

SOL:JM  
(18)00380

UNITED STATES DEPARTMENT OF LABOR  
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the matter of:

LOUIS BERGER U.S., INC. and THE LOUIS  
BERGER GROUP, INC.,

Respondents.

CASE NO. 2018-SCA-

**CONSENT FINDINGS AND ORDER**

The parties, the Acting Administrator, U.S. Department of Labor, Wage and Hour Division ("Administrator") and Respondents Louis Berger U.S., Inc. and The Louis Berger Group, Inc. represent that they have reached an accord to resolve this matter which arises under the McNamara O'Hara Service Contract Act of 1965, as amended, 41 U.S.C. §§ 6701-6707 ("the SCA"), as well as the Contract Work Hours and Safety Standards Act (40 U.S.C §§ 3701-3708) ("CWHSSA"), and the applicable regulations at 29 C.F.R. Parts 4 and 5. By executing this agreement, Respondents waive their answer and formal service of the complaint. To this end, the parties stipulate and agree to the following findings and order:

1. Respondent LOUIS BERGER U.S., INC. (formerly known as Louis Berger Domestic, Inc.) is a corporation with a mailing address at 1250 23rd Street, NW, 4th Floor, Washington, DC 20037-1164.

2. Respondent THE LOUIS BERGER GROUP, INC. is a corporation with headquarters at 412 Mount Kemble Avenue, PO Box 1946, Morristown, NJ 07962-1946. The Louis Berger Group, Inc. is the parent entity of Louis Berger U.S., Inc.

3. The U.S. Army Corps of Engineers awarded Respondent LOUIS BERGER U.S., INC. the contract numbered W911WN-15-D-0001 (“the Contract”).

4. The Contract was awarded in the amount of \$94,985,000 and calls for the provision of temporary emergency power activities, including as part of recovery efforts in response to Hurricanes Irma and Maria in Puerto Rico and the U.S. Virgin Islands.

5. The Contract was subject to the SCA because it was to be provided in the United States through the use of service employees, as defined by sections 8(b) and 8(d) of the Act (41 U.S.C. §§ 6701(4), 6702(a)) and was for an amount in excess of \$2,500.00.

6. The Contract was also subject to CWHSSA, as it was for an amount over \$100,000 and involved the employment of laborers or mechanics as defined in CWHSSA and applicable regulations.

7. The Contract was for a time period including but not limited to October 22, 2017 to March 31, 2018 (“the time period”).

8. The Administrator found that Louis Berger U.S., Inc. failed to include applicable wage determinations and/or labor standards clauses as required by 29 C.F.R. §§ 4.6(j), 5.5(b) in its subcontracts for work on the Contract which were also subject to the SCA and CWHSSA.

9. The Administrator found that at various times during the time period, subcontractors of Respondent Louis Berger U.S., Inc. on the Contract violated various provisions of the SCA, CWHSSA, and/or applicable regulations.

10. Respondents LOUIS BERGER U.S., INC. and THE LOUIS BERGER GROUP, INC. have paid \$5,030,449.85 of the prevailing wages and fringe benefits (“the back wages”) owed to 993 service employees and/or laborers and mechanics employed by subcontractors of Respondent Louis Berger U.S., Inc. who worked on the Contract (“the employees”).

11. Respondents LOUIS BERGER U.S., INC. and THE LOUIS BERGER GROUP, INC. have already agreed that the U.S. Department of Labor, Wage and Hour Division shall distribute the back wages, less the appropriate deductions for social security and withholding taxes, to the employees, or their legal representatives, in amounts to be determined solely by the U.S. Department of Labor. Any such amounts which remain undistributed for three (3) years because of the parties' inability to locate the employee or representative shall be deposited with the Treasurer of the United States.

12. Respondents LOUIS BERGER U.S., INC. and THE LOUIS BERGER GROUP, INC. represent that they are currently in compliance with the SCA, CWHSSA, and applicable regulations at 29 C.F.R. Parts 4 and 5, and that they will remain in compliance, on the Contract. Respondents LOUIS BERGER U.S., INC. and THE LOUIS BERGER GROUP, INC. represent that they will come into compliance with the SCA, CWHSSA, and applicable regulations at 29 C.F.R. Parts 4 and 5, within 60 days on all other SCA and/or CWHSSA-covered contracts, and that they will remain in compliance on those contracts.

13. Respondents LOUIS BERGER U.S., INC. and THE LOUIS BERGER GROUP, INC. will comply with all terms of the Enhanced Compliance Agreement ("Agreement"), attached as Exhibit A and made part of this consent findings and order.

14. By entering this consent findings and order, Respondents LOUIS BERGER U.S., INC. and THE LOUIS BERGER GROUP, INC. neither admit nor deny the allegations in the Complaint or this Order, and are settling this to avoid the cost and expense of litigation.

15. Respondents LOUIS BERGER U.S., INC. and THE LOUIS BERGER GROUP, INC. were represented by Jason M. Branciforte, Esq. of Littler Mendelson and Mark V. Sadowski, Esq., Corporate Counsel, THE LOUIS BERGER GROUP, INC. in the negotiation of this

Consent Findings and Order and the Agreement.

16. The parties, the Administrator and Respondents, agree that an Order disposing of this proceeding in accordance with these Consent Findings and Order shall have the same force and effect as an order made after full hearing in accordance with 29 C.F.R. §§ 6.18(b)(1), 18.71(b)(1).

17. The entire record on which this final Order is based consists solely of the Complaint and these Consent Findings and Order in accordance with 29 C.F.R. §§ 6.18(b)(2), 18.71(b)(2).

18. The parties, the Administrator and Respondents, through agreement waive any further procedural steps before the Administrative Law Judge and Administrative Review Board regarding this matter in accordance with 29 C.F.R. §§ 6.18(b)(3), 18.71(b)(3).

19. The parties, the Administrator and Respondents, through agreement waive any right to challenge or contest the validity of the findings and order entered into in accordance with these Consent Findings and Order in accordance with 29 C.F.R. §§ 6.18(b)(4), 18.71(b)(4).

19.5. Nothing in this Consent Findings and Order or the Agreement precludes the Administrator or the Wage and Hour Division of the U.S. Department of Labor ("WHD") from conducting the WHD ongoing investigation, WHISARD No. 1861948, of Respondent(s) and their subcontractors on the Contract, or from instituting any related enforcement action.

20. Each party agrees to bear its own fees and other expenses incurred by such party in connection with any state of this proceeding.

DATED: November 15, 2018  
~~October~~

DATED: November 26, 2018  
~~October~~  
New York, New York

Respondents have appeared through counsel and consent to the entry of this Consent Findings and Order



THOMAS G. LEWIS, President  
on behalf of  
LOUIS BERGER U.S., INC.

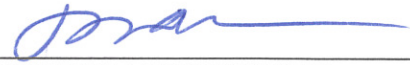


THOMAS G. LEWIS, President  
on behalf of  
THE LOUIS BERGER GROUP, INC.

POST OFFICE ADDRESS:  
412 Mount Kemble Drive  
Morristown, NJ 07962  
Tel. 973-407-1386  
Email: Tlewis@louisberger.com

JENNIFER S. BRAND  
Associate Solicitor of Labor for  
Fair Labor Standards

JEFFREY S. ROGOFF  
Regional Solicitor

By:   
JUDITH MARBLESTONE  
Senior Trial Attorney

U.S. Department of Labor  
Attorneys for  
BRYAN JARRETT,  
Acting Administrator,  
Wage and Hour Division,  
Complainant

POST OFFICE ADDRESS:  
Jeffrey S. Rogoff  
Regional Solicitor  
U.S. Department of Labor  
201 Varick Street, Room 983  
New York, NY 10014  
Tel. (646) 264-3678  
Email: marblestone.judith@dol.gov

SO ORDERED:

\_\_\_\_\_  
Honorable Stephen R. Henley  
Chief Administrative Law Judge

\_\_\_\_\_  
Date

**EXHIBIT A**  
**LOUIS BERGER U.S., Inc.**  
ENHANCED COMPLIANCE AGREEMENT

Louis Berger U.S., Inc. and its parent entity, The Louis Berger Group, Inc., together with any of their successor corporations, and any subsidiaries that operate in the United States, in any territory of the United States, or in the District of Columbia (collectively "Louis Berger"), upon the date of entry of the accompanying Consent Findings and Order (hereafter "Order") agree to fully comply and to use its best efforts to obtain compliance of Louis Berger's subcontractors with the terms of this Compliance Agreement (hereafter "Agreement"), the terms of the Order, the requirements of the McNamara-O'Hara Service Contract Act (41 U.S.C. § 6701, *et seq.*), the Contract Work Hours and Safety Standards Act (40 U.S.C. § 3701, *et seq.*), the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. § 201, *et seq.*), and the regulations promulgated pursuant to those Acts.

Louis Berger agrees to comply with the Agreement for three (3) years from the date of the Order. To that end Louis Berger understands and agrees to the following terms:

**Definitions**

As used in this Agreement:

"Acts" means the McNamara-O'Hara Service Contract Act (SCA) (41 U.S.C. § 6701, *et seq.*), the Contract Work Hours and Safety Standards Act (CWHSSA) (40 U.S.C. § 3701, *et seq.*), the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 201, *et seq.*) and regulations promulgated pursuant to those Acts.

"Compliance Manager" means a senior manager employed by Louis Berger whose primary duties and responsibilities, which shall comprise at least 80% of his or her work time, are to oversee and ensure Louis Berger's and Louis Berger's Subcontractors' compliance with the Agreement, the Order, and the Acts. The Compliance Manager may delegate tasks to other qualified supporting staff, but the Compliance Manager will be responsible for overseeing any delegated tasks.

"*De minimis* violations" means unintentional violations of this Agreement, the Order, or the Acts by Louis Berger or its Subcontractors which are not systemic and are corrected within twenty (20) days of Louis Berger detecting or receiving notice of such violations. Good faith efforts by Louis Berger and its Subcontractors to comply with the Agreement, the Order, and the Acts, and their cooperation with WHD in addressing possible violations will be considered when determining whether a violation is *de minimis*.

"Employee(s)" means all employees of Louis Berger or its Subcontractors who perform work on prevailing wage covered contracts.

"Labor standards clauses" mean the SCA labor standards clause set forth in 29 C.F.R. § 4.6 and the CWHSSA labor standards clauses set forth in 29 C.F.R. §§ 5.5(b)(1) through 5.5(b)(4).

"Louis Berger" means Louis Berger U.S., Inc., and its parent entity, The Louis Berger Group, Inc., together with any of their successor corporations, and any subsidiaries that operate in the United States, in any territory of the United States, or in the District of Columbia.

"Order" means the Consent Findings and Order of which this Agreement is

"Prevailing wage covered contract(s)" means all federal contracts and subcontracts of any tier awarded to Louis Berger that are subject to the Acts, on which Louis Berger or any of its subcontractors performs any work.

"Subcontract(s)" means any subcontract or agreement of any tier under a prevailing wage covered contract.

"Subcontractor(s)" means any party to any subcontract or agreement of any tier under a prevailing wage covered contract, including agreements with any labor-supply companies of any type.

"WHD" means the Wage and Hour Division, U.S. Department of Labor. Any notice required to be provided to WHD shall be provided to the District Director, U.S. Department of Labor, Wage and Hour Division, Caribbean District Office, T-Mobile Center, B-7 Tabonuco Street, Suite 1104, Guaynabo, PR 00968.

### **Remedies for Violations of this Agreement or the Order**

1. If, within three (3) years of the date that an Administrative Law Judge (ALJ) approves the Order ("the date of the Order"), Louis Berger materially breaches any term of the Order or this Agreement, WHD may reinstitute litigation of OALJ Case No. 2018-SCA-\_\_\_\_\_ (number to be assigned upon filing of this Agreement and the Order) and Louis Berger agrees to waive any statute of limitations or laches defenses to the reinstated litigation.
2. Nothing in this Agreement shall limit the Administrator's ability to pursue legal action authorized by the Acts and regulations issued thereunder, including debarment, in the event that the reinstated litigation proceeds in accordance with paragraph 1.

### **Internal Controls**

3. Within thirty (30) days of the date of the Order, Louis Berger will appoint a Compliance Manager whose primary duties will include oversight of Louis Berger's compliance with the Order, this Agreement and the Acts on prevailing wage covered contracts. The Compliance Manager will be a senior manager of Louis Berger U.S. Inc. and will be assisted in the day-to-day compliance activities by an Assistant Compliance Manager who will have experience with federal prevailing wage covered contracts. Louis Berger will provide the name and contact information for the Compliance Manager and Assistant Compliance Manager to WHD within fifteen (15) business days of the date of the Order, and within fifteen (15) business days of any

appointment of a new Compliance Manager or Assistant Compliance Manager. Louis Berger will assign additional compliance staff as necessary to fulfill the duties and responsibilities of the Compliance Manager, and the Compliance Manager may delegate tasks to other qualified supporting staff.

4. The Compliance Manager will serve as the single point of contact for all assessments, reviews and investigations of Louis Berger's compliance and the compliance of its Subcontractors with the terms of this Agreement, the Order, and the Acts.
5. The Compliance Manager will be responsible for monitoring compliance with the Order, this Agreement and the Acts by Louis Berger and its Subcontractors on prevailing wage covered contracts, including:
  - a. Reviewing the applicable wage determination(s) and job classifications for work on each prevailing wage covered contract to determine if any classifications are missing from the wage determination(s) and require a conformance, and seeking conformances pursuant to 29 C.F.R. § 4.6(b) where required;
  - b. Ensuring posting and/or distribution to employees of all postings and notices required by the Order, this Agreement and the Acts;
  - c. Coordinating and overseeing all training required by this Agreement;
  - d. Verifying that all non-exempt employees of Louis Berger and its Subcontractors working on or in connection with a prevailing wage covered contract are properly classified and paid as employees subject to the Acts;
  - e. Distributing to all employees all required notices, applicable wage determinations, and other documents required to be distributed to employees under the Order, this Agreement or the Acts;
  - f. Conducting observations and interviews of employees sufficient to enable Louis Berger to determine compliance with the Order, this Agreement and the Acts by Louis Berger and its Subcontractors;
  - g. Ensuring that Louis Berger keeps accurate and complete time and payroll records for all employees, including accurate records of all job classifications of work (based on the classifications listed in applicable wage determination(s)) that each employee performs and all hours worked;
  - h. Reviewing time and payroll records to ensure that all employees are (i) identified in Louis Berger's payroll system with accurate job classifications and wage rates, (ii) paid for all hours worked at the proper wage rates, and (iii) provided required fringe benefits for the work performed;



- i. Overseeing all record keeping – including the accuracy and completeness of records -- required by the Order, this Agreement or the Acts; and
  - j. Providing to WHD upon its request any and all documentation or information gathered or maintained pursuant to the Order, this Agreement or the Acts.
6. Within ninety (90) days of the date that an ALJ approves the Order and Agreement, Louis Berger will provide WHD with a compliance plan setting forth additional details regarding its internal controls and compliance processes as applicable to Louis Berger contract operations and to Subcontractor utilization. To the extent there is any conflict between the terms of this Agreement and the terms of Louis Berger's compliance plan, the terms of this Agreement control.
7. Louis Berger will require its officers, managers, employees, representatives, and agents to cooperate fully with WHD and the Compliance Manager and his/her staff.

### **Subcontractor Compliance**

8. All future Louis Berger Subcontracts signed or entered into after the date of this Agreement for prevailing wage covered contracts will include the clause set forth in this paragraph or substantially similar clauses. Within sixty (60) days of the date of the Order, Louis Berger will request that its Subcontractors performing work on existing prevailing wage covered contracts agree to revise such contracts to add the clause set forth in this paragraph or substantially similar clauses. Louis Berger will invoke this clause with respect to any of its Subcontractors performing work on a prevailing wage covered contract at the request of the Compliance Manager or WHD.
  - a. Louis Berger and WHD may audit (by, e.g., conducting assessments, reviews, and investigations) the Subcontractor's compliance with the Acts and the regulations promulgated pursuant to those Acts at any time and without notice.
9. Louis Berger will require that its Subcontractors produce all records, documents, books, time records, and time recording devices within 72 hours of the WHD's request, unless WHD grants an extension, at the locations where the original records and devices are maintained; in computer readable format where possible if WHD so requests; and will allow WHD reasonable and sufficient time to review and copy those records.
10. Louis Berger will review its Subcontractors' compliance with the terms of the Subcontracts and the Acts.
11. Within fifteen (15) days of Louis Berger finding that any of its Subcontractors have failed to fully comply with the Acts, Louis Berger will determine appropriate remedial measures, including the amount of any unpaid wages or fringe benefits due, and notify its Subcontractors of these corrective actions.

- a. Louis Berger will require its Subcontractors to follow the Compliance Manager's instructions for corrective actions, including paying their employees the assessment of back wages and fringe benefits due, within fifteen (15) business days of notification (the "Corrective Action Notification");
  - b. Louis Berger will require Subcontractors to provide evidence to Louis Berger of such payment or Louis Berger will make the restitution within twenty (20) business days of the Corrective Action Notification;
  - c. Within twenty (20) business days of the Corrective Action Notification, if a Subcontractor disagrees with Louis Berger's determination of a violation or the appropriate remedial measures, including but not limited to back wages owed to the Subcontractor's employees, the Subcontractor shall have the option of placing into Escrow a sum sufficient to satisfy Louis Berger's claim of back wages and/or fringe benefits owed and may thereafter dispute the findings by providing a written statement of reasons to the Caribbean District Director, WHD, who will decide whether the findings are appropriate. If WHD decides that the findings are appropriate, the Subcontractors will follow Louis Berger's instructions for corrective actions, including paying the affected employees the Compliance Manager's assessment of back wages and/or fringe benefits due within seven (7) days of notification of WHD's decision. The Subcontractors will provide evidence to the Compliance Manager of such payment or Louis Berger will make the restitution to the affected employees within twenty (20) business days of notification of WHD's decision.
12. Neither this Agreement, Louis Berger's or the Compliance Manager's activities identified in this Agreement, the failure of Louis Berger or the Compliance Manager to find violations of the Order, this Agreement, or the Acts, nor WHD's failure to act on any information that is brought to its attention by the Compliance Manager or Louis Berger or as a result of any of the compliance activities required by this Order or Agreement constitutes estoppel or any waiver by the Administrator of WHD's right to conduct investigations of Louis Berger or any of its subcontractors without notice under the Acts, this Agreement or the Order, or to take any other appropriate enforcement action and seek any remedies in addition to those provided for in the Order and this Agreement with respect to any noncompliance discovered by such investigations.

### **Confidential Interviews**

13. On a regular and recurring basis, but no less often than monthly, the Compliance Manager will conduct confidential interviews of a sampling of Louis Berger's

employees performing work on prevailing wage covered contracts. The monthly sampling will be of a sufficient number of employees such that each employee is interviewed at least once per calendar year. Similarly, where a Subcontractor is expected to work on a prevailing wage covered contract for longer than ten (10) consecutive days or fifteen (15) nonconsecutive days, the Compliance Manager will conduct confidential interviews of a representative sample of the Subcontractor's employees on a regular and recurring basis as practical and reasonable, with a goal of no less often than monthly. The Compliance Manager will make a written record of all interviews s/he and her/his staff conduct. The Compliance Manager will not disclose the names, statements, any notes of the confidential interviews, or any other identifying information to any employees of Louis Berger who are not involved in oversight of compliance with this Agreement, nor will they be disclosed to Louis Berger's subcontractors.

14. Louis Berger's officers, managers, employees, representatives, and agents are prohibited from intimidating, retaliating or asking Louis Berger employees whether they were contacted by the Compliance Manager or WHD, whether they spoke with the Compliance Manager or WHD, what the employees discussed with the Compliance Manager or WHD, and/or instructing or coercing employees on what to say or do during interviews that may be conducted by the Compliance Manager or WHD.
15. Louis Berger will require that its Subcontractors allow the Compliance Manager and WHD to conduct confidential interviews of its Subcontractors' employees at whatever locations and in whatever manner the Compliance Manager or WHD choose. Louis Berger will require its Subcontractors to assist the Compliance Manager and WHD in identifying, locating, and permitting access to their current and former employees.
16. Louis Berger, its officers, managers, employees, representatives, and agents are prohibited from asking employees of Louis Berger's subcontractors whether they were contacted by the Compliance Manager or WHD, whether they spoke with the Compliance Manager or WHD, what the employees discussed with the Compliance Manager or WHD, and/or what the employees should say or do during interviews that may be conducted by the Compliance Manager or WHD. Louis Berger will require that its subcontractors likewise do not ask their employees whether they were contacted by the Compliance Manager or WHD, whether they spoke with the Compliance Manager or WHD, what the employees discussed with the Compliance Manager or WHD, and/or instruct employees on what to say or do during interviews that may be conducted by the Compliance Manager or WHD.
17. The Compliance Manager must conduct some confidential interviews at locations other than work sites or locations where employees are required to report for duty.

## **Reporting**

18. During the period of this Agreement, upon request by the WHD, the Compliance Manager will provide to WHD written reports of the status of Louis Berger's compliance program and/or all assessments and reviews detailing any findings of noncompliance with the terms of the Agreement and the requirements of the Acts within thirty (30) days of the request. All reports created by the Compliance Manager shall be provided to: District Director, U.S. Department of Labor, Wage and Hour Division, Caribbean District Office, T-Mobile Center, B-7 Tabonuco Street, Suite 1104, Guaynabo, PR 00968. Louis Berger will provide any or all of the collected evidence to the WHD upon request.
19. All evidence collected by Louis Berger or the Compliance Manager during its assessments or reviews will be maintained for a period of three (3) years after the expiration of this Agreement.

## **Training**

20. At its own expense and within ninety (90) days of the date this Agreement is signed, annually thereafter, and within thirty (30) days of assignment to work on a prevailing wage covered contract of an expected duration of two (2) months or more, Louis Berger will provide training as follows:
  - a. To all Louis Berger employees assigned or expected to be assigned to work on a prevailing wage covered contract on the terms of this Agreement, the applicable requirements of the Acts, and employee rights under the Acts and protections under this Agreement.
  - b. To all Louis Berger employees who estimate budgets, costs, and bids for or prices prevailing wage covered contracts, who obtain and review job estimates and bids from subcontractors, and who draft contracts and subcontracts for Louis Berger on evaluating whether the estimates and bids are adequate to ensure financial compliance with the Acts.
  - c. To all of the officers, supervisors, managers and foremen of Subcontractors on prevailing wage covered contracts on the applicable requirements of the Acts, and employee rights under the Acts and protections under this Agreement.
21. Louis Berger will provide a copy of Standard Form 1444 (SF-1444) along with the written instructions to all attendees at the trainings conducted pursuant to paragraphs 20.a. and 20.c. of this Agreement.
22. Louis Berger may provide these trainings in person or by electronic means.
23. Louis Berger will pay its employees for their time taking these trainings. Louis Berger will require its Subcontractors to pay their employees for their time taking these trainings.

24. If a substantial number of attendees or trainees are not fluent in English, Louis Berger shall provide interpreters at its own expense to translate the above-mentioned trainings required by paragraphs 20.a. and 20.b. into the primary languages of attendees or trainees who are not fluent in English. Louis Berger will require its Subcontractors to provide interpreters at their own expense to translate the trainings required by paragraph 20.c. into the primary languages of attendees or trainees who are not fluent in English, if attendees or trainees are not fluent in English.
25. Upon request, Louis Berger will provide WHD with an outline of topics to be covered in these trainings, as well as any documents to be used or distributed at the trainings.
26. Louis Berger will keep records of the attendance of all attendees of trainings required by this Agreement, along with their telephone numbers and e-mail addresses, and will provide copies of these attendance records to WHD upon WHD's request.

### **Postings and Notice**

27. For each prevailing wage covered contract, Louis Berger will place and maintain in a conspicuous place or places accessible to all employees for the duration of work on each prevailing wage covered contract:
  - a. Applicable SCA, CWHSSA, and FLSA posters created by WHD and currently available at <https://www.dol.gov/WHD/resources/posters.htm>;
  - b. WHD Fact Sheet #67, the Service Contract Act, currently available at <https://www.dol.gov/WHD/fact-sheets-index.htm>; and
  - c. Applicable wage determination(s).
28. Within sixty (60) days of signing this Agreement, on their first day of employment or upon assignment to prevailing wage covered contract, whichever is earlier, Louis Berger will provide all employees performing work on any prevailing wage covered contract a written notice of:
  - a. Their job classification(s) and the definition of the classification;
  - b. Their applicable wage rate, their overtime rate, and a description of their fringe benefits;
  - c. Louis Berger's existing helpline number available for employees to ask questions regarding their wages; and
  - d. Written notice that retaliation against employees is forbidden by Louis Berger and by the terms of this Agreement.

29. The notice required by paragraph 28 will be provided to Louis Berger employees and its Subcontractors' employees in English and the primary languages of any employees who are not fluent in English.
30. Louis Berger will obtain from each of its employees and from each of its Subcontractors' employees written acknowledgement of the employee's receipt of the written notice required by paragraphs 28 and 29 of this Agreement.

### **Anti-Retaliation Provisions**

31. Louis Berger will not discharge or in any way discriminate against any employee because such employee has made a complaint or provided information to the WHD, any other federal, state or local government agencies, or Louis Berger about any alleged failure to comply with this Agreement, the Order, or the requirements of the Acts, or otherwise has asserted rights relating to the Acts including cooperating with WHD ("protected activities").
32. Louis Berger will ensure that all of its subcontracts on prevailing wage covered contracts contain anti-retaliation provisions to protect its subcontractors' employees who engage in the activities described in this Agreement. Louis Berger will prohibit its subcontractors from discharging or in any way discriminating against any employee because such employee has made a complaint or provided information to the WHD, any other federal, state or local government agencies, Louis Berger, or any subcontractor about any alleged failure to comply with the terms of this Agreement, the terms of the Order, the requirements of the Acts, or otherwise has asserted rights relating to Acts ("protected activities").
33. Louis Berger will ensure that all of its subcontracts on prevailing wage covered contracts contain a clause providing that Louis Berger will immediately terminate the subcontract of any subcontractor who the Compliance Manager or WHD advises Louis Berger has violated the anti-retaliation prohibitions of this Agreement above unless the subcontractor corrects the violations within forty-eight (48) hours of notice.
34. Louis Berger will not enter into any Subcontracts on prevailing wage covered contracts with any individual or entity who Louis Berger knows or is advised by WHD or the Compliance Manager, has violated the anti-retaliation prohibitions in this Agreement above within the prior three (3) years.

### **Compliance with Wage and Benefit Laws**

35. Louis Berger will enter into written Subcontracts with all Subcontractors whose employees perform work on prevailing wage covered contracts. Louis Berger will require that all of its Subcontractors on prevailing wage covered contracts enter into written subcontracts with all lower tier Subcontractors whose employees perform

work on prevailing wage covered contracts. Louis Berger will maintain copies of all such subcontracts.

36. Louis Berger will include the applicable labor standards clauses and the applicable wage determinations in all of its Subcontracts for work on prevailing wage covered contracts. If Louis Berger believes that a contracting agency has failed to incorporate the applicable labor standards clauses or wage determinations, Louis Berger promptly will refer the matter to WHD and notify the contracting agency. Louis Berger will require that all of its Subcontractors on prevailing wage covered contracts include the applicable labor standards clauses and the applicable wage determinations in all lower tier Subcontracts. Within sixty (60) days of the date of the Order, Louis Berger will execute amendments with its current subcontractors to add, if missing, the applicable labor standards clauses and the applicable wage determinations.
37. Louis Berger will identify and classify as employees subject to the Acts all workers who are engaged in working on or in connection with a prevailing wage covered contract, regardless of whether they are the Louis Berger's employees or those of any Subcontractor under such contract, either in performing the specific work called for by the contract's terms or in performing other duties necessary to the performance of the contract, unless a specific exemption is applicable.
38. Louis Berger will provide this Agreement to each person who is or who, after the date of the Agreement, may become an owner, officer, or director of Louis Berger U.S., Inc. and its parent entity, The Louis Berger Group, Inc., together with any of their successor corporations, and any subsidiaries that operate in the United States, in any territory of the United States, or in the District of Columbia (collectively "Louis Berger").

#### **No Rights or Estoppel Created for Louis Berger**


39. By entering into this agreement, WHD does not waive its right to conduct future investigations under the Acts, and to take any and all appropriate enforcement action, including but not limited to assessment of liquidated damages and civil money penalties, and debarment, with respect to any violations disclosed by such investigations.
40. This Agreement does not relieve Louis Berger U.S., Inc. and its parent entity, The Louis Berger Group, Inc., together with any of their successor corporations, and any subsidiaries that operate in the United States, in any territory of the United States, or in the District of Columbia (collectively "Louis Berger") of any obligations under the Acts, or any other law or regulation.


**Certifications**

The Compliance Manager, on behalf of Louis Berger will certify annually under penalty of perjury that to the best of his/her knowledge and belief, after exercising the due diligence required by this Agreement, that Louis Berger has determined that the terms of this Agreement and terms of the Order have been fully and effectively implemented and that Louis Berger is in compliance with the Order, this Agreement, SCA, CWHSSA and the FLSA. The Compliance Manager may include an exception report with proposed mitigation approaches in the certification.

Dated: ~~October~~ <sup>November 15, 2018</sup> \_\_, 2018


Agreed to by:

  
\_\_\_\_\_  
THOMAS G. LEWIS, President  
on behalf of  
LOUIS BERGER U.S., INC.

  
\_\_\_\_\_  
THOMAS G. LEWIS, President  
on behalf of  
THE LOUIS BERGER GROUP, INC.

POST OFFICE ADDRESS:  
412 Mount Kemble Drive  
Morristown, NJ 07962  
Tel. 973-407-1386  
Email: Tlewis@louisberger.com

Approved as to form and content by:

  
\_\_\_\_\_  
MARK V. SADOWSKI, ESQ.  
THE LOUIS BERGER GROUP, INC.  
Title: Corporate Counsel  
Printed Name: Mark V. Sadowski

POST OFFICE ADDRESS:  
412 Mount Kemble Avenue, PO Box 1946  
Morristown, NJ 07962-1946  
Tel. 973-407-1044  
Email: msadowski@louisberger.com

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