✓</u>	<u> </u>
<u>✓</u>	<u> </u>

Signed:

R-Taylor
Reagan Taylor
Madison County Judge Executive

5-14-2024
Date

Attested:

Kerry Barger
Kerry Barger
Madison County Clerk

5-14-2024
Date

AMENDED AGREEMENT

THIS AMENDED AGREEMENT (hereinafter referred to as the "Agreement") is made and entered into the 18th day of June, 2024, between JOHN WADE, 12 Perkins Ashcraft Road, Richmond, KY 40475 (hereinafter referred to as "Mr. Wade") and MADISON COUNTY, a body politic of the Commonwealth of Kentucky (hereinafter referred to as the "County").

WITNESSETH:

WHEREAS, with the assistance of Madison County Emergency Management Agency, Mr. Wade is applying for a grant with the Federal Emergency Management Agency (hereinafter referred to as "FEMA") to raise his home above the flood plain level (hereinafter referred to as the "Project"); and

WHEREAS, the terms of the Agreement contemplated by Resolution 2021-133 have changed, in that reimbursement percentages from FEMA and from the Commonwealth of Kentucky have substantially changed, requiring modification of the parties' Agreement, as originally contemplated; and

WHEREAS, as part of said grant, FEMA will reimburse 90% of the allowed costs for the construction, the Commonwealth of Kentucky will reimburse 4.8% of the allowable costs, and Mr. Wade will pay the remaining 5.2% of the allowable costs; and

WHEREAS, Mr. Wade will also pay incidental costs which are not considered allowable costs as part of the grant; and

WHEREAS, the County will not be required to contribute any of its funds to the Project; and

WHEREAS, the contemplated grant is a reimbursement grant in which the homeowner must first incur the expense and then submit an invoice, proof of payment and original receipt to the Fiscal Court; and

WHEREAS, Mr. Wade shall be responsible for procuring all materials and services required in connection with completion of the Project prior to seeking reimbursement for same; and

WHEREAS, the requested funds for this Project are not expected to exceed \$197,803.00, however this amount may increase or decrease as the development of the Project proceeds; and

WHEREAS, the Parties agree that the terms herein will further the best interests of both Mr. Wade and the County; and

NOW, THEREFORE, the Parties agree as follows:

1. Mr. Wade shall pay his share of the allowable costs (5.2%) based upon the estimated cost of the Project for a total amount of \$9,100.00.

2. Mr. Wade shall be responsible for payment of incidental costs which are not considered allowable costs as part of the grant.
3. Mr. Wade shall be responsible for procuring all materials and services required in connection with completion of the Project prior to seeking reimbursement for same.
4. The County will not contribute any of its own funds to the Project.
5. Mr. Wade shall comply with all applicable State, Federal and Local laws in procuring materials and services in connection with the Project, and Mr. Wade shall hold the County harmless and indemnify the County with regard to any violations of same, as well as from any liability in connection with completion of the Project; and
6. Mr. Wade and the County shall execute the Acknowledgement of Conditions for Properties Using FEMA Hazard Mitigation Assistance, attached hereto, and which shall be incorporated into this Amended Agreement by reference, as well as any other documents reasonably required by FEMA, or by other applicable Federal, State and Local law, to carry out the terms of this Agreement.
7. This Agreement and the rights and obligations of the Parties hereto shall be governed by the laws of the Commonwealth of Kentucky.
8. This Agreement set forth the entire understanding of the Parties with respect to the matters described herein.
9. This Agreement shall insure to the benefit of and be binding upon the heirs, executors, administrators, devisees, legatees and assigns of the respective Parties hereto.
10. Any modifications to this Agreement shall be memorialized in writing, signed by both Parties, and no oral modifications shall be permitted.

MR. WADE


John Wade

STATE OF KENTUCKY)
) SS
COUNTY OF MADISON)

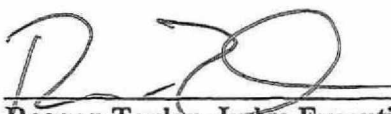
Subscribed and sworn to before me this 18TH day of JUNE 2024, by John Wade.

My Commission expires: 10 / 3 / 2024


NOTARY PUBLIC



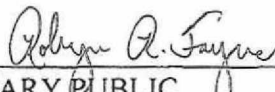
MADISON COUNTY FISCAL COURT

BY: 
Reagan Taylor, Judge Executive

STATE OF KENTUCKY)
) SS
COUNTY OF MADISON)

Subscribed and sworn to before me on this 18TH day of JUNE 2024, by Reagan Taylor, Judge Executive, on behalf of Madison County Fiscal Court.

My Commission expires: 10 / 3 / 2024


NOTARY PUBLIC



DEPARTMENT OF HOMELAND SECURITY
Federal Emergency Management Agency

OMB Control No. 1660-0072
Expiration Date: 04/30/2026

ACKNOWLEDGEMENT OF CONDITIONS FOR PROPERTIES
USING FEMA HAZARD MITIGATION ASSISTANCE

PRIVACY ACT STATEMENT

Authority: Sections 203 and 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, 42 U.S.C. §§5133 and 5170c; and § 1366 of the National Flood Insurance Act, (NFIA) as amended, 42 § U.S.C. 4104c.

Purpose: This template is provided by FEMA for signature by property owners and local government officials participating in a mitigation project funded in part by Hazard Mitigation Assistance. The template communicates flood insurance requirements and floodplain management criteria.

Routine Uses: The information on this form may be disclosed as generally permitted under 5 U.S.C. § 552a(b) of the Privacy Act of 1974, as amended. This includes using this information as necessary and authorized by the routine uses published in DHS/FEMA-009 -Hazard Mitigation Disaster Public Assistance and Disaster Loan Programs System of Records System of Records Notice (79 Fed. Reg. 16,015, March 24, 2014), and upon written request, by agreement, or as required by law.

Disclosure: The disclosure of information on this form is voluntary; however, failure to provide the information requested may delay or prevent FEMA from being able to provide Hazard Mitigation Assistance.

INSTRUCTIONS

This template is provided by FEMA for signature by property owners and local government officials participating in a mitigation project funded in part by Hazard Mitigation Assistance.

For Pre-Disaster Mitigation (PDM), Building Resilient Infrastructure and Communities (BRIC), Flood Mitigation Assistance (FMA), the Hazard Mitigation Grant Program (HMGP), and HMGP Post Fire, these conditions apply when the property to be mitigated is located in a Special Flood Hazard Area (SFHA). For Flood Mitigation Assistance, these conditions apply regardless of whether the property is located in an SFHA.

Information in brackets [city/county] should be updated as needed. This document must be signed and submitted to FEMA by the Applicant (State, Tribe or Territory) prior to award. The template requires the signature of the property owner(s) and the local municipal official(s).

Property Owner: John Wade

Street Address: 12 Perkins Ashcraft Road

City: Richmond

State: KY

Zip Code: 40475

Deed dated: 06/16/2016, Recorded Bk731, Pg 351

Tax map: County (District 01), block _____, parcel 0017-0000-0017

Base Flood Elevation at the site is 582.5 feet (NGVD).

Map Panel Number 21151C0110D, effective date 06/16/2016

Select one of the following "whereas" clauses appropriate for the grant awarded:

☐ WHEREAS, the Flood Mitigation Assistance (FMA) program, authorized by Section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. § 4104c), provides federal financial assistance for planning and carrying out activities designed to reduce the risk of flood damage to structures insured under the National Flood Insurance Program;

☒ WHEREAS, the Hazard Mitigation Grant Program (HMGP), authorized by Section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, ("Stafford Act") (42 U.S.C. § 5170c), including the HMGP Post Fire program authorized by Sections 404 and 420 of the Stafford Act (42 U.S.C. §§ 5170c and 5187), provides federal financial assistance, in any area affected by a major disaster or for which assistance was provided under Section 420, for hazard mitigation measures;

☐ WHEREAS, the Building Resilient Infrastructure and Communities (BRIC) program, authorized by Section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5133), provides federal financial assistance for the implementation of pre-disaster hazard mitigation measures;

☐ WHEREAS, the Pre-Disaster Mitigation (PDM) program, authorized by Section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5133), provides federal financial assistance for the implementation of pre-disaster hazard mitigation measures;

NOW THEREFORE, the Property Owner has been informed of and accepts the following conditions:

1. That the Property Owner has insured all structures that will **not** be demolished or relocated out of the SFHA for the above-mentioned property to an amount at least equal to the project cost or to the maximum limit of coverage made available with respect to the particular property, whichever is less, through the National Flood Insurance Program (NFIP), as authorized by 42 U.S.C. §4001 *et seq.*, as long as the Property Owner holds title to the property as required by federal law, regulations, and policy (for HMGP, HMGP Post Fire, and BRIC, see 42 U.S.C. §4012a; for FMA, see 44 C.F.R. §77.6(a)(2)).

That the Property Owner will maintain all structures on the above-mentioned property in accordance with the flood plain management criteria set forth in 44 C.F.R. §60.3 and City/County Ordinance as long as the Property Owner holds title to the property. For a complete, detailed list of these criteria, see Madison County Fiscal Court - Resolution 2024-41 attached to this document.

2. The above conditions are binding for the life of the property. To provide notice to subsequent purchasers of these conditions, the Property Owner(s) agrees that the Madison County Fiscal Court will legally record with the county or appropriate jurisdiction's land records a notice that includes the name of the current property owner(s) (including book/page reference to record of current title, if available), a legal description of the property, and the following notice of flood insurance requirements:

"This property has received federal Hazard Mitigation Assistance. Federal law, regulations, and policy require that flood insurance coverage on this property must be maintained during the life of the property regardless of transfer of ownership of such property (for HMGP, HMGP Post Fire, and BRIC, see 42 U.S.C. §4012a; for FMA, see 44 CFR 77.6(a)(2)). Failure to maintain flood insurance coverage will result in the property owner being ineligible for future Hazard Mitigation Assistance awards. The Property Owner is also required to maintain this property in accordance with the flood plain management criteria of Title 44 of the Code of Federal Regulations § 60.3 and any city/county ordinance."

3. If the above conditions are not met, FEMA may enforce the terms of the award by taking any measures it deems appropriate in accordance with 2 CFR § 200.339 and any other applicable FEMA authorities, including recouping the amount of the award from the Madison County Fiscal Court. Property Owner(s) may be liable to repay such amounts.
4. This Agreement shall be binding upon the respective parties' heirs, successors, personal representatives, and assignees.

THE Madison County Fiscal Court A Kentucky municipal corporation

By: [Signature] of the Madison County Fiscal Court

Print Name of Jurisdiction Official, Title
REGAN TAYLOR, JUDGE EXECUTIVE

Print Name of Property Owner(s) JOHN WOE

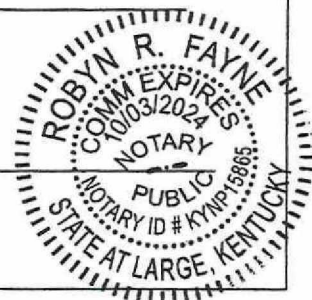
Print Name of Property Owner(s)

WITNESSED BY:

Print Name of Witness

Kendra Kendrick

Notary Public



- ♦ Construction of new decks or porches
- ♦ Any improvements for purely aesthetic reasons, unless required by the EHP compliance review
- ♦ Costs to replace or repair utility service components that are undersized, inadequately designed, or unsafe, unless required by code (except utility rooms noted as eligible costs)
- ♦ Exterior finish on the exposed foundation of the elevated building, unless required by EHP compliance review and or local code
- ♦ Additional landscaping for ornamentation beyond what existed on the site prior to construction of the project (e.g., trees, shrubs)

A. Materials

Item	# of Units	Cost per Unit	Total Cost
Site prep and debris removal	1	\$6,000.00	\$6,000.00
Elevate existing structure	1	\$33,450.00	\$33,450.00
Construct new foundation wall, footing, piers	1	\$37,100.00	\$37,100.00
Replace existing porch w/ 10X12 deck	1	\$3,850.00	\$3,850.00
New 5x5 deck to elevate existing HVAC unit	1	\$2,200.00	\$2,200.00
Elevate existing front porch: replace 2 stairs & posts	1	\$12,300.00	\$12,300.00
Site earthwork (elevating/sloping of yard)	1	\$24,600.00	\$24,600.00
Downspouts and foundation drains	1	\$2,600.00	\$2,600.00
Sub Total Materials:			\$122,100.00

B. Labor (Include equipment costs -- please indicate all "soft" or in-kind matches)

Description	# of Units	Cost per Unit	Total Cost
Structural engineering reviews	1	\$6,957.50	\$6,957.50
Surveys and site plans	1	\$6,200.50	\$6,200.50
On-site engineering supervision	1	\$8,795.00	\$8,795.00
Sub-Total Labor			\$21,953.00

(All construction-related labor costs are included in construction costs.)

Fees Paid Include any other costs associated with the project

Description of Task	# of Units	Cost per Unit	Total Cost
Building permit	1	\$315.00	\$315.00
Electrical permit	1	\$177.50	\$177.50
Displacement costs (for 90 days)	1	\$4,195.00	\$4,195.50
New elevation certificate	1	\$1,202.50	\$1,202.00
Bid for project in 2 area newspapers	1	\$2,777.50	\$2,777.50
Historical survey (pre-award if needed)	1	\$1,832.50	\$1,832.50
Archaeological survey (pre-award, if needed)	1	\$5,250.00	\$5,250.00
Phase I Design	1	38,000.00	38,000.00
Sub Total Fees:			\$53,750.00

Phase I Total Costs: \$38,000.00

Phase II Total Costs: \$159,803.00

Total Estimated Project Cost \$197,803.00

C. Funding Sources

The maximum Federal share for HMGP projects is 75%. The other 25% can be made up of State and Local funds as well as in-kind services. HMGP funds may be packaged with other Federal funds, but other Federal funds (except for Federal funds which lose their Federal identity at the State level -- such as CDBG, ARS, HOME) may not be used for the State or Local match.

Estimated FEMA Share \$178,022.70 90 % Of Total

Non-Federal Share

Estimated Local Share \$10,285.58 5.2 % Of Total
(Include In-Kind Value)

List Funding Sources Homeowner

Estimated State Share \$9,494.54 4.8 % Of Total



Commonwealth of Kentucky

CONTRACT MODIFICATION

DOC ID NUMBER:

SC 095 2300000677

Version: 2

Record Date:

Document Description: FEMA DR4595 Hazard Mitigation Grant Program (HMGP)**Cited Authority:** KRS39A.030

Grant activity-Div of Emergency Mgmt

Reason for Modification: MODIFICATION #1
July 14, 2023

Original Contract Amount - \$19,045,986.00

Amount of Increase/Decrease - \$0.00

New Contract Amount -\$19,045,986.00

Contract is being modified to add 'if applicable' to the following Agency Terms and Conditions - Emergency Management Pass-through Agreements (Revised June 2023):

Lobbying and Political Activity,
Byrd Anti-Lobbying Amendment,
The Hatch Act; and,
Davis-Bacon Act

No change in service dates.

Issuer Contact:**Name:** Carol Smith
Phone: 502-607-5709
E-mail: carol.j.smith152.nfg@army.mil**Vendor Name:**

Multiple Provider

702 Capitol Avenue

OMPS
Frankfort

KY 40601

Vendor No.

ZZMISCPROC

Vendor Contact**Name:** No Contact
Phone: XXX-XXX-XXXX
Email:**Effective From:** 10/15/2022**Effective To:** 06/30/2034

Line Item	Delivery Date	Quantity	Unit	Description	Unit Price	Contract Amount	Total Price
1		0.00000		FEMA DR4595 Hazard Mitigation Grant Program (HMGP)	\$0.000000	\$19,045,986.00	\$19,045,986.00

Extended Description:

1. FAIN #: 4595DRKYP0000005

2. FEDERAL AWARD DATE: JUNE 2, 2022

3. The Hazard Mitigation Grant Program, as appropriated to the Department of Homeland Security each Fiscal year, provides funding to States, Territories, federally-recognized tribes and local communities in their efforts to reduce the risk of future damage, loss of life and property in any area affected by a major

disaster. This program is authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, and 42 U.S.C 5170c under the guidance of 2 CFR 200. The Commonwealth acts as the Grantee for this grant program and the communities/entities are the SUB- grantee. Beginning on February 27, 2021, and continuing through March 14, 2021, the Commonwealth of Kentucky experienced some of the greatest 1-day and 3-day winter-time rainfall totals in its history, with totals ranging from just under two (2) inches in the far west to more than seven (7) inches in four (4) counties of southcentral and southeast Kentucky causing flooding, flash flooding, landslides, and mudslides. The Kentucky Emergency Management (KYEM) Hazard Mitigation Grant Program (HMGP) provides supplemental federal disaster grant assistance statewide for eligible mitigation projects as stated in 44 CFR 206.43. These funds will be reimbursed to eligible sub-grantees (state and local governments and nonprofits) in all 120 counties for eligible work completed on behalf of the approved project.

4. NAME OF FEDERAL AWARDING AGENCY: FEMA, William F. Arwood, Chief Disaster Implementation Branch Mitigation Division OR Kelsey Goodman at 202-997-7573. Pass-through entity - Kentucky Emergency Management

5. CFDA# and Name - 97.039 Hazard Mitigation Grant Program (HMPG), amount available under award 12 month lock-in letter dated June 2, 2022.
 \$19,045,986.00 - 75% HMPG Ceiling
 \$2,116,221.00 - 10% Recipient \$1,058,110.00 - 5% Sub-Recipient by award
 3% of Management Cost
 Withholding (\$63,487.00)

Shipping Information:	Billing Information:
DR4595-0017 Madison County Fiscal Court 135 W Irvine Street Richmond KY 40475	DMA - Division of Administrative Services 100 Minuteman Pkwy Procurement Sec Frankfort KY 40601

TOTAL CONTRACT AMOUNT:	\$19,045,986.00
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2300000677	FEMA DR4595 Hazard Mitigation Grant Program (HMGP)	

MODIFICATION #1

July 14, 2023

Original Contract Amount - \$19,045,986.00

Amount of Increase/Decrease - \$0.00

New Contract Amount -\$19,045,986.00

Contract is being modified to add 'if applicable' to the following Agency Terms and Conditions – Emergency Management Pass-through Agreements (Revised June 2023):
Lobbying and Political Activity,
Byrd Anti-Lobbying Amendment,
The Hatch Act; and,
Davis-Bacon Act

No change in service dates.

Memorandum of Agreement Terms and Conditions

This Memorandum of Agreement (MOA) is entered into, by and between the Commonwealth of Kentucky, Department of Military Affairs, Division of Emergency Management (the "Commonwealth") and DR-4595 subrecipients (the "Contractor") to establish an agreement for implementation of elements of a federal program, Hazard Mitigation Grant Program (HMGP). The Commonwealth and Contractor may collectively be referred to as "Parties". The initial MOA is effective from August 25, 2022 through June 30, 2034.

Scope of Services:

Beginning on February 27, 2021, and continuing through March 14, 2021, the Commonwealth of Kentucky experienced some of the greatest 1-day and 3-day winter-time rainfall totals in its history, with totals ranging from just under two (2) inches in the far west to more than seven (7) inches in four (4) counties of southcentral and southeast Kentucky causing flooding, flash flooding, landslides, and mudslides. The Kentucky Emergency Management (KYEM) Hazard Mitigation Grant Program (HMGP) provides supplemental federal disaster grant assistance statewide for eligible mitigation projects as stated in 44 CFR 206.434. The Commonwealth acts as the Grantee for this grant program and the communities/ entities are the SUB-grantee. These funds will be reimbursed to eligible sub-grantees (state and local governments and nonprofits) in all 120 counties for eligible work completed on behalf of the approved project.

Pricing:

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2300000677	FEMA DR4595 Hazard Mitigation Grant Program (HMGP)	

The total contract amount is for \$ 19,045,986.00. Payments from the contract will be made through the reimbursement process, whereby the Second Party provides backup for the expenditures and is reimbursed after review by the First Party.

The Second Party fees and expenses relative to the performance of the scope of services outlined in this Contract and in the detailed attachment(s) to this contract shall not exceed the Total Order Amount as set forth on signature page of this Contract. The subject services and functions are to be performed during the term of this contract as set forth on page 1. It is understood that this contract is not effective and binding until approved by the Secretary of the Finance and Administration Cabinet and/or Legislative Research Commission's Government Contract Review Committee per KRS 45A.705.

Payment by the First Party to the Second Party shall be made only after receipt of appropriate, acceptable and timely invoice, as so described in this Contract, and as submitted in written or electronic format to the First Party by the Second Party. The preferred method of payment will be through electronic funds transfer.

(a) The contractor shall be reimbursed for no other expenses than those, which have been expressly detailed in this Contract. All direct charges shall be documented to support the direct charging of the expense.

(b) Where applicable:

(i) Invoicing for fee: The contractor's fee shall be original invoice(s) and shall be documented by the contractor. The invoice(s) must conform to the method prescribed in the specifications of this contract.

(ii) Invoicing for travel expenses: The contractor must follow instructions prescribed in the specifications of this contract. Either original or certified copies of receipts must be submitted for airline tickets, motel bills, restaurant charges, rental car charges, and other miscellaneous expenses.

(iii) Invoicing for miscellaneous expenses: The contractor must follow instructions prescribed in the specifications of this contract. Expenses submitted shall be documented by original or certified copies.

The contractor shall be paid no travel expense unless and except as specifically authorized under the specifications of this contract. Unless otherwise indicated, travel reimbursement shall be in accordance with 200 KAR 2:006. No travel time nor travel expenses will be included in the Second Party's or any subcontractor's hourly rates.

**Agency Standard Terms and Conditions –
Emergency Management Pass-through Agreements**

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2300000677	FEMA DR4595 Hazard Mitigation Grant Program (HMGP)	

Revised June 2023

General

- (a) Extension and Amendment. The terms and conditions of this contract may be modified by written agreement of the Parties pursuant to KRS Chapter 45A and subject to the approval of the Secretary of the Finance and Administration Cabinet and/or the Legislative Research Commission's Government Contracts Review Committee.
- (b) Successors and Assigns. The Parties shall not assign any right herein without the written consent of the other party. Covenants made herein shall bind and inure to the benefit of any successors and assigns of the Parties whether or not expressly assumed or acknowledged by such successors or assigns.
- (c) Entire Contract. This document forms the entire contract between the Parties. Prior discussions and understandings concerning the scope and subject matter are superseded and incorporated into the express terms herein.
- (d) Severability. If any provision of this contract is held judicially invalid, the remainder shall continue in force and effect to the extent not inconsistent with such holding.
- (e) Breach of Contract. Breach or violation of Terms and Conditions shall be cause for termination of contract.
- (f) Waiver. Waiver of enforcement of any term or condition herein upon an event of breach shall not automatically extend to any other or future event of breach.
- (g) Change of Circumstances. The Parties shall promptly notify each other of any legal impediment, change of circumstances, pending litigation, or any other event or condition that may adversely affect their ability to carry out this contract.
- (h) Liability and Indemnity. Nothing in this contract shall be construed as an indemnification by or among the Parties for liabilities of the first or second party or any third person for property loss, damage, death, or personal injury ("Claims") arising out of and during the performance of this Contract.
- (i) Applicable Federal Laws and Regulations. This contract is incidental to the implementation of a federal grant program and accordingly, shall be governed by and construed according to federal law to the extent it may affect the right, remedies, and obligations of the United States.

Federal Grant Subrecipient Requirements

To the extent not inconsistent with the express terms of this contract, 49 CFR 18, Uniform Administrative Requirements for Grants and Cooperative Contracts and 2 CFR 200, Subpart E, Cost Principles, are hereby incorporated by reference herein. Consistent therewith, the Commonwealth, as a pass-through entity for federal awards, shall monitor the performance of federal grant subrecipients (the "Subrecipients") and impose requirements upon Subrecipients in order for the Commonwealth to meet its responsibility to the federal awarding agency including without limitation, the identification of required financial and performance reports.

- (a) Audits. Subrecipients agree to comply with federally-mandated audits. The Commonwealth agrees to review required audits promptly.

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2300000677	FEMA DR4595 Hazard Mitigation Grant Program (HMGP)	

1. Pursuant to 2 CFR 200.501, Subrecipients expending more than \$750,000 in federal grant monies per fiscal year shall conduct a single or program-specific audit for that fiscal year within nine (9) months of the end thereof and shall provide the final audit report to the Commonwealth within thirty (30) days of receipt.
 2. Pursuant to 2 CFR 200.512, Contractor(s) that are a governmental entity, institution of higher learning, or other nonprofit institution, shall procure an annual audit within nine (9) months of closing of the fiscal year and shall fully comply with Federal Audit Clearinghouse audit submission requirements. The Commonwealth shall access and review audit reporting packages and data collection forms from the Federal Audit Clearinghouse as soon as practicable after the required submission. Notwithstanding the foregoing, the Commonwealth may require Contractor(s) provide it with a copy of any required audit.
- (b) **Reporting.** Subrecipients agree to comply with federally-mandated reporting.
1. Pursuant to 2 CFR 200.112, Subrecipients shall disclose to the Commonwealth in writing and within five (5) days of having knowledge of any real or potential conflict of interest that may arise during the administration of the federal award. For this paragraph, "conflict of interest" is defined by applicable federal, state, and local statutes or regulations, and Subrecipients' policies.
 2. Pursuant to 2 CFR 200.338, Subrecipients shall disclose to the federal awarding agency and to the Commonwealth in writing and within thirty (30) days of discovering of any violation of federal criminal law concerning fraud, bribery, or gratuity violations which may affect the federal award; failure to act in strict conformity with this section may result in the imposition of any remedy authorized thereby.
- (c) **Monitoring. The Commonwealth agrees to monitor Subrecipients.**
1. **Risk Analysis—2 CFR 200.331(b) requires the Commonwealth evaluate each Subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the award for purposes of determining appropriate Subrecipient monitoring, which may include consideration of such factors as:**
 - a. The Subrecipient's prior experience with the same or similar awards;
 - b. The results of previous audits, including whether or not the Subrecipient receives a single audit and the extent to which the same or similar award has been audited as a major program;
 - c. Whether Subrecipient has new personnel or new or substantially changed systems; and
 - d. The extent and results of federal awarding agency monitoring (e.g., if the Subrecipient also receives federal awards directly from a federal awarding agency.)
 2. **Monitoring Activities—2 CFR 200.331(d) requires the Commonwealth, as the pass-through entity, monitor the activities of Sub-recipients to ensure**

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performance goals are achieved and that awards are used for authorized purposes and in compliance with federal statutes, regulations, and the terms and conditions of the award. Monitoring of the Subrecipient must include:

- a. Reviewing financial and performance reports required by the First Party;
 - b. Following-up and ensuring that the Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the Subrecipient from the First Party detected through audits, on-site reviews, and other means; and
 - c. Issuing a management decision for audit findings pertaining to the Federal award provided to the Subrecipient from the First Party as required by 2 CFR §200.521 Management decision.
3. Monitoring Tools—Depending upon Commonwealth’s assessment of risk posed by the Subrecipient, monitoring tools may be utilized to ensure accountability and compliance with program requirements and achievement of performance goals. Monitoring tools include but are not limited to:
- a. Providing Subrecipients with training and technical assistance on program-related matters;
 - b. Performing on-site reviews of the Subrecipient's program operations;
 - c. Arranging for agreed-upon-procedures engagements as described in 2 CFR §200.425 Audit services; and
 - d. Imposition of specific award conditions.
4. Subaward Conditions—2 CFR 200.331(c) requires the Commonwealth consider imposing specific subaward conditions upon Sub-recipients as needed, consistent with 2 CFR 200.207. The Commonwealth shall consider:
- a. Criteria set forth in 2 CFR 200.205, federal awarding agency review of risk posed by applicants;
 - b. Whether the applicant or recipient has a history of failing to comply with federal award terms and conditions;
 - c. Whether the applicant or recipient fails to meet expected performance goals as described in 2 CFR 200.210; and
 - d. Whether the applicant or recipient is not otherwise responsible.
5. Additional Conditions—The Commonwealth may impose upon Subrecipients additional federal award conditions.
- a. Additional federal award conditions may include:
 - i. Requiring payment as reimbursement rather than advance payments;
 - ii. Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
 - iii. Requiring additional, detailed financial reports;
 - iv. Requiring additional project monitoring;

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- v. Requiring the non-federal entity obtain technical or management assistance; or
 - vi. Establishing additional prior approvals.
 - b. If the Commonwealth imposes an additional federal award condition upon Sub-recipients, the Commonwealth shall notify the Subrecipient in writing as to:
 - i. The nature of the additional requirements;
 - ii. The reason why the additional requirements are being imposed;
 - iii. The nature of the action needed to remove the additional requirement, if applicable;
 - iv. The time allowed for completing the actions if applicable, and
 - v. The method for requesting reconsideration of the additional requirements imposed.
- 6. Removal of Conditions—Any specific condition imposed shall be promptly removed once the conditions prompting such condition has been corrected.
- 7. Remedies For Noncompliant Sub-recipients—2 CFR 200.331(h) requires the Commonwealth consider taking enforcement action against Subrecipients who fail to comply with federal statutes, regulations or the terms and conditions of a federal award when the Commonwealth determines that noncompliance cannot be remedied by imposing additional conditions as described above. In accordance with 2 CFR 200.338, the Commonwealth may take one or more of the following actions, as appropriate in the circumstances:
 - a. Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action.
 - b. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
 - c. Wholly or partly suspend or terminate the Federal award.
 - d. Recommend to the Federal awarding agency to initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency.
 - e. Withhold further Federal awards for the project or program.
 - f. Take other remedies that may be legally available.

Subcontractor Agreements – Incorporation of Terms

The Parties agree that all subcontractors performing Activities in furtherance of this contract shall be bound by the terms and conditions herein. Contractor(s) further agrees to incorporate this contract by reference in any written agreement with a subcontractor performing Activities in furtherance of this contract.

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Lobbying and Political Activity (if applicable)

No funds expended or reimbursed under this contract shall be used to influence, directly or indirectly, the introduction or modification of any federal or state legislation or the outcome of any federal, state or local election, referendum, or initiative.

- (a) Certification. Contractor(s) certify to the best of their knowledge and belief, that for the preceding contract period, if any, and for this current contract period:
1. No federal funds have been paid or will be paid, by or on behalf of Contractor(s) to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative contract, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative contract;
 2. If any funds, other than federal 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 contract, Contractor(s) shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying;"
 3. Contractor(s) shall require that the language of this certification be included in award documents for all sub-awards at all tiers, including subcontractors, sub-grants, and contracts under grants, loans, and cooperative contracts, and that all sub-recipients shall certify and disclose accordingly; and
 4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction under section 31, U. S. C. 1352. 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 such failure.
- (b) Byrd Anti-Lobbying Amendment (if applicable) 31 U.S.C. 1352 is incorporated by reference herein. Pursuant thereto, Contractor(s) that apply or bid for an award exceeding \$100,000 must file 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, member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining a federal contract, grant or other award. Each tier shall disclose lobbying with non-federal funds that take place in connection with obtaining a federal award. Disclosures under this paragraph shall be forwarded tier-to-tier up to the non-federal awarding agency.

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- (c) The Hatch Act (if applicable) Contractor(s) agrees to comply with 5 U.S.C. 1501 *et seq.*, the Hatch Act, and regulations promulgated thereunder including 5 CFR Part 151, limiting political activity of employees or officers of state or local governments whose employment is connected to an activity financed in whole or part with federal funds.

Information Ownership and Management

- (a) Unless otherwise stated herein, data and information shared or acquired by the Parties in furtherance of this contract ("Data") shall be and remain the sole property of the Commonwealth. Contractor(s) and their agents and assigns shall not use Data for any other purpose not expressly authorized herein to extent permitted by state and federal law.
- (b) Contractor(s) agrees to comply with KRS 61.931 *et seq.*, Kentucky's Personal Information Security and Breach Investigation Procedures and Practices Act, (the "Act.") To the extent Contractor(s) receives Personal Information as defined by and in accordance with the Act, in furtherance of Activities performed hereunder, Contractor(s) shall secure and protect Personal Information by, and without limitation:
1. Utilizing security and breach investigation procedures appropriate to the nature of the Personal Information disclosed, reasonably designed to protect the Personal Information from unauthorized access, use, modification, disclosure, manipulation or destruction; and
 2. Notifying the Commonwealth of a security breach relating to Personal Information in the possession of practice or subcontractors without undue delay.

Financial Management System

Contractor(s) agrees to establish and maintain a financial management system which shall provide accurate, current, and complete disclosure of financial reporting for Activities in accordance with reporting requirements set forth in this contract including, without limitation:

- (a) Records identifying the source and application of funds which shall contain information pertaining to federal and state funds received, obligations, unobligated balances (if applicable), assets, liabilities, expenditures and income;
- (b) Effective control over and accountability for all funds, property, and assets to safeguard and assure that they are used solely for authorized purposes under this contract;
- (c) Procedures for determining the reasonableness of costs in accordance with the terms and conditions of this contract; and
- (d) Accounting records supported by source documentation.

Drug-Free Work Place

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- (a) Contractor(s) agree to comply with 41 U.S.C. 701 *et seq.*, the Drug-Free Workplace Act of 1988, and maintain a drug-free workplace.
- (b) Contractor(s) covenant and agree to comply with Final Rule, Government-Wide Requirements for Drug-Free Workplace (Grants), issued by the United States Office of Management and Budget, and any amendments thereto.

Environmental Standards

- (a) Contractor(s) agree that Activities performed in furtherance of this contract shall comply with the Clean Air Act, the Federal Water Pollution Control Act, the Resources Conservation and Recovery Act (RCRA), the Comprehensive Environmental Response, Compensation, and Liabilities Act (CERCLA), National Environmental Policy Act (NEPA), and any other applicable federal, state, or local environmental law, regulation, or policy.
- (b) Contractor(s) shall ensure that Activities shall not occur at a facility listed on the Environmental Protection Agency (EPA) list of violating facilities pursuant to 40 CFR 15 without the prior written agreement of the Commonwealth. Contractor(s) shall notify the Commonwealth immediately upon receipt of any communication from the EPA relating to performance of this contract.
- (c) Contractor(s) is encouraged to integrate National Environmental Policy Act compliance and related legislation as implemented under 44 CFR and 2 CFR 200, in the execution and administration of this contract.

Preference for U.S. Flag Carriers

Contractor(s) agree to comply with 46 U.S.C. 1241(b), and regulations issued thereunder to include 46 CFR 381, concerning the use of privately-owned United States flag commercial vessels.

Debarment and Suspension

- (a) Contractor(s) shall not make any award or permit any award, subgrant, or contract at any tier to any party debarred, suspended, or excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 and 12689, "Debarment and Suspension."
- (b) The Final Rule, Government-Wide Debarment and Suspension (Non-procurement), issued by the United States Office of Management and Budget is incorporated by reference and the Second Party covenants and agrees to comply with all the provision thereof, including any amendments to the Final Rule that may hereafter be issued.

Copeland "Anti-Kickback" Act

Contractor(s) agrees to comply with 40 U.S.C. 3145, the Copeland Anti-Kickback Act, and regulations promulgated thereunder including 29 CFR 3, whereby, it shall be unlawful to induce, by force, intimidation, threat, procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, finance in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment.

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Contract Work Hours and Safety Standards Act

Contractor(s) shall comply with 40 U.S.C. 3701 et seq., the Contract Work Hours and Safety Standards Act.

Patent Rights

The Patent Right Clause found at 37 CFR 401.12, is hereby incorporated by reference herein, which governs rights to inventions made by non-profit organizations and small business firms under government grants, contracts, and cooperative contracts.

Davis-Bacon Act (if applicable)

40 U.S.C. 3141 *et seq.* and regulations 29 CFR 5 are incorporated by reference herein. The Davis-Bacon Act requires contractors pay laborers and mechanics at prevailing wages determined by the Secretary of Labor, and to make payment at least once per week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency.

Procurement

- (a) Contractor(s) shall acquire goods and service consistent with KRS 45A and applicable federal standards and procedures including, without limitation, 2 CFR 200, 44 CFR, 49 CFR, and 32 CFR.
- (b) Contractor(s) agrees to comply with 41 U.S.C. 10, the Buy American Act, the Memorandum of Understanding between the United States of America and the European Economic Community on Government Procurement, and the North American Free Trade Contract (NAFTA.)
- (c) Contractor(s) shall comply with the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, to procure:
 - 1. Items designated within Environmental Protection Agency (EPA) guideline 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000;
 - 2. Solid waste management services in a manner that maximizes energy and resource recovery; and

Establish an affirmative procurement program for the procurement of recovered materials identified in EPA guidelines.

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**MOA/PSC Exception Standard Terms and Conditions
Revised January 2023**

Whereas, the first party, the state agency, has concluded that either state personnel are not available to perform said function, or it would not be feasible to utilize state personnel to perform said function; and **Whereas**, the second party, the Contractor, is available and qualified to perform such function; and **Whereas**, for the abovementioned reasons, the state agency desires to avail itself of the services of the second party;

NOW THEREFORE, the following terms and conditions are applicable to this contract:

1.00 Effective Date

This contract is not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the contract and until the contract has been submitted to the Legislative Research Commission, Government Contract Review Committee ("LRC"). However, in accordance with KRS 45A.700, contracts in aggregate amounts of \$10,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

KRS 45A.695(7) provides that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

2.00 LRC Policies

This section does not apply to governmental or quasi-governmental entities.

Pursuant to KRS 45A.725, LRC has established policies which govern rates payable for certain professional services. These are located on the LRC webpage (<https://apps.legislature.ky.gov/moreinfo/Contracts/homepage.html>) and would impact any contract established under KRS 45A.690 et seq., where applicable.

3.00 Choice of Law and Forum

This section does not apply to governmental or quasi-governmental entities.

This contract shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky. Any action brought against the Commonwealth on the contract, including but not limited to actions either for breach of contract or for enforcement of the contract, shall be brought in Franklin Circuit Court, Franklin County, Kentucky in accordance with KRS 45A.245.

4.00 EEO Requirements

This section does not apply to governmental or quasi-governmental entities.

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The contractor shall comply with all terms and conditions of the Act.

5.00 Cancellation

Both parties shall have the right to terminate and cancel this contract at any time not to exceed thirty (30) days' written notice served on the Contractor by registered or certified mail.

6.00 Funding Out Provision

The state agency may terminate this contract if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the contract. The state agency shall provide the Contractor thirty (30) calendar days' written notice of termination of the contract due to lack of available funding.

7.00 Reduction in Contract Worker Hours

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement

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will be reduced by the amount specified in that document. If the contract funding is reduced, then the scope of work related to the contract may also be reduced commensurate with the reduction in funding. This reduction of the scope shall be agreeable to both parties and shall not be considered a breach of contract.

8.00 Authorized to do Business in Kentucky

This section does not apply to governmental or quasi-governmental entities.

The Contractor affirms that it is properly authorized under the laws of the Commonwealth of Kentucky to conduct business in this state and will remain in good standing to do business in the Commonwealth of Kentucky for the duration of any contract awarded.

The Contractor shall maintain certification of authority to conduct business in the Commonwealth of Kentucky during the term of this contract. Such registration is obtained from the Secretary of State, who will also provide the certification thereof.

Registration with the Secretary of State by a Foreign Entity

Pursuant to KRS 45A.480(1)(b), an agency, department, office, or political subdivision of the Commonwealth of Kentucky shall not award a state contract to a person that is a foreign entity required by KRS 14A.9-010 to obtain a certificate of authority to transact business in the Commonwealth ("certificate") from the Secretary of State under KRS 14A.9-030 unless the person produces the certificate within fourteen (14) days of the bid or proposal opening. Therefore, foreign entities should submit a copy of their certificate with their solicitation response. If the foreign entity is not required to obtain a certificate as provided in KRS 14A.9-010, the foreign entity should identify the applicable exception in its solicitation response. Foreign entity is defined within KRS 14A.1-070.

For all foreign entities required to obtain a certificate of authority to transact business in the Commonwealth, if a copy of the certificate is not received by the contracting agency within the time frame identified above, the foreign entity's solicitation response shall be deemed non-responsive or the awarded contract shall be cancelled.

Businesses can register with the Secretary of State at <https://onestop.ky.gov/Pages/default.aspx>

9.00 Invoices for fees

This section does not apply to governmental or quasi-governmental entities.

The Contractor shall maintain supporting documents to substantiate invoices and shall furnish same if required by state government.

10.00 Travel expenses, if authorized

This section does not apply to governmental or quasi-governmental entities.

The Contractor shall be paid for no travel expenses unless and except as specifically authorized by the specifications of this contract or authorized in advance and in writing by the Commonwealth. The Contractor shall maintain supporting documents that substantiate every claim for expenses and shall furnish same if requested by the Commonwealth.

11.00 Other expenses, if authorized herein

This section does not apply to governmental or quasi-governmental entities.

The Contractor shall be reimbursed for no other expenses of any kind, unless and except as specifically authorized within the specifications of this contract or authorized in advance and in writing by the Commonwealth.

If the reimbursement of such expenses is authorized, the reimbursement shall be only on an out-of-pocket basis. Request for payment of same shall be processed upon receipt from the Contractor of valid, itemized statements submitted periodically for payment at the time any fees are due. The Contractor shall maintain supporting documents that substantiate every claim for expenses and shall furnish same if requested by the Commonwealth.

12.00 Purchasing and specifications

This section does not apply to governmental or quasi-governmental entities.

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The Contractor certifies that he/she will not attempt in any manner to influence any specifications to be restrictive in any way or respect nor will he/she attempt in any way to influence any purchasing of services, commodities or equipment by the Commonwealth of Kentucky. For the purpose of this paragraph and the following paragraph that pertains to conflict-of interest laws and principles, "he/she" is construed to mean "they" if more than one person is involved and if a firm, partnership, corporation, or other organization is involved, then "he/she" is construed to mean any person with an interest therein.

13.00 Conflict-of-interest laws and principles

This section does not apply to governmental or quasi-governmental entities.

The Contractor certifies that he/she is legally entitled to enter into this contract with the Commonwealth of Kentucky, and by holding and performing this contract, he/she will not be violating either any conflict of interest statute (KRS 45A.330-45A.340, 45A.990, 164.390), or KRS 11A.040 of the executive branch code of ethics, relating to the employment of former public servants.

14.00 Campaign finance

This section does not apply to governmental or quasi-governmental entities.

The Contractor certifies that neither he/she nor any member of his/her immediate family having an interest of 10% or more in any business entity involved in the performance of this contract, has contributed more than the amount specified in KRS 121.056(2), to the campaign of the gubernatorial candidate elected at the election last preceding the date of this contract. The Contractor further swears under the penalty of perjury, as provided by KRS 523.020, that neither he/she nor the company which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth, and that the award of a contract to him/her or the company which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.

15.00 Access to Records

The state agency certifies that it is in compliance with the provisions of KRS 45A.695, "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030, agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

16.00 Social security

This section does not apply to governmental or quasi-governmental entities.

The parties are cognizant that the state is not liable for social security contributions, pursuant to 42 U.S. Code, section 418, relative to the compensation of the second party for this contract.

Any exceptions to this stipulation require an attachment or exhibit that explicitly addresses, and provides a basis for, payment of second party's social security contributions by the state, pursuant to 42 U.S. Code, section 418.

17.00 Violation of tax and employment laws

KRS 45A.485 requires the Contractor and all subcontractors performing work under the contract to reveal to the Commonwealth any final determination of a violation by the Contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively. Disclosure of any violations is required prior to the award of any state contract and throughout the duration the contract.

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Failure to disclose violations, shall be grounds for the Commonwealth's disqualification of a contractor or subcontractor from eligibility for future state contracts for a period of two (2) years.

To comply with KRS 45A.485, the Contractor and all subcontractors performing work under this contract shall report any such final determination(s) of any violation(s) within the previous five (5) years to the Commonwealth by providing a list of the following information regarding any violation(s): (1) specific KRS violated, (2) date of any final determination of a violation, and (3) state agency which issued the final determination.

A list of any disclosures made prior to award of a contract shall be attached to the contract. The Contractor affirms that it has not violated any of the provisions of the above statutes within the previous five (5) year period, aside from violations explicitly disclosed and attached to this contract. Contractor further affirms that it will (1) communicate the above KRS 45A.485 disclosure requirements to any subcontractors and (2) disclose any subcontractor violations it becomes aware of to the Commonwealth.

18.00 Discrimination

This section applies only to contracts disbursing federal funds, in whole or part, when the terms for receiving those funds mandate its inclusion. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this contract, the Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. 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 compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding a notice advising the said labor union or workers' representative 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. 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.

The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her 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.

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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 cancelled, 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 No. 11246 of September 24, 1965, as amended, and such other sanctions that may be imposed and remedies invoked as provided in or as otherwise provided by law.

The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, 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 agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

19.00 Bidder, Offeror, or Contractor Mandatory Representations Compliance with Commonwealth Law

The contractor represents that, pursuant to KRS 45A.485, they and any subcontractor performing work under the contract will be in continuous compliance with the KRS chapters listed below and have revealed to the Commonwealth any violation determinations within the previous five (5) years:

KRS Chapter 136 (CORPORATION AND UTILITY TAXES)
KRS Chapter 139 (SALES AND USE TAXES)
KRS Chapter 141 (INCOME TAXES)
KRS Chapter 337 (WAGES AND HOURS)
KRS Chapter 338 (OCCUPATIONAL SAFETY AND HEALTH OF EMPLOYEES)
KRS Chapter 341 (UNEMPLOYMENT COMPENSATION)
KRS Chapter 342 (WORKERS' COMPENSATION)

Boycott Provisions

The contractor represents that, pursuant to KRS 45A.607, they are not currently engaged in, and will not for the duration of the contract engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which Kentucky can enjoy open trade. **Note:** The term Boycott does not include actions taken for bona fide business or economic reasons, or actions specifically required by federal or state law.

Lobbying Prohibitions

The contractor represents that they, and any subcontractor performing work under the contract, have not violated the agency restrictions contained in KRS 11A.236 during the previous ten (10) years, and pledges to abide by the restrictions set forth in such statute for the duration of the contract awarded.

The contractor further represents that, pursuant to KRS 45A.328, they have not procured an original, subsequent, or similar contract while employing an executive agency lobbyist who was convicted of a crime related to the original, subsequent, or similar contract within five (5) years of the conviction of the lobbyist.

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Approvals

This contract is subject to the terms and conditions stated herein. By affixing signatures below, the parties verify that they are authorized to enter into this contract and that they accept and consent to be bound by the terms and conditions stated herein. In addition, the parties agree that (i) electronic approvals may serve as electronic signatures, and (ii) this contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single contract.

1st Party:

Charles T. Jones

Digitally signed by
JONES, CHARLES, THOMAS, 110418
0716
Date: 2023.08.23 13:35:26 -04'00'

Signature

Charles T. Jones

Printed Name

Executive Director

Title

23 August 2023

Date

2nd Party:

James A. Perrott

Signature

JAMES A. Perrott

Printed Name

EXECUTIVE DIRECTOR

Title

8-21-23

Date

Other Party:

Signature

Printed Name

Title

Date

Approved as to form and legality:

Charles Sands

Attorney

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Approvals

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1st Party:

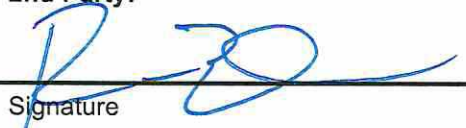
Signature

Title

Printed Name

Date

2nd Party:



Signature

JUDGE EXECUTIVE

Title

REAGAN TAYLOR

Printed Name

5/14/2024

Date

Other Party:

Signature

Title

Printed Name

Date

Approved as to form and legality:

Attorney