

**AGREEMENT BETWEEN
CITY OF MARIANNA
AND
DAVID H. MELVIN, INC.**

**FOR CDBG GRANT ADMINISTRATION AND PROGRAM DELIVERY COST
FOR
Marianna Health and Rehab Center Project Generator
CDBG-DR HMGP Match
City of Marianna (Grant#)**

This Contract is entered into this ____ day of _____, 2021 between **CITY OF MARIANNA, FLORIDA**, hereinafter referred to as the “OWNER” and **DAVID H. MELVIN, INC.**, a Florida Corporation, located at 4428 Lafayette Street, Post Office Box 840, Marianna, Florida 32447, hereinafter referred to as the “CONSULTANT”. This Contract shall become effective immediately subject to and contingent upon receipt by the OWNER of the Community Development Block Grant. Each of the governmental Granting agencies shall hereinafter be referred to as the “AGENCY”.

WITNESSETH

WHEREAS, the AGENCY, in furtherance of its duties under the respective Grant PROGRAM, hereinafter referred to as the “PROGRAM”, has determined that the OWNER is eligible to receive funds under the PROGRAM, and

WHEREAS, the OWNER has determined that David H. Melvin, Inc., is fully qualified to perform Administrative Services as required to implement the Grant PROGRAM.

NOW THEREFORE, THE OWNER AND THE CONSULTANT DO MUTUALLY AGREE AS FOLLOWS:

I. Covenant for Services

The owner does hereby contract with the CONSULTANT to perform the services described herein and the CONSULTANT does hereby agree to perform such services under the terms and conditions set forth in this Contract.

II. Availability of Funds

OWNER asserts funds are available for the payment. CDBG Grant Administration and Program Delivery Cost Payment of funds pursuant to this Contract is subject to and conditioned upon the release of authorized appropriations from the PROGRAM. The Administrative Services will begin when a Grant Agreement is effective between the OWNER and the AGENCY for the receipt of Grant funds and the AGENCY issues a release of conditions on the Grant Agreement. The CONSULTANT shall be paid in accordance with Section IV of this Contract.

III. Scope of Services

The CONSULTANT agrees, under the terms and conditions of this contract and the applicable Federal, State and Local laws and regulations, to undertake, perform, and complete the necessary administration services required to implement and complete the OWNER’s Grant Agreement with the AGENCY.

IV. Consideration and Method of Payment

A. The OWNER agrees to pay the CONSULTANT the amount of **Seventy-Two Thousand Seven-Hundred Thirty-Four and No/100 Dollars (\$72,734.00)** for CDBG Grant Administration and Program Delivery Cost of the City of Marianna CDBG-DR HMGP Match grant funded through the CDBG-DR Program in the amount of \$227,295.00, with a Total Project Cost of \$909,180.00.

Grant Administration

| | |
|---------------------------|--------------------|
| 1) Compliance/Monitoring | \$18,183.50 |
| 2) Financial Management | \$14,546.80 |
| 3) Reporting Requirements | <u>\$10,910.10</u> |
| Total | \$43,640.40 |

Program Delivery

| | |
|--------------------------------|--------------------|
| Environmental Review | No Charge |
| Duplication of Benefits Review | \$18,183.50 |
| Program Policy Development | <u>\$10,910.10</u> |
| Total | \$29,093.60 |

- B. For CDBG Grant Administration and Program Delivery Cost Services, the CONSULTANT will submit invoices specifying accomplishments toward meeting the tasks as specified in Attachment A. The invoice shall be submitted to the OWNER's contract manager for review. Upon approval of the contract manager of their designated representative, the payment will be issued as soon as practicable.
- C. All financial reports shall be submitted in detail sufficient for a proper pre- and post- audit thereof.

V. Public Records

See Attachment B, Section 5.

VI. Subcontracts

- (A) If the CONSULTANT subcontracts any of the work required under this Contract, the CONSULTANT agrees to include in the subcontract that the subcontractor is bound by the terms and conditions of this Contract with the OWNER.
- (B) The CONSULTANT agrees to include in the subcontract that the subcontractor shall hold the AGENCY, the OWNER and the CONSULTANT harmless against all claims of whatever nature by the subcontractor arising out of the subcontractor's performance of work under this Contract.

VII. Hold Harmless

The CONSULTANT shall hold the AGENCY and the OWNER harmless against all claims of whatever nature arising out of the CONSULTANT's performance of work under this Contract.

The CONSULTANT agrees to include in the subcontract that the subcontractor shall hold the AGENCY, the OWNER, and the CONSULTANT harmless against all claims of whatever nature by the subcontractor arising out of the subcontractor's performance of work under this Contract.

The CONSULTANT agrees, to the fullest extent permitted by law, to indemnify and hold the OWNER and the AGENCY harmless from any damage, liability, or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by the CONSULTANT's negligent acts, errors, or omissions in the performance of professional services under this Agreement, and those of the CONSULTANT's subconsultants or anyone for whom the CONSULTANT is legally liable.

VIII. Modification of Contract

Modifications of the provisions of this Contract shall only be valid when they have been reduced to writing, duly signed by the parties hereto, and attached to the original of this Contract. The CONSULTANT hereby agrees to amend this Contract's Scope of Services to remain consistent with the OWNER/AGENCY Grant Agreement if said Agreement is amended. The amount of compensation to be paid to the CONSULTANT will not be amended without mutual agreement of the OWNER and the CONSULTANT, formally executed in writing, subject to availability of funds from the AGENCY.

IX. Termination (Cause or Convenience)

(A) This contract may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this contract through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the terminating party prior to termination.

(B) This contract may be terminated in whole or in part in writing by the local government for its convenience, provided that the other party is afforded the same notice and consultation opportunity specified in 1A above.

(C) If termination for default is effected by the local government, an equitable adjustment in the price for this contract shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the CONSULTANT at the time of termination may be adjusted to cover any additional costs to the local government because of the CONSULTANT's default.

If termination for convenience is effected by the local government, the equitable adjustment shall include reasonable profit for services or other work performed for which profit has not already been included in an invoice.

For any termination, the equitable adjustment shall provide for payment to the CONSULTANT for services rendered and expenses incurred prior to receipt of the notice of intent to terminate, in addition to termination settlement costs reasonably incurred by the CONSULTANT relating to commitments (e.g. suppliers, subconsultants) which had become firm prior to receipt of the notice of intent to terminate.

(D) Upon receipt of a termination action under paragraphs A or B above, the CONSULTANT shall (1) promptly discontinue all affected work (unless the notice directs otherwise) and (2) deliver or otherwise make available to the local government all data, drawings, reports specifications, summaries and other such information, as may have been accumulated by the CONSULTANT in performing this contract, whether completed or in process.

(E) Upon termination, the local government may take over the work and may award another party a contract to complete the work described in this contract.

(F) If, after termination for failure of the CONSULTANT to fulfill contractual obligations, it is determined that the CONSULTANT had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the local government. In such event, adjustment of the contract price shall be made as provided in paragraph C above.

X. Notice and Contact

(A) The OWNER's Contract Manager for this Contract is **James R. Dean-City Manager**.

(B) The representative of the CONSULTANT responsible for the Administration of this Contract is **David H. Melvin, President**. Project Manager shall be **Evan McAllister**.

(C) In the event that different representatives are designated by either party after execution of this Contract, notice of the name and address of the new representative will be rendered in writing to the party and said notification attached to the original of this Contract.

XI. Terms and Conditions

This Contract contains all the terms and conditions agreed upon by the parties.

XII. Eligibility

The CONSULTANT certifies that it is eligible to receive state and federally funded contracts. The CONSULTANT also certifies that no party which is ineligible for such work will be subcontracted to perform services under this Contract.

XIII. Conflict of Interest

No member of or Delegate to the Congress of the United States, or Resident Councilman, and no elected state official or employee shall share in any proceeds of this Contract, or in any benefit to arise from the same. No officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other official of the locality who exercises any function or responsibility with respect to this Contract, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, the Contractor shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

XIV. Remedies

Unless otherwise provided in this contract, all claims, counter-claims, disputes and other matters in question between the local government and the CONSULTANT, arising out of or relating to this contract, or the breach of it, will be decided by arbitration if the parties mutually agree or in a Florida court of competent jurisdiction.

XV. Access to Records

The local government, the AGENCY and any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the CONSULTANT which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcriptions.

XVI. Retention of Records

The CONSULTANT shall retain all records relating to this contract for six years after the local government makes final payment and all other pending matters are closed.

XVII. Environmental Compliance

If this contract exceeds \$100,000, the CONSULTANT shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and U.S. Environmental Protection Agency regulations (40 C.F.R. Part 15). The CONSULTANT shall include this clause in any subcontracts over \$100,000.

XVIII. Energy Efficiency

The CONSULTANT shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

XIX. Prohibition Against Contingent Fees

The CONSULTANT warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this agreement and that he has not paid or agreed to pay any person, company, corporations, individual, or firm, other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this agreement.

XX. If a Truth-in-Negotiations certificate was required for this contract, the firm agrees that the original contract price and additions thereto shall be adjusted to exclude any significant sums by which it is determined the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of the contract.

XXI. Federal Statutory Requirements

The CONSULTANT and the OWNER shall comply with the provisions contained in Attachment B and incorporated herein.

XXII. Lobbying

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, Member of Congress, an officer or employee of Congress, or any 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 extension, continuation, renewal, amendment, or modification of any federal contract, Grant, loan or cooperative agreement.

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, 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, Disclosures Form to Report Lobbying.

XXIII. Additional Terms

The OWNER and the CONSULTANT shall also be bound by and comply with each of the provisions contained in Attachment A which is incorporated herein and made a part hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their undersigned officials as duly authorized.

DAVID H. MELVIN, INC.

CITY OF MARIANNA

By: _____

By: _____

Name and Title: David. H. Melvin, President

Name and Title: James R. Dean, City Manager

ATTACHMENT A

SCOPE OF SERVICES

Task 1 – Compliance Monitoring

- Establish project files for the PROGRAM. These must demonstrate compliance with all applicable state, local and federal regulations. Monitor project files throughout the PROGRAM to ensure they are complete and that all appropriate documentation is being retained in the project files.
- Assist in conducting public meetings as required to explain the PROGRAM to residents. This includes, but is not limited to, such things as assisting in public hearings, preparing public notices, etc. Coordinate citizen participation throughout the project term.
- Arrange for contracting with other consulting firms as required.
- Request a wage decision for project construction activities.
- Prepare all bid documents, other than technical components, and supervise the bidding process consistent with state and federal regulations.
- Develop construction contract documents which comply with federal regulations. Examples of such regulations are Conflict of Interest, Access to Records, Copeland Anti-Kickback Act, Safety Standards, Architectural Barriers, Section 3, Section 109, Title VI, Civil Rights Act, etc.
- Obtain contractor and subcontractor clearance from the state.
- Conduct preconstruction conferences for construction activities.
- Check weekly payrolls to ensure compliance with wage decisions. Conduct on-site interviews and compare the results with appropriate payrolls.
- Monitor construction to ensure compliance with Equal Opportunity and labor standard provisions.

Task 2 – Financial Management

- Coordinate the Request for Payments procedures to ensure consistency with the AGENCY letter of credit procedures established for the Grant PROGRAM. This includes the establishment of a Grant checking account.
- Make progress and final inspections and certify partial and final payment requests.

Task 3 – Reporting Requirements

- Prepare quarterly reports and other reports as required for compliance with procedures. This includes any amendments which may be required.
- Prepare close-out documents to include project completion report, final wage compliance report, and certificates of completion.

Task 4 – Environmental Review

Prepare Environmental Review Record for all activities, if required. Responsibilities include making a recommendation to the local government as to a finding of the level of impact, preparation for request for Removal of Environmental Conditions and acquiring adequate documentation. If necessary, prepare an Environmental Assessment. Secure documentation of compliance with requirements of intergovernmental coordination and review (clearinghouse) agencies.

Task 5 – Program Policy Development

- Assess the local government's compliance with state and federal regulations concerning procurement, employment, personnel and property management, records retention, fair housing, etc. Make recommendations for modifications, as appropriate.

Task 6 – Duplication of Benefits Review/Analysis

Invoicing will be reviewed in coordination with documentation provided by pertinent jurisdiction to ensure no duplication of benefits is effected.

ATTACHMENT B

FEDERAL PROVISIONS

1. Equal Employment Opportunity

During the performance of this Contract, the CONSULTANT agrees as follows:

- a. The CONSULTANT will not discriminate against any employee or applicant for employment because of race, creed, sex, color or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their race, creed, sex, color or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the OWNER setting forth the provisions of this non-discrimination clause.
- b. The CONSULTANT will, in all solicitation or advertisements for employees placed by or on behalf of the CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, or national origin.
- c. The CONSULTANT will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- d. The CONSULTANT 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.
- e. The CONSULTANT will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by all the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the local government and the Florida and United States Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- f. In the event of the CONSULTANT's non-compliance with the equal opportunity clauses of this Agreement or with any of such rules, regulations or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the CONSULTANT may be declared ineligible for further government 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.
- g. The CONSULTANT will include the provisions of paragraphs (a) through (g) 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 CONSULTANT will take such action with respect to any subcontract or purchase order as the local governing authority(s) representative may direct as a means of enforcing such provisions including sanction for non-compliance: Provided, however, that in the event the CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the OWNER, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

2. Davis Bacon Act

- (a) This section applies to all construction contracts in excess of \$2,000.
- (b) In accordance with the requirements of the Davis Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction), the contractor shall 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, the contractor shall pay wages not less than once a week.
- (c) Award of this contract to the contractor is conditioned upon the contractor's acceptance of the current prevailing wage determination issued by the Department of Labor as provided in the solicitation for this contract.

3. Copeland Anti-Kickback Act

- (a) This section applies to all contracts and subcontracts in excess of \$2,000 for construction or repair.
- (b) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. Part 3 as may be applicable, which are incorporated by reference into this contract. Specifically, the contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.
- (c) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all these contract clauses.
- (d) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

4. Contract Work Hours and Safety Standards

- (a) This section applies to all contracts in excess of \$100,000 that involve the employment of mechanics or laborers as provided in 40 U.S.C. § 3701.
- (b) As provided in 40 U.S.C. § 3702, and as supplemented by Department of Labor regulations (29 C.F.R. Part 5), the contractor shall 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 basis rate of pay for all hours worked in excess of 40 hours in the work week.
- (c) The requirements of 40 U.S.C. § 3704, as supplemented by 29 C.F.R. Part 5, shall apply 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.
- (d) No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic received compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such work week.
- (e) In the event of any violation of the clause set forth in paragraph (d) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (d) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (d) of this section.
- (f) The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (e) of this section.
- (g) The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (c) through (f) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (c) through (f) of this section.

5. Compliance with Clean Air Act

- (a) The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et. seq.
- (b) The contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of Florida, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (c) The contractor agrees to include the requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance.

6. Compliance with Federal Water Pollution Act

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

7. Debarment and Suspension

- (a) 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's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (b) 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 it enters into.
- (c) This certification is a material representation of fact relied upon by the Client. 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 the Client, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.
- (d) 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. Byrd Anti-Lobbying Amendment

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

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

9. Procurement of Recovered Materials

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

Competitively within a timeframe providing for compliance with the contract performance schedule; meeting contract performance requirements; or at a reasonable price.

Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines webpage: <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

10. Civil Rights Act of 1964

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, 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.

11. Section 109 of the Housing and Community Development Act of 1974

No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any PROGRAM or activity funded in whole or in part with funds made available under Title I of the Housing and Community Development Act.

12. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities

- (a) The work to be performed under this contract is assisted by direct federal assistance from the U. S. AGENCY of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 170. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.
- (b) The parties to this contract will comply with the provisions of said Section 3 and regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the AGENCY issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.
- (c) The CONSULTANT will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or worker's representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- (d) The CONSULTANT will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, CFR Part 135. The CONSULTANT will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- (e) Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the AGENCY issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractor and subcontractors, its successors and assigns to those sanctions specified by the Grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

13. Records and Audits

The CONSULTANT shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Contract and such other records as may be deemed necessary by the OWNER to assure proper accounting for project funds, both federal and non-federal shares. These records will be made

available for audit purposes to the OWNER, Florida Department of Economic Opportunity, U.S. Department of Housing and Urban Development, Florida Division of Emergency Management, the FEMA Administrator, the U.S. Comptroller General or their authorized representatives, and will be retained for six years after the expiration of this contract unless permission to destroy them is granted by the OWNER.

14. Compliance with Federal Law, Regulations, and Executive Orders

This is an acknowledgement that this contract is funded entirely or in part by federal funds. The contractor will comply with all applicable federal law, regulations, executive orders, Federal Emergency Management Agency, and Department of Housing and Urban Development policies, procedures, and directives, including, but not limited to:

- (a) The Housing and Community Development Act of 1974, as amended;
- (b) Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. § 5155), as amended;
- (c) Section 18 of the Small Business Act (14A U.S.C. § 647), as amended;
- (d) 44 C.F.R. § 206.191 (Duplication of Benefit), as amended;
- (e) Federal Register, Vol. 76, No. 221, November 16, 2011 (76 FR 710660): Clarification of Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees;
- (f) Public Law 114-223; Continuing Appropriations Act, 2017;
- (g) Public Law 114-254: Further Continuing and Security Assistance Appropriations Act, 2017;
- (h) HUD Federal Register Notice published at 81 FR 83254 dated November 21, 2016;
- (i) HUD Federal Register Notice published at 82 FR 5591 dated January 18, 2017; and
- (j) HUD Federal Register Notice published at 82 FR 36812 dated August 7, 2017.

15. No Obligation by Federal Government

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

16. Fraud and False or Fraudulent or Related Acts

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

17. Prohibition on Contracting for Covered Telecommunications Equipment or Services

(a) *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

(b) *Prohibitions.*

- (1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- (2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
 - (i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or

services as a substantial or essential component of any system, or as critical technology of any system;

- (ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (iii) Enter into, extend, or renew contracts with entities 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;
or
- (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) *Exceptions.*

(1) This clause does not prohibit contractors from providing—

- (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
- (ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to:

(i) Covered telecommunications equipment or services that:

- i. Are not used as a substantial or essential component of any system; and*
- ii. Are not used as critical technology of any system.*

(ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) *Reporting requirement.*

(1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:

- (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
- (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

- (e) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

ATTACHMENT C

**SWORN STATEMENT UNDER SECTION 287.133(3)(a),
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES**

THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICE AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted with Bid, Proposal, or Contract for CITY OF MARIANNA for Professional Administrative Services for Economic Development in accordance with the GRANT agreement.
2. This sworn statement is submitted by David H. Melvin, Inc. whose business address is 4428 Lafayette Street, Post Office Box 840, Marianna, Florida 32447 and (if applicable) its Federal Employers Identification Number (FEIN) is 59-2990336.
3. My name is David H. Melvin and my relationship to the entity named above is President.
4. I understand that a “Public Entity Crime” as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with any agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or any agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
5. I understand that “convicted” or “conviction” as defined in Paragraph 287.133(1)(b) means a finding of guilt or a conviction of a public entity crime, with or without adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
6. I understand that an “affiliate” as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
 1. A predecessor or successor of a person convicted of a public entity crime; or
 2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term “affiliate” includes those officers, directors, executives, partners, shareholders, employees, members and agents who are active in the management of an affiliate. The OWNERSHIP by one person of shares constituting a controlling interest in another persons, or a pooling of equipment or income among persons when not for fair market value under an arm’s length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
7. I understand that a “person” as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts

or applies to transact business with a public entity. The term “person” includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of any entity.

8. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement: (Please indicate which statement applies.)

- X Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.
- _____ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (Please indicate which additional statement applies.)
- _____ There has been a proceeding concerning the conviction before a hearing officer of the State of Florida Division of Administrative Hearings. The final order entered by the hearing officer did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)
- _____ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order was entered by the hearing officer determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attached a copy of the final order.)
- _____ The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by or pending with the AGENCY of General Services.)

David H. Melvin, President

Date: _____

STATE OF FLORIDA
COUNTY OF JACKSON

The foregoing instrument was acknowledged before me by David H. Melvin, President for David H. Melvin, Inc., who is personally known to me on this _____ day of _____, 2021.

Notary Public
My Commission Expires:

APPENDIX A, 44 C.F.R. PART 18: CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements (To be submitted with each bid or offer exceeding \$100,000)

The undersigned (Contractor) certifies, to the best of his or her knowledge, that:

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, David H. Melvin, Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et. seq., apply to this certification and disclosure, if any.

Signature of Contractor’s Authorized Official: _____

Name and Title of Contractor’s Authorized Official: David H. Melvin, President

Date _____

