

**Business of the Village Board  
Village of Saranac Lake**

**BILL #:** 4-2026

**SUBJECT:** FEMA Contract Amendment

**FOR AGENDA:** 1/12/2026

**DEPT OF ORIGIN:** Village Manager

**DATE SUBMITTED:** 1/8/2026

Approve FEMA Contract Amendment

MOVED BY: Ryan SECONDED BY: Scollin

VOTE ON ROLL CALL:

MAYOR WILLIAMS yes

TRUSTEE BRUNETTE yes

TRUSTEE RYAN yes

TRUSTEE SCOLLIN yes

TRUSTEE WHITE yes



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Water and Wastewater Project Updates

January 12, 2026

Village Board of Trustees,

Please let this memo serve as a project update and summary of a request of the Board of Trustees for the Village's FEMA funded portion of the wastewater project.

**WASTEWATER PROJECT**

**FEMA Project:**

As a reminder, the FEMA funded portion of the overall wastewater project consists of replacement of the sewer mains called the "Swamp Line" and the "Trunk Sewer Main". The Swamp Line consists of the sewer main running from the Community Bank Parking Lot, north across Bloomingdale Ave, behind the fire station to Cedar Street. The Trunk Sewer Main runs from the Bloomingdale Lift Station to the Coinwash Parking Lot.

The project team has completed a significant portion of the preliminary design, and we are currently waiting for an approval from FEMA to confirm their acceptance of the design recommendations. In order to keep the project moving forward and meeting 2026 deadlines, we have included our proposal for the completion of the 90% design. The proposal itself provides additional detail regarding the phasing of the project, but in summary, FEMA has broken the project into two phases. Phase 1, which we are currently working on, was set up to include site investigations to confirm or modify the recommended upgrades (complete) and to develop a 90% design (this proposal). Phase 2 will include the last 10% of design, permitting, final easements, and the bidding and construction phase of the project.

This cost of this proposal is covered under the secured FEMA grant which is 90% grant and 10% Village match. The 10% Village match was encumbered at the beginning of the project.

We have broken the proposal into several tasks, including project and grant administrative services, the 90% design, survey & easement development, and agency correspondence. The 90% design is the most well-defined task and therefore has been presented as a lump sum. The remaining tasks are dependent on outside influences and are also not necessarily going to be completed in this phase of the project. Therefore, these tasks are presented and Time and Materials and will be completed as far as funds allow, maximize the use of the grant funds, with any remaining open items to be completed as part of Phase 2.

We are preparing a larger overall presentation to be completed within the next few weeks to update the Board on the final project recommendations, updated cost estimates, and user rate impact.

Sincerely,

Gregory Swart, Senior Engineer

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January 12, 2025

Bachana Tsiklauri  
Village Manager  
39 Main Street, Suite 9  
Saranac Lake, NY 12983  
Delivered via email only: [manager@saranacleake.gov](mailto:manager@saranacleake.gov)

**RE: Village of Saranac Lake Collection System: FEMA Funded –  
Professional Services Modification #4  
SDA Project #24-130**

Dear Mr. Tsiklauri,

Suozzo, Doty & Associates Professional Engineering, PLLC (SDA) thanks you for the opportunity to submit this professional services modification proposal for your consideration. This proposal is for the FEMA funded collection system improvements portion of the Village's overall WPCP and collection system capital project. This proposal adds several tasks to move the project forward to the 90% design as required by the FEMA contract. To do so the following is a summary of the existing tasks that are to be closed and the new tasks that are proposed to be added to the Contract:

- Task 01: Sewer Main CCTV (Closed)
- Task 02: Existing Sanitary Utility, Topographic and Boundary Survey (Closed)
- Task 03: Design Evaluation / Internal Report / Alternatives & Cost Estimate / Design Scope Ranking (Closed)
- Task 04: Grant Administration (Closed)
- Task 05: Project Management / Sewer Committee & Board Meetings (Closed)
- Task 06: Sewer Flow Monitoring (Closed)
- Task 07 – Limited Soil and Groundwater Sampling (Closed)
- Task 08 – Project Management & Grant Administration Services (Add) (Time & Materials)
- Task 09 – 90% Design – Swamp Line & Trunk Sewer Main (Add) (Lump Sum)
- Task 10 – Survey, Easement Coordination, and Service Lateral Coordination (Add) (Time & Materials)
- Task 11 – Agency Correspondence (Add) (Time and Materials)
- Task RE00 – Reimbursables (Updated) (Time & Materials)

Please see below for specific details regarding this professional services modification proposal:

**PROJECT UNDERSTANDING**

Suozzo, Doty, & Associates has recently completed the 10% design the FEMA funded portion of the wastewater treatment and collection system project. The following updates our understanding of the project based on the project design and funding decisions made during the 10% design phase. The information is



based on the scope of work change submitted to FEMA on September 29, 2025, and is subject to FEMA approval of the same.

**PROJECT SCOPE:**

The FEMA funded portion of the project includes the sewer mains known as the “Swamp Line” and the “Trunk Main.” The Swamp Line consists of the sewer main from MH W8 to MH W8-14 off of Broadway and Bloomingdale Ave. The Trunk Main consists of the sewer main from MH 21 to MH 37 along Bloomingdale Ave.

The recommended option for the Swamp Line includes the following:

- Relocation of the sewer main from MH W 8 to MH W8-2 to a new location from existing MH W 9 to MH W 8-2 along Broadway. MH W 9’s elevation and pipe size were verified to confirm the ability to connect. This section requires a total of 450’ of 12” SDR 26 PVC sewer main and 4 manholes.
- Replacement of the sewer main from MH W 8-1 to the edge of the property of 54 Broadway. This section of main will serve as the connection point for the laterals from 54 and 46 Broadway. This section requires a total of 100’ of 8” SDR 26 PVC sewer main and 1 manhole.
- Installation of a sewer main connector from MH W8-1 to MH W9-1 to allow for the connection of the sewer main on Bloomingdale Ave that currently connects into MH W 8-1. This section requires a total of 100’ of 8” SDR 26 PVC sewer main and 1 manhole.
- Replacement of the sewer main from MH W8-2 to MH W8-6. This section requires a total of 1200’ of 12” SDR 26 PVC sewer main and 4 manholes.
- Replacement of the sewer main from MH W8-6 to MH W8-9 This section requires a total of 300’ of 12” SDR 26 PVC sewer main and 3 manholes.
- Relocation of the sewer main from MH W8-9 to MH W8-12 This section requires a total of 550’ of 12” SDR 26 PVC sewer main and 3 manholes.
- Replacement of the sewer main from MH W8-12 to MH W8-14. This section requires a total of 320’ of 12” SDR 26 PVC sewer main and 2 manholes.

The recommended option for the Trunk Line includes the following:

- CIPP lining of the sewer main from MH 21 to MH 26. This requires 1600’ of 24 CIPP liner and 5 lined manholes.
- Replacement of the sewer main from MH 26 to MH 33. This requires 780’ of 24” SDR 26 PVC sewer main and 8 manholes.
- Relocation of the sewer main from MH 33 to MH 35. This requires 350’ of 24” SDR 26 PVC sewer main and 1 manhole.
- CIPP lining of the sewer main from MH 35 to MH 36. This requires 390’ of 24 CIPP liner and 1 lined manhole.
- Relocation of the sewer main from MH 36 to MH 37. This requires 350’ of 24” SDR 26 PVC sewer main and 3 manholes.

**PROJECT FUNDING:**

The FEMA funded portion of the project was added to the overall NYSEFC funding package. The Village elected to take this step in order to secure additional funding for the project should the overall budget exceed

the FEMA allocation of funds, the FEMA funding fall through, and/or if ineligible costs occur on the project. The Village accepted the downside that additional NYSEFC requirements are added to the project (WMBE goals and reporting, etc.). Therefore, all project components including SDA's contracts, and all design documents and constitution documents will be prepared to meet NYSEFC standards and review requirements.

#### **FEMA REQUIREMENTS:**

The FEMA funding has been broken into two phases. Phase 1 requires completing the 90% design. Phase 2 is to complete the 100% design, finalizing easements, finalizing permits, bidding, and construction/construction administration. SDA's current contract and this amendment is for Phase 1 only. The work required to complete the 90% design is interpreted to include the following:

- Completion of 60% design documents with review with the Village
- Completion of 90% design documents with submission to FEMA, NYSDEC, and NYSEFC for review
- Identification of required easements, preliminary conversations with property owners, and draft easement maps preparation. Finalized easements may be completed based on the cooperation of the property owners. Finalizing any remaining easements is expected to be completed during Phase 2.
- Initial coordination with the State and Federal agencies that have been identified during the 10% Design Phase (NYSDEC, ACOE, NYSDOT) that will require permits to be completed for the project. Finalizing permits is expected to be completed in Phase 2.

#### **OTHER PROJECT COMPONENTS**

During the 10% design due diligence environmental database reviews, it was found that a portion of the existing Swamp Line sewer main (proposed for replacement) runs through the Saranac Lofts Brownfields Site (DEC Database #C517015) located at 120 Broadway. The Village has elected to test Village owned property (Tax Map I.D. 447.69-1-14) that is located in close proximity to the Brownfield site. The Village-owned property is located within the limits of the existing Swamp Line.

The environmental testing is covered under a prior proposal, and the testing occurred in November 2025. Based on the pending results, additional environmental testing may be required, which would be covered under a separate proposal in Phase 2.

#### **SCOPE OF SERVICES**

##### **Summary of Tasks**

**Task 01: Sewer Main CCTV (Closed)**

**Task 02: Existing Sanitary Utility, Topographic and Boundary Survey (Closed)**

**Task 03: Design Evaluation / Internal Report / Alternatives & Cost Estimate / Design Scope Ranking (Closed)**

**Task 04: Grant Administration (Closed)**

**Task 05: Project Management / Sewer Committee & Board Meetings (Closed)**

**Task 06: Sewer Flow Monitoring (Closed)**

**Task 07 – Limited Soil and Groundwater Sampling (Closed)**

### New Tasks

#### **Task 08 – Project Management & Grant Administration Services (Add) (Time & Materials)**

The original Task 04 Grant Administration & Task 05 Project Management/Sewer Committee & Board Meetings each assumed that Phase 1 would be completed in February 2026. However, FEMA is reviewing a time extension until June 2026 and the work under these tasks are expected to continue to September 2026 (to include time for project reviews and closeout). Additionally, the Village has required additional assistance with FEMA coordination, project reimbursement, etc. that SDA has completed under Task 04 and 05. To simplify the invoicing the Tasks have been closed and combined into this new Task.

SDA will continue to assist the Village with the following grant administrative tasks:

- Provide quarterly reports to FEMA
- Assist the Village with FEMA reimbursements
- Coordinate with NYSEFC
- Assist with other grant documents and services as requested by the Village
- SDA will assist the Village update and/or prepare documentation and correspondence regarding environmental reviews including the following and as requested by the Village:
  - SEQR
  - SHPO
  - NEPA

SDA will continue to assist the Village with the following project management tasks:

- Prepare and attend sewer committee meetings
- Prepare and attend meetings with Village staff to review designs, easements, etc.
- Prepare and attend Village Board of Trustees meetings
- Provide additional project management and grant administration services as requested by the Village

As the effort for this task is unknown at this time, we recommend that this work be completed on a Time and Material's basis, not to exceed the amount listed in the table below.

#### **Task 09 – 90% Design – Swamp Line & Trunk Sewer Main (Add) (Lump Sum)**

Under this task SDA will complete 90% design documents suitable for submission to NYSDEC/NYSEFC and FEMA for technical review.

The work is generally expected to include the following drawings:

- Cover Sheet
- General Notes & Legends
- Overall Plan
- Site Plans & Profile
- Demolition Plans
- Utility Plans
- Erosion & Sediment Control Plans

- Standard Details
- NYSDOT Standard Details
- NYSDOT Standard Details for Maintenance and Protection of Traffic Control Plans

A specification manual will be developed with technical specifications and bidding, funding, and overall project requirements.

A draft set of drawings, specifications, and cost estimates will be submitted to the Village for review and comment at the 60% design level.

The proposed design work will generally include the design of the sanitary sewer mains as identified in the project understanding section, manholes, service connection establishment and restoration of the areas immediately surrounding the sewer main trenches.

A revised Benefit Cost Analysis as required by FEMA will be provided at the 90% level.

Please note that the design of the repurposing the sewer main from MH W8-1 to MH W8-2 to serve the parcels on Bloomingdale Ave has not been fully determined. The basis of design for the purpose of this phase of work is CIPP repair.

#### **Task 10 – Survey, Easement Coordination, and Service Lateral Coordination (Add) (Time & Materials)**

A significant portion of both the Trunk Sewer main and Swamp Line is or will be located out of the Road Right-of-Ways (ROWs). It is standard practice and a requirement of NYSEFC for the Village to have control overall land on which all public infrastructure is installed. This control includes work in the public ROW, through land ownership, and commonly for sewer mains, easements. It is our understanding that the Village does not have easements for most or all of the Trunk Main and Swamp Line. Temporary easements may be required for properties adjacent to the proposed work for access for construction, or to reconnect service laterals. Based on our review, and subject to the final design and requirements by the Village's attorney for the project, approximately fifty-four (54) permanent or temporary easements are estimated to be needed. SDA will subcontract the preparation of the survey to MJ Engineering and Land Surveying, P.C. (MJ) to provide the survey maps required for the easement documentation. This work assumes the Village attorney provided guidance on map format and language.

We have based the estimated time associated with this task based on the average property/property owner, except where noted below, which include generally following:

- Preparation of 8.5"x11" draft easement map showing the proposed infrastructure for discussion with property owners. Maps will be produced at the 60% design level.
- One (1) site visit to discuss potential easements with property owners.
- Hosting two (2) public information sessions to review easements.
- Preparation of an 8.5"x11" final easement map showing the proposed infrastructure
- Boundary survey work of the property boundary impacted by the sewer main

It is anticipated that any work to secure easements not completed during this phase of the project will be completed in a later phase and as part of a new proposal.

Should additional topographic survey needs be identified, these will be provided under this task.

It is recommended that a professional underground utility locating company be used to identify potential underground utilities in the Broadway portion of the project. SDA will subcontract with a professional underground utility locating company to perform this work.

Several of the properties within the project areas have unknown lateral connection locations that could be impacted by the redesign efforts. SDA will assist the Village in determining the location of unknown laterals. Please note, illegal lateral connections for floor drains, etc. shall be the responsibility of the property owner to remedy.

Approximately three (3) buildings have sewer mains currently run under the buildings. Often the building laterals are connected directly to the main under the building. The fate of these sewer mains and the lateral connections for these buildings require guidance from the Village attorney. SDA will assist the Village in identifying the existing lateral locations for these buildings as well as the possible design options.

Assistance to determine lateral connections could include smoke testing, dye testing, camera inspections, and/or home inspections.

As the effort for this task will be highly dependent on the cooperation of the property owners and other influences out of SDA's control, we recommend that this work be completed on a Time and Material's basis not to exceed the amount listed in the table below.

#### **Task 11 – Agency Correspondence (Add) (Time and Materials)**

Under this Task, SDA will develop and coordinate initial submissions to regulatory agencies to determine requirements for final design and permitting requirements. Final permitting will be completed during Phase 2 of the project.

As part of this effort, SDA will complete the following:

##### **Rail Trail Corridor Property Access:**

The Village owns and operates many utilities that cross the new NYSDEC owned Rail Trail. NYSDEC indicated during prior conversations that utilities are generally not allowed in the corridor and require special permission. SDA will prepare maps and initial correspondence for submission to NYSDEC for review and comment on the existing utilities within the corridor that impact the proposed project.

##### **NYSDOT Requirements:**

NYSDOT will require plan approval for any work within the Right-of-Way (ROW) of Bloomingdale Ave and Broadway, both of which are NYSDOT. Under this task, SDA will submit drawings at the 60% design for NYSDOT comment and review. We have included time for two (2) meetings with NYSDOT for review. Final DOT plan approval will be completed in Phase 2.

##### **Stream Bank Disturbance Permitting:**

SDA will evaluate the need for stream bank disturbance permitting (NYSDEC Article 15, ACOE Nationwide Permits, etc.) and provide the Village with information regarding needed permits based on the final design recommendations. SDA has included up to two (2) virtual meetings with the appropriate regulatory agencies for the purpose of coordinating the required permitting.

##### **Adirondack Park Agency (APA):**

In coordination with the Village's larger sewer main project, SDA will prepare a Jurisdictional Inquiry Form (JIF) to submit to the APA to determine needed permits. SDA will coordinate with APA for wetland delineation. Final wetland permitting will be completed in Phase 2.

### **ASSUMPTIONS/LIMITATIONS**

The following are assumptions/limitations were used to develop this proposal:

- The following are anticipated to be completed and/or finalized as part of Phase 2, subject to a revised proposal.
  - Additional sampling and design of remediation for contamination/potential contamination.
  - Stormwater Pollution Prevention Plan (SWPPP)
  - Finalized permits as noted above.
  - Finalized easements above and beyond T&M estimate above
  - Basis of Design Report for NYSDEC
- The following design items are excluded from the proposal and can be added if subject to a revised proposal.
  - Underground utilities, sidewalks, pavements, etc. required by NYSDOT that extend beyond the sewer main replacement locations.
  - Redesign of third-party utilities (power, communications, etc.)
  - Geotechnical and other soil investigations
  - Structural designs or retaining walls
  - Permanent traffic control devices, pedestrian control, etc., if required by NYSDOT.
  - Maintenance and Protection of Traffic Control drawings and plans beyond standard details as available on the NYSDOT website.
  - Stormwater management and/or stormwater system redesign within the Swamp Line area, including, but not limited to the impact on drainage by replacing the Swamp Line sewer main.
  - Design options for sewer mains under building beyond what is proposed above.
  - Eminent domain proceedings or similar actions to secure easements
- SDA has been retained for final design, bidding, construction administration, and project representative services. The full scope, fee and schedule of these services is to be defined at a later date and will be subject to a separate proposal.

### **PROFESSIONAL SERVICES FEE AND COMPENSATION**

SDA will perform the above-listed professional services in accordance with the fees and schedule depicted in the Professional Services Fee Schedule. Lump sum tasks will be billed monthly commensurate with work completed to date. Time and material tasks will be completed on a time and materials basis which will be billed in accordance with our discounted rate schedule in effect at the time of service. The budgets for Time and Materials tasks are estimates only, SDA will attempt to complete the tasks within the subject budgets, but an additional budget may be required to complete the noted services. SDA will not exceed any budget without prior authorization from you.

Any direct expenses we incur mileage, overnight mailings, document reproduction, etc.) will be billed under Task RE00.

Please note that SDA reserves the right to use any available task budget to advance the services requested under this proposal.

Invoices will be submitted to the Client on a monthly basis. Payment shall be made to Suozzo, Doty & Associates Professional Engineering, PLLC within 30 calendar days of the date of invoice. A 1.5% finance charge will be applied to any invoice unpaid within 30 days. Checks shall be forwarded to Suozzo, Doty & Associates Professional Engineering, PLLC, 4607 Lake Shore Drive, P.O. Box 653, Bolton Landing, NY 12814.

#### PROFESSIONAL SERVICES FEE SCHEDULE

Task	Lump Sum	T&M Estimate <sup>1</sup>	Subconsultant Fee Estimate <sup>2</sup>	Schedule <sup>3</sup>
<b>Task 08 Project Management &amp; Grant Administration Services</b>	---	\$40,000	---	Start: Upon Authorization End: 9 months
<b>Task 09 90% Design – Swamp Line and Trunk Sewer Main</b>	\$218,000	---	---	Start: Upon Authorization End: 6 months
<b>Task 10 Survey, Easement Coordination, and Service Lateral Coordination</b>	---	\$51,000	\$73,000	Start: Upon Authorization End: 6 months
<b>Task 11 Agency Correspondence</b>	---	\$16,000	---	Start: Upon Authorization End: 6 months
<b>Task RE00 – Reimbursables (SDA)</b>	---	\$2,000	---	Start: Upon Authorization End: 6 months
Subtotal	\$218,000	\$109,000	\$73,000	
Total			<b>\$400,000</b>	

<sup>1</sup>Time and Materials tasks are estimates only, SDA will attempt to complete the tasks within the subject budgets, but an additional budget may be required to complete the noted services. SDA will not exceed any budget without prior authorization from you.

<sup>2</sup>Subconsultant fees include 15% markup for SDA's administrative efforts. The subconsultant fees will be billed on time and materials basis.

<sup>3</sup>Schedule begin and completion dates are estimates only and begin upon authorization. SDA will make its best attempt to begin and complete tasks in accordance with the periods depicted above, but certain items that affect the schedule may be out of SDA's control (e.g. agency approvals, client availability, record document availability, etc.)

**ATTACHMENTS**

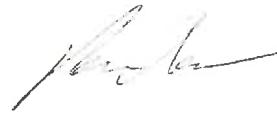
- Endorsement Page Closing and Agreement

We thank you for this opportunity to continue to work with the Village on this important project! If you find this proposal acceptable, please execute where indicated on the following page. If you have any questions or if you need additional information, please feel free to contact us directly at 518-240-6293. Thank you!

Sincerely,



Gregory Swart, PE, Project Manager  
cc: File



Richard Adams, PE, Collection Lead Engineer

Authorized signature indicates acceptance of this professional services modification proposal described herein:

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Authorized Representative

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Date

## Appendix A

### Exhibit E Supplementary Conditions for FEMA Mitigation Assistance Contracts

Subrecipient shall attach the following Exhibit E to any contract for which any portion of the funding is derived from a grant made by FEMA through DHSES under any of the Hazard Mitigation Grant Funds programs.

## EXHIBIT E

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### **NEW YORK STATE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES SUPPLEMENTARY CONDITIONS FOR FEMA MITIGATION ASSISTANCE CONTRACTS**

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“FEMA” – The Federal Emergency Management Agency.

“DHSES” – The New York State Division of Homeland Security and Emergency Services (“DHSES”) and its successors and assigns.

“Subrecipient”:

“Contractor”:

Subrecipient shall attach these Supplementary Conditions to any contract for which any portion of the funding is derived from a grant made by FEMA through DHSES under the Mitigation Grant (Hazard Mitigation Grant Program (HMGP), Pre-Disaster Mitigation (PDM) or Flood Mitigation Assistance (FMA). References in the Supplementary Conditions to the “Agreement” or “agreement” or “Contract” or “contract” shall be deemed to refer to the agreement between such the Subrecipient and the Contractor.

Contractors at all tiers shall attach these Supplementary Conditions to all subcontracts, and shall require that all subcontractors attach these conditions to their sub-subcontracts at all levels. When these Supplementary Conditions are attached to any lower tier contract (e.g., a contract between Contractor (as defined above) and any subcontractor, or between Contractor’s direct or indirect subcontractors), references herein to “Subrecipient” shall be deemed to refer to the party seeking products and/or services, and references to “Contractor” shall be deemed to refer to the party providing products and/or services, and references to the “Agreement” or “agreement” or “Contract” or “contract” shall be deemed to refer to the agreement between such subcontracting parties.

Any question should be submitted in writing (indicating the issue and the applicable provisions) by Subrecipient to DHSES, and DHSES shall decide the applicable question.

## **REQUIRED FEDERAL PROVISIONS**

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The following terms and conditions apply to any contract for which any portion of the funding is derived from a grant made by FEMA through DHSES under the Hazard Mitigation Assistance Programs.

### **GENERAL CONDITIONS**

- 1. PROVISIONS REQUIRED BY LAW DEEMED INSERTED.** Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.
- 2. STATUTORY AND REGULATORY COMPLIANCE.** Contractor shall comply with all laws and regulations applicable to the Mitigation Grant funds, including but not limited to the applicable Office of Management and Budget Circulars, which may impact the administration of funds and/or set forth certain cost principles, including the allowability of certain expenses.
- 3. BREACH OF CONTRACT TERMS.** The Subrecipient and DHSES reserve their rights to all administrative, contractual, or legal remedies, including but not limited to suspension or termination of this contract, in instances where the Contractor or any of its subcontractors violate or breach any contract term. If the Contractor or any of its subcontractors violate or breach any contract term, they shall be subject to such sanctions and penalties as may be appropriate. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.
- 4. ADMINISTRATIVE, COST, AUDIT AND PROGRAM REQUIREMENTS.** The Contractor must comply with the most recent version (unless a specific version is noted) of the Administrative Requirements, Cost Principles, and Audit requirements, and to the extent necessary cooperate and maintain information and documentation to allow DHSES to comply with the applicable regulations governing the FEMA-State Agreement. Failure to do so may result in disallowance of costs upon audit. A list of regulations and guidance applicable to United States Department of Homeland Security (DHS) grants is listed below:
  - a) 2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
  - b) 2 C.F.R. Part 215, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, & other Non-Profit Organizations
  - c) 2 C.F.R. Part 200 (OMB Circular A-87), Subpart E, Cost Principles
  - d) 2 C.F.R. Part 220 (OMB Circular A-21), Cost Principles for Educational Institutions

- e) OMB Circular A-122, Cost Principles for Nonprofit Organizations
- f) 2 C.F.R. Part 200, Subpart F, Audit Requirements
- g) OMB Circulars A-94 and A-133
- h) For Projects funded with Hazard Mitigation Grant Funds.
  - i. New York State Administrative Plan for the Hazard Mitigation Program
  - ii. Sections 203 (PDM) and 404 (HMGP) of the Stafford Act
  - iii. Sections 1323 (RFC), 1361A (SRL), 1366 (FMA) of the NFIA
  - iv. National Flood Insurance Reform Act of 1994
  - v. Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004
  - vi. Section 322 of the Stafford Act (Mitigation Planning)
  - vii. Section 324 of the Stafford Act (Management Costs)
  - viii. Hazard Mitigation Planning (44 C.F.R. Part 201)
  - ix. Hazard Mitigation Grant Program (44 C.F.R. Part 206, Subpart N)
  - x. Management Costs (44 C.F.R. Part 207)
  - xi. 44 C.F.R. Parts 7, 9, 10, 13, 14, 17, 18, 25, 206, 220, and 221, and any other applicable FEMA policy memoranda and guidance documents
  - xii. OMB Circular A-94
  - xiii. Other applicable Federal, State, Indian Tribal, and local laws, implementing regulations, and Executive Orders.

**5. RECORDS AND REPORTING REQUIREMENTS.** The Contractor shall establish and maintain complete Records, including accurate books, records, documents, accounts and other evidence directly pertinent to performance of work done for the Subrecipient under this Contract consistent with generally accepted bookkeeping practices. Contractor shall retain the Records, including all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement in accordance with Section 17 below. The Subrecipient, DHSES, and any person or entity authorized to conduct an examination shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The Subrecipient and DHSES shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform the Subrecipient and DHSES, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the Subrecipient's or DHSES's right to discovery in any pending or future litigation. The Contractor shall complete and submit all reports, in such form and according to such schedule, as may be required by the Subrecipient and DHSES. The Contractor shall cooperate with all Subrecipient and DHSES efforts to comply with FEMA requirements and regulations pertaining to reporting, including but not limited to 44 C.F.R. Part 13 (October 1, 2012) and 44 C.F.R. Part 206 (October 1, 2012).

**6. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.** Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the federal government, DHSES, and the Subrecipient in any resulting invention in accordance with 37 C.F.R. 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 FEMA.

**7. DEBARMENT AND SUSPENSION.** This contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). The contractor must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction (e.g., subcontract) it enters into. This certification is a material representation of fact relied upon by Subrecipient. If it is later determined that the contractor did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to DHSES and Subrecipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**8. CONFLICTS OF INTEREST.** The Contractor shall notify the Subrecipient as soon as possible if this contract or any aspect related to the anticipated work under this contract raises an actual or potential conflict of interest (as described in 2 C.F.R. Part 200). The Contractor shall explain the actual or potential conflict in writing in sufficient detail so that the Subrecipient is able to assess such actual or potential conflict. The Contractor shall provide the Subrecipient any additional information necessary for the Subrecipient to fully assess and address such actual or potential conflict of interest. The Contractor shall accept any reasonable conflict mitigation strategy employed by the Subrecipient, including but not limited to the use of an independent subcontractor(s) to perform the portion of work that gives rise to the actual or potential conflict. If requested by DHSES, Contractor shall sign a certification affirming that it has no conflict of interest arising from performance of work on a specific task.

**9. SUBCONTRACTING.** The Contractor represents to the Subrecipient that all work shall be performed by personnel experienced in the appropriate and applicable profession and areas of expertise, taking into account the nature of the work to be performed under this contract. The Contractor will include these Required Federal Provisions in every subcontract issued by it so that such provisions will be binding upon each of its subcontractors as well as the requirement to flow down such terms to all lower-tiered subcontractors.

**10. ASSIGNABILITY.** The Contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of the Subrecipient.

**11. INDEMNIFICATION.** The Contractor shall indemnify, defend, and hold harmless the Subrecipient, DHSES, and their agents and employees from and against any and all claims, actions, suits, charges, and judgments arising from or related to the negligence or willful misconduct of the Contractor in the performance of the services called for in this contract.

**12. TERMINATION FOR CAUSE (Applicable to contracts exceeding \$10,000)**. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the Subrecipient shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Contractor under this contract shall, at the option of the Subrecipient, become the Subrecipient's property and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the Contractor shall not be relieved of liability to the Subrecipient for damages sustained by the Subrecipient by virtue of any breach of the contract by the Contractor, and the Subrecipient may withhold any payments to the Contractor for the purpose of set-off until such time as the exact amount of damages due the Subrecipient from the Contractor is determined.

**13. TERMINATION FOR CONVENIENCE (Applicable to contracts exceeding \$10,000)**. The Subrecipient may terminate this contract at any time by giving at least ten (10) days' notice in writing to the Contractor. If the contract is terminated by the Subrecipient as provided herein, the Contractor will be paid for the time provided and expenses incurred up to the termination date.

**14. LOBBYING (Applicable to contracts exceeding \$100,000)**. The Contractor certifies, to the best of his or her knowledge and belief, that:

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making

or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**15. BONDING REQUIREMENTS (Applicable to construction and facility improvement contracts exceeding \$100,000).** The Contractor shall comply with New York State bonding requirements, unless they have not been approved by FEMA, in which case the Contractor shall comply with the following minimum bonding requirements:

- A. A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” shall 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 his 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 obligations 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.

**16. AUDIT / ACCESS TO RECORDS.** The Subrecipient, DHSES, FEMA, the Comptroller General of the United States, New York State Office of State Comptroller, pertinent federal agencies, and other designated entities, or any of their duly authorized representatives, shall have, at any time and from time to time during normal business hours, access to any work product, books, documents, papers, and records of the Contractor which are related to this contract, for the purpose of inspection, audits, examinations, and making excerpts, copies and transcriptions. Such audits may include review of the Contractor's accounting, financial, and reporting practices to determine compliance with the Contract and reporting requirements; maintenance of accurate and reliable original accounting records in accordance with governmental accounting standards as well as generally accepted accounting principles; and specific compliance with allowable cost and expenditure documentation standards prescribed by applicable federal, State, and DHSES guidelines.

**17. MAINTENANCE/RETENTION OF RECORDS.** Contractor shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement (collectively, the “Records”) (i) for three (3) years from the time of closeout of FEMA’s grant to the State or for the period provided in 2 C.F.R. Part 200, or (ii) for six (6) years after the closeout of the Agreement, or, as long as required by state law, whichever may be longer.

**18. COPYRIGHT.** Any creative or literary work developed or commissioned by the Contractor with grant support provided by DHSES shall become the property of DHSES, entitling DHSES to assert a copyright therein, unless the parties have expressly agreed otherwise in a written

instrument signed by them.

- A. If DHSES shares its right to copyright such work with the Contractor, DHSES reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use: (a) the copyright in any work developed under a grant, sub-grant, or contract under a grant or sub-grant; and (b) any rights of copyright to which a Contractor, sub-Contractor, or a contractor purchases ownership with grant support.
- B. If the grant support provided by DHSES is federally-sponsored, the federal awarding agency also reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use: (a) the copyright in any work developed under a grant, sub-grant or contract under a grant or sub-grant; and (b) any rights of copyright to which a Contractor, sub-Contractor, or a contractor purchases ownership with such grant support.
- C. The Contractor shall submit one copy of all reports and publications resulting from this Contract to DHSES within thirty (30) calendar days of completion. Any document generated pursuant to this grant must contain the following language:

“This project was supported by a grant administered by the New York State Division of Homeland Security and Emergency Services and the U.S. Department of Homeland Security. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the New York State Division of Homeland Security and Emergency Services or the U.S. Department of Homeland Security.”

### **CIVIL RIGHTS AND DIVERSITY PROVISIONS**

**19. SMALL AND MINORITY FIRMS, WOMEN’S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.** The Contractor will comply with the small and minority firms, women’s business enterprise, and labor surplus area requirements as set forth at 2 C.F.R. Part 200. Contractor will use its best efforts to afford small businesses, minority business enterprises, and women’s business enterprises the maximum practicable opportunity to participate in the performance of the contract. As used in these Required Federal Provisions, the terms “small business” means a business that meets the criteria set forth in Section 3(a) of the Small Business Act, as amended (15 U.S.C. § 632), and “minority and women’s business enterprise” means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, “minority group members” are Afro-Americans, Spanish-speaking, Spanish surnamed, or Spanish-heritage Americans, Asian-Americans, and American Indians. Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

The Contractor will take necessary affirmative steps to assure that minority firms, women’s business enterprises, and labor surplus area firms are used in subcontracting when possible. Steps include:

- A. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- B. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- D. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and
- E. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

**20. TITLES VI AND VIII OF THE CIVIL RIGHTS ACT OF 1964 AND EXECUTIVE ORDER 11063.** The Contractor shall comply with the provisions of Titles VI and VIII of the Civil Rights Act of 1964 and with Executive Order 11063. No person shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. No person shall, on the grounds of race, color, religion, sex, or national origin, be discriminated against in the sale, rental, or financing of dwellings. To the extent that any such sale, lease or other transfer of land shall occur, Contractor, in undertaking its obligation to carry out the Program assisted hereunder, will not itself so discriminate.

**21. SECTION 504 OF THE REHABILITATION ACT OF 1973 AND THE AMERICANS WITH DISABILITIES ACT OF 1990.** The Contractor shall comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as amended, and any applicable regulations, and with the Americans with Disabilities Act of 1990 (42 U.S.C. § 126), as amended, and any applicable regulations. The Contractor agrees that no qualified individual with handicaps shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives federal financial assistance from FEMA.

**22. AGE DISCRIMINATION ACT OF 1975.** The Contractor shall comply with the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), as amended, and any applicable regulations. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

**23. NONDISCRIMINATION.** The Contractor shall comply with other federal and state statutory, regulatory and constitutional non-discrimination provisions. During the performance of this contract, the Contractor agrees as follows:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The 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.
- B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- C. The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
- D. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- F. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- G. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible

for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

H. The Contractor will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (H) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided*, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

With respect to construction contracts and subcontracts exceeding \$10,000, The Contractor shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967; Executive Order 11478 of August 8, 1969; Executive Order 12107 of December 28, 1978; Executive Order 12086 of October 5, 1978; and as supplemented in Department of Labor regulations (41 C.F.R. Part 60). Subrecipient shall include the following Specifications, which are required pursuant to 41 C.F.R. 60-4.3 in all federally assisted contracts and subcontracts. For the purposes of the Equal Opportunity Construction Contract Specifications and Clause below, the term "Construction Work" means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

**Standard Federal Equal Employment Opportunity Construction Contract Specifications for Contracts and Subcontracts in Excess of \$10,000. (Federal Notice Required by 41 C.F.R. 60-4.3)**

1. As used in these specifications:
  - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
  - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
  - c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. "Minority" includes:

- (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
- (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
- (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
- (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the contractor or any subcontractor at any tier, subcontracts a portion of the work involving any Construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this Agreement resulted.

3. If the contractor is participating (pursuant to 41 C.F.R. § 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this Agreement resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each Construction trade in which it has employees in the covered area. Covered Construction contractors performing Construction Work in geographical areas where they do not have a Federal or federally assisted Construction contract shall apply the minority and female goals established for the geographical areas where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each Construction project. The contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7b above.

- f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where Construction Work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of Construction Work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 C.F.R. Part 60-3.
- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.
- n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female Construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the Program are reflected in the contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.

9. Goals for minorities and women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally, the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246 or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.

12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 C.F.R. § 60-4.8.

14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, Construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for hiring of local or other areas residents.

**24. CERTIFICATION OF NONSEGREGATED FACILITIES (Applicable to construction contracts exceeding \$10,000).** The Contractor certifies that it does not maintain or provide for its establishments, and that it does not permit employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for employees any segregated facilities at any of its establishments, and it will not permit employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this certification is a violation of the nondiscrimination clause of this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

The Contractor further agrees that (except where it has obtained for specific time periods) it will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the nondiscrimination clause; that it will retain such certifications in its files; and that it will forward the preceding notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

**25. SECTION 503 OF THE REHABILITATION ACT OF 1973 (Applicable to contracts exceeding \$10,000).** The Contractor shall comply with section 503 of the Rehabilitation Act of 1973 (29 U.S.C. § 793), as amended, and any applicable regulations.

A. The Contractor will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee

or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices, including the following:

1. Recruitment, advertising, and job application procedures;
2. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
3. Rates of pay or any other form of compensation and changes in compensation;
4. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
5. Leaves of absence, sick leave, or any other leave;
6. Fringe benefits available by virtue of employment, whether or not administered by the Contractor;
7. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
8. Activities sponsored by the Contractor including social or recreational programs; and
9. Any other term, condition, or privilege of employment.

B. The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

C. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.

D. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The Contractor must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).

E. The Contractor will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment individuals with physical or mental disabilities.

F. The Contractor will include the provisions of this clause in every subcontract or purchase order in excess of \$10,000, unless exempted by the rules, regulations, or orders of the

Secretary issued pursuant to section 503 of the Act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

## **LABOR PROVISIONS**

**26. COPELAND “ANTI-KICKBACK” ACT (Applicable to all construction or repair contracts).** Salaries of personnel performing work under this contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the Copeland “Anti-Kickback Act” of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; 18 U.S.C. § 874; and 40 U.S.C. § 276c). The Contractor shall comply with all applicable “Anti-Kickback” regulations and shall insert appropriate provisions in all subcontracts covering work under this contract to ensure compliance by subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

**27. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (Applicable to construction contracts exceeding \$2,000 and contracts exceeding \$2,500 that involve the employment of mechanics or laborers).** The Contractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-330) as supplemented by Department of Labor regulations (29 C.F.R. Part 5). All laborers and mechanics employed by contractors or subcontractors shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act, and the contractors and subcontractors shall comply with all regulations issued pursuant to that act and with other applicable federal laws and regulations pertaining to labor standards.

**28. DAVIS-BACON ACT AND OTHER LABOR COMPLIANCE (Applicable to construction contracts exceeding \$2,000 when required by federal program legislation).** The Contractor shall comply with the Davis Bacon Act (40 U.S.C. §§ 276a to 276a-7) as supplemented by Department of Labor regulations (29 C.F.R. Part 5), and all other applicable federal, state, and local laws and regulations pertaining to labor standards insofar as they apply to the performance of this agreement.

All laborers and mechanics employed by contractors or subcontractors, including employees of other governments, on construction work assisted under this contract, and subject to the provisions of the Federal acts and regulations listed in this paragraph, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis Bacon Act. The Contractor shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to Subrecipient and DHSES for review upon request.

If Contractor is engaged under a contract in excess of \$2,000 for construction, renovation, or repair work financed in whole or in part with assistance provided by DHSES, Contractor agrees, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, to comply and to cause all subcontractors engaged under such contracts to comply with federal requirements adopted by DHSES pertaining to such contracts and with the applicable requirements of the Department of Labor under 29 C.F.R. Parts 1, 3, 5, and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is to relieve Contractor of its obligation, if any, to require payment of the higher wage. Contractor shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

## **ENVIRONMENTAL PROVISIONS**

**29. ENERGY EFFICIENCY.** The Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the New York State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

**30. SOLID WASTE DISPOSAL.** Pursuant to 2 C.F.R. § 200.322, Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (codified at 42 U.S.C. § 6962). The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. 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.

**31. CERTIFICATION OF COMPLIANCE WITH ENVIRONMENTAL LAWS.**

The Contractor and all subcontractors agree to comply with the following requirements (and their state and/or local counterparts or analogues, if any) insofar as they apply to the performance of this Agreement as any of the following may hereinafter be amended, superseded, replaced, or modified:

- A. Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951, 3 C.F.R., 1977 Comp., p. 117, as interpreted at 24 C.F.R. Part 55), and Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961, 3 C.F.R., 1977 Comp., p. 121);
- B. Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1451 *et seq.*);

- C. Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) *et seq.*, and 21 U.S.C. § 349, as amended), and EPA regulations for Sole Source Aquifers (40 C.F.R. Part 149);
- D. Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 *et seq.*);
- E. Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. § 1271 *et seq.*);
- F. Clean Air Act, as amended (42 U.S.C. § 7401 *et seq.*);
- G. EPA regulations for Determining Conformity of Federal Actions to State or Federal Implementation Plans (40 C.F.R. Parts 6, 51, and 93);
- H. Farmland Protection Policy Act of 1981 (7 U.S.C. § 4201 *et seq.*), and USDA regulations at 7 C.F.R. Part 658;
- I. FEMA criteria and environmental policy;
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Feb. 11, 1994 (59 FR 7629, 3 C.F.R., 1994 Comp. p. 859);
- K. Flood Disaster Protection Act of 1973, as amended (42 U.S.C. § 4001-4128);
- L. National Flood Insurance Reform Act of 1994 (42 U.S.C. § 5154a);
- M. Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. § 3501);
- N. Runway Clear Zone regulations (24 C.F.R. Part 51);
- O. Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251, *et seq.*), commonly known as the Clean Water Act, and all regulations and guidelines issued thereunder;
- P. Environmental Protection Agency (“EPA”) regulations at 40 C.F.R. Part 50, as amended;
- Q. All other applicable environmental laws that may exist now or in the future.

Further, Contractor shall abide by any conditions or requirements set forth in any environmental review performed by FEMA in furtherance of implementing the National Environmental Policy Act.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the Subrecipient, the following:

- A. A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the Excluded Party

Listing System pursuant to 40 C.F.R. Part 32 or on the List of Violating Facilities issued by the EPA pursuant to 40 C.F.R. Part 15, as amended.

- B. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. § 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. § 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- C. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the contract, is under consideration to be listed on the Excluded Party Listing System or the EPA List of Violating Facilities.
- D. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraphs A through D of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the government may direct as a means of enforcing such provisions.