

ADDENDUM NO. 1

October 3, 2019

Attention All Bidders and Plan Holders:

Sand Sheds Construction Project

FEMA Project No. DR 4309 PW 238

County Project No. 90-17F509100443B

The attached Federal Provisions shall be replaced in the Contract:

State and Federal Laws to be Observed

All bidders will be required to furnish evidence of the receipt of this addendum on the Proposal Signature page. This addendum will be incorporated in and made a part of the contract when awarded, and when formally executed.

**END OF
ADDENDUM NO. 1**

STATE AND FEDERAL LAWS TO BE OBSERVED

The applicant must comply with all state and federal laws in performing all tasks undertaken with respect to the Public Assistance Program. The following sections are included for informational purposes and are not professed to include all relevant laws. It is the applicant's responsibility to comply with all federal, state, and local laws.

- 1. EQUAL EMPLOYMENT OPPORTUNITY** – All contracts shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- 2. COPELAND "ANTI-KICKBACK" ACT (18 U.S.C. 874 AND 40 U.S.C. 276c)** – All contracts and subgrants in excess of \$2,000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.
- 3. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C 327-333)** – Where applicable, all contracts awarded by recipients in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall 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.
- 4. 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 and the recipient in any resulting invention in accordance with 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.

5. CLEAN AIR ACT (42 U.S.C. 7401 et seq.) AND THE FEDERAL WATER POLLUTION CONTROL ACT(33 U.S.C. 1251 et seq.), as amended – Contractors and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.) Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

6. BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352) – Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying in 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.

7. DEBARMENT AND SUSPENSION (E.O.s 12549 and 12689) – No contract shall be made to parties listed on the General Services Administration’s List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, “Debarment and Suspension.” This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

8. PUBLIC LAW 88-352, TITLE VI OF THE CIVIL RIGHTS ACT OF 1964(42 U.S.C. 2000d et seq.) (24 CFR Part 1). The APPLICANT must comply with the provisions of "Public Law 88-352," which refers to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). The law provides that no person in the United States shall, on the grounds of race, color or national origin, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity receiving federal financial assistance.

9. SECTION 504 OF THE REHABILITATION ACT, 1973, AS AMENDED (29 U.S.C. 794). The APPLICANT must comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits or be subjected to discrimination under any program or activity receiving federal assistance funds.

10. AMERICANS WITH DISABILITIES ACT (42 U.S.C. 12101, et seq.) The APPLICANT shall comply with the provisions of the Americans with Disabilities Act, 42 U.S.C. 12101, et. seq. That Act provides a comprehensive national mandate to eliminate discrimination against individuals with disabilities. The Act may impose requirements on the APPLICANT in four principle ways: 1) with respect to employment; 2) with respect to the provision of public services; 3) with respect to transportation; 4) with respect to existing facilities and new construction.

11. THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969 (NEPA) (42 U.S.C Section 4321 et seq., and 24 CFR Part 58). The APPLICANT shall comply with the provisions of the National Environmental Policy Act of 1969. The purpose of this Act is to attain the widest use of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences. Environmental review procedures, including determining and publishing a Finding of Significance or of No Significance for a proposal, are a necessary part of this process. Pursuant to these provisions, the APPLICANT must also submit environmental certifications to the DEPARTMENT when requesting that funds be released for the project. The APPLICANT must certify that the proposed project will not significantly impact the environment and that the APPLICANT has complied with environmental regulations and fulfilled its obligations to give public notice of the funding request, environmental findings and compliance performance.

12. EXECUTIVE ORDER 11990, MAY 24, 1977: PROTECTION OF WETLANDS (42 F.R. 26961 et seq.) The APPLICANT shall comply with Executive Order 11990. The intent of this Executive Order is (1) to avoid, to the extent possible, adverse impacts associated with the destruction or modification of wetland, and (2) to avoid direct or indirect support of new construction in wetlands wherever there is a practical alternative. The APPLICANT, to the extent permitted by law, must avoid undertaking or providing assistance for new construction located in wetlands unless (1) there is no practical alternative to such construction, and (2) the proposed action includes all practical measures to minimize harm to wetlands which may result from such use. In making this determination, the APPLICANT may take into account economic, environmental and other pertinent factors.

13. EXECUTIVE ORDER 11988, MAY 24, 1977: FLOODPLAIN MANAGEMENT (42 F.R. 26951 et seq). The APPLICANT shall comply with the provisions of Executive Order 11988. The intent of this Executive Order is to (1) avoid, to the extent possible, adverse impacts associated with the occupancy and modification of floodplains, and (2) avoid direct or indirect support of floodplain development wherever there is a practical alternative. If the APPLICANT proposes to conduct, support or allow an action to be located in a floodplain, the APPLICANT must consider alternatives to avoid adverse effects and incompatible involvement in the floodplain. If siting in a floodplain is the only practical alternative, the APPLICANT must, prior to taking any action (1) design or modify its actions in order to minimize any potential harm to the floodplain, and (2) prepare and circulate a notice containing an explanation of why the action is proposed to be located in a floodplain.

14. THE WILD AND SCENIC RIVERS ACT OF 1968, AS AMENDED (16 U.S.C. 1271 et seq.). The APPLICANT shall comply with the Wild and Scenic Rivers Act. The purpose of this Act is to preserve selected rivers or sections of rivers in their free-flowing condition, to protect the water quality of such rivers and to fulfill other vital national conservation goals. Federal assistance by loan, grant, license, or other mechanism cannot be provided to water resources construction projects that would have a direct and adverse effect on any river included or designated for study or inclusion in the National Wild and Scenic River System.

15. COASTAL ZONE MANAGEMENT ACT OF 1972, AS AMENDED (16 U.S.C. 1451 et seq.). The APPLICANT shall comply with the Coastal Zone Management Act of 1972, as amended. The intent of this Act is to preserve, protect, develop, and where possible, restore or enhance the resources of the nation's coastal zone. Federal agencies cannot approve assistance for proposed projects that are inconsistent with the state's Coastal Zone Management program except upon a finding by the U.S.

Secretary of Commerce that such a project is consistent with the purpose of this chapter or necessary in the interests of national security.

16. THE ENDANGERED SPECIES ACT OF 1973, AS AMENDED (16 U.S.C. 1531 et seq.). The APPLICANT shall comply with the Endangered Species Act of 1973, as amended. The intent of this Act is to ensure that all federally assisted projects seek to preserve endangered or threatened species. Federally authorized and funded projects must not jeopardize the continued existence of endangered and threatened species or result in the destruction of or modification of habitat of such species which is determined by the U.S. Department of the Interior, after consultation with the state, to be critical.

17. THE RESERVOIR SALVAGE ACT OF 1960, AS AMENDED BY THE ARCHAEOLOGICAL AND HISTORIC PRESERVATION ACT OF 1974 (16 U.S.C. 469 et seq.). Under the Reservoir Salvage Act, the APPLICANT must comply with provisions for the preservation of historical and archaeological data (including relics and specimens) that might otherwise be irreparably lost or destroyed as a result of any alteration of the terrain caused as a result of any federal construction project or federally licensed activity or program. Whenever the APPLICANT finds, or is notified in writing by an appropriate historical or archaeological authority, that its activities in connection with any federal funded construction project or federally licensed project, activity or program may cause irreparable loss or destruction of significant scientific, prehistoric, historical or archaeological data, the APPLICANT must stop work immediately and must notify the U.S. Secretary of Interior and the Department in writing and provide appropriate information concerning the project or program activity.

18. THE ARCHAEOLOGICAL AND HISTORICAL DATA PRESERVATION ACT OF 1974 (16 U.S.C. 469 a-1 et seq.). The APPLICANT shall comply with the Archaeological and Historical Data Preservation Act, which provides for the preservation of historic and archaeological information that would be lost due to development and construction activities as a result of federally funded activities.

19. THE SAFE DRINKING WATER ACT OF 1974, AS AMENDED (42 U.S.C. Section 201, 300(f) et seq., and U.S.C. Section 349). The APPLICANT must comply with the Safe Drinking Water Act, as amended, which is intended to protect underground sources of water. No commitment for federal financial assistance, according to this Act, shall be entered into for any project, which the U.S. Environmental Protection Agency determines, may contaminate an aquifer that is the sole or principal drinking water source for an area.

20. THE FEDERAL WATER POLLUTION CONTROL ACT OF 1972, AS AMENDED, INCLUDING THE CLEAR WATER ACT OF 1977, PUBLIC LAW 92-212 (33 U.S.C. SECTION 1251 et seq.). The APPLICANT must assure compliance with the Water Pollution Control Act, as amended, which provides for the restoration of chemical, physical and biological integrity of the nation's water.

21. THE SOLID WASTE DISPOSAL ACT, AS AMENDED BY THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976 (42 U.S.C. SECTION 6901 et seq.) The APPLICANT must assure compliance with the Solid Waste Disposal Act, as amended. The purpose of this Act is to promote the protection of health and the environment and to conserve valuable material and energy resources.

22. THE FISH AND WILDLIFE COORDINATION ACT OF 1958, AS AMENDED (16 U.S.C. SECTION 661 et seq.) The APPLICANT must assure compliance with the Fish and Wildlife Coordination Act, as amended. The Act assures that wildlife conservation receives equal consideration and is coordinated with other features of water resources development programs.

23. RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICY, CHAPTER 8.26 RCW. The APPLICANT shall comply with the provisions of Chapter 8.26 RCW and Chapter 365-24 WAC when its activities involve any acquisition of real property assisted under this Grant Agreement or the displacement of any family, individual, business, nonprofit organization or farm that results from such acquisition.

24. STATE ENVIRONMENTAL POLICY ACT (SEPA), CHAPTER 43.21 (C) RCW. The APPLICANT shall comply with the provisions of Chapter 43.21(C) RCW and Chapter 197-11 WAC, the guidelines by which local agencies will (1) require environmental checklists from private and public entities considering an action potentially subject to the Environmental Impact Statement (EIS) requirement of SEPA, (2) make "threshold determinations" that such an action will not have a significant environmental impact, (3) provide for the preparation of a draft and final EIS if the action has significant impact, and (4) circulate the EIS to other agencies and interested parties.

25. NOISE CONTROL, CHAPTER 70.107 RCW. The APPLICANT shall assure compliance with the state Noise Control Act. Objectives of the Act are to assist local governments in implementing local noise ordinances and to control and reduce excessive noise in Washington.

26. SHORELINE MANAGEMENT ACT OF 1971, CHAPTER 90.58 RCW. The APPLICANT shall comply with the provisions of Chapter 90.58 RCW. This Act defines a planning program and a permit system, which are initiated at the local government level under state guidance. Its purpose is to protect and enhance the state's shoreline and it includes a comprehensive shoreline inventory process and a master program for regulation of shoreline uses. A permit application at the local level must be in compliance with those plans and consistent with the state Coastal Zone Management program if substantial developments and shoreline modifications occur, and a record of the application and decision must be submitted to the state.

27. STATE BUILDING CODE, CHAPTER 19.27 RCW; ENERGY RELATED BUILDING STANDARDS, CHAPTER 19.27A RCW; AND PROVISIONS IN BUILDINGS FOR AGED AND HANDICAPPED PERSONS, CHAPTER 70.92 RCW. The APPLICANT shall comply with the provisions of Chapter 19.27 RCW, Chapter 19.27A RCW, Chapter 70.92 RCW and the regulations for building construction and for barrier free facilities adopted by the Washington State Building Code Council pursuant to these statutes. The State Building Code Act provides for a uniform state building code and mandates counties, cities and towns to administer and enforce its provisions. Local governments are authorized to modify the state building code to fit local conditions as long as such modifications do not result in a code that is less than the minimum performance standards and objectives contained in the state code.

28. OPEN PUBLIC MEETINGS ACT, CHAPTER 42.30 RCW. The APPLICANT shall comply with provisions of Chapter 42.30 RCW which require that all meetings of the governing body which pertain

to this Grant Agreement shall be open to the public except those where specific provision is made for executive sessions pursuant to RCW 42.30.110.

29. LAW AGAINST DISCRIMINATION, CHAPTER 49.60 RCW. The APPLICANT shall comply with the provisions of Chapter 49.60 RCW in all activities relating to this Grant Agreement.

30. GOVERNOR'S EXECUTIVE ORDER 89-10, DECEMBER 11, 1989: PROTECTION OF WETLANDS, AND GOVERNOR'S EXECUTIVE ORDER 90-04, APRIL 21, 1990: PROTECTION OF WETLANDS. The APPLICANT shall ensure that it avoids any activities that would adversely affect wetlands and adequately mitigates unavoidable impacts. For the purposes of this requirement, except where a contrary definition is provided by statute, mitigation means: (1) avoiding the impact altogether by not taking certain action or part of an action; (2) minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts; (3) rectifying the impact by repairing, rehabilitating, or restoring the affected environment; (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; (5) compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and (6) monitoring the impact and taking appropriate corrective measures.

Mitigation for individual actions may include a combination of the above measures. Mitigation may not include any of the above measures to the extent that they may be contrary to statute as applied under the particular circumstances. Emergency work that is essential to save lives and protect property and public health is exempt from these provisions.

31. PREVAILING WAGES ON PUBLIC WORKS, CHAPTER 39.12 RCW. The applicant shall comply with the provisions of Chapter 39.12, Prevailing Wages on Public Works. This statute mandates that the prevailing rate of wage, as determined by the State Department of Labor and Industries, be paid to workers performing under public works contracts.

32. CONTRACTING WITH SMALL MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISE AND LABOR SURPLUS AREA FIRMS. In accordance 44 CFR 13.36(e), Contracting with Small and Minority Firms, if employing contractors or suppliers the Contractor will take affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. (1) The grantee and subgrantee will take all necessary affirmative steps to assure that minority firms, women's enterprises and labor surplus area firms are used when possible. (2) Affirmative steps shall include: (i) Placing qualified small and minority businesses, and women's business enterprises on solicitation lists; (ii) Assuring that small and minority enterprises are solicited whenever they are potential sources; (iii) 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; (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; (v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce; and (vi) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (e)(2)(i) through (v) of this section.