

EXHIBIT B

Additional Provisions for Contracts Funded Through Federal Assistance, Including Provisions for Federal Emergency Management Agency (FEMA) Assistance, Reimbursement Contracts

This Contract for purchases, services, construction or repairs to be provided by the Contractor hereto to the Town of Chapel Hill is funded, in whole or in part, by Federal assistance in the form of grant, sub-grant, loan or reimbursement either directly to the Town as a recipient or to the Town as a subrecipient of funding provided from the Federal government to an agency of the State of North Carolina or to another pass-through agency. Accordingly, the following Federal provisions apply to this Contract pursuant to 2 CFR § 200.326 and 2 CFR Part 200, Appendix II, as applicable.

A. All Contracts – Compliance with Debarment and Suspension (Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at CFR Part 180; Department of Homeland Security regulations at 2 CFR Part 3000.) [2 CFR Part 200, App. II (H)]

- (1) This contract is a covered transaction for purposes of 2 CFR Part 180 and 2 CFR Part 3000. As such, the Contractor is required to verify that none of the Contractor's principals (defined at 2 CFR § 180.995) or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935).
- (2) The Contractor must comply with 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by the Town of Chapel Hill. If it is later determined that the Contractor did not comply with 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C, in addition to remedies available to the Town, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 CFR Part 180, subpart C and 2 CFR 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.

B. All contracts – Compliance with Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352). [2 CFR Part 200, App. II (I)]

Contractor will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier 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 awarding agency. Contractors that apply or bid for an award exceeding \$100,000 must file the Certification Regarding Lobbying required by the federal granting agency pursuant to 31 U.S.C. § 1352 (as amended).

C. Certain Contracts – Compliance with Rights to Inventions Made Under a Contract or Agreement. [2 CFR Part 200, App. II (F)]

If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by

Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. This requirement does not apply to awards under the Federal Emergency Management Agency's Public Assistance, Hazard Mitigation Grant Program, Fire Management Assistance Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households-Other Needs Assistance Grant Program.

D. Prime Construction Contracts in excess of \$2,000 (when required by Federal program legislation) – Compliance with Davis-Bacon Act, as amended (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction). [2 CFR Part 200, App. II (D)]

Contractor is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor must pay wages not less than once a week. The Town must place a copy of the current prevailing wage determine issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The Town must report all suspected or reported violations to the Federal awarding agency. This provision only applies to the Federal Emergency Management Agency's Emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. It does not apply to other FEMA grant and cooperative agreement programs, including the Public Assistance Program.

E. Prime Construction Contracts in excess of \$2,000 (when required by Federal program legislation) – Compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). [2 CFR Part 200, App. II (D)]

- (1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 CFR Part 3 as may be applicable, which are incorporated by reference into this contract.
- (2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the Federal Emergency Management Agency may by appropriate instructions require, 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 of these contract clauses.
- (3) 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 CFR § 5.12.

This provision does not apply to the FEMA Public Assistance Program.

F. All Contracts of \$10,000 and above – Termination by Town. [2 CFR Part 200, App. II (B)]

The Town of Chapel Hill reserves the right to immediately terminate any agreement in excess of \$10,000 in the event the Contractor fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order; (2) make any payments owed; or (3) otherwise perform in accordance with the contract and/or the procurement solicitation. The Town also reserves the right to terminate the Contract for convenience, with thirty (30) days written notice to the Contractor, if the Town believes, in its sole discretion, that it is in the Town's best interest to do so. In the event the Town terminates this Contract for convenience, the Contractor will be compensated for work performed and accepted and goods accepted by the Town as of the termination date. Any award under this procurement process is not exclusive and the Town reserves the right to purchase goods and services from other vendors when it is in the best interest of the Town.

G. Contracts for purchases exceeding \$10,000 in value for a single item or through cumulative acquisition – Compliance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (2 CFR §200.322, Procurement of recovered materials).[2 CFR Part 200, App. II (J)]

The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. 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 1) cannot be acquired competitively within a timeframe providing for compliance with the contract performance schedule; 2) cannot be acquired at a reasonable price, or 3) does not meet contract performance requirements. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <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.

H. Contracts in excess of \$100,000 involving employment of mechanics or laborers (where applicable) – Compliance with Contract Work Hours and Safety Standards Act (40 U.S.C. § 3701-3708), as supplemented by Department of Labor regulations [29 CFR Part 5]; See also 29 CFR 5.5(b)(c) for Federal Emergency Management Agency contracts. [2 CFR Part 200, App. II (E)]

This provision applies to all Federal Emergency Management Agency contracts awarded by the Town of Chapel Hill in excess of \$100,000 under grant and cooperative agreement programs that involve the employment of mechanics and laborers and is applicable to construction work. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- (1) Overtime requirements. 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 receives 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 workweek.

- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) 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 (1) of this section, in the sum of \$26 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 (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The Town of Chapel Hill 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 (2) of this section.
- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) 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 (1) through (4) of this section.

I. All Contracts for the Simplified Acquisition Threshold* and above – Breach or Violation of Terms by Contractor. [2 CFR Part 200, App. II (A)]

The Town of Chapel Hill reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach or violation of terms of this Contract by the Contractor. (*The National Defense Authorization Act for Fiscal Year 2018 [Public Law 115-91] established \$250,000 as the Simplified Acquisition Threshold. See General Services Agency, Civilian Agency Acquisition Council, CAAC Letter 2018-02, February 16, 2018.)

J. Contracts in excess of \$150,000 – Compliance with Clean Air Act (42 U.S.C. §§ 7401-7671q.) as amended. [2 CFR Part 200, App. II (G)]

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401 et seq, as amended).
- (2) The Contractor agrees to report each violation to the Town of Chapel Hill and understands and agrees that the Town will, in turn, report each violation as required to the Federal Emergency Management Agency and the appropriate Environmental Protection Agency regional office.
- (3) 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.

K. Contracts in excess of \$150,000 – Compliance with Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387), as amended. [2 CFR Part 200, App. II (G)]

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq, as amended).
- (2) The Contractor agrees to report each violation to the Town of Chapel Hill and understands and agrees that the Town will, in turn, report each violation as required to the Federal Emergency Management Agency and the appropriate Environmental Protection Agency regional office.
- (3) 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.

L. Construction Contracts (except as provided under 41 CFR Part 60) – Equal Employment Opportunity Clause under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 Fed. Reg. 12319, 12935, 3 CFR Part 1964-1965 Comp., p. 339), as amended by Executive Order 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and implementing regulations at 41 CFR Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor. [2 CFR Part 200, App. II (C)]

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

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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.

- (5) 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.
- (6) 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.
- (7) 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.

- (8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) 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.

The Town of Chapel Hill further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of the Town of Chapel Hill which does not participate in work on or under the Contract.

The Town of Chapel Hill agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The Town of Chapel Hill further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive

Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the Town of Chapel Hill agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part the grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the Town of Chapel Hill under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from the Town of Chapel Hill; and refer the case to the Department of Justice for appropriate legal proceedings.

ADDITIONAL REQUIREMENTS – FEDERAL EMERGENCY MANAGEMENT AGENCY ASSISTANCE, REIMBURSEMENT

M. Changes.

Any change in the contract cost, modification, change order, or constructive change must be allowable, allocable, within the scope of its funding, grant or cooperative agreement, and reasonable for the completion of project scope. All changes and/or amendments to the contract will be outlined in detail, formalized in writing, and signed by the authorized representative of each party. Contractor's failure to do so shall constitute a material breach of the contract.

N. Access to Records.

The following access to records requirements apply to this contract:

- (1) The Contractor agrees to provide the North Carolina Division of Emergency Management, the Town of Chapel Hill, the Federal Emergency Management Agency Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- (4) In compliance with the Disaster Recovery Act of 2018, the Town and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

O. Non-Use of Department of Homeland Security Seal, Logo, and Flags.

The Contractor shall not use the Department of Homeland Security seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific Federal Emergency Management Agency pre-approval.

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

This is an acknowledgement that Federal Emergency Management Agency financial assistance will be used to fund all or a portion of the contract. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

Q. 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.

R. Program Fraud and False or Fraudulent Statements or Related Acts.

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

ADDITIONAL PROVISIONS - OTHER

This Contract is subject to additional Federal regulations including, but not limited to, the following:

S. Non-Profit Organization Subrecipients – Records Retention Requirements (2 CFR § 200.333).

Except for certain exceptions outlined in 2 CFR § 200.333, records pertinent to this Contract must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report.

T. All Contracts – Additional Requirements by Federal Awarding Agency.

This Contract may be subject to additional requirements of the Federal awarding agency as may be specified in grant agreements, grant award documents and/or other documents or correspondence associated with the Town of Chapel Hill's acceptance of Federal funding.