

**ORDINANCE NO. 20-2022**

**OFFERED BY: Mayor Alonso**

**AN ORDINANCE ADOPTING A PROCUREMENT POLICY AND GRANT CASH MANAGEMENT POLICY FOR THE CITY OF REMINDERVILLE, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the State Auditor’s Office has recommended adopting a Procurement Policy and Grant Cash Management Policy to comply with federal regulations relating to expenditures of Local Fiscal Recovery Funds provided through the American Rescue Plan Act (“ARPA”).

**NOW, BE IT ORDAINED** by the Council of the City of Reminderville, County of Summit, State of Ohio:

**SECTION 1.** Based upon the recommendation of the Finance Director and Law Director, this Council hereby adopts a Grant Cash Management Policy and Procurement Policy, copies of which are attached hereto and incorporated herein by reference as “Exhibit A” and “Exhibit B”, respectively.

**SECTION 2.** This Council further adopts the “Contract Addendum” attached hereto as “Exhibit C” to be incorporated into all relevant contracts and purchase orders made using federal assistance, including State and Local Fiscal Recovery Funds provided to the City of Reminderville by the US Department of Treasury under ARPA.

**SECTION 3.** The Council finds and determines that all formal action by this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

**SECTION 4.** That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, comfort, convenience, and general welfare of the inhabitants of the City of Reminderville to wit: to ensure policies are in place in a timely fashion. If this Ordinance receives the necessary number of votes, it shall take effect and be in force after its passage; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Passed:

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Sam Alonso, Mayor

Attestation:

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Stacey Task  
Clerk of Council

I, Stacey Task, Clerk of Council of the City of Reminderville, Summit County, Ohio do hereby certify that the foregoing **ORDINANCE 20-2022** was duly and regularly passed by the Council of the City of Reminderville at a regular meeting of Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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Stacey Task  
Clerk of Council

## **“Exhibit A”**

### **City of Reminderville Cash Management Policy**

To provide reasonable assurance that Federal monies are properly accounted for, the Finance Director will review all grant/funding agreements and related documentation to establish internal controls regarding the receipt, expenditure, and reporting of transaction involving Federal monies.

Depending on grant/funding requirements the Finance Director will determine if a separate Fund is required or if the management of transactions can be accomplished through the establishment of a Project Number in the accounting system, tracked within an Excel spreadsheet, or alternative method. Depending upon the grant/funding requirements and complexity of the grant, multiple methods may be established to ensure proper tracking.

All purchases made with Federal monies shall be done in compliance with the City’s Procurement Policy. It is the responsibility of the Department Head overseeing the grant to ensure compliance with the City’s Procurement Policy and any other requirements of the grant. The Finance Director will have final approval of all purchase requisitions and reserves the right to deny and/or delay if he/she feels it is out of compliance.

If grant/funding is being done on a reimbursement basis, the responsible Department Head shall complete and file all the necessary paperwork required for reimbursement.

If the Federal grant/funding requires an allocation of interest, the Finance Director will develop a process to ensure proper allocation in accordance with the requirements.

## **"Exhibit B"**

### City of Reminderville Procurement Policy

The procurement of all supplies, materials, equipment, and services shall be made in accordance with applicable Federal, State, and local statutes and/or regulations. In addition, the expenditure of any Federal Grant monies must be made in accordance with 2 C.F.R. 200.317 - 200.327 and the applicable grant agreement.

#### Code of Ethics, Conflict of Interest

All City employees involved in the procurement of goods and/or services should abide by the rules and regulations of the Ohio Ethics Commission, the Ohio Revised Code, Federal Statutes, and any Grant requirements regarding any potential conflicts of interest in the expenditure of public monies.

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the City may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.

#### Procurement Methods:

##### A. Micro-purchases (<\$10,000)

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$10,000. To the extent practicable, the City shall distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be made without soliciting competitive quotations if the Department Head and Finance Director considers the price to be reasonable. However, in instances where the City of Reminderville policy requires written quotes or committee/Council approval on purchases in excess of a given amount, such approval must also be obtained. Where a specific vendor is required please provide documentation supporting the use of the vendor.

The City may annually self-certify a micro-purchase threshold exceeding \$10,000 and up to \$50,000 in compliance with 2 CFR 200.320(a)(1)(iv)

##### B. Small Purchases (Between \$10,000 and \$250,000)

Small purchase procedures provide for relatively simple and informal procurement methods of securing services, supplies, and other property that does not exceed the small purchase threshold or the competitive bid requirement of the Ohio Revised Code. Small purchase procedures require that price or rate quotations shall be obtained from a minimum of (2) qualified sources. The Ohio Revised Code requires that sealed competitive bids must be obtained for purchases in excess of \$50,000 unless the Ohio Revised Code provides for an alternative method such as using State Contract, ODOT Contracts, and/or US Communities pricing. These alternative methods do not apply for purchase made with Federal monies if the purchase is in excess of \$250,000.

C. Sealed Bids (Over \$250,000)

Sealed, competitive bids shall be obtained when the purchase of, and contract for, single items of supplies, materials, equipment, or public improvements exceeds \$250,000. However, currently the Ohio Revised Code limit is \$50,000, therefore currently sealed bids must be obtained for purchases in excess of \$50,000 unless the Ohio Revised Code and City Code provides for an alternative method such as using State Contract, ODOT Contracts, and/or US Communities pricing. These alternative methods do not apply for purchase made with Federal monies if the purchase is in excess of \$250,000.

In order for sealed bidding to be feasible, the following conditions shall be present:

1. A complete, adequate, and realistic specification or purchase description is available
2. Two (2) or more responsible bidders are willing and able to compete effectively for the business; and
3. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

When sealed bids are used, the following requirements apply:

1. Bids shall be solicited in accordance with the provisions of State Law.
2. The invitation for bids will include product/contract specifications and pertinent attachments and shall define the items and/or services required in order for the bidder to properly respond.
3. All bids will be opened at the time and place prescribed in the invitation for bids; bids will be opened publicly.

4. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation costs, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts may only be used to determine the low bid when prior experience indicates that such discounts are usually taken.
5. Any or all bids may be rejected if there is a sound documented reason.

#### D. Proposals

A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

1. The City must have a written method for conducting technical evaluations of the proposals received and making selections;
2. Requests for proposals shall be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to the publicized requests for proposals shall be considered to the maximum extent practical.
3. Contracts shall be awarded to the responsible offeror whose proposal is most advantageous to the City, with price and other factors considered. The City may use competitive proposal procedures for qualifications-based procurement of professional services whereby competitors' qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of professional services.

#### E. Noncompetitive Procurement

There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

1. The aggregate dollar amount of the property or services does not exceed the micro-purchase threshold (see Section "A", above).
2. The item is available only from a single source.
3. The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation.

4. The Federal awarding agency or pass-through entity expressly authorizes noncompetitive procurement in response to a written request from the City.
5. After solicitation of a number of sources, competition is determined to be inadequate.

#### Contract Cost and Price

The following must be used when procurement is made with Federal Funds, but recommended for all applicable procurement.

1. The City must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold (\$250,000 as of year 2022) including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the City must make independent estimates before receiving bids or proposals.
2. The City must negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases, where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.
3. Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the City under [subpart E of 2 CFR 200](#). The City may reference its own cost principles that comply with the Federal cost principles.
4. The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

#### Time and Materials Contracts

The City may use a time and materials contract when no other contract is deemed suitable. Time and materials contract mean a contract whose cost to the City is the sum of the actual costs of materials, and direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

Since this formula generates an open-ended contract price, a time and materials contract provide no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, the City sets a ceiling price for each contract that the contractor cannot exceed without authorization of City Council. Further, the City shall assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

If a time and materials contract involve the use of Federal Funds the contract must include a ceiling price, then the contractor exceeds at its own risk.

### Suspension and Debarment

The City will award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of the proposed procurement. All purchasing decisions shall be made in the best interest of the City and shall seek to obtain the maximum value for each dollar expended. When making a purchasing decision, the City shall consider such factors as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

For procurement made using Federal Funds, the City shall have the authority to suspend or debar a person/corporation, for cause, from consideration or award of further contracts. The City is subject to and shall abide by the nonprocurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFE Part 180.

Suspension is an action taken by the City that immediately prohibits a person/corporation from participating in covered transactions under the Federal Acquisition Regulation (48 CFR Chapter 1) for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings that may ensue. A person/corporation so excluded is suspended. (2 CFR Part 180 Subpart G).

Debarment is an action taken by the City to exclude a person/corporation from participating in a covered transaction covered under the Federal Acquisition Regulation (48 DFR Chapter 1). A person/corporation so excluded is debarred. (2 CFR Part 180 Subpart H).

The City shall not subcontract with or award subgrants to any person/corporation who is debarred or suspended.

For contracts over \$25,000, the City shall confirm that the vendor is not debarred or suspended by either checking the Federal government's System for Award Management (SAM), which maintains a list of such debarred or suspended vendors at [www.sam.gov](http://www.sam.gov); collecting a certification from the vendor; or adding a clause or condition to the covered transaction with that vendor. (2 CFR Part 180 Subpart C).

For all contracts, the City is prohibited from entering into any contract with a person/corporation with an outstanding Finding for Recovery issued by the Ohio Auditor of State (O.R.C 9.24). Verification of no outstanding Finding for Recovery should be obtained from the Ohio Auditor of State website [www.ohioauditor.gov](http://www.ohioauditor.gov).

### Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms

The City must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible in accordance with 2 CFR 200.321.



### Domestic Preferences for Procurements

- A. As appropriate and to the extent consistent with law, the City should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
- B. For purposes of this section:
  - 1. “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
  - 2. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

### Procurement of Recovered Materials

The City and its contractors must comply with section 6002 of the Solid Waste Disposal Act, which includes requirements to procure 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 during 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.

### Maintenance of Procurement Records

The City shall maintain records sufficient to detail the history of all procurements. Such records shall be maintained for the time outlined in the City’s Record Retention Schedule or applicable Federal Grant Agreement, whichever is longer.

### Competition

- A. All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of 2 CFR 200.319 and .320.
- B. To ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:
  - 1. Placing unreasonable requirements on firms in order for them to qualify to do business;

2. Requiring unnecessary experience and excessive bonding;
  3. Noncompetitive pricing practices between firms or between affiliated companies;
  4. Noncompetitive contracts to consultants that are on retainer contracts;
  5. Organizational conflicts of interest;
  6. Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
  7. Any arbitrary action in the procurement process.
- C. The City must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- D. The City must have written procedures for procurement transactions. These procedures must ensure that all solicitations:
1. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and
  2. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.
- E. The City must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the City must not preclude potential bidders from qualifying during the solicitation period.

### Bonding Requirements

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, and in the absence of a determination by the Federal awarding agency or

pass-through entity that the Federal interest is adequately protected by the City's standard bonding policy, the following minimum requirements apply:

- A. A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- B. A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.
- C. A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

#### General Clauses for Procurements Made with Federal Monies

In addition to the requirements above, all procurement using Federal Funds should be done in conjunction with all applicable Grant Agreements, Federal Requirements (2 CFR 200.317 through 200.326), the Ohio Revised Code, and Ordinances and Resolutions of the City of Reminderville, all of which may change from time to time. It is the responsibility of the Department Head obtaining the Federal Grant to know and understand all the requirements of the grant.

The City must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

The City will be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the City of any contractual responsibilities under its contracts. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

The acquisition of unnecessary or duplicative items must be avoided. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach. State and local intergovernmental agreements or inter-entity agreements shall be used where appropriate for procurement or use of common or shared goods and services.

The City shall make available to the Federal awarding agency, in compliance with 2 CFR 200.325 technical specifications, procurement documents and other documents related to procurements made with Federal awards.

**“Exhibit C”**

**CONTRACT ADDENDUM**

**To be included with all Contracts to be executed using Federally awarded funds**

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**VENDOR NAME**

In accordance with 2 C.F.R. § 200.327 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, this Addendum ("**Addendum**") is proof of the Vendor's willingness and ability to comply with certain requirements which may be applicable to specific City of Reminderville ("City") purchases using federal grant funds. The following certifications and provisions are required and apply when City expends federal funds for any contract resulting from this procurement process. In the event of a conflict or inconsistency between the following terms and conditions and any provision of any contract, agreement, or Purchase Order, the following terms and conditions shall control. Accordingly, the parties agree that the following terms and conditions apply to the Contract/PO between City and Vendor ("Vendor") in all situations where Vendor has been paid or will be paid with federal funds.

This **Addendum** amends and is hereby incorporated into an existing agreement between the parties as follows:

**REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS  
UNDER FEDERAL AWARDS – APPENDIX II TO 2 CFR PART 200**

- A. Contracts for more than the simplified acquisition threshold currently set at \$250,000 (2 CFR § 200.320), 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.

Pursuant to Federal Rule (A) above, when federal funds are expended by City, City reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

- B. TERMINATION FOR CAUSE AND FOR CONVENIENCE by the grantee or subgrantee including the manner by which it will be affected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to Federal Rule (B) above, when federal funds are expended by City, City reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Vendor, in the event: (1) Vendor fails to meet schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order; (2) Vendor fails to make any payments owed; (3) Vendor fails to otherwise perform in accordance with the contract and/or the procurement solicitation; or (4) to the greatest extent authorized by law, if an award no longer effectuates the program goals or priorities of the Federal awarding agency or City. City also reserves the right to terminate the contract immediately, with written notice to Vendor, for convenience, if City believes, in its sole discretion that it is in the best interest of City to do so. The Vendor will be compensated for work performed and accepted and goods accepted by City as of the termination date if the contract is terminated for convenience of City. Any award under this procurement process is not exclusive and City reserves the right to purchase goods and services from other Vendors when it is in the best interest of City.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

- C. 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.”

Pursuant to Federal Rule (C) above, when federal funds are expended by City on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

- D. DAVIS-BACON ACT, AS AMENDED (40 U.S.C. 3141-3148). *[not applicable to Contracts using ARPA Funds]* 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.

Pursuant to Federal Rule (D) above, when federal funds are expended by City, during the term of an award for all contracts and subgrants for construction or repair, the Vendor will be in compliance with all applicable Davis-Bacon Act provisions.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

- E. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the 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.

Pursuant to Federal Rule (E) above, when federal funds are expended by City, the Vendor certifies that during the term of an award for all contracts by City resulting from this procurement process, the Vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

- F. 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.

Pursuant to Federal Rule (F) above, when federal funds are expended by City, the Vendor certifies that during the term of an award for all contracts by City resulting from this procurement process, the Vendor agrees to comply with all applicable requirements as referenced in Federal Rule (F) above.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

- G. 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).

Pursuant to Federal Rule (G) above, when federal funds are expended by City, the Vendor certifies that during the term of an award for all contracts by City resulting from this

procurement process, the Vendor agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

- H. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to Federal Rule (H) above, when federal funds are expended by City, the Vendor certifies that during the term of an award for all contracts by City resulting from this procurement process, the Vendor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency or by the State of Texas. Vendor shall immediately provide written notice to City if at any time Vendor learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. City may rely upon a certification of Vendor that Vendor is not debarred, suspended, ineligible, or voluntarily excluded from the covered contract, unless City knows the certification is erroneous.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

- I. BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 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.



Pursuant to Federal Rule (I) above, when federal funds are expended by City, the Vendor certifies that during the term and after the awarded term of an award for all contracts by City resulting from this procurement process, the Vendor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

- a. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of 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 a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- c. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certificate is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

- J. PROCUREMENT OF RECOVERED MATERIALS. When federal funds are expended by City, City 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: (1) 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 during the preceding fiscal year exceeded \$10,000; (2) procuring

solid waste management services in a manner that maximizes energy and resource recovery; and (3) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Pursuant to Federal Rule (J) above, when federal funds are expended by the City, as required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6962(c)(3)(A)(i)), the Vendor certifies, by signing this document, that the percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the contract will be at least the amount required by the applicable contract specifications or other contractual requirements.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

- K. REQUIRED AFFIRMATIVE STEPS FOR SMALL, MINORITY, AND WOMEN-OWNED FIRMS FOR CONTRACTS PAID FOR WITH FEDERAL FUNDS – 2 CFR § 200.321. When federal funds are expended by City, Vendor is required to take all affirmative steps set forth in 2 CFR 200.321 to solicit and reach out to small, minority and women owned firms for any subcontracting opportunities on the project, including: 1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; 2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; 3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; 4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and 5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

- L. CERTIFICATION OF COMPLIANCE WITH NEVER CONTRACT WITH THE ENEMY—2 C.F.R. § 200.215.  
When federal funds are expended by City for grant and cooperative agreements, or any contract resulting from this procurement process, that are expected to exceed \$50,000 within the period of performance, and are performed outside of the United States, including U.S. territories, to a person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, City will terminate any grant or cooperative

agreement or contract resulting from this procurement process as a violation of Never Contract with the Enemy detailed in 2 CFR Part 183. The Vendor certifies that it is neither an excluded entity under the System for Award Management (SAM) nor Federal Awardee Performance and Integrity Information System (FAPIIS) for any grant or cooperative agreement terminated due to Never Contract with the Enemy as a Termination for Material Failure to Comply. City has a responsibility to ensure no Federal award funds are provided directly or indirectly to the enemy, to terminate subawards in violation of Never Contract with the Enemy, and to allow the Federal Government access to records to ensure that no Federal award funds are provided to the enemy.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

- M. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (2 C.F.R. § 200.216). City, as a non-federal entity, is prohibited from obligating or expending Federal financial assistance, to include loan or grant funds, to: (1) procure or obtain, (2) extend or renew a contract to procure or obtain, or (3) enter into a contract (or extend or renew a contract) to procure or obtain, equipment, services, or systems that use “covered telecommunications” equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. “Covered telecommunications” equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities), and physical security surveillance of critical infrastructure and other national security purposes, and 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) for the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes detailed in 2 CFR § 200.216. When federal funds are expended by City, the Vendor certifies, by signing this document, the Vendor will not purchase equipment, services, or systems that use “covered telecommunications,” as defined herein, as a substantial or essential component of any system, or as critical technology as part of any system.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

- N. CERTIFICATION OF COMPLIANCE WITH EPA REGULATIONS APPLICABLE TO GRANTS, SUBGRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS IN EXCESS OF \$100,000 OF FEDERAL FUNDS. When federal funds are expended by City for any contract resulting from this procurement process in excess of \$100,000, the Vendor certifies that the Vendor is in compliance with all applicable standards, orders, regulations, and/or requirements issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

- O. CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT. When federal funds are expended by City for any contract resulting from this procurement process, the Vendor certifies that the Vendor will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

- P. CERTIFICATION OF EQUAL EMPLOYMENT STATEMENT. It is the policy of City not to discriminate on the basis of race, color, national origin, gender, limited English proficiency or handicapping conditions in its programs. Vendor agrees not to discriminate against any employee or applicant for employment to be employed in the performance of this Contract, with respect to hire, tenure, terms, conditions and privileges of employment, or a matter directly or indirectly related to employment, because of age (except where based on a bona fide occupational qualification), sex (except where based on a bona fide occupational qualification) or race, color, religion, national origin, or ancestry. Vendor further agrees that every subcontract entered into for the performance of this Contract shall contain a provision requiring non-discrimination in employment herein specified binding upon each subcontractor. Breach of this covenant may be regarded as a material breach of the Contract.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

- Q. DOMESTIC PREFERENCES FOR PROCUREMENTS AND COMPLIANCE WITH BUY AMERICA PROVISIONS—2 C.F.R § 200.322. As appropriate and to the extent consistent with law, City has a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited

to iron, aluminum, steel, cement, and other manufactured products) when spending federal funds. Vendor agrees that the requirements of this section will be included in all subawards including all contracts and purchase orders for work or products under this award, to the greatest extent practicable under a Federal award. (Purchases that are made with non-federal funds or grants are excluded from the Buy America Act.) Vendor certifies that it is in compliance with all applicable provisions of the Buy America Act. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition. For purposes of 2 CFR Part 200.322,

“Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

“Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Pursuant to Federal Rule (Q) above, when federal funds are expended by City, Vendor certifies, by signing this document, that to the greatest extent practicable Vendor will provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

- R. RECORD RETENTION REQUIREMENTS FOR CONTRACTS PAID FOR WITH FEDERAL FUNDS – 2 CFR § 200.334. When federal funds are expended by City for any contract resulting from this procurement process, the Vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.334. The Vendor further certifies that Vendor will retain all records as required by 2 CFR § 200.334 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

- S. CERTIFICATION OF ACCESS TO RECORDS – 2 C.F.R. § 200.337. Vendor agrees that City, the Federal awarding agency, Inspectors General, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any

books, documents, papers and records of Vendor, and its successors, transferees, assignees, and subcontractors that are directly pertinent to the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents. Vendor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. Vendor agrees to provide the above parties or their authorized representatives access to personnel, construction or other work sites pertaining to the work being completed under the Contract.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

**T. CERTIFICATION OF APPLICABILITY TO SUBCONTRACTORS.** Vendor agrees that all contracts it awards pursuant to the Contract shall be bound by the foregoing terms and conditions.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

**U. CERTIFICATION OF NON-COLLUSION STATEMENT.** Vendor certifies under penalty of perjury that its response to this procurement solicitation is in all respects bona fide, fair, and made without collusion or fraud with any person, joint venture, partnership, corporation or other business or legal entity.

**Does Vendor agree? YES \_\_\_\_\_ Initials of Authorized Representative of Vendor**

Vendor agrees to comply with all applicable federal, state, and local laws, rules, regulations, and ordinances. It is further acknowledged that Vendor certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.

Vendor's Name/Company Name: \_\_\_\_\_

Address, City, State, and Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Printed Name and Title of Authorized Representative: \_\_\_\_\_

Signature of Authorized Representative: \_\_\_\_\_

Email Address: \_\_\_\_\_

Date: \_\_\_\_\_

Federal Tax ID #: \_\_\_\_\_