GREEMENT NO. 2023-02A
for
GENERAL CONSULTANT SERVICES
between the
PANAMA CITY-BAY COUNTY AIRPORT AND INDUSTRIAL DISTRICT
and
ARDURRA, INC.

THIS AGREEMENT for General Consultant Services, including professional engineering, architectural, project inspection, construction management and planning services (the "Agreement"), is made and entered into on the last date of execution by and between the Panama City-Bay County Airport and Industrial District (hereinafter referred to as the "District") d.b.a. Northwest Florida Beaches International Airport (hereinafter referred to as "ECP or Airport"), a public and governmental body existing under and by virtue of the laws of the State of Florida with a business address at 6300 West Bay Parkway, Box A, Panama City, FL 32409, and Ardurra Group, Inc., a Florida Profit Corporation with a business address at 1988 Lewis Turner Boulevard, Fort Walton Beach, Florida 32457 (hereinafter referred to as "Consultant").

WITNESSETH:

WHEREAS, the District is continuing the development and the expansion of the Northwest Florida Beaches International Airport (ECP); and

WHEREAS, the District desires to employ the services of the Consultant to provide general Consultant services to oversee the District's capital improvement projects and planning efforts in accordance with the request for Statement of Qualifications issued for this Agreement at the sole discretion of the District; and

WHEREAS, the Consultant has represented that it is qualified, willing and able to perform the professional engineering, architectural, project inspection, construction management and planning services required on the terms and conditions hereinafter set forth; and

WHEREAS, the District has given public notice of the services pursuant to this Agreement; and

WHEREAS, the selection of the Consultant has been made in accordance with the provisions of FAA Advisory Circular 150/5100-14E, 49 CFR Part 18 and the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes.

NOW, THEREFORE, in consideration of the mutual premises and covenants herein set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1: SERVICES

1.1 The District retains Consultant to diligently, competently, and timely perform the Professional Services as more fully described in the District's SOQ-2023-02 which is incorporated herein by reference which may include project inspection, construction management and planning services associated with the conceptual design, feasibility studies, and overall operation of the airport and related facilities on qualifying District projects. These services shall be performed in accordance with acceptable Consultant practices, and are to be carried out in accordance with Federal Aviation Administration (the "FAA") requirements and specifically 150/5100-14E, Administrative Circulars (the "AC"), Florida Department of Transportation (the "FDOT") guidelines, Florida Statutes (the "FS") and Codes, and all applicable local codes, regulations, ordinances, policies and planning procedures (the "Services"). The Services shall be performed on qualifying projects (the "Projects") meeting the following criteria:

1.1.1 Projects included on the District's capital plan as more fully described in the Project List attached hereto as Exhibit "1"; or

1.1.2 Projects for which the total construction costs do not exceed $4,000,000; or

1.1.3 Some specific engineering or consulting projects for which the total fee for such professional engineering services does not exceed $500,000; or

1.1.4 Additional services which may be performed pursuant to state or federal law in the sole discretion of the District.

1.2 Upon request, Consultant will prepare a detailed, project-specific scope of work for each task and phase of work to be undertaken in accordance with the scope of work. The proposed scope of work shall include a schedule for the work and, separately state, a proposed fee. The proposed fee shall be a (i) stipulated sum; (ii) stipulated sum plus one or more specified allowances which may by authorized by the Executive Director or his or her designee, or (iii) a fee determined on a time and materials basis at the hourly rates specified in the rate table attached hereto as Exhibit "2."

1.3 If accepted by the District, the proposed scope of work shall be incorporated into a task order in materially the form attached as Exhibit "3" (each a "Task Order"). Each Task Order shall be numbered and dated, incorporate this Agreement and any additional terms related to that specific Task Order, and shall be signed by the District and Consultant. If a term in this Agreement conflicts with a term in a Task Order, the term in the Task Order shall control to the extent of such conflict, but only for that Task Order.

1.4 Consultant shall, at its own expense, obtain all data and information (other than that referred to in Article 2 hereof) necessary for the performance of its Services.

1.5 Consultant acknowledges that this Agreement is non-exclusive and does not entitle Consultant to perform any services for the District. For so long as the District is party to this Agreement and

another agreement in materially the same form as this Agreement with a different Consultant for the same Services, the District shall use its best efforts to assign specific tasks to Consultant on a fair and equitable basis taking into account the relative expertise, availability, performance and any other factors the District deems determinative in the assign of tasks. The District's intent is to fairly distribute the financial benefit of the work between consultants as equal as may be practicable while meeting the District's needs. Consultant agrees that if it objects to the assignment of tasks or lack thereof that its sole remedy shall be to terminate this Agreement subject to the provisions of Article 7.

ARTICLE 2: OBLIGATIONS OF THE DISTRICT

2.1 The District shall, with reasonable promptness, provide to the Consultant available information regarding the requirements of the Services.

2.2 The District shall make all provisions for the Consultant to enter upon public and private property as required for the Consultant to perform Services under this Agreement.

2.3 The District shall give prompt written notice to the Consultant whenever the District observes or otherwise becomes aware of any development that affects the scope or timing of the Consultant's Services.

2.4 The District and the District's employees, agents, contractors and subcontractors shall promptly report to the Consultant any defects in or problems with the Services being provided hereunder by the Consultant in order to permit the Consultant to take prompt and effective corrective action to remedy the defect and minimize any consequences which may result from such defective work. Failure of the District to report shall not relieve Consultant's responsibility to provide services which are neither faulty nor inaccurate.

2.5 Unless otherwise agreed to in an authorized Task Order under this Agreement, the District shall obtain, arrange, and pay for all advertisements for bids, permits and licenses required by local, state, or federal authorities, and land, easements, right-of-way, and access necessary for the Consultant's Services or project construction.

2.6 Notwithstanding anything herein to the contrary, the District is not required under this Agreement to authorize Consultant to perform any Services and nothing herein shall be construed as entitling Consultant to any work under this Agreement, except and to the extent such work is specifically authorized by the District in a properly executed Task Order.

ARTICLE 3: OBLIGATIONS OF THE CONSULTANT

3.1 The services to be rendered by Consultant as to any particular Task Order shall commence upon execution of that Task Order and Consultant's receipt of written notice to proceed with such services from Executive Director or designee.

3.2 Consultant agrees to abide by the schedule for performance of the contracted services as set forth in the applicable Task Order. District will be entitled at all times to be advised in writing at its request as to the status of the work being done by Consultant, and of the details thereof. District may require specification of liquidated delay damages in a Task Order. Failure to specify liquidated delay damages in a Task Order shall not relieve Consultant of liability for delays or other damages as provided by law.

3.3 Notwithstanding anything in this Agreement or any Task Order to the contrary, no interruption, interference, suspension or delay in the commencement or progress of Consultant's services from any cause whatsoever, including those for which District may be responsible in whole or in part, shall relieve Consultant of its duty to perform or give rise to any right to damages or additional compensation from District. Consultant expressly acknowledges and agrees that it shall receive no damages for delay. In the event there are delays on the part of District or any applicable regulatory agencies as to the approval of any of the plans, permits and drafts of special provisions submitted by Consultant or any other delays not due to the fault or neglect of Consultant, which delay the applicable schedule completion date, Consultant's sole remedy, if any, against District shall be an equitable extension of time for such delays. Provided, however, if the delay is solely due to District's fault of neglect and the services to be provided hereunder have been delayed for a total of ninety days, Consultant's compensation shall be adjusted only to reflect the actual incremental increase in out-of-pocket costs experienced by Consultant, if any, as a result of such delays. This paragraph shall expressly apply to claims for early completion, as well as claims based on late completion.

3.4 Consultant's Personnel at Construction Site: The presence or duties of the Consultant's personnel at a construction site, whether as onsite representatives or otherwise, shall not make the Consultant or the Consultant's personnel in any way responsible for those duties that belong to the District and/or the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the construction contract documents and any health or safety precautions required by such construction work.

If, and as requested by the District to perform construction administration or inspection services per an authorized Task Order, the Consultant shall be responsible for observing and inspecting construction activities and reporting to the District activities observed during construction. The Consultant shall report to the District in a timely manner any observed health, safety, and other deficiencies in the work performed by the construction contractors) that are inconsistent with the requirements of the construction documents. The Consultant neither guarantees the performance of the construction contractors nor assumes responsibility for construction contractor's failure to perform work in accordance with the construction documents.

For this Agreement, construction sites shall include places of manufacture for materials incorporated into the construction work, and construction contractors shall include manufacturers of materials incorporated into the construction work.

3.5 Compensation: Recommendations by the Consultant to the District for periodic construction progress payments to the construction contractor(s) shall be based on the Consultant's knowledge, information, and belief from selective sampling that the work has progressed to the point indicated. A progress report and invoice must be provided to the District for every Task Order or Task Order Change which will prompt payment for the associated work performed. The progress report must include detailed task that were performed for the specific Task Order or Task Order Change. If the performance of that Task Order or Task Order Change were not delivered to the District in the manner prescribed the District has the right to withhold payment. The Consultant shall re-perform the task and resubmit documentation of correction to the District for approval within the prescribed time in each Task Order. If the task is not completed within the timeframe specified, the District can retain payment as described in Chapter 255.078 F.S., and/or the District may terminate the Task Order and/or Contract for failure to follow these provisions.

3.6 Record Drawings: Record drawings, if required, will be prepared on the basis of information compiled by the Consultant and information furnished by others and shall represent the location, type of various components, and manner in which the project was finally constructed to the best knowledge, information, and belief of Consultant. Record drawing deliverables shall be sealed and signed hard copies. In addition, the District shall be provided with electronic versions of record drawings.

3.7 Asbestos or Hazardous Substances: If asbestos or hazardous substances in any form are encountered or suspected, the Consultant shall stop its own work in the affected portions to permit testing and evaluation. If asbestos or other hazardous substances are suspected, the Consultant shall, if requested, manage or provide testing to determine the extent of the issue, manage or provide the necessary studies to recommend necessary remedial measures, and manage or provide remediation activities using a qualified subcontractor at an additional fee and contract terms to be negotiated. The District recognizes that the Consultant assumes no risk and/or liability for a waste or hazardous waste site originated by other than the Consultant.

3.8 Project Close-Out: At the completion of a project/task order, the Consultant shall provide to District all documentation related to the project/task order, including, but not limited to, plans, as-built drawings, contracts, calculations, specifications, reports, plans, field data, computer software enhancements, CAD files and such other data and information. The format of such documentation shall be determined by agreement between District and Consultant, and any cost shall be included in the project Task Order.

ARTICLE 4: TERM

4.1 The Services called for hereunder shall be completed in accordance with the respective task schedules as indicated in separately authorized Task Orders.

4.2 The term of this Agreement shall be one (1) year commencing on the date that it is last signed by a party (the "Effective Date"). On or before the one (1) year anniversary of this Agreement, District's Board will review performance under this Agreement and consider approval of, at its sole discretion, a one (1) year renewal under the same terms and conditions contained herein each of the succeeding four (4) years during which the Agreement has remained in effect, for a total of five (5) years or the completion of all outstanding Task Orders, whichever occurs later. This paragraph shall have no effect on the termination rights under Article 7 or 26 herein.

4.3 The Consultant shall give prompt written notice to the District whenever the Consultant observes or otherwise becomes aware of any development that affects the scope or timing of the Consultant's Services.

ARTICLE 5: PAYMENTS TO CONSULTANT

5.1 The District shall pay the Consultant for Services and Reimbursable Expenses (defined below) pursuant to this Article 5 and on the basis of the rates set forth in Exhibit 3 which are to remain fixed and subject to adjustment only by the express prior written approval of the District. Services and Reimbursable Expenses not addressed by Exhibit 3 shall be compensated based on rates or other methods provided by each separately authorized Task Order.

5.2 Reimbursable Expenses shall be defined as actual expenses incurred by the Consultant and the Consultant's subconsultants directly in connection with the Services, such as reasonable expenses for any out-of-state transportation; obtaining bids or proposals from contractor(s); reproduction of reports, drawings, specifications, and bidding documents; and similar Services-related items. Food and lodging as well as telephone and facsimile costs shall not be reimbursable expense except as may be authorized in a Task Order. Expenses for transportation, as well as any expenses for food and lodging authorized by Task Order, shall not exceed the rates approved by thde State of Florida for its reimbursements to consultants pursuant to Chapter 112, Florida Statutes.

5.3 The Consultant shall be compensated by the District for Reimbursable Expenses when and as identified in an authorized Task Order. The District's responsibility for providing compensation to the Consultant for Reimbursable Expenses shall be limited to only those Reimbursable Expenses identified and agreed to in an authorized Task Order.

5.4 At the end of each month during which a Task Order shall be outstanding, Consultant shall submit a separate invoice for services rendered during that month with respect to each Task Order as follows:

5.4.1 Where a stipulated sum is specified, District shall pay Consultant in monthly installments based upon the percentage of satisfactory completion. In support of payment, Consultant shall submit a monthly request for payment describing the

services rendered, percentage of completion, remaining time on the Task Order schedule, and amount requested to be paid all by reference to line items in the scope of services where available.

5.4.2 Where fees are computed on a time-incurred basis, the Consultant shall submit invoices to the District for Services rendered and Reimbursable Expenses incurred. Invoices shall describe the Services provided by Consultant, each subconsultant, and any subcontractor for the period covered by the invoice. Further, invoices for all Task Order types shall be itemized to show hours worked by particular personnel for what purposes and itemize all Reimbursable Expenses. All costs charged to the Services, including any approved services contributed by the District or others, shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges. To the extent not included as part of invoices, Consultant shall provide any such documentation to District upon request and shall maintain such documentation no less than three years after completion of the Task Order to which it relates. Payment shall be made to the Consultant within thirty (30) days following the later of District's receipt of invoice or the receipt by the District of the necessary approval of any third-party governmental entities.

5.4.3 A progress report and invoice must be provided to the District for every Task Order or Task Order Change which will prompt payment for the associated work performed. The progress report must include detailed task that were performed for the specific Task Order or Task Order Change. If the performance of that Task Order or Task Order Change were not delivered to the District in the manner prescribed the District has the right to withhold payment. The Consultant shall re-perform the task and resubmit documentation of correction to the District for approval within the prescribed time in each Task Order. If the task is not completed within the timeframe specified, the District can retain payment as described in Chapter 255.078 F.S., and/or the District may terminate the Task Order and/or Contract for failure to follow these provisions.

5.5 In the event of a disputed billing, only the disputed portion shall be withheld from payment, and the District shall pay the undisputed portion. The District shall exercise reasonableness in disputing any bill or portion thereof. No interest shall accrue on any disputed portion of the billing until mutually resolved.

5.6 If the District fails to make payment in full within thirty (30) days of the date due for any undisputed billing, the Consultant may, after giving fifteen (15) days written notice to the District, suspend Services under this Agreement until paid in full. In the event of such a suspension of services, the Consultant shall have no liability to the District for delays or damages caused by the District because of such suspension. All delinquent unpaid undisputed billing shall accrue interest at the rate provided by Florida law and if no such rate is provided, at the rate of four percent (4%) per annum.

5.7 With regard to any contract for construction services, a public entity may withhold from each progress payment made to the contractor an amount not exceeding 5 percent of the payment as retainage.

5.8 This section and Section 255.077, Florida Statutes, do not prohibit a public entity from withholding retainage at a rate less than 5 percent of each progress payment, from incrementally reducing the rate of retainage pursuant to a schedule provided for in the contract, or from releasing at any point all or a portion of any retainage withheld by the public entity which is attributable to the labor, services, or materials supplied by the contractor or by one or more subcontractors or suppliers. If a public entity makes any payment of retainage to the contractor which is attributable to the labor, services, or materials supplied by one or more subcontractors or suppliers, the contractor must timely remit payment of such retainage to those subcontractors and suppliers.

ARTICLE 6: AUTHORIZED REPRESENTATIVE

6.1 The District's Authorized Representative for Services under this Agreement is as indicated on each authorized Task Order. All matters and correspondence pertaining to the Services, including submittal of monthly invoices, shall be through the District's Authorized Representative. The District's Authorized Representative shall render decisions in a timely manner pertaining to documents submitted by the Consultant in order to avoid unreasonable delay in the orderly and sequential progress of the Consultant's Services.

6.2 The Consultant's Authorized Representative and business address for Services under this Agreement is designated as follows:

Aaron Buob, C.M.
Ardurra Group, Inc.
1988 Lewis Turner Boulevard
Fort Walton Beach, Florida 32547
Office: (850) 244-5800 Mobile: (303) 522-0270
abuob@ardurra.com

6.3 The Consultant's Authorized Representative shall act on behalf of the Consultant on all matters pertaining to the Services under this Agreement. All matters and correspondence to the Consultant pertaining to the Services under this Agreement shall be addressed to the Consultant's Authorized Representative.

6.4 The Consultant's Authorized Representative shall not be changed without the prior written notice to an agreement of the District.

ARTICLE 7: TERMINATION

7.1 Either party hereto shall have the right and option to terminate this Agreement as set forth in this section. District shall have the right to terminate this Agreement and any Task Order in effect, in whole or in part, without cause upon seven (7) calendar days written notice to Consultant. Consultant shall have the right to terminate this Agreement in its entirety without cause upon ninety (90) calendar days written notice to District with respect to future services and work not already authorized under any particular Task Order; provided however, any services to be performed by Consultant under a previously issued Task Order shall proceed to completion unless otherwise expressly terminated by District. Nothing in this Section shall be construed to allow Consultant to terminate any Task Order previously issued and in effect prior to Consultant's notice of termination for convenience. In the event of a termination for convenience by District, Consultant's sole and exclusive recovery against District shall be limited to that portion of Consultant's compensation earned through the date of termination, together with any retainage withheld and any costs reasonably incurred by Consultant that are directly attributable to the termination. In the event of such termination for convenience by Consultant, Consultant's sole and exclusive recovery against District shall be limited to that portion of Consultant's compensation earned through the date of termination for work performed plus any withheld retainage. In no event shall Consultant be entitled to any other or further recovery against District, including, but not limited to, anticipated fees or profit on work not performed

7.2 Consultant shall be considered in default of this Agreement and such default shall be considered cause for District to terminate this Agreement in whole or in part upon written notice to Consultant if Consultant fails to diligently, competently and timely perform any of the work, fails to cooperate with others associated with the work, or otherwise fails to perform or observe any material covenant, representation or warranty contained in this Agreement. If District determines that Consultant is in default, Consultant shall have seven (7) calendar days following receipt by Consultant of said written notice to remedy and cure the default. If such default is not remedied or cured by Consultant within those seven (7) calendar days, then District may terminate this Agreement in whole or in part. In the event of such termination by District, Consultant's sole and exclusive recovery against District shall be limited to that portion of Consultant's compensation earned through the date of termination, plus any withheld retainage; provided, however, no such amounts shall be due and payable until such time as District determines its damages as a result of such default by Consultant. District has the right to offset all damages it suffers as a result of Consultant default from any and all amounts it may owe Consultant under this Agreement and any Task Order. Further, in the event such damages exceed the amount owed Consultant, Consultant shall pay District such excess within ten (10) days of Consultant's receipt of written demand from District for such excess amount.

7.3 District shall be considered in default of this Agreement and such default shall be considered cause for Consultant to terminate any particular Task Order upon written notice to District if

District fails to perform or observe any material covenant required of it with respect to such Task Order. In no event does Consultant have the authority to terminate any Task Order for which the subject default does not apply. If Consultant so notifies District in writing that District is in default, District shall have thirty (30) calendar days following receipt by District of said written notice to remedy and cure the default. If such default is not remedied or cured by District within those thirty (30) calendar days, then Consultant may terminate the subject Task Order. In the event of such termination by Consultant, and subject to the terms of this Agreement, Consultant shall be entitled only to the same rights and recovery provided to it as a result of a termination for convenience by District per Section 7.1 above.

7.4 If, after notice of termination of this Agreement or any Task Order or any portion of either by District as provided for in Section 7.2 above, it is determined for any reason that District wrongfully terminated this Agreement or any Task Order or any portion of either or otherwise was not entitled to terminate for cause, then the notice of termination given pursuant to Section 7.1 above shall be deemed to be the notice of termination for convenience by District provided for in paragraph 8.1 above and Consultant's remedies against District shall be the same as and limited to those afforded Consultant under Section 7.1 above.

7.5 Upon any termination and at no additional cost to District, Consultant shall deliver to District all papers, records, documents, drawings, calculations, models, and other materials in Consultant's possession or under its control arising out of or relating to this Agreement as directed by District. The delivery of all such items to District being a condition precedent to any further payment obligations of District under this Agreement. Consultant may make a copy of any or all such items for its file, at its own cost and expense.

ARTICLE 8: INDEMNIFICATION

8.1 To the maximum extent permitted by law, Consultant shall defend, indemnify, and hold harmless the District, its officers and employees, of any and all claims, actions, damages, penalties, fines, losses and costs, including but not limited to reasonable attorney's fees and environmental assessment and remediation costs not to exclude lab fees and fees of environmental consultants, to the extent caused by negligence, recklessness or intentional wrongful conduct of Consultant or any person employed or utilized by Consultant in the performance of the Services hereunder or caused by any other breach of this Agreement by Consultant. The provisions of this Article shall survive termination of this Agreement. This indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies which otherwise might be available to District.

8.2 To the maximum extent permitted by law, District shall defend, indemnify, and hold harmless the Consultant, its officers and employees, of any and all claims. actions, damages, losses and costs, including but not limited to reasonable attorney's fees, to the extent caused by negligence, recklessness or intentional wrongful conduct of District or any person employed or utilized by

District in the performance of the Services hereunder. The provisions of this Article shall survive termination of this Agreement. This indemnification obligation shall not be construed to negate, abridge or reduce any other rights or remedies which otherwise might be available to Consultant.

8.3 In the event any claims, damage, losses, and expenses are caused by negligence of both the Consultant and the District (or anyone for whose acts both of them may be liable), each party will bear its proportional share of claims, damages, losses, and expenses based upon the parties' relative degree of fault.

8.4 Nothing in this Agreement shall be construed as a waiver or derogation of the District's sovereign immunity.

ARTICLE 9: INSURANCE

9.1 The Consultant shall maintain, at its own expense, continuous insurance coverage as set forth below:

9.1.1	Worker's Compensation and Employers Liability:	Statutory
9.1.2	Comprehensive General Liability: Bodily Injury and Property Damage Combined	$2,000,000 / $2,000.000
9.1.3	Automobile Liability: Bodily Injury and Property Damage Combined	$1,000,000 / $1,000,000
9.1.4	Professional Liability Insurance: (Including error and omissions)	$1,000,000 /$1,000,000

9.2 The duration of the Consultant's insurance coverage shall extend beyond the completion of the Services provided under this Agreement in accordance with Florida Statutory requirements, if available, and if unavailable, the Consultant agrees to obtain and maintain in effect policies which will extend such coverage following completion of the Services provided under this Agreement in accordance with Florida Statutory requirements. If no such statutory requirement exists, Consultant shall extend or obtain coverage for three years beyond the completion of the Services. Certificate(s) of insurance shall name the District as an additional named insured under the Consultant's comprehensive general liability, automobile liability, and professional liability policies and shall provide thirty (30) days written notice to the certificate holder prior to cancellation or modification of coverage. Consultant shall provide proof of insurance with District as an additional named insured upon execution of Agreement prior to commencement of work and annually thereafter.

ARTICLE 10: DISPUTE RESOLUTION, CONTROLLING LAW, AND VENUE

10.1 All questions pertaining to the validity and interpretation of this Agreement shall be determined in accordance with the laws of Florida. Exclusive jurisdiction and venue to interpret or resolve any dispute under this Agreement shall lie in the state court of appropriate jurisdiction in the Fourteenth Judicial Circuit, in and for Bay County, Florida.

10.2 In the event a dispute shall arise under or about this Agreement, the prevailing party therein shall be entitled to recover from the non-prevailing party all costs, expenses, and attorney's fees which may be incurred on account of such dispute, as well as at every stage of any such proceedings from the time such dispute first arises through trial or other proceedings and all appellate processes, including any proceeding to determine the amount of fees owed.

ARTICLE 11: INDEPENDENT CONTRACTOR

11.1 The Consultant shall be an independent contractor with respect to the Services and with respect to all regulations affecting its business and the performance of the Services. Consultant shall obtain all applicable licenses and permits to conduct its business under this Agreement and any subsequent renewals.

ARTICLE 12: SUCCESSORS AND ASSIGNS

12.1 This Agreement shall be binding upon the District and the Consultant and their respective partners, successors, heirs, assigns, and legal representatives.

12.2 Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the District and the Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the District and the Consultant and not for the benefit of any other party. Neither the District nor the Consultant shall assign, sublet. or transfer any rights under or interests (including, but without limitation, monies that may become due or monies that are due) in this Agreement without the written consent of the other.

ARTICLE 13: SUBCONSULTANTS

13.1 Consultant shall maintain an adequate and competent staff of professionals and may associate with other qualified firms for the purpose of rendering services hereunder. Consultant agrees that its staff, subconsultants, and subcontractors who will perform any services for the project are subject to District's reasonable approval and must be identified in each Task Order. Consultant is liable for all acts and omissions of its staff, subconsultants, and subcontractors.

13.2 For purposes of this agreement, the following firms shall be deemed approved Subconsultants as part of the Consultant's team:

Exp Services

Gortemoller Engineering, Inc.
Atlas Engineering and Consulting
UES Company
Poole Engineering and Surveying, Inc.
Newhouse and Associates
Leading Edge Strategies
Introba, Inc.

13.3 The Consultant shall have the right, with the District's prior written consent, to employ other firms to serve as subconsultants to the Consultant in connection with the Consultant performance of the Services hereunder.

13.4 None of the staff, subconsultants, and subcontractors identified in a Task Order shall be removed or replaced by Consultant without District's prior written approval (such approval not to be unreasonably withheld), and if so removed shall be immediately replaced with a person or firm reasonably acceptable to District.

13.5 The Consultant agrees, at the District's written request (which may be made by the District with or without cause), promptly to terminate the services of any such subconsultant and promptly replace each such terminated person or firm with a person or firm of comparable experience approved by the District in writing.

ARTICLE 14: PRIVILEGED INFORMATION

14.1 The Consultant agrees, during the period of this Agreement, not to knowingly divulge, furnish or make available to any third person, firm or organization, without the District's prior written consent, or unless incident to the proper performance of the Consultant's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any information concerning the services to be rendered by the Consultant or any subconsultant pursuant to this Agreement.

14.2 Obligations of confidentiality expressed in Article 14.1 shall not apply to any information disclosed which:

14.2.1 Can be shown to be widely known and readily accessible to the public; or

14.2.2 Is required to be disclosed by Florida Public Records law, other applicable Federal or State law or judicial or administrative order; provided, however, that Consultant shall give the District timely notice of such mandate prior to the submission of said confidential information, and provided further, that Consultant shall reasonably cooperate with lawful efforts that the District might take to intervene in any such proceedings or to otherwise prevent such disclosure.

ARTICLE 15: CONTINGENCY FEES

15.1 The Consultant and its subconsultants warrant that they have not employed or retained any company or person other than a bona fide employee working solely for the Consultant to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, attorney, lobbyist, individual, or firm, other than a bona fide employee working solely for the Consultant any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. Consultant or any subconsultant's failure to identify any retention in violation of this paragraph shall void this Agreement ab initio.

ARTICLE 16: WARRANTY

16.1 The Consultant shall perform services as described herein in a professional manner using appropriately skilled and licensed personnel in accordance with generally accepted industry standards and the District's contractual requirements. If the services provided are not performed in accordance with these requirements and standards, the Consultant shall (1) re-perform the services of the non-conforming Professional Services, and/or (2) have payment withheld for nonconforming services in accordance with

16.2 The Consultant is solely responsible to the District for correcting or re-performing, at its own cost, any Services that are deficient or inaccurate because of Consultant's or any subconsultant's failure to perform said Services in accordance with the standard of care provided herein. Consultant shall commence such correction or re-perform work at no cost to District immediately upon Consultant's discovery of any such error. District must report in writing to Consultant any deficient Services within ninety (90) days of discovery by District, but in no event later than five (5) years from the completion of the Task Order which provided for the particular Services.

ARTICLE 17: FORCE MAJEURE

17.1 The Consultant is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, or accidents beyond the control of the Consultant. In any such event, the Consultant's contract price and schedule shall be equitably adjusted. The District is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, or accidents beyond the control of the District.

ARTICLE 18: LIMITATION OF LIABILITY

18.1 The Consultant shall not be held liable for the acts or omissions of the District's other contractors, subcontractors, vendors or their employees and agents.

ARTICLE 19: SHOP DRAWING REVIEW

19.1 As required per authorized Task Order, the Consultant shall review construction contractor submittals, such as shop drawings, product data, samples and other data, only for the limited purpose of checking for conformance with the design concept and the information expressed in the contract documents.

19.2 The Consultant's review shall be conducted with reasonable promptness while allowing sufficient time to permit adequate review.

ARTICLE 20: WAIVER

20.1 The waiver by either party of any breach of any term, covenant, condition or agreement contained herein or any default in the performance of any obligations hereunder shall not be deemed to be a waiver or any other breach or default of the same or of any other term, covenant, condition, agreement or obligation. No waiver of any rights under this Agreement shall be binding unless it is in writing signed by the party waiving such rights.

ARTICLE 21: TITLE TO PLANS AND SPECIFICATIONS

21.1 Drawings, calculations, specifications, reports, plans, field data, computer software enhancements, CAD files and such other data and information compiled or prepared by the Consultant pursuant to this Agreement which the District may require Consultant to supply in accordance with the Agreement, shall be and shall remain the property of the District. Any reuse of the above referenced work product other than for the specific project and intent for which the information was prepared by the Consultant shall be at user's sole risk and without liability to the Consultant. At the termination of this Agreement, CONTRACTOR shall return to District any and all drawings, calculations, specifications, reports, plans, field data, computer software enhancements, CAD files and such other data and information compiled or prepared by the Consultant pursuant to this Agreement not previously provided at no additional cost to District.

ARTICLE 22: SEVERABILITY

22.1 If any provision of this Agreement or any application thereof to any person or circumstances shall, to any extent, be invalid, the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

ARTICLE 23: NOTICES

23.1 Any and all notices required or authorized to be given pursuant to this Agreement shall be given in writing and either hand-delivered or sent by certified or registered mail, postage prepaid, and return receipt requested, as follows:

If to District:	Parker McClellan, Executive Director Panama City-Bay County Airport and Industrial District 6300 West Bay Parkway, Box A Panama City, FL 32409
If to Consultant :	Aaron Buob, C.M. Ardurra Group, Inc. 1988 Lewis Turner Boulevard Fort Walton Beach, Florida 32547

ARTICLE 24: HEADINGS

24.1 The headings of the articles and sections of this Agreement are for the purpose of convenience only and shall not be deemed to expand or limit the provisions contained in such articles and sections.

ARTICLE 25: ENTIRE AGREEMENT

25.1 This Agreement together with Exhibit 1: Project List, Exhibit 2: Compensation, Exhibit 3: Sample Task Order, Exhibit 4: Sample Task Order Change, Exhibit 5 Federally Required Provisions, Consultant's response including all attachments, and each separately authorized Task Order issued hereunder, constitutes the entire and integrated Agreement between the District and the Consultant and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement and said attachments may only be amended, supplemented, modified, or canceled by written instrument signed by an authorized representative of each party to be bound thereby.

ARTICLE 26: FEDERALLY REQUIRED PROVISIONS

26.1 Consultant agrees to be bound by all provisions provided by Exhibit 4, Federally Required Provisions. Consultant further agrees to be bound by any federally required provision that the parties failed to include, if it was required by statute, administrative code, FAA grant assurances, or other federal grants at the time of the Effective Date of this Agreement.

ARTICLE 27: PUBLIC RECORDS

27.1 If the Consultant has questions regarding the application of Chapter 119, Florida Statues, regarding the Consultant's duty to provide public records relating to this Contract, contact the custodian of public records, Parker McClellan at (850)-636-8965, pmcclellan@pcairport.com, Panama City-Bay County Airport and Industrial District, 6300 West Bay Parkway, Box A, Panama City, Fl 32409.

27.2 Consultant shall comply with public records laws, and specifically shall:

27.2.1 Keep and maintain public records required by the public agency to perform the service;

27.2.2 Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law;

27.2.3 Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Consultant does not transfer the records to the public agency; and

27.2.4 Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the Consultant transfers all public records to the public agency upon completion of the contract, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the contract, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives, under seal, on the last date of execution.

PANAMA CITY-BAY COUNTY AIRPORT AND INDUSTRIAL DISTRICT

(SEAL)

By: Holly Melzer

Its: Chair

Printed Name: Holly Melzer

STATE OF FLORIDA
COUNTY OF BAY

This instrument was acknowledged before me by Holly Keefer as its Chair of the Panama City-Bay County Airport and Industrial District on February 9, 2024.

Notary Public Lisa L Brady

(Seal)

LISA L. BRADY
MY COMMISSION # HH122580
EXPIRES: May 14, 2025

My Commission Expires: May 14, 2025

ARDURRA GROUP, INC.

(SEAL)

By: _____

Its: Aviation Director

Printed Name: James R. Norvell

STATE OF Florida
COUNTY OF Bay

This instrument was acknowledged before me by James R. Novell, who is personally known to me or has provided DAMAGED DL as identification, on February 8, 2024.

Notary Public Lisa L Brady

(Seal)

My Commission Expires: May 14, 2025

LISA L. BRADY
MY COMMISSION # HH122580
EXPIRES: May 14, 2025

EXHIBIT 1
COMPENSATION

ARDURRA GROUP, INC & SUBCONSULTANTS

Company	Role	Rate
ARDURRA	Principal	$ 300.00
ARDURRA	QA/QC Manager	$ 300.00
ARDURRA	Transportation Practice Director (SE)	$ 295.00
ARDURRA	Sr. Aviation Electrical Engineer	$ 271.00
ARDURRA	Sr. Structural Project Manager/Engineer	$ 261.00
ARDURRA	Sr. Aviation Planner	$ 249.00
ARDURRA	Emergency Management Sr Project Manager	$ 247.00
ARDURRA	Environmental Services Manager	$ 239.00
ARDURRA	Client Executive/Project Manager	$ 225.00
ARDURRA	Transportation Planning Services Manager	$ 217.00
ARDURRA	Emergency Management Project Manager	$ 211.00
ARDURRA	Land Use Planner	$ 194.00
ARDURRA	Project Manager/Senior Ecologist	$ 192.00
ARDURRA	Geospatial Manager	$ 190.00
ARDURRA	Aviation Project Engineer	$ 163.00
ARDURRA	Aviation Planner	$ 157.00
ARDURRA	Funding Specialist	$ 151.00
ARDURRA	Aviation Staff Engineer	$ 142.00
ARDURRA	Construction Manager	$ 140.00
ARDURRA	Transportation Staff Engineer	$ 133.00
ARDURRA	Admin/Support	$ 127.00
ARDURRA	Landscape Architect	$ 126.00
ARDURRA	GIS Operator	$ 122.00
ARDURRA	CADD Designer	$ 114.00
EXP	Sr. Architect Design Manager	$ 348.00
EXP	Principal	$ 305.00
EXP	MEP Engineering Manager	$ 290.00
EXP	Sr. Airfield Engineer	$ 290.00
EXP	Senior Sustainability Manager	$ 261.00
EXP	Sr. Project Manager	$ 230.00
EXP	Stakeholder Coordination	$ 225.00
EXP	Sr. Structural Engineer	$ 221.00
EXP	Permit Expeditor	$ 218.00
EXP	Sr. Plumb. / FP Engineer	$ 218.00
EXP	Threshold Inspector	$ 218.00
EXP	Sr. Civil Engineer	$ 209.00
EXP	QA/QC Manager	$ 203.00
EXP	Sr. Architectural Designer	$ 203.00
EXP	Sr. Mechanical Engineer	$ 203.00
EXP	Civil Engineer	$ 189.00
EXP	Construction Manager	$ 189.00
EXP	Sr. Electrical Engineer	$ 189.00
EXP	Energy Modeler	$ 186.00
EXP	Mechanical Engineer	$ 174.00
EXP	Project Manager	$ 174.00
EXP	Electrical Engineer	$ 160.00
EXP	Environmental Project Manager	$ 160.00
EXP	MEP Inspector	$ 160.00
EXP	Structural Engineer	$ 151.00
EXP	GIS Technician	$ 145.00
EXP	Sr. Construction Inspector	$ 145.00
EXP	Architectural Designer	$ 131.00
EXP	Jr Structural Engineer	$ 131.00
EXP	Sustainability Planner	$ 131.00
INTROBA	Project Manager	$ 195.00
INTROBA	BHS Designer	$ 170.00
GORTEMOLLER	Landside/General Civil Engineer Project Manager	$ 259.00
GORTEMOLLER	Landside/General Civil Engineer	$ 215.00
GORTEMOLLER	Landside/General Civil Engineering Intern	$ 112.00
GORTEMOLLER	Civil Construction Inspector	$ 106.00
GORTEMOLLER	Civil Construction Inspector	$ 103.00
UES	Senior Principal Engineer	$ 225.00
UES	Professional Engineer	$ 160.00
UES	Project Engineer	$ 115.00
UES	Staff Engineer	$ 95.00
UES	CADD Tech	$ 65.00
UES	Engineering Technician	$ 65.00
UES	Admin/Clerical	$ 60.00
POOLE	SUR Principal Surveyor	$ 145.00
POOLE	Sur Survey/GIS/SUE Analyst 1	$ 129.00
POOLE	Survey Crew Chief	$ 88.00
POOLE	Survey Tech 1	$ 55.00
POOLE	Survey Crew Rate (2-person)	$ 143.00
NEWHOUSE	Principal	$ 345.00
NEWHOUSE	Project Manager	$ 295.00
NEWHOUSE	Managing Consultant/Manager	$ 285.00
NEWHOUSE	Senior Consultant	$ 230.00
NEWHOUSE	Consultant	$ 210.00
NEWHOUSE	Associate	$ 185.00
NEWHOUSE	Admin/Support	$ 155.00
LEADING EDGE	Principal	$ 180.00
ATLAS	Structural Construction Manager	$ 175.00

EXP	Construction Inspector	$ 116.00
EXP	Sr. CADD Technician	$ 116.00
EXP	Administrative Assistant	$ 102.00
EXP	Architectural Intern	$ 102.00
EXP	Jr. Mechanical Engineer	$ 102.00
EXP	Jr. Plumb. / FP Engineer	$ 102.00
EXP	Plumb. / FP Engineer	$ 102.00
EXP	Jr. Electrical Engineer	$87.00

EXHIBIT 2: SAMPLE TASK ORDER

PANAMA CITY-BAY COUNTY AIRPORT & INDUSTRIAL DISTRICT

TASK ORDER AGREEMENT

DATE:_____ **TASK ORDER #:** _____

OWNER: _____

CONSULTANT: _____

SUBCONSULTANT(S): _____

TASK ORDER DESCRIPTION:

TASK ORDER BACKGROUND/JUSTIFICATION:

SCOPE OF SERVICES:

SCHEDULE OF SERVICES:

COMPENSATION:

IN WITNESS WHEREOF, the parties hereto have caused this Task Order Agreement to be executed by their duly authorized representatives as of the date first shown above.

CONSULTANT	**PANAMA CITY-BAY COUNTY AIRPORT & INDUSTRIAL DISTRICT**
_____	_____
Title: _____	Title: _____

NORTHWEST FLORIDA BEACHES INTERNATIONAL AIRPORT

PANAMA CITY-BAY COUNTY AIRPORT & INDUSTRIAL DISTRICT
CONSULTANT NAME

TASK ORDER # _____

TASK ORDER DESCRIPTION _____

DATE _____

Description	Rate	Task Description 1	Hours	Fee	Task Description 2	Hours2	Fee2	Total Hours	Total Fee
CONSULTANT									
Principal	$ -		-	$ -		-	$ -	-	$ -
Staff #2 Position Title	$ -		-	$ -		-	$ -	-	$ -
Staff #3 Position Title	$ -		-	$ -		-	$ -	-	$ -
Staff #4 Position Title	$ -		-	$ -		-	$ -	-	$ -
Staff #5 Position Title	$ -		-	$ -		-	$ -	-	$ -
Staff #6 Position Title	$ -		-	$ -		-	$ -	-	$ -
Staff #7 Position Title	$ -		-	$ -		-	$ -	-	$ -
Staff #8 Position Title	$ -		-	$ -		-	$ -	-	$ -
Staff #9 Position Title	$ -		-	$ -		-	$ -	-	$ -
Staff #10 Position Title	$ -		-	$ -		-	$ -	-	$ -
								-	
Total Consultant			-	$ -		-	$ -	-	$ -
SUBCONSULTANTS									
Description	$ -		-	$ -		-	$ -	-	$ -
Description	$ -		-	$ -		-	$ -	-	$ -
Description	$ -		-	$ -		-	$ -	-	$ -
Description	$ -		-	$ -		-	$ -	-	$ -
Description	$ -		-	$ -		-	$ -	-	$ -
Description	$ -		-	$ -		-	$ -	-	$ -
Description	$ -		-	$ -		-	$ -	-	$ -
								-	
Total Subconsultants			-	$ -		-	$ -	-	$ -
OTHER COSTS									
Description	$ -		-	$ -		-	$ -	-	$ -
Description	$ -		-	$ -		-	$ -	-	$ -
Description	$ -		-	$ -		-	$ -	-	$ -
Description	$ -		-	$ -		-	$ -	-	$ -
Description	$ -		-	$ -		-	$ -	-	$ -
Description	$ -		-	$ -		-	$ -	-	$ -
								-	
Total Other Costs			-	$ -		-	$ -	-	$ -
Total Task Order			-	$ -		-	$ -	-	$ -

EXHIBIT 2: SAMPLE TASK ORDER CHANGE
PANAMA CITY-BAY COUNTY AIRPORT & INDUSTRIAL DISTRICT

DATE_____ **TASK ORDER #** _____ **Change #**_____

OWNER: _____

CONSULTANT: _____

SUBCONSULTANT(S): _____

TASK ORDER DESCRIPTION:

TASK ORDER BACKGROUND/JUSTIFICATION:

SCOPE OF SERVICES:

SCHEDULE OF SERVICES:

COMPENSATION:

Original Task Order Amount:	$
Task Order Change Amount:	$
TOTAL:	**$**

IN WITNESS WHEREOF, the parties hereto have caused this Task Order Agreement to be executed by their duly authorized representatives as of the date first shown above.

CONSULTANT

_____

By: _____
(printed name)

Title: _____

PANAMA CITY-BAY COUNTY AIRPORT & INDUSTRIAL DISTRICT

_____

By: _____
(printed name)

Title: _____

EXHIBIT 4
FEDERALLY REQUIRED CONTRACT PROVISIONS

In this exhibit, any reference to "Consultant" shall mean Consultant and any reference to subconsultant shall mean a subconsultant hired by Consultant. District is at times referred to as "recipient" or "sponsor" herein. Consultant (including all subconsultant) shall insert these contract provisions in each contract and subcontract, and further require that the clauses be included in all subcontracts; Consultant (or subconsultant) shall incorporate applicable requirements of these contract provisions by reference for work done under any purchase orders, rental agreements and other agreements for supplies or services; and Consultant shall, as prime Consultant, be responsible for compliance with these contract provisions by any subconsultant, lower-tier subconsultant or service provider.

A. **SPONSOR ACTIONS.**

Applicability:

The following provisions shall be upheld by the Sponsor and all Consultant(s) and/or subconsultant(s).

1. The Consultant must insert the following provisions in each lower tier contract (e.g., subcontract or sub-agreement).
2. All provisions of this exhibit shall be incorporated into any purchase orders, rental agreements and other agreements for supplies or services that pertain to this Contract.
3. The Consultant shall be responsible for the compliance of the contract provisions of any subconsultant, lower tier subconsultant, or service provider.
4. If a local or State of Florida provision alters or conflicts with the provisions of Exhibit 4, the Federal provisions supersede those provisions.

B. **ACCESS TO RECORDS** (2 CFR § 200.34, 200.337 and FAA Order 5100.38)

The Consultant must maintain an acceptable cost accounting system. The Consultant agrees to provide the Owner, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Consultant which are directly pertinent to this specific Agreement for the purpose of making audit, examination, excerpts and transcriptions. The Consultant agrees to maintain all books, records and reports required under this Agreement for a period of not less than three (3) years after final payment is made and all pending matters are closed.

C. **BREACH OF CONTRACT TERMS** (2 CFR Part 200, Appendix II (A)

Any violation or breach of terms of this Agreement on the part of the Consultant or its subconsultants may result in the suspension or termination of the Agreement or such other action that may be necessary to enforce the rights of the parties of this Agreement.

The Owner will provide the Consultant written notice that describes the nature of the breach and corrective actions the Consultant must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Consultant until such time the Consultant corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the Consultant must correct the breach. Owner may proceed with termination of the Agreement if the Consultant fails to correct the breach by the deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

D. **BUY AMERICAN PREFERENCE** (Title 49 USC § 50101, Executive Order 14005, *Ensuring the Future is Made in All of America by All of America's Workers,* Bipartisan Infrastructure Law (Pub. L. No. 117-58), Build America, Buy America) (BABA)

Equipment and Buildings Projects involving and including the acquisition of equipment such as snow removal equipment, navigational aids, wind cones, and the construction of buildings such as hangars, terminal development, lighting vaults, aircraft rescue & firefighting buildings, etc. A Certificate of Compliance with FAA Buy American Preference Based on Equipment/Building Projects must be obtained.

E. **GENERAL CIVIL RIGHTS PROVISIONS** (49 USC § 47123)

In all its activities within the scope of its airport program, the Consultant agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

F. **CIVIL RIGHTS - TITLE VI ASSURANCE** (49 USC § 47123, FAA Order 1400.11)

Title VI of the Civil Rights Act of 1964, as amended, (Title VI) prohibits discrimination on the grounds of race, color, or national origin under any program or activity receiving Federal financial assistance.

G. **TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES** (Assurance 5, DOT Standard Title VI Assurances and Nondiscrimination, Assurances 30€(4)(a) of the Airport Sponsor Assurances)

During the performance of this contract, the Consultant, for itself, its assignees, and successors in interest (hereinafter referred to as the "Consultant") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin).
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964).
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects).
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance).
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age).
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and Consultants, whether such programs or activities are Federally funded or not).
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38.
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations).
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)].

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

H. TITLE VI CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM (Assurance 30(e)(4)(a) of the Airport Sponsor Assurances)

This provision applies to agreements such as leases where a physical portion of the airport is transferred for use—for example a fuel farm, apron space, or a parking facility—and will be included as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Sponsor with other parties for all transfers of real property acquired or improved under the Airport Improvement Program.

I. TITLE VI CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following will be included in deeds, licenses, permits or similar instruments/agreements entered into by the District pursuant to the provisions of the Airport Improvement Program grant assurances.

i. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.

ii. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, the District will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.

iii. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, District will there upon revert to and vest in and become the absolute property of District and its assigns.

J. **CLEAN AIR AND WATER POLLUTION** (2 CFR Part 200, Appendix II(G))

Consultant agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). The Consultant agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Consultant must include this requirement in all subcontracts that exceed $150,000.

K. **CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS** (2 CFR Part 200 Appendix II (E), 2 CFR § 2.5 (b), 40 USC§ 3702 & 3704)

1. Overtime Requirements.

No Consultant or subconsultant 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, including watchmen and guards, 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 (1) of this clause, the Consultant and any subconsultant responsible therefor shall be liable for the unpaid wages. In addition, such Consultant and subconsultant 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 clause, in the sum of $29 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 clause.

3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration (FAA) or the Owner 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 Consultant or subconsultant under any such contract or any other Federal contract with the same prime Consultant, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Consultant, such sums as may be determined to be necessary to satisfy any liabilities of such Consultant or subconsultant for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.

4. Subconsultants.

The Consultant or subconsultant shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subconsultant to include these clauses in any lower tier subcontracts. The prime Consultant shall be responsible for compliance by any subconsultant or lower tier subconsultant with the clauses set forth in paragraphs (1) through (4) of this clause.

K. COPELAND ANTI-KICKBACK ACT (2 CFR Part II(D), 29 CFR Parts 3 & 5)

Consultant must comply with the requirements of the Copeland "Anti-Kickback" Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Consultant and subconsultants are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Consultant and each Subconsultant must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Owner must report any violations of the Act to the Federal Aviation Administration.

L. DAVIS BACON ACT (40 USC §§ 3141-3144, 3146, and 3147)

29 CFR part 5 establishes specific language a Sponsor must use. The Sponsor may not make any modification to the standard language. A/E firms that employ laborers and mechanics on a task that meets the definition of construction, alteration, or repair are acting as a Consultant. The Sponsor may not substitute the term "Consultant" for "Consultant" in such instances.

DAVIS-BACON REQUIREMENTS

1. Minimum Wages

(I) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Consultant and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided,* that the employer's payroll records accurately set forth the

time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Consultant and its subconsultants at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination, and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination.

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Consultant and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Consultant, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Consultant shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Consultant does not make payments to a trustee or other third person, the Consultant may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided,* that the Secretary of Labor has found, upon the written request of the Consultant, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Consultant to set aside in a separate account asset for the meeting of obligations under the plan or program.

2. Withholding

The Federal Aviation Administration or the Sponsor 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 the Consultant under this contract or any other Federal contract with the same prime Consultant, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Consultant, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Consultant or any subconsultant the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the Consultant, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and Basic Records

(I) Payrolls and basic records relating thereto shall be maintained by the Consultant during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Consultant shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Consultants employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The Consultant shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party

to the contract, but if the agency is not such a party, the Consultant will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(I), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead, the payrolls shall only need to include an individually identifying number for each employee (*e.g.*, the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at *https://www.dol.gov/agencies/whd/government-contracts/construction/payroll-certification* or its successor site. The prime Consultant is responsible for the submission of copies of payrolls by all subconsultants. Consultants and subconsultants shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Consultant will submit them to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration, the Consultant, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime Consultant to require a subconsultant to provide addresses and social security numbers to the prime Consultant for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Consultant or subconsultant or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(I), and that such information is correct and complete.

(2) That each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3.

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Consultant or subconsultant to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Consultant or subconsultant shall make the records required under paragraph (3)(I) of this section available for inspection, copying, or transcription by authorized representatives of the Sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Consultant or subconsultant fails to submit the required records or to make them available, the Federal agency may, after written notice to the Consultant, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR § 5.12.

4. Apprentices and Trainees

(I) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Consultant as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Consultant is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Consultant's or subconsultant's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Consultant will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Consultant will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements

The Consultant shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

6. Subcontracts

The Consultant or subconsultant shall insert in any subcontracts the clauses contained in 29 CFR §§ 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subconsultants to include these clauses in any lower tier subcontracts. The prime Consultant shall be responsible for the compliance by any subconsultant or lower tier subconsultant with all the contract clauses in 29 CFR § 5.5.

7. Contract Termination: Debarment

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a Consultant and a subconsultant as provided in 29 CFR § 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general dispute's clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Consultant (or any of its subconsultants) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility

(I) By entering into this contract, the Consultant certifies that neither it (nor he or she) nor any person or firm who has an interest in the Consultant's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC § 1001.

M. DEBARMENT AND SUSPENSION (2 CFR Part 180 (Subpart B), 2 CFR Part 200, Appendix II(H), 2 CFR Part 1200, DOT Order 4200.5, Executive Orders 12549 and 12689)

The Consultant certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

Lower Tier Contract Certification

The Consultant, by administering each lower tier subcontract that exceeds $25,000 as a "covered transaction", must confirm each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: http://www.sam.gov.
2. Collecting a certification statement similar to the Certification of Offeror /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

N. DISADVANTAGED BUSINESS ENTERPRISE (49 CFR Part 26)

Sponsors must incorporate this language if they have a DBE program on file with the FAA. This includes projects where DBE participation is obtained through race/gender neutral means (i.e., no DBE contract goal). Section 26.13 of 49 CFR establishes mandatory language for Consultant assurance.

1. *Prompt Payment for Contracts Covered by DBE Program* Section 26.29 of 49 CFR requires prompt payment to subconsultants no later than thirty (30) days after the prime Consultant receives payment from the Sponsor. The requirement applies to all subconsultants, not just DBEs. The prompt payment language of A12.3.3 is acceptable to the FAA in meeting the intent of this requirement.
2. *Termination of DBE Subconsultants on Contracts with a DBE Contract Goal* - Section 26.53 of 49 CFR prohibits unauthorized removal or replacement of DBE firms listed in response to a solicitation that had a DBE contract goal and sets forth the specific enforcement mechanism recipients must include in prime contracts.

O. Contract Assurance (49 CFR § 26.13)

The Consultant, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

1) monthly progress payments;
2) Assessing sanctions;
3) Liquidated damages; and/or
4) Disqualifying the Consultant from future bidding as non-responsible.

P. Prompt Payment (49 CFR § 26.29)

The prime Consultant agrees to pay each subconsultant under this prime contract for satisfactory performance of its contract no later than [specify number of days, not to exceed 30] days from the receipt of each payment the prime Consultant receives from [Name of recipient]. The prime Consultant agrees further to return retainage payments to each subconsultant within [specify number of days, not to exceed 30] days after the subconsultant's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the [Name of Recipient]. This clause applies to both DBE and non-DBE subconsultants.

Q. TERMINATION OF DBE SUBCONTRACTS (49 CFR § 26.53(f); acceptable/sample text provided) –

The prime Consultant must not terminate a DBE subconsultant listed in response to [include Solicitation paragraph number where paragraph 12.3.1, Solicitation Language appears] (or an approved substitute DBE firm) without prior written consent of [Name of Recipient]. This includes, but is not limited to, instances in which the prime Consultant seeks to perform work originally designated for a DBE subconsultant with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The prime Consultant shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the Consultant obtains written consent [Name of Recipient]. Unless [Name of Recipient] consent is provided, the prime Consultant shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

[Name of Recipient] may provide such written consent only if [Name of Recipient] agrees, for reasons stated in the concurrence document, that the prime Consultant has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the circumstances listed in 49 CFR §26.53.

Before transmitting to [Name of Recipient] its request to terminate and/or substitute a DBE subconsultant, the prime Consultant must give notice in writing to the DBE subconsultant, with a copy to [Name of Recipient], of its intent to request to terminate and/or substitute, and the reason for the request.

The prime Consultant must give the DBE five days to respond to the prime Consultants notice and advise [Name of Recipient] and the Consultant of the reasons, if any, why it objects to the proposed termination of its subcontract and why [Name of Recipient] should not approve the prime Consultant's action. If required in a particular case as a matter of public necessity (e.g., safety), [Name of Recipient] may provide a response period shorter than five days.

R. DISTRACTED DRIVING (Executive Order 13513, DOT Order 3902.10)

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Text Messaging While Driving", (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Consultant to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Consultant must include the

substance of this clause in all sub-tier contracts exceeding $10,000 that involve driving a motor vehicle in performance of work activities associated with the project.

S. **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENTSOURCE** (2 CFR § 200, Appendix II(K), 2 CFR § 200.216)

T. **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

Consultant and Subconsultant agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)].

U. **DRUG FREE WORKPLACE REQUIREMENTS**

SOURCE(49 CFR Part 32, Drug-Free Workplace Act of 1988 (41 USC § 8101-8106, as amended)

V. **EQUAL EMPLOYMENT OPPORTUNITY (EEO)** (2 CFR Part 200, Appendix II(C), 41 CFR § 60-1.4, 41 CFR § 60-4.3, Executive Order 11246)

During the performance of this contract, the Consultant agrees as follows:

(1) The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Consultant 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 identify, 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 Consultant 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 Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Consultant 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 Consultant's legal duty to furnish information.

(4) The Consultant will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Consultant's commitments under this section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting 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 Consultant's noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Consultant will include 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 subconsultant or vendor. The Consultant will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: *Provided,* however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subconsultant or vendor as a result of such direction, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

W. STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS

1. As used in these specifications:

   a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

   b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;

d. "Minority" includes:

(1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);

(3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Consultant, or any subconsultant at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Consultant is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Consultants must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Consultant or subconsultant participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Consultants or subconsultants toward a goal in an approved Plan does not excuse any covered Consultant's or subconsultant's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Consultant shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Consultant should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Consultants performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Consultant is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Consultant has a collective bargaining agreement, to refer either minorities or women shall excuse the Consultant's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Consultant during the training period, and the Consultant must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Consultant shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Consultant's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Consultant shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

   a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Consultant's employees are assigned to work. The Consultant, where possible, will assign two or more women to each construction project. The Consultant shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Consultant's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

   b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Consultant or its unions have employment opportunities available, and maintain a record of the organizations' responses.

   c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Consultant by the union or, if referred, not employed by the Consultant, this shall be documented in the file with the reason therefor, along with whatever additional actions the Consultant may have taken.

   d. Provide immediate written notification to the Director when the union or unions with which the Consultant has a collective bargaining agreement has not referred to the Consultant a minority person or woman sent by the Consultant, or when the Consultant has other information that the union referral process has impeded the Consultant's efforts to meet its obligations.

   e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Consultant's employment needs,

especially those programs funded or approved by the Department of Labor. The Consultant shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Consultant's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Consultant in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Consultant's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Consultant's EEO policy with other Consultants and subconsultants with whom the Consultant does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Consultant's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Consultant shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a Consultant's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Consultant's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are no segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction Consultants and suppliers, including circulation of solicitations to minority and female Consultant associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Consultant's EEO policies and affirmative action obligations.

8. Consultants are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a Consultant association, joint Consultant-union, Consultant-community, or other similar group of which the Consultant is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Consultant actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Consultant's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Consultant. The obligation to comply, however, is the Consultant's and failure of such a group to fulfill an obligation shall not be a defense for the Consultant's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Consultant, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Consultant may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Consultant has achieved its goals for women generally, the Consultant may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Consultant shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.

11. The Consultant shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Consultant shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Consultant who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Consultant, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of

these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Consultant fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.

14. The Consultant shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Consultants shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

X. FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE) (29 USC § 201, et seq., 2 CFR § 200.430)

The [*Consultant / Consultant*] has full responsibility to monitor compliance to the referenced statute or regulation. The [*Consultant / Consultant*] must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

Y. PROHIBITION OF SEGREGATED FACILITIES(2 CFR Part 200, Appendix II(C), 41 CFR Part 60-

1) The Consultant must comply with the requirements of the EEO clause by ensuring that facilities they provide for employees are free of segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin. This clause must be included in all contracts that include the equal opportunity clause, regardless of the amount of the contract.

(a) The Consultant agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Consultant agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.
(b) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or

oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(c) The Consultant shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.

Z. **OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970** (29 CFR Part 1910)

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subconsultant's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

RIGHT TO INVENTIONS (2 CFR Part 200, Appendix II(F), 37 CFR Part 401)

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Owner in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within 37 CFR § 401.14. Consultant must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

AA. **SEISMIC SAFETY** (49 CFR Part 41)

Professional Service Agreements for Design

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard that provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a "certification of compliance" that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

SEISMIC SAFETY CONSTRUCTION

The Consultant agrees to ensure that all work performed under this contract, including work performed by subconsultants, conforms to a building code standard that provides a level of seismic safety substantially equivalent to standards established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their code after the

current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety.

BB. TAX DELINQUENCY AND FELONY CONVICTIONS

Certifications

1) The applicant represents that it is ( ) is not (✓) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
2) The applicant represents that it is ( ) is not (✓) a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

Note

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the Sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

Term Definitions

Felony conviction: Felony conviction means a conviction within the preceding twenty-four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 USC § 3559.

Tax Delinquency: A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

CC. TERMINATION

TERMINATION FOR CONVENIENCE (CONSTRUCTION & EQUIPMENT CONTRACTS)

The Owner may terminate this contract in whole or in part at any time by providing written notice to the Consultant. Such action may be without cause and without prejudice to any other right or remedy of Owner. Upon receipt of a written notice of termination, except as explicitly directed by the Owner, the Consultant shall immediately proceed with the

following obligations regardless of any delay in determining or adjusting amounts due under this clause:

1. Consultant must immediately discontinue work as specified in the written notice.
2. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
3. Discontinue orders for materials and services except as directed by the written notice.
4. Deliver to the Owner all fabricated and partially fabricated parts, completed and partially completed work, supplies, equipment and materials acquired prior to termination of the work, and as directed in the written notice.
5. Complete performance of the work not terminated by the notice.
6. Act as directed by the Owner to protect and preserve property and work related to this contract that Owner will take possession.

Owner agrees to pay Consultant for:

1. Completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
2. Documented expenses sustained prior to the effective date of termination in performing work and furnishing labor, materials, or equipment as required by the contract documents in connection with uncompleted work;
3. Reasonable and substantiated claims, costs, and damages incurred in settlement of terminated contracts with Subconsultants and Suppliers; and
4. Reasonable and substantiated expenses to the Consultant directly attributable to Owner's termination action.

Owner will not pay Consultant for loss of anticipated profits or revenue or other economic loss arising out of or resulting from the Owner's termination action.

The rights and remedies this clause provide are in addition to any other rights and remedies provided by law or under this contract.

TERMINATION FOR CONVENIENCE (PROFESSIONAL SERVICES)

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Consultant must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Consultant under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

TERMINATION FOR CAUSE (PROFESSIONAL SERVICES)

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

a) **Termination by Owner**: The Owner may terminate this Agreement for cause in whole or in part, for the failure of the Consultant to:
   1. Perform the services within the time specified in this contract or by Owner approved extension;
   2. Make adequate progress so as to endanger satisfactory performance of the Project; or
   3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

   Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Consultant under this contract, whether complete or partially complete.

   Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

   Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

   If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

b) **Termination by Consultant**: The Consultant may terminate this Agreement for cause in whole or in part, if the Owner:

   1. Defaults on its obligations under this Agreement;
   2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
   3. Suspends the project for more than [180] days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Consultant is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

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