**Exhibit B**

**Federal Terms and Conditions (Non-Construction)**

# NOTE: NO EXCEPTIONS TO THE LISTED FEDERAL TERMS AND CONDITIONS WILL BE CONSIDERED. STATE IS NOT PERMITTED TO ALTER THESE TERMS AND CONDITIONS THROUGH OUR FEDERAL PARTNER.

**By submitting a response to this invitation for bid, request for proposal, limited solicitation, or by accepting a contract, Contractor agrees and acknowledges State has received a Federal Award for this Contract and therefore the following Federal Terms and Conditions apply along with all other provisions that are specific and applicable to this solicitation or contract.**

## Breach, Default, Termination

## State reserves the right to pursue all available legal, administrative, contractual or equitable remedies in the event of Contractor’s breach of contract or violation of any term of this Contract, including all Attachments and Exhibits. State maintains the right to terminate this Contract and retains all rights and remedies against Contractor. State shall also have the right to terminate this Contract in the manner prescribed in this Contract, including the right to terminate upon the reduction or elimination of Federal funding for the purpose of this Contract.

## Nondiscrimination

Contractor agrees that no person shall be denied benefits of or otherwise be subjected to discrimination in connection with Contractor's performance under this Contract, on the ground of race, religion, color, national origin, sex or disability. Accordingly and to the extent applicable, Contractor shall comply with the following:

* 1. On the basis of race, color or national origin, in Title VI of the Civil Rights Act of 1964 (42 USC Section 2000d, *et seq*.), as implemented by Department of Defense (DOD) regulations at 32 CFR part 195.
  2. On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 (3 CFR, 1964-1965 Comp. pg. 339), as implemented by Department of Labor regulations at 41 CFR part 60.
  3. On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 USC 1681, *et seq.*), as implemented by DOD regulations at 32 CFR part 196.
  4. On the basis of age, in the Age Discrimination Act of 1975 (42 USC Section 6101, *et seq.*), as implemented by Department of Health and Human Services regulations at 45 CFR part 90.
  5. On the basis of disability, in Sections 504 and 508 of the Rehabilitation Act of 1973 (29 USC 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 56.
  6. Equal Employment Opportunity: Except as otherwise provided in 41 CFR Part 60, all “federally assisted construction contracts,” as defined in 41 CFR Part 60-1.3 are subject to the Equal Opportunity clause contained in 41 CFR 60-1.4(b), incorporated by reference. Furthermore, the Equal Opportunity clause contained in 41 CFR 60-1.4(b) applies to all nonexempt subcontracts entered into by Contractor under this Contract, and Contractor agrees to include the Equal Opportunity clause contained in 41 CFR 60(1.4)(b) in all nonexempt subcontracts.

1. **Equal Employment Opportunity**

Except as otherwise provided in 41 CFR Part 60, all “federally assisted construction contracts,” as defined in 41 CFR Part 60(1.3) are subject to the Equal Opportunity clause contained in 41 CFR 60(1.4)(b), incorporated by reference. Furthermore, the Equal Opportunity clause contained in 41 CFR 60(1.4)(b) applies to all nonexempt subcontracts entered into by Contractor under this Contract, and Contractor agrees to include the Equal Opportunity clause contained in 41 CFR 60(1.4)(b) in all nonexempt subcontracts.

1. **Davis-Bacon Act, as amended (40 USC 3141-3148)**

Where applicable, all prime construction contracts in excess of $2,000 shall comply with the Davis-Bacon Act (40 USC 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the Davis-Bacon Act, Contractor must pay wages to laborers and mechanics at a rate not less than prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor must pay wages not less than once per week. If the Davis-Bacon Act applies, this Contract is conditioned upon the acceptance of the wage determination. State will report to the Federal Awarding Agency all suspected or reported violations of the Davis-Bacon Act.

## Lobbying

Contractor shall not expend any funds appropriated by Congress to pay any person for influencing or attempting to influence an officer or employee of any agency, or a Member of Congress in connection with any of the following covered Federal actions: 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.

The Final Rule, New Restrictions on Lobbying, issued by the Office of Management and Budget and the DOD (32 CFR Part 28) to implement the provisions of Section 319 of Public Law 101-121 (31 USC 1352) is incorporated by reference and the parties to this Contract agree to comply with all the provisions thereof, including any amendments to the Interim Final Rule that may hereafter be issued.

## Drug-Free Work Place

Contractor shall comply with the requirements regarding drug-free workplace requirements in Subpart B of 32 CFR part 26, which implements Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 USC 701, *et seq.*)

## Environmental Protection

* 1. Contractor agrees that its performance under this Contract shall comply with:
     1. Section 114 of the Clean Air Act (42 USC Section 7414);
     2. Section 308 of the Federal Water Pollution Control Act (33 USC Section 1318), that specifies inspection, monitoring, entry reports, and information, and with all regulations and guidelines issued therein;
     3. The Resources Conservation and Recovery Act (RCRA);
     4. The Comprehensive Environmental Response, Compensation and Liabilities Act (CERCLA);
     5. The National Environmental Policy Act (NEPA);
     6. The Solid Waste Disposal Act (SWDA); and
     7. The applicable provisions of the Clean Air Act (42 USC 7401, *et seq.)* and Clean Water Act (33 USC 1251, *et seq*.) as implemented by Executive Order 11738 and Environmental Protection Agency (EPA) rules at 40 CFR Part 31.
  2. In accordance with the EPA rules, Contractor shall identify to State any impact this Contract may have on:
     1. The quality of the human environment and provide help the Agency may need to comply with the NEPA (42 USC 4321, *et seq*.), and to Preparing Environment Impact Statements or other required environmental documentation. In such cases, Contractor shall take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) until State provides written notification of compliance with the environmental impact analysis process.
     2. Flood-prone areas, and provide assistance when State may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 USC 4001, *et seq*.), which require flood insurance, when available, for federally assisted construction or acquisitions in flood-prone areas.
     3. Coastal zones, and provide assistance when State may need to comply with the Coastal Zone Management Act of 1972 (16 USC 1451, *et seq*.), concerning protection of US coastal resources.
     4. Coastal barriers, and provide assistance when State may need to comply with the Coastal Barriers Resource Act (16 USC 3501, *et seq*.), concerning preservation of barrier resources.
     5. Any existing or proposed component of the National Wild and Scenic Rivers System, and provide assistance when State may need to comply with the Wild and Scenic Rivers Act of 1968 (16 USC 1271, *et seq*.).
     6. Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide assistance when State may need to comply with the Safe Drinking Water Act (42 USC 300H-3).

## Use of United States Flag Vessels/Cargo Preference

Contactor agrees that travel under this Contract shall use U.S.-flag air carriers (air carriers holding certificates under 49 USC 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 USC 40118) and the inter-operative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B138942.

Contactor agrees that it will comply with the Cargo Preference Act of 1954 (46 USC Chapter 553), as implemented by Department of Transportation regulation at 46 CFR 381.7, and 46 CFR 381.7(b).

## Debarment and Suspension

Contractor is subject to the non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689, 2 CFR Part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

Contractor agrees to comply with the DOD implementation of 2 CFR part 180 (at 2 CFR 1125) by checking the Excluded Parties List System (EPLS) at the current OMB website to verify (sub)contractor eligibility to receive contracts and subcontracts resulting from this Contract. Contractor shall not solicit offers from, nor award contracts to contractor or vendors listed in EPLS. This verification shall be documented in Contractor’s contract files and shall be subject to audit by Federal and State auditing.

1. **Domestic preference for procurements (2 CFR 200.322)**

As appropriate and to the extent consistent with law, Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum, plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

## Build America, Buy America (P.L. 117-58 sections 70911-70917)

## When using Federal funds for the purchase of goods, products, and materials on any form of construction, alteration, maintenance, or repair of infrastructure in the United States, Contractor is subject to the Buy America Sourcing requirements under the Build America, Buy America Provisions of the Infrastructure Investment and Jobs Act. These sourcing requirements require that all iron, steel, manufactured products, and construction materials used in Federally funded infrastructure projects must be produced in the United States. Noncompliant purchases must not be made until a waiver is obtained from the Federal funding agency.

## Uniform Relocation Assistance and Real Property Acquisition Polices

Contractor agrees that it will comply with CFR 49 part 24, which implements the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4601, *et seq*.), and provides for fair and equitable treatment of persons displaced by federally assisted programs or persons whose property is acquired as a result of such programs.

## Copeland "Anti-Kickback" Act

Where applicable, Contractor with all prime construction contracts over $2,000 agrees to comply with the Copeland “Anti-Kickback” Act (40 USC 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”). As applied to this Contract, the Copeland "AntiKickback" Act makes it unlawful to induce, by force, intimidation, threat or procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment. State will report to the Federal Awarding Agency any suspected or reported violations of the Copeland “Anti-Kickback” Act.

## Contract Work Hours and Safety Standards Act

Where applicable, all contracts over $100,000 which involve the use of mechanics or laborers shall comply with 40 USC 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 USC 3702 of the Act, Contractor agrees that it will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 3701-3708), as supplemented by Department of Labor regulations (29 CFR Part 5). As applied to this Contract, the Contract Work Hours and Safety Standards Act specifies that no laborer or mechanic doing any part of the work contemplated by this Contract shall be required or permitted to work more than 40 hours in any workweek unless paid for all additional hours at not less than 1.5 times the basic rate of pay. The requirements of 40 USC 3704 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.

## Rights to Inventions Made Under a Contract or Agreement

Any discovery or invention that arises during performance of the Contract shall be reported to the non-Federal entity. Contractor 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 State.

## Clean Air Act and Federal Water Pollution Control Act

Any Contract or subcontract in excess of $150,000 must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 USC 7401- 7671(q) and the Federal Water Pollution Control Act, as amended (33 USC 1251-1387). Violations must be reported to State who in turn will report to the Federal awarding agency and the EPA Regional Office.

1. **Federal Water Pollution Control Act (33 USC 1251-1387), as amended**

For Contracts and subgrants over $150,000, Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act as amended (33 USC 1251-1387). State will report violations to the Federal Awarding Agency and the EPA Regional Office.

1. **Energy Policy and Conservation Act (42 USC 6201)**

Contractor shall comply with all mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201).

## Byrd Anti-Lobbying Amendment

Contractors that bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

## System For Award Management and Unique Entity Identification Number

Contractor shall comply with the System for Award Management (Sam.gov) maintained by the General Services Administration. Contractor shall provide a Unique Entity Identification Number assigned to it.

## Procurement of Recovered Materials

Contractor must comply with Section 6002 of the Solid Waste Disposal Act, 42 USC 6901-6992k, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](https://www.law.cornell.edu/cfr/text/40/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.

1. **Never contract with the enemy (2 CFR 200.215)**

Contractor is subject to the regulations implementing Never Contract with the Enemy in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered contracts, grants and cooperative agreements that are expected to exceed $50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

## 2 CFR 200.326, Appendix II, Required Contract Clauses

2 CFR 200.326, Appendix II, Required Contract Clauses are incorporated by reference as if set forth in full text and are made part of this Contract as applicable. Contractor shall comply with all applicable contract clauses and provide the same clauses in any subcontracts or purchase orders issued in support of this Contract with State.

## Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

Contractor agrees it will not provide or use covered telecommunications equipment or services in the performance of this Contract in compliance with 2 CFR

200.216. Covered telecommunications equipment or services has the meaning provided in Public Law 115-232, Section 889.

The National Defense Authorization Act of 2019 (Section 889) requires federal government purchase cardholders to obtain assurance from merchants that merchants are not using telecommunications equipment, systems, or services produced by Huawei Technologies Company or ZTE Corporation, (or any subsidiary or affiliate of these companies); or video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities). The merchant assurance is provided as a “representation” signed by the merchant’s authorized representative.