



TO: SOUTHERN NEVADA DISTRICT BOARD OF HEALTH **DATE:** November 18, 2021

RE: *Construction Agreement between Southern Nevada Health District and SHF International LLC*

PETITION #19-22

That the Southern Nevada District Board of Health *approve the Construction Agreement between the Southern Nevada Health District and SHF International LLC for the expansion of SNPHL Lab.*

PETITIONERS:

Fermin Leguen, MD, MPH, District Health Officer *FL*
Sean Beckham, Facilities Services Manager *SB*

DISCUSSION:

The SNHD proposes to convert existing storage space into lab space for additional capacity. The requirement was competitively bid with 4 bidding contractors. SHF International LLC was the low bidder and selected for award

FUNDING:

The cost of the remodel is \$637,000. Funding will be from grant 3176180000 EL2LB 20



**CONSTRUCTION AGREEMENT
BETWEEN
SOUTHERN NEVADA HEALTH DISTRICT
AND
SHF INTERNATIONAL LLC
C2200052**

This Construction Agreement (“Agreement”) is made as of the ____ day of November 2021 between the Southern Nevada Health District (“Owner”) a political subdivision of the State of Nevada and SHF International LLC (“Contractor”) (may be individually referred to as “Party” and collectively, as “Parties”) for the Health District’s Laboratory Expansion Project (“Project”).

RECITALS

WHEREAS, pursuant to Nevada Revised Statutes (“NRS”) Chapter 439, Health District is the public health authority for Clark County, Nevada and has jurisdiction over all public health matters therein;

WHEREAS, Contractor is a corporation authorized, registered, and licensed to do business in the State of Nevada and Clark County experienced in providing all levels of construction and interior build-out construction services; and

WHEREAS, Health District desires to expand its laboratory to enhance its testing and testing capacity; and

WHEREAS, Health District is the sub-recipient of federal funds pass-through by the state of Nevada Department of Health and Human Services through its Division of Public and Behavioral Health Federal Award Identifier Number 1 NU50CK000560-01-04, CFDA Number 93.323, program entitled Epidemiology & Laboratory Capacity (ELC) Office of Public Health Investigations and Epidemiology, funded by the Centers for Disease Control and Prevention, which is an operating division of the Federal Department of Health and Human Services, sub-awarded May 18, 2020, amended May 28, 2021, Notice of Subaward Reference Number HD 17802, with a total amount sub-awarded to Health District of \$53,439,508 (the “Grant”); and

WHEREAS, Contractor has agreed to provide pre-construction services, demolition (including hazardous materials abatement if necessary), and construction at 700 Martin Luther King Avenue, Las Vegas, Nevada, 89106 (“Worksite”) to add approximately 3,943 sq. ft. consisting of office space, a breakroom, and a laboratory to Health District’s existing lab facility (“Work” or “Services”); and

WHEREAS, pursuant to NRS Chapter 338, the State of Nevada, Office of the Labor Commissioner has assigned public works project number PWP-CL-2021-434 for Health District’s laboratory expansion.

NOW, THEREFORE in consideration of the mutual promises and undertaking herein specified, Health

District and Contractor agree as follows:

1) AGREEMENT.

1.01 This Agreement incorporates the following documents by reference with the same force and effect as if they were given in full text. Upon request, Health District will make their full text available ("Contract Documents"):

- a) This Agreement signed by Health District and Contractor.
- b) Health District Request for Proposal SNHD-21ITB004 dated June 16, 2017, and Addendum #1 dated 07/23/2021 and Addendum #2 dated 08/20/21 ("RFP");
- c) Contractor's response to Health District's Invitation to Bid, dated 08/17/21.
- d) The architectural specifications and drawings prepared by Broyles International, LLC dba IZ Design Studio pursuant to the Professional Architectural Services Agreement effective December 15, 2020.
- e) Written orders for changes in the Work issued after execution of this Agreement; and
- f) Modifications issued after execution of this Agreement, all of which form the Agreement, and are as fully a part of the Agreement as if attached to this Agreement or repeated herein.

1.02 In the event of conflicts or inconsistencies between or among the Contract Documents, this Agreement shall take precedence over the Scope of Work (including without limitation its Drawings and Specifications), the Drawings shall take precedence over the Specifications, and larger-scale detailed Drawings shall take precedence over smaller scale general Drawings.

1.03 REPRESENTATION. Sean Beckham, Health District Facilities Manager is designated as the Owner Representative for this Project ("Owner Representative"). Juan Rafael Jr. is designated as Project Manager and Contractor's representative ("Contractor Representative"). The Engineer for Project is Priscilla Maiava ("Engineer"). Neither Health District's Representative nor Contractor's Representative shall be changed without ten days' prior written notice to the other Party. Health District reserves the right to reasonably object to Contractor's change.

2) TERM AND TERMINATION. Contractor shall commence the Work on the date set by the Health District in the Notice to Proceed and complete the Work ninety (90) business days thereafter unless modified as provided in the Contract Documents. Time is of the essence in the performance and completion of this Agreement.

2.01 Termination for Convenience. Health District may, at any time, terminate the Agreement in whole or in part for its own convenience by delivering to Contractor a written notice of termination identifying the extent to which performance of the Work is terminated and the effective date of termination. Contractor shall be entitled to receive payment for Work completed prior to the Termination Date.

2.02 Termination for Cause. Health District may terminate the Agreement if Contractor ceases Work or fails to adhere to the Schedule for a continuous and uncorrected period of thirty (30) days; or upon the occurrence, without limitation, of any one or more of the following events ("Event of Default"):

- a) Contractor violates any material provision of this Agreement.
- b) Contractor persistently fails to promptly and diligently prosecute the Work; supply enough properly skilled workmen or materials to perform the Work; or disregards any applicable laws, statutes, codes, rules, regulations, or directive of any public agency or authority.
- c) Contractor abandons the performance of the Work.
- d) Contractor fails to make payments when due to any subcontractor, material supplier; or its own employees for earned wages or benefits.
- e) Contractor submits a falsified Application for Payment, sworn statement, waiver of lien, affidavit or any other document.
- f) A mechanic's lien is filed against the Work or the Worksite for labor and materials for which Contractor was paid and Contractor fails or refuses to bond or discharge the lien.
- g) Filing against the Contractor of a petition under any Federal or State bankruptcy or insolvency law, or a receiver, liquidator or trustee is appointed on account of the Contractor's bankruptcy or insolvency.
 - (i) When Health District terminates the Agreement for any Event of Default, Contractor shall be responsible for paying all actual costs incurred to cure plus reasonable overhead, profit, and any legal or design fees incurred in curing same.

2.03 If Owner Representative fails to certify payment or make payment as provided in Payment/Progress Payments for a period of 30 days through no fault of Contractor, Contractor may give Health District notice of intent to stop work. If payment is not made within ten (10) business days of the notice to stop work, Contractor may terminate the Agreement upon fifteen (15) additional business days' written notice to Health District. Contractor may recover from Health District payment for Work executed including reasonable overhead and profit, and direct costs incurred by reason of such termination.

3) SCOPE OF WORK. Contractor shall provide all labor and materials and perform all Work necessary to expand Health District's existing laboratory by approximately 3,943 sq. ft. to include offices, a breakroom, and a laboratory. Services will be performed at Health District's property located at 700 Martin Luther King Avenue, Las Vegas, Nevada 89106 ("Worksite"), and the Services performed at the Worksite shall be referred to herein as the "Project".

3.01 Time limits established by the schedule approved by Health District shall not be exceeded

by Contractor unless pre-approved in writing by Health District.

3.02 Contractor shall furnish all Services in a timely, workman-like manner consistent with professional industry standards.

3.03 Contractor shall ensure all specifications, documents, or materials provided or prepared by Contractor are:

- a) Sufficient, complete, accurate, and adequate to meet the minimum applicable standard;
- b) Consistent with Health District's aesthetic, functional, and operational objectives as expressed in the RFP and architectural drawings and specifications or as amended by mutual agreement;
- c) Consistent with Health District's budget requirements for the Services and Services Schedule; and
- d) Compliant with all laws, statutes, regulations, and building codes which apply to or govern the Services.

3.04 Tools, equipment, surplus materials, scraps, and debris resulting from the Services provided shall be organized and cleaned up, or removed and disposed of by Contractor, daily. At the completion of the Services, Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of all waste materials.

3.05 Health District may make changes to the Scope of Work, including changes to the drawings and specifications, from time to time during Project construction. However, any such change or modification shall only be made by written "Change Order" signed by an authorized representative of both Parties. Such Change Orders shall become part of this Agreement. Health District agrees to pay any actual increase in the cost of the Project because of a valid Change Order. In the event the cost of a Change Order is not known at the time a Change Order is executed, Contractor shall estimate the cost thereof and Health District shall pay the actual cost.

3.06 Contractor acknowledges that its failure to timely perform Services pursuant to this Agreement may cause Health District to sustain loss and damages that if proven to be the responsibility of Contractor shall be recoverable by Health District from Contractor.

4) CONTRACTOR CARE, CUSTODY AND CONTROL OF THE WORK.

4.01 Upon commencement of work, Contractor shall be fully responsible for the care, custody, and control of the Worksite until Services have been completed.

4.02 Contractor shall continuously protect Work from damage, protect all persons from injury and protect all other property from damage, injury, or loss arising in connection with the Services provided.

- 4.03 Contractor shall be solely responsible for the safety, efficiency, and adequacy of its equipment, tools, and materials.
- 4.04 Contractor shall always keep the Worksite free from accumulations of waste materials or rubbish caused by the Work, its employees, or sub-Contractor(s). Upon completion of each day, Contractor shall be responsible for the removal of all unused materials, equipment, scraps and debris resulting from the work done. The Worksite shall be left clean in a manner acceptable to Health District.

5) CONTRACT PRICE.

5.01 For satisfactory performance of the Services, subject to additions and deductions by Change Orders:

- a) The Contract Sum is \$637,000.00 and includes all items and services necessary for the proper execution and completion of the Services.
- b) The firm-fixed-price bids comprise all costs required to complete and deliver the finished Project including but not limited to, labor, materials, equipment, subcontractors, insurance, bonds, overhead and associated costs (taxes, freight, travel, etc.).

6) PAYMENTS/PROGRESS PAYMENTS. Invoices for Payment shall be submitted to Health District or Owner Representative monthly. Monthly progress payments will be made after Health District Representative verifies and approves the percentage of Work detailed in the Invoice was completed pursuant to the terms and conditions of this Agreement.

6.01 Invoices for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered. Based upon verified and approved invoices for Payment submitted to Owner Representative by Contractor and Certificates for Payment issued by Owner Representative to Health District, Health District shall make progress payments to Contractor as follows:

- a) Monthly progress payment requests shall be remitted within thirty (30) days of issuance of Certificates for Payment by Owner Representative to Health District.
- b) 5% of each amount certified for payment will be retained by Health District until at least 50% of the Work required by the Agreement has been completed.
- c) Once 50% of Work has been completed, Health District may pay Contractor 50% of the amount of any retainage previously withheld and withhold 2.5% of the amount of the remaining progress payments.

6.02 Each Application for Payment shall be based on the most recent schedule of values submitted by Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Price among the various Services.

- a) The schedule of values shall be prepared in such form and supported by sufficient data to substantiate its accuracy as Owner Representative may require. This schedule,

unless objected to by Owner Representative, shall be used as a basis for reviewing Contractor's Applications for Payment.

- 6.03 If Work is suspended – in whole or in part - at any time by Health District, Contractor is to be paid for actual Work performed prior to receipt of written notice from Health District of such suspension. Health District shall determine the percentage of completion.
- 6.04 Upon receipt of payment from Health District, Contractor shall promptly pay each subcontractor and supplier an amount determined in accordance with the terms of the applicable subcontract(s) and purchase order(s).
- 6.05 Neither Health District nor Owner Representative shall have responsibility for payments to a subcontractor or supplier.
- 6.06 A Certificate for Payment, nor a progress payment by Health District shall constitute acceptance of Work not in accordance with the requirements of this Agreement.
- 6.07 Health District may withhold all or a portion of a progress payment or final payment on account of: i) incomplete Work, ii) defective or nonconforming work, iii) Contractor's failure to make payment properly for services, materials, equipment or subcontracts, iv) damages caused to Health District by Contractor or those under Contractor's control, or v) failure to carry out the Work in accordance with this Agreement, all as determined by Health District in its reasonable discretion. In so doing, Health District may withhold up to one hundred fifty percent (150%) respectively, of (1) the cost to complete such incomplete Work, 2) the cost to cure such defective or nonconforming Work, 3) the amount of such damages, and 4) all costs reasonably necessary to cure any failure to carry out the work in accordance with this Agreement.
- 6.08 If Contractor has any claim for additional compensation against Health District, Contractor shall give Health District written notice of such claim within ten (10) business days after Contractor obtains knowledge of the event alleged to have given rise to the claim. If Contractor fails to give such notice, the claim shall be deemed waived and forever discharged.

7) FINAL PAYMENT.

- 7.01 To obtain final payment, Contractor must submit to Health District:
 - a) A final Application for Payment confirming that 100% of all required Work, including change order Work that has been completed.
 - b) A Certificate of Completion of all Work, stating all Work including Change Orders, and punchlist items, have been performed in accordance with the Contract Documents and that all payments received were consistent with the terms herein.
 - c) Contractor's Certification confirming all satisfaction of all indebtedness associated with the Project including:

- (i) All bills for material and equipment;
- (ii) All required payments to subcontractors;
- (iii) All payroll and benefits to all labor directly employed by it; and
- (iv) Payment of all fees, taxes and other expenses incurred in performing the Work.

7.02 A final release and waiver covering all monies and claims on the Project for Contractor, subcontractors, and suppliers.

7.03 Proof of inspection and approvals or sign-offs from any governmental authority and close out of any open permits.

7.04 All manufacturers' and suppliers' warranties and guarantees.

7.05 A list of any outstanding known and unreported Worksite accidents or injuries involving Contractor's employees or subcontractors.

7.06 Complete sets of "as built" drawings showing the Work in place.

7.07 Upon receipt of a final Application for Payment, Owner Representative will inspect the Work. When Owner Representative finds the Work acceptable and the Agreement fully performed, Owner Representative will promptly issue a final Certificate for Payment to which will include all remaining monies due to Contractor, including any retainage still held by Health District.

7.08 Contractor's acceptance of final payment constitutes a waiver of all claims, except those previously made in writing and identified by Contractor as unsettled at the time of final Application for Payment.

7.09 In issuing the final payment, Health District expressly reserves any claims:

- a) Previously asserted in writing and currently pending;
- b) Relating to liens, security interests, and other encumbrances against the Project that remain unsettled or are later asserted;
- c) Arising from the failure of the Work to comply with the Contract Documents;
- d) Arising from latent defects in the work; and/or
- e) Related to any warranties or guarantees under the Agreement.

8) **PREVAILING WAGE.** In providing the Services under this Agreement, Contractor agrees to comply as applicable with NRS Chapter 338, including but not limited to the State of Nevada's Prevailing Wage Act, NRS 338.020-090.

9) **INSURANCE.**

9.01 Health District and Contractor shall procure and maintain insurance as set forth in Attachment A, Insurance and Bonds.

9.02 Contractor shall provide bonds as set forth in Attachment A. No Work is authorized until such time as Health District has received a Certificate of Insurance and required bonds in compliance with this Section.

10) HEALTH DISTRICT'S RIGHTS AND RESPONSIBILITIES.

10.01 Health District's Right to Stop the Work. If Contractor fails to correct Work which is not in accordance with the Contract Documents, Health District may direct Contractor in writing to stop the Work until the correction is made.

10.02 Health District's Right to Carry out the Work. In the event of default or Contractor otherwise neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from Health District to correct such default or cease such neglect with diligence and promptness, Health District may, without prejudice to other remedies, correct such deficiencies. In such case, the Contract Sum shall be adjusted to deduct the cost of correction from payments due Contractor.

10.03 Health District, in its sole discretion, may direct Contractor, at no additional cost to Health District, to promptly and satisfactorily correct any Services that are found to be defective or not in compliance with the requirements of this Agreement, or the requirements of any laws, statutes, rules, regulations, ordinances, building codes, and Health District's guidelines which apply to or govern the Services provided.

11) CONTRACTOR RESPONSIBILITIES

11.01 Contractor, before commencing Work, shall prepare and submit for Health District's review and approval, Contractor's construction schedule for the Work.

11.02 Contractor shall pay sales, consumer, use, and similar taxes that are legally required when the Agreement is executed.

11.03 If Contractor performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, Contractor shall assume full responsibility for such Work and shall bear the attributable costs.

11.04 Contractor shall promptly review, approve in writing, and submit to Health District Representative, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents.

11.05 Contractor shall supervise and direct its employees and subcontractors using Contractor's best skill and attention. Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work.

11.06 Contractor shall furnish in writing to Health District the names of subcontractors or suppliers for each portion of the Work. Contractor shall not contract with any subcontractor or supplier to whom Health District has made a timely and reasonable

objection.

- 11.07 Contractor agrees that throughout the Project's duration, Contractor will have sufficient resources available to perform and complete the Work in accordance with the Project Schedule.
- 11.08 Contractor shall promptly correct Work rejected by Owner Representative as failing to conform to the requirements of the Contract Documents. Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.
- 11.09 If Contractor fails to correct nonconforming Work within a reasonable time, Health District may correct it consistent with this Agreement.
- 11.10 Tests and Inspections
 - a) At the appropriate times, Contractor shall arrange and bear cost of tests, inspections and approvals of portions of the Work required by the Contract Documents or applicable federal, state, or local laws, statutes, ordinances, codes, rules and regulations.
 - b) Contractor shall perform such additional tests as requested by Owner Representative.
- 11.11 Contractor shall take reasonable precautions to prevent damage, injury or loss to its employees at the Worksite, the Work, materials, and other property at the site or adjacent thereto. Contractor shall promptly remedy damage and loss to property caused in whole or in part by Contractor, or by anyone for whose acts Contractor may be liable.
- 11.12 In addition to Contractor's other obligations including warranties under this Agreement, Contractor shall, for a period of one year after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.

12) LABOR AND MATERIALS

- 12.01 Unless expressly provided in the Contract Documents, Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other services necessary for proper execution and completion of the Work.
- 12.02 Contractor shall guarantee all material to be as specified. Any alteration or deviation from these specifications involving extra costs will be approved only upon a Change Order executed by both Parties.

13) WARRANTY.

- 13.01 Contractor's warranty shall be limited to defects in workmanship within the Scope of Work performed by Contractor and which arise and become known within one (1) year from Project completion. All said defects arising after one (1) year and defects in material are not warranted by Contractor. Contractor hereby assigns to Health District all warranties on materials as provided by the manufacturer of such materials.

13.02 Contractor warrants to Health District that:

- a) Contractor has the expertise and ability to provide pre-construction, construction, and construction management services that meet Health District's objectives and requirements as well as general and specialty contracting industry standards.
- b) Title to any Work covered by Contractor's Application for Payment will pass to Health District no later than the time of payment.
- c) Upon submittal of an Application for Payment, all Work for which Certificates for Payment have been issued and payments received shall, to the best of Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or other encumbrances adverse to Health District's interests.
- d) Materials and equipment furnished under the Agreement will be new and of good quality and free of defect unless otherwise required or permitted by the Contract Documents.
- e) The Work will be free from defects not inherent in the quality required or permitted and will conform to the requirements of the Contract Documents.
- f) Contractor will recommend to Health district all process and construction improvement it believes in good faith would optimize Project construction and operations, provided Contractor's liability for breaches of such warranty shall be limited to instances of gross negligence or willful misconduct

14) SITE INSPECTION

14.01 Contractor warrants that, by examination, it has satisfied itself as to the general nature and location of the Work, the general character, quantity and kind of materials to be encountered, the equipment required and the general conditions and other matters which may in any manner affect the Work. The Health District shall furnish all site surveys and legal descriptions required for the Work, if any, and Contractor shall be entitled to rely upon the same. Contractor expressly disclaims all liability for latent or subsurface conditions. Notwithstanding the foregoing, Contractor shall be responsible for locating and managing the Work around any existing underground pipes and electrical lines.

14.02 Contractor and Health District's Representative shall visit the Project prior to the expiration of Contractor's one (1) year warranty period; Health District shall note any breaches or violations of the guarantees provided by Contractor and report the same if any are observed or discovered, in writing to Contractor for remediation within a reasonable time.

15) CHANGES IN THE WORK.

15.01 Health District, without invalidating the Agreement, may order changes in the Work within the general scope of the Agreement consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly in writing. If

Health District and Contractor cannot agree to a change in the Contract Sum, Health District shall pay Contractor its actual cost-plus reasonable overhead and profit.

If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment.

16) SUBSTANTIAL COMPLETION

16.01 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so Health District can utilize the Work for its intended use.

16.02 When the Work is substantially complete, Owner Representative will make an inspection to determine whether the Work is substantially complete. When Owner Representative determines the Work is substantially complete, Owner Representative shall prepare a Certificate of Substantial Completion that establishes the date of Substantial Completion, the responsibilities of Health District and Contractor, and fixes the time within which Contractor shall complete all items on the list accompanying the Certificate. Unless otherwise provided in the Certificate of Substantial Completion, warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work.

17) COMPLIANCE/LICENSES.

17.01 Contractor, its employees, subcontractors or assigns, shall obtain, at its own expense, all licenses, permits, and other authorizations necessary to comply with all applicable federal, state and local laws and regulations relating to the performance of the Agreement.

17.02 Contractor is responsible for compliance with all labor, employment, and tax laws pertaining to its employees, subcontractors, officers, and agents and shall indemnify and hold Health District harmless from any failure by Contractor to comply with such laws.

18) NOTICE. All notices required or permitted under this Agreement shall be in writing and addressed to the Parties at the addresses set forth below (or to such other address that may be designated by the receiving party from time to time) and delivered by personal delivery, via overnight courier (with all fees pre-paid), or certified or registered mail, return receipt requested, postage pre-paid. Except as otherwise provided in this Agreement, a Notice is effective only: a) upon receipt by the receiving party, and b) if the Party giving the Notice has complied with the requirements of this Section.

OWNER
Southern Nevada Health District
Legal Department
Contract Administrator
280 S. Decatur Blvd
Las Vegas NV 89107

CONTRACTOR
SHF International LLC
Sam Finkler
6000 S Eastern, Ste 14H
Las Vegas, NV 89119

19) DISPUTE_RESOLUTION.

19.01 If a dispute arises out of or relates to this Agreement or its breach, the Parties shall endeavor to settle the dispute first through good faith direct discussions between the Parties' representatives, who shall have the authority to settle the dispute. If the Parties' representatives are not able to promptly settle the dispute, the senior executives of the Parties, who have authority to settle the dispute, shall meet within fifteen (15) business days after the dispute first arises. If the dispute is not settled within ten (10) business days from the referral of the dispute to the senior executives, the Parties shall submit the dispute to arbitration in accordance with this Section.

- a) Unless otherwise agreed in writing, Contractor shall continue the Work and maintain the Schedule of the Work during any dispute resolution proceedings. If Contractor continues to perform, the Health District shall continue to make payments in accordance with this Agreement.
- b) Arbitration. If the dispute cannot be settled pursuant to this Section, the Parties shall settle the dispute by binding arbitration under the then current Construction Industry Arbitration Rules of the American Arbitration Association. Once one-Party files a request for arbitration with the other Party and with the American Arbitration Association, the Parties agree to conclude such arbitration within sixty (60) days of filing of the request. The Parties shall request arbitration by a panel of three (3) arbitrators, selected in accordance with the Rules of the American Arbitration Association. The decision of the arbitrators shall be final and judgment upon the award may be entered into any court having jurisdiction thereof. Any construction lien foreclosure suit shall be stayed pending the arbitration.
 - (i) Regardless of outcome, (a) each Party shall pay all of its own costs and expenses, including without limitation its own legal fees and expenses, and (b) joint expenses shall be borne equally among the Parties.
 - (ii) Arbitration proceedings and any trial court suit or action arising out of or related to this Agreement shall be commenced and conducted in Clark County, Nevada.

20) BOOKS AND RECORDS. Each Party shall keep and maintain under generally accepted accounting principles full, true and complete books, records, and documents as are necessary to fully disclose to the other Party, properly empowered government entities, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with the terms of this Agreement and any applicable statutes and regulations. All such books, records and documents shall be retained by each Party in accordance with its respective Records Retention Schedule, or for a minimum of five (5) years; whichever is longer, from the date of termination of this Agreement. This retention time shall be extended when an audit is scheduled or in progress for a period of time reasonably necessary to complete said audit and/or to complete any administrative and/or judicial processes which may ensue.

21) FEDERAL AUDIT REQUIREMENTS – FOR-PROFIT ORGANIZATIONS.

21.01 Contractor, a for-profit organization, may be required to have an audit if it, directly or indirectly, expends a total of \$750,000 or more in federal funds under one or more Federal awards. Consistent with 2 CFR Part 200 as amended, Contractor has two options regarding the type of audit that will satisfy audit requirements:

- a) An audit made in accordance with Generally Accepted Government Auditing Standards (aka the Yellow Book), as revised; or
- b) An audit that meets the requirements contained in 2 CFR Part 200.501.

21.02 If Contractor expends total federal awards of less than \$750,000 during its fiscal year, it is exempt from federal audit requirements, but is still required to maintain auditable records of federal or state funds that supplement such awards. Records must be available for review by appropriate officials. Although an audit may not be necessary under the federal requirements, Health District audit requirements are applicable.

- 22) FISCAL MONITORING AND ADMINISTRATIVE REVIEW OF ADVERSE FINDINGS. Health District may, at its discretion, and during Contractor's regular business hours, conduct a fiscal monitoring of Contractor at any time during the term of the Agreement. Whenever practicable, Contractor will be notified in writing at least two (2) weeks prior to the visit, outlining documents that must be available prior to Health District's visit. In the event a regulatory body requests access to Contractor records for fiscal monitoring, Health District will provide as much advance written notice to Contractor as is reasonably possible. Health District shall notify Contractor in writing of any Adverse Findings and recommendations as result of the fiscal monitoring. Adverse Findings are defined as Lack of Adequate Records, Administrative Findings, Questioned Costs and Costs Recommended for Disallowance. Contractor will have the opportunity to respond to Adverse Findings in writing to address any area(s) of disagreement. Health District shall review disagreement issues, supporting documentation and files, and forward a decision to the Contractor in writing.
- 23) STATEMENT OF ELIGIBILITY. Each Party acknowledges to the best of its knowledge, information, and belief, and to the extent required by law, neither it nor any of its respective employees/contractors is/are: i) currently excluded, debarred, suspended, or otherwise ineligible to participate in federal health care programs or in federal procurement or non-procurement programs; and ii) has/have not been convicted of a federal or state offense that falls within the ambit of 42 USC 1320a-7(a).
- 24) MUTUAL COOPERATION. The Parties shall fully cooperate with one another in furtherance of this Agreement and shall provide assistance to one another in the investigation and resolution of any complaints, claims, actions or proceedings that may arise out of the provision of Services hereunder. The Parties shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate, or convenient to achieve the purposes of this Agreement.
- 25) DAVIS-BACON ACT, as amended (40 U.S.C. 3141-3148). Contractor certifies it will comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by U.S. Department of

Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, Contractor is 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 U.S. Secretary of Labor. In addition, Contractor is required to pay wages not less than once a week. Contractor 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. Contractor must report all suspected or reported violations to Health District, and Health District will forward all suspected or reported violations from tier-to-tier up to the CDC.

- 26) COPELAND "ANTI-KICKBACK" ACT. Contractor certifies it will comply with 40 U.S.C. 3145, as supplemented by U.S. Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. Contractor must report all suspected or reported violations to Health District, and Health District will forward all suspected or reported violations from tier-to-tier up to the CDC.
- 27) CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 3701-3708). Contractor certifies it will comply as applicable with 40 U.S.C. 3702 and 3704, as supplemented by U.S. Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Contractor is required to compute the wages of every mechanic and laborer (if any) on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- 28) CLEAN AIR ACT (42 U.S.C. 7401-7671q.) and the FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251-1387), as amended—Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Health District and the Regional Office of the Environmental Protection Agency (EPA), and Contractor violations will be reported from tier to tier up to the CDC.
- 29) BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352)—Contractor certifies 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. Contractor must also disclose to Health District any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures will be forwarded from tier to tier up to the CDC.

30) GENERAL CONDITIONS.

- 30.01 Entire Agreement: This Agreement represents the entire and integrated agreement between the Parties and supersedes prior negotiations, representations or agreements, either written or oral. The Agreement may be amended or modified only by a written modification.
- 30.02 Procurement contractor federal funding information and requirements for non-federal entities are attached hereto and incorporated by reference herein (Attachment B).
- 30.03 Assignments: Neither Party shall assign this Agreement without the prior written consent of the other Party.
- 30.04 Ownership and Use of Architect's Drawings and Other Documents: Documents prepared by the Architect are instruments of the Architect's service for use solely with respect to this Project. Contractor, subcontractors, and material or equipment suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may be used by Health District for other Projects or for additions to this Project outside the Scope of Work without the Architect's specific written consent.
- 30.05 Governing Law: This Agreement and the rights and obligations of the Parties hereto shall be governed by and construed according to the laws of the State of Nevada, notwithstanding conflict of laws principles, with Clark County, Nevada as the exclusive venue of any action or proceeding related to or arising out of this Agreement.
- 30.06 Waiver: Either Party's waiver of any breach of any provision of this Agreement by the other Party shall not constitute a waiver of any further or additional breach of such provision or of any other provision of this Agreement.
- 30.07 Appropriation of Funds: The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by Health District for the performance of this Agreement. If sufficient appropriations and authorizations are not made by Health District, this Agreement shall terminate, without penalty or expense to Health District of any kind whatsoever, upon written notice being given by Health District to Contractor.
- 30.08 Right to Audit: Records subject to audit, inspection, examination, and evaluation shall include, but not be limited to, those records necessary to evaluate and verify prices, reimbursable services, etc. as they may apply to costs, matters or items associated with this Agreement. For the purpose of such audits, inspections, examination, and evaluations, Health District's agent or authorized representative shall have access to said records for the duration of the Work and until five (5) years after the date of final payment by Health District to Contractor pursuant to this Agreement (collectively the "Records"). Such Records shall be open to inspection, audit and/or reproduction, during normal working hours by Health District's agent or its authorized representative to the extent necessary to evaluate and verify applications for payments, invoices, or claims submitted by Contractor or any of its payees relative to the Project.

- 30.09 Public Records: Pursuant to NRS Chapter 239, information or documents, including this Agreement, and any other documents generated incidental thereto may be opened by Health District to public inspection and copying. Health District will have a duty to disclose unless a particular record is made confidential by law or common law balancing of interests. Contractor is responsible for and will work with Health District to respond to a properly submitted request for information or documents to the extent such information or documents are in Contractor's care, custody, and control.
- 30.10 Authority: Health District and Contractor each represent and warrant to each other that each respectively has the authority to execute and deliver this Agreement and perform their respective obligations there under and that the execution, delivery and performance of this Agreement have been duly authorized by all necessary action by each respective Party.
- 30.11 Counterparts: This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same Agreement.
- 30.12 Limited Liability: Health District will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases. To the extent applicable, actual agreement damages for any breach shall be limited by NRS 353.260 and NRS 354.626. Agreement liability of Health District and/or Contractor shall not be subject to punitive damages.
- 30.13 Non-Discrimination: During the performance of this Agreement, Contractor agrees as follows: (1) Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: 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. 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) Contractor will, in all solicitations or advertisements for employees placed by or on behalf of 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) 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) Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of Contractor's commitments **under this Subsection 30.13**, and shall post copies of the notice in conspicuous places available to its employees and applicants for employment. (5) 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) 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 its 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 Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and 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) Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) of this Subsection 30.13 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. 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 Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, Contractor may request the United States to enter into such litigation to protect the interests of the United States. Contractor 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 applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Agreement. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing

compliance. The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, Contractor 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 Agreement; refrain from extending any further assistance to Contractor under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from Contractor; and refer the case to the Department of Justice for appropriate legal proceedings.

- 30.14 Fair Labor Standard: Contractor shall, in the production of the goods and/or performance of services covered by this order and any resulting contract, shall comply with all applicable requirements of the U.S. Fair Labor Standards Act, the U.S. Occupational Safety and Health Act, and the United States Department of Labor as they may from time to time be amended.
- 30.15 Confidentiality. No protected health information as that term is defined in the Health Insurance Portability and Accountability Act of 1996, or personally identifiable information will be shared with Contractor during the course of this Agreement. Consistent with state and federal privacy laws, Contractor will at all times have in place procedures to ensure the privacy and maintain the confidentiality of any information received with at least the same degree of care as it maintains the confidentiality of its own confidential information of like import. Accordingly, no Business Associate Agreement is required.
- 30.16 Marketing: Contractor may not use Health District's name or logo in its marketing materials without Health District's prior written consent. Contractor is strictly prohibited from releasing any statements to the media regarding work performed under this Agreement without the review and express prior written approval of Health District. Health District's approval is at its sole discretion; however, such approval will not be unreasonably withheld.
- 30.17 Force Majeure: Neither Party shall be liable for delays or defaults due to acts of God, acts of terrorism, governmental authority or public enemy, war, fires, floods, epidemics, freight embargoes, or contingencies reasonably beyond its control. The party so affected shall use its good faith efforts to remediate such force Majeure as expeditiously as possible and, upon prompt written notice to the other party, shall be excused from making or taking deliveries hereunder to the extent of such prevention or restriction. Health District may terminate this Agreement in the event of such delay in performance.
- 30.18 Third Party: This Agreement is made for the benefit of Health District and Contractor and

not for any outside party.

30.19 Relationship of the Parties: Contractor shall be considered an independent contractor and nothing in this Agreement shall be interpreted to establish any relationship other than that of an independent contractor between the Parties and their respective employees, agents, subcontractors or assigns, during or after the term of the Agreement. Contractor shall be responsible for taxes or contributions payable on its employees, including without limitation employee contributions under federal or state laws and full compliance with record keeping, reporting, and other requirement of such laws.

30.20 No Federal Government Obligation: 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 the contract.

This Agreement entered into as of the day and year first written above.

SOUTHERN NEVADA HEALTH DISTRICT

SFH INTERNATIONAL, LLC

By: _____
Fermin Leguen, MD, MPH
District Health Officer

By: _____
Sam Finkler
Project Executive
License No: 0079387
Jurisdiction: Nevada State Contractors Board

APPROVED AS TO FORM:

By: _____
Heather Anderson-Fintak, Esq.
General Counsel
Southern Nevada Health District

**ATTACHMENT A
INSURANCE AND BONDS**

All policies and coverages required below shall remain in effect until all Services covered under this Agreement have been performed by Contractor and accepted by Health District:

- A. Health District. Health District will secure and maintain sufficient insurance coverage to cover the existing structure and its contents during this Project.
- B. Contractor.
 - B.1 Certificates of Insurance. Contractor shall provide certificates of insurance acceptable to Health District evidencing compliance with the requirements of this Agreement prior to commencement of the Work, upon renewal or replacement of each required policy of insurance, and upon Health District's written request.
 - B.2 Additional Insured Obligations. Contractor's additional insured coverages shall be primary and non-contributory to any of Health District's general liability insurance policies and shall apply to both ongoing and completed operations.
 - B.3 Contractor's Required Insurance. Contractor shall purchase and maintain the following types and limits of insurance:
 - i) Comprehensive Commercial General Liability. Insurance for the Project written on an occurrence form with policy limits of not less than one million dollars (\$1,000,000) each occurrence, two million dollars (\$2,000,000) general aggregate, and two million dollars (\$1,000,000) aggregate.
 - ii) Automobile Liability. Insurance shall cover owned and non-owned vehicles used by Contractor with policy limits of not less than one million dollars (\$1,000,000) for any one occurrence and one million dollars (\$1,000,000) aggregate for damages for all occurrences.
 - iii) Workers Compensation. Contractor shall maintain worker's compensation insurance in compliance with the state of Nevada requirements.
 - B.4 Contractor's Coverage. Insurance selected and described in this Attachment shall be purchased from an insurance company or companies lawfully authorized to issue insurance in the state of Nevada, Clark County. The coverage required shall extend to all Contractor's employees and subcontractors. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the period.
- C. Performance and Payment Bonds from Old Republic Surety Company. Pursuant to 2 CFR 200.326, Contractor shall:
 - C.1 Provide Health District with a bid guarantee bond in the amount of no less than 5 percent of bid amount.

- C.2 Provide Health District with a performance bond for 100 percent of the Agreement price to secure fulfillment of all Contractor requirements under this Agreement.
- C.3 Provide Health District with a payment bond for 100 percent of the Agreement price to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the Agreement.
- C.4 Bonds shall be current as of the date of this Agreement and remain in full force and effect until the Health District has accepted all projects initiated under the Agreement.
- D. All premiums, costs, and expenses for the requirement of Contractor's insurance and bonds shall be paid for by Contractor.

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ATTACHMENT B
ADDITIONAL GRANT INFORMATION AND REQUIREMENTS

As a procurement contractor receiving payment made with federal Grant funds, Contractor agrees to ensure its compliance as applicable with the following:

- A. **COMPLIANCE WITH UNIFORM GUIDANCE PROCUREMENT STANDARDS.** Contractor agrees to follow and comply with 2 CFR §§200.318 General Procurement Standards through 200.327 Contract Provisions as applicable.
 - A.1 2 CFR §200.322, **DOMESTIC PREFERENCES FOR PROCUREMENTS.** As is appropriate and to the extent consistent with law, Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States.
- B. **UNIFORM GUIDANCE CONTRACT PROVISIONS.** In accordance with 2 CFR Part 200 Appendix II to Part 200—Contract Provisions for Non-Federal Entities, Contractor agrees to follow and comply with all applicable contract provisions contained therein. These provisions may include the following:
 - B.1 **REMEDIES.** Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation-adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
 - B.2 **TERMINATION.** All federally funded contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
 - B.3 **EQUAL EMPLOYMENT OPPORTUNITY.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “Federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
 - B.4 **DAVIS-BACON ACT,** as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be 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. In addition, contractors must be required to pay wages not less than once a 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. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- B.5 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by a non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- B.6 RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- B.7 CLEAN AIR ACT (42 U.S.C. 7401-7671q.) and the FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-

1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

B.8 ENERGY EFFICIENCY. The Parties will comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

B.9 BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must 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 must 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 non-Federal award.

B.10 PROCUREMENT OF RECOVERED MATERIALS. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

C. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. Contractor certifies it is in compliance with 2 CFR §200.216 as published on August 13, 2020, and as may be amended from time to time, and Contractor has not and will not use federal funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or
- (3) Enter into a contract to procure or obtain;

(i) equipment, services, or systems using covered telecommunications equipment or services as a substantial or essential component of any system, or as a critical technology as part of any system. As described in Public Law 115—232, Section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(ii) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video

surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(iii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iv) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

See Public Law 115—232, section 889 for additional information.

See also 2 CFR §§200.216 and 200.471, as may be amended from time to time.

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