

**INTEGRATION AGREEMENT BETWEEN  
THE CITY OF SAN ANTONIO  
AND  
SPAWGLASS CIVIL CONSTRUCTION, INC.  
FOR  
RFCSP TO REMOVE BRIDGE, REMOVE MSW AND RECONSTRUCT TAXIWAY R  
(CONNECTOR)  
[RFCSP # TCI032020MG]  
[PROJECT # 33-00316]**

**STATE OF TEXAS** §  
**COUNTY OF BEXAR** §

This agreement (hereinafter referred to as the “Agreement”), made and entered into in San Antonio, Bexar County, Texas, between the City of San Antonio, a Municipal Corporation in the State of Texas acting by and through its City Manager (hereinafter referred to as “City”), and

SpawGlass Civil Construction, Inc.  
13800 West Road  
Houston, Texas 77041

a corporation chartered under the laws of the State of Texas (hereinafter referred to as “SpawGlass” or “Contractor”), said Agreement being executed by Weston Voss. (President), and pursuant to Ordinance No. \_\_\_\_\_, passed and approved by the City Council on \_\_\_\_\_, 20\_\_.

Terms and conditions for performance and compensation payment for this Agreement are set forth in the following contract documents, true and correct copies of which are attached and fully incorporated herein verbatim for all purposes:

1. Exhibit 1. RFCSP TO REMOVE BRIDGE, REMOVE MSW AND RECONSTRUCT TAXIWAY R (CONNECTOR) [RFCSP # TCI032020MG] [PROJECT # 33-00316], issued on March 27, 2020;
2. Exhibit 2. SpawGlass Civil Construction, Inc. Bid Response;
3. Exhibit 3. Copy of enabling Ordinance No. \_\_\_\_\_;
4. Exhibit 4. SpawGlass Civil Construction, Inc. Revised Bid Response
5. Exhibit 5. Contract Mandatory Clauses

**Referenced Documents:** Further, SpawGlass Civil Construction, Inc.’s responses to the RFCSP and its addendums are also fully incorporated by reference, verbatim, for all purposes. All the documents attached hereto and those incorporated by reference constitute the contract documents for this Agreement.

**Conflict:** The RFCSP and its addendum govern SpawGlass Civil Construction, Inc.'s responses; this Integration Agreement governs both the RFCSP and responses; the Enabling Ordinance governs all in case of conflict.

This agreement supersedes any previous agreement or understanding of the parties, whether written or oral.

In accordance with Subchapter D. Competitive Sealed Proposal Method Government of Chapter 2269 of the Texas Government Code, City released a Request for Competitive Sealed Proposal (RFCSP) for Remove Bridge, Remove MSA and Reconstruct Taxiway R (Connector). Based on the published selection criteria, the City has determined that SpawGlass Civil Construction, Inc.'s (Contractor) proposal provides the best value to the City.

Pursuant to Section 2269.155 of the Texas Government Code, the City and Contractor through negotiations have come to agreement on scope and price and hereby agree that the fee schedule attached hereto as Exhibit 4 shall replace any prior cost proposals and/or fee schedules and is hereby incorporated into and made a part of this construction contract.

**Compensation:**

In consideration of Contractor's performance in a satisfactory and efficient manner, as determined solely by the Aviation Director (hereinafter "Director"), of all services and activities set forth in this Agreement, City agrees to pay Contractor an amount not to exceed **ten million, nine hundred four thousand, five hundred forty-five and 47/100 dollars (\$10,904,545.47)** as total compensation.

**Work Start Date:** Work shall start immediately upon instruction to SpawGlass Civil Construction, Inc. from the Director or his designee, for performance of the City project described in the RFCSP's scope of services or the contract documents identified above.

**Term of Performance and Termination Date:** The term of this agreement shall commence upon approval by the City Council as signified by the passage of an Ordinance, on the date recited in the enabling Ordinance, or on the date of the last party to execute this agreement, and terminate upon completion of the project.

**Insurance:**

**1 CONTRACTOR'S LIABILITY INSURANCE.**

**1.1** Prior to the commencement of any work under this Contract, Contractor shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to City's Risk Management Department which shall be clearly labeled "**Remove Bridge, Remove MSW and Reconstruct Taxiway R (Connector) [Package 7]**" in the Description of Operations block of the Certificate. The Certificate(s) shall be

completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. City shall not accept a Memorandum of Insurance or Binder as proof of insurance. The Certificate(s) shall be signed by the Authorized Representative of the insurance carrier and shall include the agent's original signature and telephone number. The Certificate(s) shall be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to City. City shall have no duty to pay or perform its obligations under this Contract until such Certificate(s) and endorsements have been received and approved by City's Risk Management Department. No officer or employee of City, other than the City of San Antonio's Risk Manager, shall have authority to waive this requirement.

**1.2** City reserves the right to review the insurance requirements of this **ARTICLE XI** during the effective period of this Contract and to modify insurance coverages and limits when deemed necessary and prudent by the City of San Antonio's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Contract. In no instance will City allow modification whereby City may incur increased risk.

**1.3** Contractor's financial integrity is of interest to City; therefore, subject to Contractor's right to maintain reasonable deductibles in such amounts as are approved by City, Contractor shall obtain and maintain in full force and effect, for the duration of this Contract and at Contractor's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized to do business in the State of Texas and with an A.M Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

**TABLE ON FOLLOWING PAGE**

<b>TYPE</b>	<b>AMOUNTS</b>
<b>1.</b> Workers' Compensation	<i>Statutory</i> \$1,000,000.00/\$1,000,000.00/
<b>2.</b> Employers' Liability	\$1,000,000.00

<p><b>3. Commercial General Liability Insurance</b> to include coverage for the following:</p> <ul style="list-style-type: none"> <li><b>a.</b> Premises/Operations</li> <li><b>b.</b> Products/Completed Operations</li> <li><b>c.</b> Personal/Advertising Injury</li> <li><b>d.</b> Environmental Impairment/ Impact – sufficiently broad to cover disposal liability.</li> <li><b>e.</b> Explosion, Collapse, Underground</li> </ul>	<p>For Bodily Injury and Property Damage of:</p> <p><b>\$5,000,000.00</b> per occurrence;  <b>\$15,000,000.00</b> General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage</p>
<p><b>4. Business Automobile Liability:</b></p> <ul style="list-style-type: none"> <li><b>a.</b> Owned/leased vehicles</li> <li><b>b.</b> Non-owned vehicles</li> <li><b>c.</b> Hired Vehicles</li> </ul>	<p>Combined Single Limit for Bodily Injury and Property Damage of:</p> <p><b>\$5,000,000.00</b> per occurrence (to include AOA access)-\$</p>
<p><b>5. *Builder’s Risk</b></p>	<p>All Risk Policy written on an occurrence basis for 100% replacement cost during construction phase of any new or existing structure.</p>

**1.4** Contractor agrees to require, by written contract, all Subcontractors providing goods or services pursuant to performance on the Project obtain the same categories of insurance coverage required of Contractor and provide a Certificate of Insurance and endorsement that names Contractor and City as additional insureds. Policy limits of the coverages carried by Subcontractors shall be determined as a business decision of Contractor. Contractor shall provide City with said Certificate and endorsement prior to the commencement of any work by the Subcontractor. This Subcontractor insurance provision may be modified by the City of San Antonio’s Risk Manager, without subsequent San Antonio City Council approval, when deemed necessary and prudent, based upon changes in statutory law, court decisions, or circumstances surrounding this Contract. Such insurance coverage modification may be enacted by letter signed by the City of San Antonio’s Risk Manager, which shall become a part of this Contract for all purposes.

- 1.5** As they apply to the limits required by City, City shall be entitled, upon request and without expense, to receive copies of all insurance policies, declaration pages and all required endorsements associated with this Work. Contractor shall be required to comply with any such requests and shall submit requested documents to City at the address provided below within ten (10) calendar days. Contractor shall pay any and all costs incurred resulting from provision of said documents to City.

**City of San Antonio  
Attn: Risk Management Department**

**Contract Services Division  
P.O. Box 839966  
San Antonio, Texas 78283-3966**

- 1.6** Contractor agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

- a.** Name City, its officers, officials, employees, volunteers, and elected representatives as additional insured(s) by endorsement, with respect to operations and activities of, or on behalf of, the named insured performing under this Contract with City, with the exception of the workers' compensation and professional liability policies;
- b.** Provide for an endorsement reflecting the "other insurance" clause shall not apply to the City of San Antonio where City is an additional insured shown on the policy;
- c.** Workers' compensation, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of City.
- d.** Provide advance written notice directly to City, at the address cited above, of any suspension or non-renewal in coverage of Contractor's insurance policy/policies associated with this Work and not less than ten (10) calendar days in advance notice for Contractor's nonpayment of premium(s).

- 1.7** Within five (5) calendar days of a suspension, cancellation or non-renewal of insurance coverage associated with this Work, Contractor shall provide a replacement Certificate(s) of Insurance and applicable endorsement(s) to City. City shall have the option to suspend Contractor's performance should there be a lapse in coverage at any time

during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Contract.

- 1.8** In addition to any other remedies City may have upon Contractor's failure to provide and maintain any insurance and/or policy endorsements to the extent and within the time required, City shall have the right to order Contractor to stop work hereunder and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the insurance requirements hereof.
- 1.9** Nothing contained herein shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its Subcontractors' performance of the Work covered under this Contract.
- 1.10** Contractor accepts and agrees Contractor's insurance shall be deemed primary and non-contributory, with respect to any insurance or self-insurance carried by City, for liability arising out of Contractor's operations under this Contract.
- 1.11** Contractor understands, accepts and agrees the insurance required of Contractor by this Contract is in addition to and separate from any other obligation contained in this Contract and no claim or action by or on behalf of City shall be limited to insurance coverage provided.
- 1.12** Contractor and any of Contractor's Subcontractors are responsible for any and all damage to their own equipment and/or property.
- 1.13** Without limiting any of the other obligations or liabilities of Contractor under the Contract Documents, Contractor shall purchase and maintain, during the term of the Contract and at Contractor's own expense, the minimum liability insurance coverage described below with insurance companies duly authorized or approved to do business in the State of Texas and otherwise satisfactory to City. Contractor also shall require each Subcontractor performing work under the Contract, at Subcontractor's own expense, to maintain levels of insurance necessary and appropriate for the Work performed during the term of the Contract, said levels of insurance comply with all applicable laws. Subcontractor's liability insurance shall name Contractor, City and Design Consultant as additional insureds by using endorsement CG 20 26 or broader. Certificates of insurance complying with the requirements prescribed in **ARTICLE XI.1.2** shall show the existence of each policy, together with copies of all policy endorsements showing City and Design Consultant as an additional insured, and shall be delivered to City before any Work is started. Contractor promptly shall furnish, upon the request of and

without expense to City, a copy of each policy required, including all endorsements, which shall indicate:

- a.** Workers' Compensation, with statutory limits, with the policy endorsed to provide a waiver of subrogation as to City; Employer's Liability Insurance of not less than \$1,000,000.00 for each accident, \$1,000,000.00 disease for each employee and \$1,000,000.00 disease policy limit;
- b.** Commercial General Liability Insurance, Personal Injury Liability, Independent Contractor's Liability and Products and Completed Operations and Contractual Liability covering, but not limited to, the liability assumed under the indemnification provisions of this Contract, fully insuring Contractor's (and/or Subcontractor's) liability for injury to or death of City's employees and all third parties, and for damage to property of third parties, with a combined bodily injury (including death) and property damage minimum limit of—\$5,000,000.00 per occurrence, \$15,000,000.00 general aggregate, or its equivalent in Umbrella or excess Liability Coverage. If coverage is written on a claims-made basis, coverage shall be continuous (by renewal or extended reporting period) for no less than sixty (60) months following completion of the contract and acceptance of work by City. Coverage, including any renewals, shall have the same retroactive date as the original policy applicable to the Project. City shall be named as additional insured by using endorsement CG 20 26 or broader. The general liability policy shall include coverage extended to apply to completed operations and XCU hazards. The Completed Operations coverage must be maintained for a minimum of one (1) year after final completion and acceptance of the Work, with evidence of same filed with City. The policy shall include an endorsement CG2503 amendment of limits (designated project or premises) in order to extend the policy's limits specifically to the Project in question.
- c.** Business Automobile Liability Insurance, covering owned, hired and non-owned vehicles, with a combined bodily injury (including death) and property damage minimum limit of \$5,000,000 per occurrence. Such insurance shall include coverage for loading and unloading hazards.
- d.** Five (5) calendar days prior to a suspension, cancellation or non-renewal of any required line of insurance coverage, Contractor shall provide City a replacement certificate of insurance with all applicable endorsements included. City shall have the option to suspend Contractor.

**1.14** If any insurance company providing insurance coverage(s) required under the Contract Documents for Contractor becomes insolvent or becomes the subject of any rehabilitation, conservatorship, liquidation or similar proceeding, Contractor immediately shall procure, upon first notice to Contractor or City of such occurrence and without cost to City, replacement insurance coverage before continuing the performance of the Work at the Project. Any failure to provide such replacement insurance coverage shall constitute a material breach of the Contract.

**1.15 INDEMNIFICATION.** Contractor covenants and agrees to FULLY INDEMNIFY, DEFEND and HOLD HARMLESS, the City and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the City directly or indirectly arising out of, resulting from or related to Contractor' activities under this Agreement, including any acts or omissions of Contractor, any agent, officer, director, representative, employee, contractor or subcontractor of Contractor, and their respective officers, agents employees, directors and representatives while in the exercise of the rights or performance of the duties under this Agreement. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of City, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT CONTRACTOR AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Contractor shall advise the City in writing within 24-hours of any claim or demand against the City or Contractor known to Contractor related to or arising out of Contractor' activities under this AGREEMENT and shall see to the investigation and defense of such claim or demand at Contractor's cost. The City shall have the right, at its option and at its own expense, to participate in such defense without relieving Contractor of any of its obligations under this paragraph.



## **I.2 PROPERTY INSURANCE**

**I.2.1** As stated in **ARTICLE XI.1** Contractor shall obtain at its expense and maintain throughout the duration of the Project, All-Risk Builder's Risk Insurance, if the Project involves complete construction of a new building, or an All-Risk Installation Floater policy, if the Project involves materials and supplies needed for additions to, renovations or remodeling of an existing building. Coverage on either policy shall be All-Risk, including, but not limited to, Fire, Extended Coverage, Vandalism and Malicious Mischief, Flood (if located in a flood zone) and Theft, in an amount equal to one hundred percent (100%) of the insurable value of the Project for the Installation Floater policy, and one hundred percent (100%) of the replacement cost of the Project for the Builder's Risk policy. If an Installation Floater policy is provided, City shall be shown as a Joint Named Insured with respect to the Project. If a Builder's Risk policy is provided, the policy shall be written on a Completed Value Form, including materials delivered and labor performed for the Project. This policy shall be in the name of Contractor and naming City, Design Consultant and Subcontractors, as well as any Sub-Subcontractors, as additional insureds as their interests may appear. The policy shall have endorsements as follows:

- a.** This insurance shall be specific as to coverage and not contributing insurance with any permanent insurance maintained on the property.
- b.** Loss, if any, shall be adjusted with and made payable to Contractor or City and Contractor as trustee for the insureds as their interests may appear.

### **I.2.2 BOILER AND MACHINERY INSURANCE.**

If applicable, City shall purchase and maintain Boiler and Machinery Insurance required by the Contract Documents or by law, which specifically shall cover such insured objects during installation and until final acceptance by City. This insurance shall include the interests of City, Contractor, Subcontractors and Sub-Subcontractors in the Work, and City and Contractor shall be named insureds.

### **I.2.3 LOSS OF USE INSURANCE.**

City, at City's option, may purchase and maintain such insurance as shall insure City against loss of use of City's property due to fire or other hazards, however caused. City waives all rights of action against Contractor that it may now have or have in the future for loss or damage to City's property howsoever arising, including consequential losses due to fire or other hazards however caused.

- I.2.4** Contractor shall provide to City a Certificate of Insurance evidencing all property insurance policies procured under this **ARTICLE XI.2** and all endorsements thereto, before any exposure to loss may occur.
- I.2.5** Partial occupancy or use in accordance with **ARTICLE IX.9** shall not commence until the insurance company/companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. City and Contractor shall take reasonable steps to obtain consent of the insurance company/companies and shall take no action without mutual written consent with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.
- I.2.6** Contractor shall take all necessary precautions to ensure no damage shall result from operations to private or public property. All damages shall be repaired or replaced by Contractor at no additional cost to City.

**Notice:** Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

**If intended for City, to:**

City of San Antonio  
Attn: Aviation Department  
P.O. Box 839966  
San Antonio, Texas 78283-3966

**If intended for Contractor, to:**

SpawGlass Civil Construction, Inc.  
Attn: Weston Voss, President  
13800 West Road  
Houston, Texas 77041

**Assignment and Subcontracting:** Contractor shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement shall be the employees or subcontractors of Contractor. Contractor, its employees or its subcontractors shall perform all necessary work.

It is City's understanding, and this Agreement is made in reliance thereon, that Contractor intends to use the following subcontractors in the performance of this Agreement.

Arias & Associates dba Arias Geoprosessionals  
F&W Electrical Contractors  
J. R. Ramon & Sons, Inc.  
Texas Environmental Management SA, Inc.  
Vulcan Construction Materials LLC  
Zamco Trucking LLC

Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved by the Director or his designee, prior to the provision of any services by said subcontractor.

Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of Contractor. City shall in no event be obligated to any third party, including any subcontractor of Contractor, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the Director.

Except as otherwise stated herein, Contractor may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the Director. As a condition of such consent, if such consent is granted, Contractor shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor Contractor, assignee, transferee or subcontractor.

Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Contractor assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option, cancel this Agreement and all rights, titles and interest of Contractor shall thereupon cease and terminate, in accordance with the termination provisions above, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by Contractor shall in no event release Contractor from any obligation under the terms of this Agreement, nor shall it relieve or release Contractor from the payment of any damages to City, which City sustains as a result of such violation.

**Nonwaiver of Performance:** Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a

waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the Director. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

**Independent Contractor:** Contractor covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Contractor shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Contractor. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Contractor under this Agreement and that the Contractor has no authority to bind the City.

**Termination:** For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated above, or earlier termination pursuant to any of the provisions hereof. This Agreement may be terminated without cause by City upon 30 calendar days written notice. Upon written notice City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of the sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided above in Assignment and Subcontracting, which shall constitute an Event for Cause under this Agreement.

Defaults With Opportunity for Cure. Should Contractor default in the performance of this Agreement in a manner stated in this section below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. Contractor shall have fifteen (15) calendar days after receipt of the written notice to cure such default. If Contractor fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Contractor to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Contractor against Contractor's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.

- Bankruptcy or selling substantially all of company's assets.
- Failing to perform or failing to comply with any covenant herein required.
- Performing unsatisfactorily.

Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such

performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

Regardless of how this Agreement is terminated, Contractor shall affect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by Contractor, or provided to Contractor, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by Contractor in accordance with records retention requirements. Any record transfer shall be completed within thirty (30) calendar days of a written request by City and shall be completed at Contractor's sole cost and expense. Payment of compensation due or to become due to Contractor is conditioned upon delivery of all such documents, if requested.

Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, Contractor shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. Failure by Contractor to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a **Waiver** by Contractor of any and all right or claims to collect moneys that Contractor may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

Upon the effective date of expiration or termination of this Agreement, Contractor shall cease all operations of work being performed by Contractor or any of its subcontractors pursuant to this Agreement.

Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue Contractor for any default hereunder or other action.

**Amendments:** Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Contractor, and signed by the Director or his designee. Substantive changes, to include an increase in the amount of compensation in excess of \$100,000.00, shall require additional City Council approval.

**THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.**

Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

**Entire Agreement:** This Agreement, together with its authorizing ordinance and its exhibits, as listed above, constitute the final and entire agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the

subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same be in writing, dated subsequent to the date hereto, and duly executed by the parties.

Agreed, Consented to, and Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**SPAWGLASS CIVIL CONSTRUCTION, INC.**

BY: 

Weston Voss  
President

**CITY OF SAN ANTONIO**

BY: \_\_\_\_\_

Eric J. Walsh  
City Manager

**APPROVED AS TO FORM:**

By: \_\_\_\_\_

City Attorney

**EXHIBIT 1**

**RFCSP TO REMOVE BRIDGE, REMOVE MSW AND  
RECONSTRUCT TAXIWAY R (CONNECTOR)**

**[RFCSP # TCI032020MG]**

**[PROJECT # 33-00316]**

# CITY OF SAN ANTONIO

Aviation Department



## REQUEST FOR COMPETITIVE SEALED PROPOSALS

**REMOVE BRIDGE, REMOVE MSW AND  
RECONSTRUCT TAXIWAY R (CONNECTOR)  
(PACKAGE 7)**

at

**SAN ANTONIO INTERNATIONAL AIRPORT  
PROJECT NO. 33-00316  
AIP PROJECT NO. **3-48-0192-98-2020**  
RFCSP: ID #TCI032020MG**

**Notice Regarding Prohibition on Campaign or Officeholder Contributions for Individuals and Entities Seeking High-Profile Contracts.** Under Section 2-309 of the Municipal Campaign Finance Code, the following are prohibited from making a campaign or officeholder contribution to any member of City Council, candidate for City Council or political action committee contributing to City Council elections from **April 10, 2020**, until 30 calendar days after the contract has been awarded (black out period):

1. legal signatory of a high-profile contract;
2. any individual seeking a high-profile contract;
3. any owner or officer of an entity seeking a high-profile contract;
4. the spouse of any of these individuals;
5. any attorney, lobbyist or consultant retained to assist in seeking contract.

**A high-profile contract cannot be awarded to the individual or entity if a prohibited contribution has been made by any of these individuals during the “black out” period.**

**HIGH PROFILE  
RFCSP ISSUE DATE: March 27, 2020  
SUBMITTAL DEADLINE: May 12, 2020 2:00 P.M. Local Time**





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Safety Bulletins and Notes.....	Exhibit “I”
Crane and/or Temporary Construction Equipment Procedures.....	Exhibit “J”
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# FORMS

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## **Required Forms to be Uploaded Individually**

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Submittal Cover Signature Sheet.....	Form 3
Discretionary Contracts Disclosure Form.....	Form 4
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SAIA DBE Good Faith Effort Plan for Federally Funded Contracts.....	Form 7
SAIA Letter of Intent for Federally Funded Contracts.....	Form 8
SAIA Change or Additions of Subcontractors/Suppliers on Federally Funded Contracts...	Form 9
SAIA DBE LLC/Joint Venture Information.....	Form 10
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## **I. BACKGROUND**

The City of San Antonio Aviation Department (hereafter referred to as “City” or “Owner”) is seeking Competitive Sealed Proposals (hereafter referred to as a “Proposal”) from qualified firms to provide construction services for the Remove Bridge, Remove MSW and Reconstruct Taxiway R (Connector) (Package 7) Project (hereafter referred to as “the Project”).

More than 10 million passengers, an average of 27,400 per day, flew in and out of the San Antonio International Airport (SAT) during 2018. Therefore, reconstructing the Taxiway system is imperative to accommodate this growing passenger demand.

The Taxiway R connector reconstruction is the third phase of a three phase larger Taxiway R rehabilitation project. Previously, the Taxiway R (parallel) bridge was removed and reconstructed. Existing Municipal Solid Waste (MSW) material was removed as part of this project. The second phase included the construction of a temporary Taxiway RC installed from the existing reverse curve on Taxiway RC, east to Taxiway R near the Airport Rescue and Fire Fighting (ARFF) station.

This Project includes the removal of additional MSW beneath existing taxiways R and RC, and unpaved areas near the taxiways. This MSW and the soils above it have the potential to contain hazardous levels of methane gas which may be encountered during the demolition of existing pavement and excavation of subsurface materials.

This project also includes a 5-inch mill and replace for the entire asphalt portion of Runway 13L-31R, and multiple connecting taxiways, to include the replacement of runway and taxiway pavement markings. Also included in this project is the partial demolition of Bypass Taxiway RC and conversion of the remainder to serve as the Airport’s Vehicle Service Road. These portions of the Package 7 project are being funded through City of San Antonio Operating and Maintenance sources.

## **II. SCOPE OF WORK AND GENERAL REQUIREMENTS**

This project consists of construction work at San Antonio International Airport, San Antonio, Texas. The intent of the Contract is to provide for construction and completion, in every detail, of the work described. It is further intended that the Contractor furnish all labor, materials, equipment, tools, transportation and supplies required to complete the work in accordance with the plans, specifications, and terms of the Contract. The Contractor shall provide unit prices for the base bid. The description of the base bid is as follows:

The “Base Bid” consists of the demolition of the existing Taxiway R bridge on between Taxiway RC and Runway 13L-31R, demolition of the existing Taxiway R at-grade concrete pavement and approximately 420-foot x 50-foot of the existing temporary asphalt Taxiway R, to include taxiway pavement removal and removal of edge lighting temporary asphalt, removal of the existing MSW beneath the pavement, mitigation or removal of methane gas encountered, and placement and compaction of clean backfill material. Construction elements include demolition of approximately 700-foot x 75-foot of the existing concrete portion of Taxiway R and the connector to Runway 13L-31R, removal of existing MSW material, placement of clean backfill material, grading and sodding. Demolition materials will be disposed offsite.

Bid Alternate 1 consists of the construction of new at-grade Portland Cement Concrete (PCC) Pavement on Taxiway R from Runway 13L-31R to the existing full-strength concrete portion of Taxiway R, and the partial demolition of Bypass Taxiway RC in the Object Free Areas of Taxiways R and RC. Construction elements include asphalt demolition, placement of PCC pavement, lighting and signage, pavement markings, grading and sodding.

Bid Alternate 2 consists of the placement of new asphalt shoulders along the new Taxiway R concrete pavement. This work includes placement of P-403 asphalt.

Bid Alternate 3 consists of the demolition of a portion of bypass Taxiway RC outside the Object Free Areas of Taxiways R and RC, and the conversion of the remaining asphalt to be utilized as a Vehicle Service Road for the Airport. This work includes saw cutting, pavement marking obliteration, asphalt pavement excavation, and embankment.

Bid Alternate 4 includes new asphalt roadway connections from the remaining bypass Taxiway RC pavement to the new asphalt VSR stub-outs. This work includes clearing and grubbing, unclassified excavation, and asphalt paving.

Bid Alternate 5 consists of the milling and replacement of the top five inches (5”) of asphalt paving on Runway 13L-31R and connecting asphalt taxiways to approximately the limits of the Runway 13L-31R Safety Area. Construction site preparation elements include milling and placement of new asphalt concrete pavement for approximately 5,200-feet x 100-feet of existing Runway 13L-31R, 200-feet x 50-feet of existing Taxiway M, 550-feet x 75-feet of existing Taxiway A, 220-feet x 150-feet of existing Taxiway P, 190-feet x 75-feet of existing Taxiway D. This work includes placement of temporary lighting, and new pavement markings. Asphalt millings gathered from the Alternate 5 work area will be transported to existing FAA equipment access roads or stockpiled according to the plans.

Construction includes site excavation, embankment, grading, and sodding. Taxiway R pavement construction will consist of 16-inches of Portland Cement Concrete PCC paving (P-501) on 12-inches of cement-treated base course (CTB) (P-304) on 6-inches of crushed aggregate base course (P-209) on 6-inches of lime treated subgrade (P-155).

This work also includes mobilization, insurance and bonds, Airport safety and security, storm water pollution prevention, preparing right-of-way, clearing and grubbing, unclassified excavation, subgrade preparation, lime treated subgrade, base course, asphalt and concrete paving, all construction surveying, staking and layout, all existing utility locating, protection of all existing utilities and facilities, site dewatering, wildlife attractant mitigation, Contractor quality control including testing and inspection, pavement saw cutting, pavement marking removal, new pavement marking, electrical demolition, electrical duct bank, conduit and conductors, temporary jumper cables, communication cables, Airfield Lighting Control and Monitoring System (ALCMS) modifications, directional bored duct banks, inner-duct, junction can plazas, edge lights and guidance signage installation, installing FAA furnished fiber optic cable, and Engineer’s field office and curing facility.

**Minimum General Requirements:** Respondent shall meet the following minimum requirements:

- Project team shall have experience planning and executing multi-staged logistical phasing activities while maintaining uninterrupted aircraft operations.
- Project team shall have experience in coordinating and organizing multiple correlated schedules.
- Project Manager, Superintendent and General Foremen shall have experience in general construction as it pertains to Municipal Solid Waste (MSW) / Construction Debris Waste (CDW), airfield paving and electrical, and full knowledge of construction administrative processes.
- Project team shall have collaborative experience working with the owner and design team to maintain coordination and schedule as it pertains to the project.
- Project team shall have experience in managing multiple shifts and multiple crews.
- Project team shall have experience in monitoring and maintaining workforce in a secure area.

**Schedule:** If awarded, Respondent shall prepare, provide and monitor a master schedule, maintaining weekly updates of planned, on-going, and completed work activities throughout the duration of

work. Contractor shall define schedule as number of total calendar days from contract award to substantial completion and beneficial use.

Respondents normal working hours are a six (6) day work week, with a working day measured from sunrise to sundown Monday through Saturday unless alternate work hours are requested and approved in advance. This project will require night work and shall be coordinated and scheduled with sufficient notice given to Airport Operations.

**General Contractor Responsibilities:** The Contractor must adhere to the following special requirements or actions:

1. Contractor's personnel are required to wear an identification photo ID at all the times when performing work under this contract. Contractor's personnel will be required to pass a background check for facilities where access is restricted to the general public. Procedures for obtaining an Airport badge are included in **Exhibit "G"**.
2. Contractor shall designate a qualified foreman or a representative who will be present on the site at all times to oversee and inspect work performed by Contractor's employees or subcontractors assigned to this contract. This individual must be qualified and capable of authorizing and making on-site decisions pertaining to the work being performed.
3. Extreme care shall be taken to safeguard existing facilities, existing equipment and site amenities on or around the construction site. Any damage to public and private property shall be the responsibility of the Contractor and shall be replaced or repaired to the original condition or better by the Contractor at no additional cost to the City. If the Contractor does not repair or replace damaged property within four (4) working days' notice from the City, the City reserves the right to correct the situation and deduct the associated charges from the Contractor's invoice, unless the nature of the repair or replacement is of such a nature that it cannot be completed within four (4) working days. In such event, the City will specify the length of time permitted for completion of the repair or replacement.
4. The Contractor must contain noise, dust, and fumes within the work area. If Contractor determines that excessive noise, dust or fumes will be generated as part of the project, a two-week notification to the Project Manager is required.
5. All work shall be performed during normal working hours comprised of a six (6) day work week, with a working day measured from sunrise to sundown Monday through Saturday unless alternate work hours are requested and approved in advance or required of the project. Special circumstances may arise where it will be required for the Contractor to work overnight. Contractor may perform work after 5PM for ease of activity but not billable at premium rate.
6. At the end of each working day, when the Contractor demobilizes the job site, their waste must be properly disposed. If the demolition site is fenced, the Contractor should make sure the site is properly secure and access doors locked at all times. All equipment and tools should be properly locked and secured, as the City is not responsible for vandalism and theft.
7. Contractor shall exhibit professionalism during all aspects of the project, and perform all work under this contract in accordance with accepted industry practices and standards. The Contractor shall control site safety and security at all times. If deemed necessary by owner, the Contractor shall install temporary walls and hard ceiling per airport standards and specifications, barricades or other means to control access to limit unauthorized persons. Contractor shall be prohibited from posting signs which advertise their business without prior written authorization from the City. Contractor shall coordinate signage with Owner, install and remove as required. Costs associated with site security and safety



are considered incidental to the project and should be included in the appropriate unit prices. Work methods and quality control measures are the responsibility of the Contractor. However, at its discretion, the City reserves the right to disapprove or suspend work methods considered unsafe, illegal, or detrimental to the project, the public health, safety, welfare, or the environment.

8. The Contractor is required to remove and properly dispose of any trash, rubbish litter and debris found on the premises at the start of the project, as well as waste resulting from the demolition activities or deposited on the site. Contractor shall keep the premises and public right-of-way cleared at all times. Contractor shall ensure a clean environment in work space, as route for material transfer outside of work space. No materials or debris shall be burned or buried on site. All waste must be landfilled in an authorized facility, approved by the City.
9. The Contractor is required to report immediately any unforeseen or unusual conditions that occur or may render compliance impossible, or otherwise affect the Contractor's ability to do the work agreed upon. The Contractor is not allowed to change the work plan; unless the City provides authorization to do it.

**Health and Safety:** The Contractor is responsible for complying with all local, State, and Federal regulations regarding demolition and transportation of MSW for the duration of this Contract.

**Plans and Specifications of the Construction Documents:** May be purchased at a cost of \$100.00 per set (tax included) from the office of Kimley-Horn and Associates, Inc., 601 NW Loop 410, Suite 350, San Antonio, TX 78216. No refund will be made for plan sets that are returned. Documents may also be downloaded on the CivCast website at <https://www.civcastusa.com/bids>. Answers by Consultant and/or City shall be posted on the CivCast website or given in writing to all prospective Respondents in Amendment form to this solicitation. All provisions and requirements of such issued amendments shall supersede or modify affected portions of the Plans and Specifications. All addenda shall be made a part of the Project's Contract Documents. No other explanation or interpretation, with regard to provisions and/or requirements, shall be considered official or binding upon City. Amendments shall be posted on the CivCast website at <https://www.civcastusa.com/bids>, along with the Project solicitation documents. Respondent understands and agrees that Respondent is responsible for obtaining all issued Amendments and adhering to all requirements in any issued Amendments. City shall not be responsible for incorrect information obtained through other sources.

**Calendar Days:** Respondent understands and agrees that this is a calendar day Contract for the substantial completion of the Project.

**Contract Budget:** The estimated Contract value not to exceed is \$19,500,000.00.

**Bid Pricing:** The prices shall be valid through November 30, 2020.

**Liquidated Damages for Delay in Substantial Completion and Final Completion:** The Contractor will be expected to begin construction in accordance with Article 1, General Provisions, Section I.2.4, Notice to Proceed and Commencement of Contract Times in the General Conditions, City of San Antonio Construction Contracts. In the event the selected Respondent fails to achieve Substantial Completion and/or Final Completion of the Project by the dates established for Substantial Completion and/or Final Completion, Respondent hereby accepts and agrees it shall pay City the sum indicated on the table below for each and every calendar day of unexcused delay in achieving Substantial Completion and/or Final Completion beyond the Scheduled Completion/Final Completion dates. Any sums due and payable hereunder to City shall be payable, not as a penalty, but as Liquidated Damages representing an estimate of delay damages sustained by City, estimated at the time of executing the Contract. Such Liquidated Damages shall apply regardless of whether Respondent has been terminated

by City prior to Substantial Completion, so long as Respondent's actions or inactions contributed to the delay. Such Liquidated Damages shall be in addition to and not in preclusion of any recovery of actual damages resulting from other defects in Respondent's performance hereunder, for matters other than delays in Substantial Completion/Final Completion. When City reasonably believes that Substantial Completion/Final Completion will be inexcusably delayed, City shall be entitled, but not required, to withhold from any amounts otherwise due to Respondent an amount then believed by City to be adequate to recover Liquidated Damages applicable to such delays. If and when Respondent overcomes the delay in achieving Substantial Completion and/or Final Completion or any part thereof, for which City has withheld payment, City promptly shall release to Respondent those funds withheld but no longer applicable as Liquidated Damages. The Liquidated Damages for each project element and/or phase are displayed in the following tables:

Contractual Milestone No.	Contractual Milestone Description and Requirements	Start Date (Condition that must be met for work to begin).	Duration	Liquidated Damages
<b>Base Bid (if Base Bid is awarded, Bid Alternates 1 and 2 are NOT awarded)</b> <b>PHASE 1</b>				
1	(Taxiway R West End CLOSED) (Runway 13L-31R CLOSED)	Coordinated: Taxiway R Closure Shall be Started on January 18, 2021. <b>May be performed concurrent with Phases 2 and 3 ONLY.</b>	<b>755</b> Calendar Days	\$5,000.00 per day
<b>Base Bid (if Base Bid is awarded, Bid Alternates 1 and 2 are NOT awarded)</b> <b>Phase 1A – Bridge Removal / Pavement Demolition</b>				
1A	(Taxiway R West End CLOSED) (Runway 13L-31R CLOSED)	Coordinated: May be started as coordinated with Airport Operations and taxiway closed	<b>55</b> Calendar Days	\$5,000.00 per day
<b>Base Bid (if Base Bid is awarded, Bid Alternates 1 and 2 are NOT awarded)</b> <b>Phase 1B – Excavate Overburden / Remove and Dispose of MSW / Place Clay Cap</b>				
1B	(Taxiway R West End CLOSED) (Runway 13L-31R CLOSED)	Coordinated: May be started when all BMPs and Environmental Requirements are Approved.	<b>465</b> Calendar Days	\$5,000.00 per day
<b>Base Bid (if Base Bid is awarded, Bid Alternates 1 and 2 are NOT awarded)</b> <b>Phase 1C – Embankment Placement of Stockpile / Borrow Embankment</b>				
1C	(Taxiway R West End CLOSED) (Runway 13L-31R CLOSED)	Coordinated: Cannot be started until Phase 1B is complete and Environmental Clearance Given	<b>235</b> Calendar Days	\$5,000.00 per day

Contractual Milestone No.	Contractual Milestone Description and Requirements	Start Date (Condition that must be met for work to begin).	Duration	Liquidated Damages
<b>Base Bid, Bid Alternate 1 (if Base Bid and Bid Alternate 1 are awarded, Bid Alternate 2 is NOT awarded)</b> <b>PHASE 1</b>				
1	(Taxiway R West End CLOSED) (Runway 13L-31R CLOSED)	Coordinated: Taxiway R Closure Shall be Started on January 18, 2021. <b>May be performed concurrent with Phases 2 and 3 ONLY.</b>	<b>885</b> Calendar Days	\$5,000.00 per day
<b>Base Bid, Bid Alternate 1 (if Base Bid and Bid Alternate 1 are awarded, Bid Alternate 2 is NOT awarded)</b> <b>Phase 1A – Bridge Removal / Pavement Demolition</b>				
1A	(Taxiway R West End CLOSED) (Runway 13L-31R CLOSED)	Coordinated: May be started as coordinated with Airport Operations and taxiway closed	<b>55</b> Calendar Days	\$5,000.00 per day
<b>Base Bid, Bid Alternate 1 (if Bid and Bid Alternate 1 are awarded, Bid Alternate 2 is NOT awarded)</b> <b>Phase 1B – Excavate Overburden / Remove and Dispose of MSW / Place Clay Cap</b>				
1B	(Taxiway R West End CLOSED) (Runway 13L-31R CLOSED)	Coordinated: May be started when all BMPs and Environmental Requirements are Approved.	<b>465</b> Calendar Days	\$5,000.00 per day
<b>Base Bid, Bid Alternate 1 (if Base Bid and Bid Alternate 1 are awarded, Bid Alternate 2 is NOT awarded)</b> <b>Phase 1C – Embankment Placement of Stockpile / Borrow Embankment / Construct Taxiway R</b>				
1C	(Taxiway R West End CLOSED) (Runway 13L-31R CLOSED)	Coordinated: Cannot be started until Phase 1B is complete and Environmental Clearance Given	<b>350</b> Calendar Days	\$5,000.00 per day
<b>Bid Alternate 1 (if Bid Alternate 1 is awarded)</b> <b>Phase 1D – Demolition of Taxiway RC Bypass inside the Taxiways R and RC Object Free Areas</b>				
1D	(Bypass Taxiway RC permanently CLOSED)	Coordinated: Night work only. Cannot be started until Phase 1C is complete and Environmental Clearance Given.	<b>15</b> Calendar Days	\$5,000.00 per day

Contractual Milestone No.	Contractual Milestone Description and Requirements	Start Date (Condition that must be met for work to begin).	Duration	Liquidated Damages
<b>Base Bid, Bid Alternate 1, Bid Alternate 2 (if Base Bid, Bid Alternate 1, and Bid Alternate 2 are awarded)</b> <b>PHASE 1</b>				
1	(Taxiway R West End CLOSED) (Runway 13L-31R CLOSED)	Coordinated: Taxiway R Closure Shall be Started on January 18, 2021. <b>May be performed concurrent with Phases 2 and 3 ONLY.</b>	<b>905</b> Calendar Days	\$5,000.00 per day
<b>Base Bid, Bid Alternate 1, Bid Alternate 2 (if Base Bid, Bid Alternate 1, and Bid Alternate 2 are awarded)</b> <b>Phase 1A – Bridge Removal / Pavement Demolition</b>				
1A	(Taxiway R West End CLOSED) (Runway 13L-31R CLOSED)	Coordinated: May be started as coordinated with Airport Operations and taxiway closed	<b>55</b> Calendar Days	\$5,000.00 per day
<b>Base Bid, Bid Alternate 1, Bid Alternate 2 (if Base Bid, Bid Alternate 1, and Bid Alternate 2 are awarded)</b> <b>Phase 1B – Excavate Overburden / Remove and Dispose of MSW / Place Clay Cap</b>				
1B	(Taxiway R West End CLOSED) (Runway 13L-31R CLOSED)	Coordinated: May be started when all BMPs and Environmental Requirements are Approved.	<b>465</b> Calendar Days	\$5,000.00 per day
<b>Base Bid, Bid Alternate 1, Bid Alternate 2 (if Base Bid, Bid Alternate 1, and Bid Alternate 2 are awarded)</b> <b>Phase 1C – Embankment Placement of Stockpile / Borrow Embankment / Construct Taxiway R / Construct Asphalt Shoulders</b>				
1C	(Taxiway R West End CLOSED) (Runway 13L-31R CLOSED)	Coordinated: Cannot be started until Phase 1B is complete and Environmental Clearance Given	<b>370</b> Calendar Days	\$5,000.00 per day
<b>Bid Alternate 1 (if Bid Alternate 1 is awarded)</b> <b>Phase 1D – Demolition of Taxiway RC Bypass inside the Taxiways R and RC Object Free Areas</b>				
1D	(Bypass Taxiway RC permanently CLOSED)	Coordinated: Night work only. Cannot be started until Phase 1C is complete and Environmental Clearance Given.	<b>15</b> Calendar Days	\$5,000.00 per day

Contractual Milestone No.	Contractual Milestone Description and Requirements	Start Date (Condition that must be met for work to begin).	Duration	Liquidated Damages
<b>Bid Alternate 5 (if awarded)</b> <b>PHASE 2</b>				
2	(Runway 13L-31R CLOSED)	Coordinated: May be started as coordinated with Airport Operations and runway closed. <b>Must be performed concurrent with Phases 1 and 3 ONLY.</b>	<b>28</b> Calendar Days	\$5,000.00 per day
<b>Bid Alternate 5 (if awarded)</b> <b>Phase 2A – Runway 13L-31R / Taxiways M, A, P Mill and Overlay</b>				
2A	(Runway 13L-31R CLOSED) (Taxiways J, M, A, P CLOSED north of Runway 13R-31L)	Coordinated: May be started as coordinated with Airport Operations and taxiways closed	<b>14</b> Calendar Days	\$5,000.00 per day
<b>Bid Alternate 5 (if awarded)</b> <b>Phase 2B – Runway 13L-31R / Taxiway D Mill and Overlay</b>				
2B	(Runway 13L-31R CLOSED) (Taxiway D CLOSED north of Runway 13R-31L)	Coordinated: May be started as coordinated with Airport Operations and taxiways closed	<b>7</b> Calendar Days	\$5,000.00 per day
<b>Bid Alternate 5 (if awarded)</b> <b>Phase 2C – Runway 13L-31R Mill and Overlay</b>				
2C	(Runway 13L-31R CLOSED) (Taxiway N CLOSED north of Runway 13R-31L)	Coordinated: May be started as coordinated with Airport Operations and taxiways closed	<b>2</b> Calendar Days	\$5,000.00 per day
<b>Bid Alternate 5 (if awarded)</b> <b>Phase 2D – Runway and Taxiway Pavement Markings</b>				
2D	(Runway 13L-31R CLOSED)	Coordinated: May be started as coordinated with Airport Operations and taxiways closed locally	<b>5</b> Calendar Days	\$5,000.00 per day

Contractual Milestone No.	Contractual Milestone Description and Requirements	Start Date (Condition that must be met for work to begin).	Duration	Liquidated Damages
<b>Bid Alternate 5 (if awarded)</b> <b>PHASE 3 – Place Asphalt Millings on FAA Roads</b>				
3	(No closures required)	Coordinated: May be started as coordinated with Airport Operations and areas closed locally. <b>Must be performed concurrent with Phases 2 and 3 ONLY.</b>	<b>14</b> Calendar Days	\$1,000.00 per day

Contractual Milestone No.	Contractual Milestone Description and Requirements	Start Date (Condition that must be met for work to begin).	Duration	Liquidated Damages
<b>Alternate 3 and Alternate 4 (if awarded)</b> <b>PHASE 4 – Demolish Existing Bypass Taxiway RC and Convert to Vehicle Service Road</b>				
4	(Bypass Taxiway RC permanently CLOSED)	Coordinated: May be started upon completion of Phase 1. <b>May not be performed concurrent with any other Phase.</b>	<b>50</b> Calendar Days	\$5,000.00 per day
<b>Alternate 3 (if awarded)</b> <b>Phase 4A – Demolish Existing Bypass Taxiway RC outside Taxiways R and RC Object Free Areas</b>				
4A	(Bypass Taxiway RC permanently CLOSED)	Coordinated: May be started upon completion of Phase 1.	<b>35</b> Calendar Days	\$5,000.00 per day
<b>Alternate 3 (if awarded)</b> <b>Phase 4B – Connect remaining Bypass Taxiway RC asphalt pavement to new VSR stub-outs</b>				
4B	(Bypass Taxiway RC permanently CLOSED)	Coordinated: May be started upon completion of Phase 1.	<b>15</b> Calendar Days	\$5,000.00 per day

Contractual Milestone No.	Contractual Milestone Description and Requirements	Start Date (Condition that must be met for work to begin).	Duration	Liquidated Damages
	FINAL COMPLETION (To be achieved no more than 30 Calendar Days after Substantial Completion)		<b>30</b> Calendar Days	\$5,000.00 per day

**General Conditions for City of San Antonio Construction Contracts:** Respondents shall review City’s General Conditions for City of San Antonio Construction Contracts, provided and attached hereto, labeled as **Exhibit “A”** and incorporated herein by reference, and provide written comments with concerns regarding said General Conditions in Respondent’s submitted proposal under **“Tab 3”**. If Respondent does not have any comments and/or concerns, Respondent shall indicate this in Respondent’s submitted proposal under **“Tab 3”**. If no objections are submitted by the Respondent, City shall presume that Respondent accepts the terms, conditions and requirements of City’s General Conditions.

**Wage and Labor Standard Provisions and Prevailing Wage Rates:** The selected Respondent shall comply with City Ordinance Number 2008-11-20-1045, concerning Wage and Hour Labor Standard Provisions for City of San Antonio Construction Projects (amending City Ordinance Number 71312). This is a public works Contract and Chapter 2258 of the Texas Government Code requires that not less than the prevailing wage rate for work of a similar character in this locality shall be paid to all laborers, workmen and mechanics employed in the construction of this Project. This prevailing wage requirement includes overtime regulations. Respondent shall refer to the General Wage Decision Number TX20200007 dated January 3, 2020, attached hereto, incorporated by reference herein and labeled as **Exhibit “B”**.

**Payment and Performance Bonds:** Upon City Council approval, the selected Respondent shall furnish City with payment and performance bonds, in accordance with the provisions of Chapter 2253

of the Texas Government Code required for this Project have been attached hereto, incorporated by reference herein and labeled as **Exhibit “C”**.

**Additional Supplemental General Conditions Required for Aviation Department Projects:** Respondents shall review the additional supplemental general conditions that include extension of contract time for adverse weather, survey layout, staging areas, and other information, prior to preparing the RFCSP, incorporated by reference and labeled as **Exhibit “D”**.

**Soil Management Plan:** Respondents shall follow the instructions stated in the Soil Management Plan to handle all required tests and if soil is imported or exported from the site, incorporated by reference and labeled as **Exhibit “E”**.

**Special Conditions for Construction Within the Air Operations Area (AOA):** Respondents shall review the special conditions for construction with the AOA that include security, operations, storage and marshalling areas, navigation equipment, and other information, prior to preparing the RFCSP, incorporated by reference and labeled as **Exhibit “F”**.

**Environmental Work and Soil Screening Plan:** Respondents shall review the environmental work and soil screening plan, required for the excavation of Municipal Solid Waste (MSW), incorporated by reference and labeled as **Exhibit “G”**.

**Construction Security Plan:** Respondents shall review the requirements for construction projects, plan requirements such as an access plan, escorting and badging plan, delivery locations, fence and gate signage, badging process, authorized signatory, training, payment and fees, access control, smart key system, security violations, incorporated by reference and labeled as **Exhibit “H”**.

**Safety Bulletins and Notes:** Respondents shall review safety bulletin 13-01, *Operations Safety on Airports during Construction*, and bulletin 15-02, *Airport Rules and Regulations*, and bulletin 17-01, *Proper Way to Wear Safety Vests*, and other information, incorporated by reference and labeled as **Exhibit “I”**.

**Crane and/or Temporary Construction Equipment Procedures:** The successful Respondent shall comply and give sufficient notice to Airport Operations prior to using a crane or temporary construction equipment, incorporated by reference and labeled as **Exhibit “J”**.

**FAA General Provision Specifications:** Respondents shall review the FAA general provision specifications, as these specifications are mandatory for all project funded under Federal grant assistance programs, including the Airport Improvement Program (AIP), incorporated by reference and labeled as **Exhibit “K”**.

**Civil Technical Specifications (Base Bid):** Respondents shall review the FAA civil technical specifications, as these specifications are mandatory for all project funded under Federal grant assistance programs, including the Airport Improvement Program (AIP), incorporated by reference and labeled as **Exhibit “L”**.

**Civil Technical Specifications (Bid Alternate 5):** Respondents shall review the FAA civil technical specifications incorporated by reference and labeled as **Exhibit “M”**.

**Electrical Technical Specifications:** Respondents shall review the FAA electrical technical specifications, as these specifications are mandatory for all project funded under Federal grant assistance programs, including the Airport Improvement Program (AIP), incorporated by reference and labeled as **Exhibit “N”**.



**Municipal Solid Waste (MSW) Material Specifications:** Respondents shall review the MSW material technical specifications, incorporated by reference and labeled as **Exhibit “O”**.

**Storm Water and Other Specifications:** The Respondent shall review the storm water, mobilization, preparing right-of-way specifications, barricades, signs and traffic handling specifications, project schedules, requirements for 2 project signs, incorporated by reference and labeled as **Exhibit “P”**.

**Federal Aviation Administration (FAA) Advisory Circulars:** The Respondent shall review the FAA advisory circulars, including FAA Advisory Circular AC 150/5210-5D, *Painting, Marking and Lighting of Vehicles used on an Airport*; FAA Advisory Circular AC 150/5370-2G, *Operational Safety on Airports During Construction*; and FAA Advisory Circular AC 150/5200-33B, *Hazardous Wildlife Attractions on or Near Airports*, as these advisory circulars are mandatory for all project funded under Federal grant assistance programs, including the Airport Improvement Program (AIP), incorporated by reference and labeled as **Exhibit “Q”**.

**Construction Safety and Phasing Plan (CSPP):** Aviation safety is the primary consideration at Airports, especially during construction. The San Antonio International Airport (SAT) Construction Safety and Phasing Plan (CSPP) and the Contractor’s Safety Plan Compliance Document (SPCD) are the primary tools to ensure safety compliance when coordinating construction activities with Airport operations. These documents identify all aspects of the construction project that pose a potential safety hazard to Airport operations and outline respective mitigation procedures or a required Contractor response for each hazard. The CSPP sets forth benchmarks and requirements for the project to help ensure the highest levels of safety, security and efficiency at the Airport at the time of construction. Guideline requirements for the CSPP are developed from FAA Advisory Circular 150/5370-2G *Operational Safety on Airports During Construction*. The CSPP is incorporated by reference and labeled as **Exhibit “R”**. The CSPP is a standalone document which has been specifically made a part of the design and construction documents for the Project. The Respondent shall review the CSPP and the successful Respondent shall prepare and submit the SPCD for review and approval.

**Construction Plans:** Respondents shall carefully review the construction plans (drawings), incorporated by reference and labeled as **Exhibit “S”**, and shall satisfy themselves as to the character, quality and quantities of work to be performed, materials to be furnished, and as to the requirements of the Contract.

**Insurance Requirements:** All Respondents shall carefully review the City of San Antonio’s Insurance Requirements, incorporated by reference and labeled as **Exhibit “T”**.

### III. SCHEDULE OF EVENTS

The following tentative schedule has been prepared for this project:

Pre-Submittal Conference	Thursday, April 9, 2020
Deadline for Submission of Written Questions	Tuesday, April 21, 2020
Responses Due	Tuesday, May 12, 2020
Interviews, if necessary	Monday, June 29, 2020
Anticipated City Council Consideration	October, 2020

### IV. PRE-SUBMITTAL CONFERENCE

A Pre-Submittal Conference is scheduled to be held on Thursday, April 9, 2020 from 10:00AM to 11:00AM by Webex conferencing only. Respondent is encouraged to prepare and submit its questions in writing three (3) calendar days in advance of the Pre-Submittal Conference, in order to expedite the proceedings.

City's response to questions received by this due date will be posted on the CivCast website at <https://www.civcastusa.com/bids>.

The Webex meeting call-in information is below. A presentation will also be presented through Webex. Please contact Brian Miracle at [Brian.Miracle@sanantonio.gov](mailto:Brian.Miracle@sanantonio.gov) to request meeting invite for web viewing.

Call in Number: +1-415-655-0001  
Meeting Number: 808 624 883

Any oral responses provided by City staff at the Pre-Submittal Conference shall be preliminary. A written summary of the Pre-Submittal Conference shall contain City's official responses to issues raised during the Pre-Submittal Conference and posted on the CivCast website at <https://www.civcastusa.com/bids>. Any oral response given at the Pre-Submittal Conference that is not confirmed in the posted written summary from the Pre-Submittal Conference or in a subsequent addendum shall not be official or binding on City. Only written responses shall be official. All other forms of communication with any officer, employee or agent of City shall not be binding on City.

## **V. PROPOSAL DOCUMENT REQUIREMENTS AND EVALUATION CRITERIA**

City will conduct a comprehensive, fair and impartial evaluation of all proposals received in response to this RFCSP. City may appoint a selection committee to perform the evaluation(s) of the received proposals. Each proposal received by City shall be analyzed to determine overall responsiveness and qualifications to the RFCSP. The selection committee may select all, some or none of the Respondents. If City elects to conduct interviews, Respondent may be interviewed and re-scored based upon these same criteria or other criteria, to be determined by the selection committee.

Respondent's proposal shall include the following items included in *Submittal Checklist and Table of Contents* in the following sequence combined in PDF format:

- 1. SUBMITTAL CHECKLIST AND TABLE OF CONTENTS (Form #1) (Indexed and Labeled as "Tab 1")** – Respondent shall include the completed Submittal Checklist and Table of Contents form.
- 2. EXECUTIVE SUMMARY (Indexed and labeled as "Tab 2")** – Respondent shall include a one (1) page Executive Summary at the beginning of the Statement of Qualifications. Respondent's Executive Summary shall state the number of years Respondent's team has been in business, Respondent's number of years in business in its local office, Respondent's local office address and the number of employees employed in Respondent's local office.
- 3. GENERAL CONDITIONS REVIEW (Indexed and labeled as "Tab 3")** – Respondent shall review the General Conditions, provided hereto and made a part hereof and labeled as RFCSP Exhibit "A", and provide written comments and/or concerns regarding the General Conditions. If Respondent does not have any comments and/or concerns, Respondent shall indicate this in this "Tab 3". If no objections are submitted by the Respondent, City and Respondent agree Respondent shall sign the Contract as presented, if a Contract is awarded.
- 4. LETTERS OF REFERENCE (required) (Indexed and labeled as "Tab 4")** – Respondent shall provide a maximum of five (5) letters of reference including contact information.
- 5. STATEMENT OF QUALIFICATIONS** – Respondent shall provide a narrative document, as outlined in the **Statement of Qualifications** below, addressing all evaluation criteria in **Section II. Scope of Work** of this RFCSP considering the chosen target project. Sufficient information

regarding Respondent's past projects and key personnel's experience shall be provided in Respondent's submittal to indicate its team has met or exceeded the minimum qualifications provided in **Section II** of this RFCSP in submittal.

City shall conduct a comprehensive, fair and impartial evaluation of all proposals received, in response to this RFCSP. It currently is anticipated City shall appoint and utilize a selection committee to perform said evaluation.

The following Evaluation Criteria shall be used, in recommending the award of this Contract:

**A. Experience, Background, Qualifications of Firm, Key Personnel, and Key Sub-Contractors (20 points)**

Respondent shall respond to the following items, as they relate to Scope of Work:

**1. Experience (Indexed and Labeled as "Tab 5")** – City shall consider the relevance of past experience of Respondent. Respondent shall provide a narrative, on (1) page, describing the Respondent's qualifications, as they relate to the referenced scope of services in this solicitation.

**2. Project Sheets (Indexed and Labeled as "Tab 6")** – Respondent's proposal shall include a maximum of three (3) aviation project sheets, limited to one (1) page for each aviation project included, which shall describe similar aviation paving projects and/or Municipal Solid Waste (MSW) remediation projects Respondent has completed within the last five (5) years. Each project sheet shall include the following:

1. Name and description of the completed project, including any similarity to the Project defined in this solicitation, including familiarity with TCEQ regulations; and with FAA specifications, such as earthwork, drainage, P-401/P-403 asphalt paving, P-501 concrete paving, P-620 taxiway painting, quality issues with paving, coordination with Airport Operations, airfield electrical installation and testing, and runway closures.
2. Year(s) of work on the cited project.
3. Respondent's role in the cited project.
4. Project manager.
5. Superintendent.
6. Cited project's original and final construction Contract amounts (explain inconsistencies).
7. Cited project's proposed completion date and the actual completion date achieved (explain inconsistencies) and if there were any liquidated damages assessed.
8. Cited project's owner's name and the name of the representative (if different) who served as the day-to-day liaison for the cited project, in the following format:
  - a. Name of Owner: \_\_\_\_\_
  - b. Name of Owner's representative: \_\_\_\_\_
  - c. Representative's phone number: \_\_\_\_\_
  - d. Representative's E-mail: \_\_\_\_\_

**3. Proposed Key Personnel/Organizational Chart (Indexed and Labeled as "Tab 7")** – Provide a detailed organizational chart of Respondent's proposed team, identifying key personnel who will be committed to work on the various tasks for this Contract.

Label assignments as:

- Project Manager.

- Full time on-site Superintendent.
- Safety Coordinator.
- Chief Estimator.
- Project Scheduler.
- Quality control program manager and field technicians.
- Quality control materials laboratory.
- Licensed land surveyor registered in the state of Texas.
- Proposed subcontractors, suppliers and sub-consultants.

**4. Resumes (Indexed and Labeled as “Tab 8”)** – Respondent shall submit one (1) page resumes for all its key team members. Resumes should link to project sheets and also may include additional previously-completed relevant projects not highlighted in the project sheets.

Resumes shall include:

- The license type (if applicable) and number of years licensed.
- Number of years employed with the firm.
- Number of years’ experience in proposed role corresponding to the assignments included in the organizational chart.
- City of residence.
- Experience with FAA funded horizontal projects such as runway and taxiway construction or runway and taxiway reconstruction projects, if any.
- Experience with projects involving MSW and/or coordination with TCEQ, if any.
- Experience with projects involving methane removal and/or mitigation, if any.

**B. Understanding of the Project and Construction Management Plan (25 points)**

Respondent shall describe its understanding of the Project and specific issues and challenges Respondent likely sees shall be involved, as well as the availability of labor resources (Respondent’s capacity to perform) in executing the scope of work required. Respondent shall submit information in a brief narrative plan clearly and concisely describing the challenges it foresees and its approach to managing the Project.

**1. Project Understanding (Indexed and Labeled as “Tab 9”)**

Respondent shall limit its response to the following items to one (1) page:

- Describe Respondent’s understanding of the primary objectives of the Project;
- Describe the constraints and technical challenges related to design and construction Respondent foresees and Respondent’s approach to addressing each;
- Prepare and attach a preliminary critical path method schedule for construction.

**2. Construction Management Plan (Indexed and Labeled as “Tab 10”)**

Respondent shall limit its response to the following items to a total of two (2) pages:

- Describe Respondent’s project management approach and team organization, for the provision of the services outlined in this solicitation.
- Describe Respondent’s Quality Control/Quality Assurance process, approach and capabilities to maintain quality control of the construction documents and construction.
- Describe Respondent’s approach to managing the quality of Subcontractors.
- Describe Respondents ability to coordinate work with all Project stakeholders.
- Describe Respondent’s approach to assuring timely completion of construction, including methods for schedule recovery, if necessary.

3. **Managing Construction Claims (Indexed and Labeled as “Tab 11”)** List all claims your firm has had with the City as well as other Airports, Port Authorities and public agencies to include dollar amounts, during the last 5-years and explain how they were settled (settled with the Owner, mediation, arbitration, litigation, etc.)
  - Describe your approach to managing and resolving Contractor claims and disputes.
  - Describe your approach to managing and resolving Subcontractor claims and disputes.

**C. Overall Evaluation of the Firm/Team and its Ability to Collaborate with Owner and Designer. (20 points) (Indexed and Labeled as “Tab 12”)**

Respondent shall limit its response to the following items to two (2) pages.

1. Describe how you proactively involve the Owner and Designer to implement project cost and time savings. Explain the specific changes presented to provide cost or time savings to the Owner.
2. Provide discussion for possible ways to accelerate the Project by revising the phasing and/or the paving sections with a time savings to the City with consideration for shorter runway or taxiway closure durations. Detail any potential cost savings to the City.

**D. Price Proposal (15 points)**

City shall evaluate Respondent’s **Price Proposal** for the base proposal. Respondent’s Price Proposal will be entered in the **Bid Form** section of the CivCast website at <https://www.civcastusa.com/bids>. The submitted Price Proposal reflecting the lowest price total including the base proposal, allowances (if any) and all City-accepted alternates (if any) shall receive the maximum fifteen (15) points. Points to be awarded for this criterion shall be calculated per the example listed below:

**Formula:** Lowest price proposal/Firm's price proposal X 15 points = Score. **Example:**

<b>Respondent</b>	<b>Proposal Amount (Including Allowances and All Alternates)</b>	<b>Calculation</b>	<b>Points Awarded</b>
A	\$650,000.00	595,000/650,000 x 15	13.73
B	\$625,000.00	595,000/625,000 x 15	14.28
C	\$600,000.00	595,000/600,000 x 15	14.88
D	\$595,000.00	595,000/595,000 x 15	15.00

**E. Disadvantaged Business Enterprise (DBE) Program Requirements (20 points)**

**1. RFCSP DBE Requirements**

- 1.1 It is the policy of the City of San Antonio that disadvantaged business enterprises (DBEs), as defined under 49 CFR Part 26, shall have “equality of opportunity” to participate in the awarding of federally funded Aviation Department Contracts and related subcontracts, to include sub-tier subcontracts. This policy supports the position of the U.S. Department of Transportation (DOT) in creating a level playing field and removing barriers by ensuring nondiscrimination in the award and administration of Contracts financed in whole or in part with federal funds under this Contract. Therefore, on all DOT-funded projects the DBE program requirements of 49 CFR Part 26 applies to the Contract.

- 1.2 The Respondent agrees to employ good-faith efforts (as defined in the Aviation Department's DBE Program) to carry out this policy through award of subcontracts to disadvantaged business enterprises to the fullest extent consistent with the sufficient performance of the Aviation Department Contract, and/or the utilization of DBE suppliers where feasible. Aviation Department respondents are expected to solicit bids from available DBEs on Contracts which offer subcontracting opportunities.
- 1.3 Respondent specifically agrees to comply with all applicable provisions of the Aviation Department's DBE Program. The DBE Program may be obtained through the Airport's DBE Liaison Officer at (210) 207-3592 or by contacting the City's Aviation Department.
- 1.4 Notification is hereby given that a DBE Contract specific goal has been established on this RFCSP. The applicable DBE goal for Remove Bridge, Remove MSW and Reconstruct Taxiway R (Connector) (Package 7) is **19%**.
- 1.5 The Respondent shall appoint a high-level official to administer and coordinate the Respondent's efforts to carry out the DBE/ Policy and Program requisites. The Respondent's official should coordinate and ensure approval of the required "*Good-Faith Effort Plan*" (**Form #7**).
- 1.6 The Respondent shall maintain records, as specified in the audit and records section of the Contract, showing: (i) all subcontract/supplier awards, specifically awards to DBE firms; (ii) specific efforts to identify and award such Contracts to DBEs; and (iii) submit when requested, copies of executed Contracts to establish actual DBE participation.
- 1.7 The Respondent shall maintain records, as specified in the audit and records section of the Contract, showing: (i) all subcontract/supplier awards, specifically awards to DBE firms; (ii) specific efforts to identify and award such Contracts to DBEs; and (iii) submit when requested, copies of executed Contracts to establish actual DBE participation.
- 1.8 The Respondent shall agree to submit periodic reports of subcontract and/or supplier awards to DBE firms in such form and manner and at such times as the Aviation Department shall prescribe and shall provide access to books, records, and accounts to authorized officials of the City, Aviation Department, state, and/or federal agencies for the purpose of verifying DBE participation and good-faith efforts to carry out the DBE Policy and Program. All Aviation Department Respondents may be subject to a post-contract DBE audit. Audit determination(s) may be considered and have a bearing in the evaluation of a Respondent's good-faith efforts on future Airport Contracts.

- 1.9** All Respondents with Contracts subject to formal review and approval shall make good-faith efforts (as defined and approved by the City through the Aviation Department in its DBE Program) to subcontract and achieve the applicable Contract specific DBE goal with certified DBEs. Respondents failing to achieve the applicable Contract specific DBE goal or Respondents failing to maintain the specific DBE goal percentage involvement initially achieved, will be required to provide documentation demonstrating that they have made good-faith efforts in attempting to do so through the submittal of an Aviation Department approved “*DBE Good-Faith Effort Plan*”. Respondents are required to satisfy applicable DBE program requirements prior to the award of the Aviation Department Contract. Respondents must submit a *DBE Good-Faith Effort Plan (Form #7)* or they will be considered non-responsive.
- 1.10** The City and Aviation Department encourage the Respondent/Contractor to utilize currently approved and certified DBE firms on the Contract for DBE goal achievement and credit purposes. The Aviation Department utilizes the services of the South-Central Texas Regional Certification Agency (SCTRCA) to certify DBE eligibility status. Please contact the SCTRCA at 3201 Cherry Ridge St., Building B, Suite-210, San Antonio, TX 78230 and phone: (210-227-4722) for information regarding DBE trade areas or to apply for DBE status.

The Aviation Department accepts DBE certification from any one of the six (6) certifying agencies under the Texas Unified Certification Program (TUCP) – Texas Department of Transportation (TxDOT), North Central Texas Regional Certification Agency (NCTRCA), South Central Texas Regional Certification Agency (SCTRCA), City of Houston, City of Austin, and the Corpus Christi Regional Transportation Authority.

- 1.11** The following DBE-related contractual clause shall be applicable and is specifically included as part of the Contract. Respondents/Contractors shall also include this clause in each subcontract the prime Contractor signs with a subcontractor.

“The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-funded contracts. Failure by the Contractor 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”.

Additionally, Contractors agree to the following prompt payment and retainage payment clause:

“The Prime Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 10 days after the Prime Contractor has received a partial payment. The City must ensure prompt and full payment of retainage from the Prime Contractor to the subcontractor within 10 days after the subcontractor’s work is satisfactorily completed. A subcontractor’s work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the City. When the City has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

**1.12** All changes to the list of subcontractors submitted with the bid and approved by the City or Aviation Department, including major vendors, shall be submitted for review and approval by the Aviation Department's DBE Liaison Office. **Form #9, Change of Subcontractors/Suppliers** is to be completed and submitted to Aviation Department officials for approval when adding, changing, or deleting subcontractors on Airport projects. *Contractors shall make a good-faith effort to replace DBE subcontractors unable to perform on the Contract with another DBE.*

**1.13** Failure or refusal by a Respondent or Contractor to comply with the DBE provisions herein or any applicable provisions of the DBE Program, either during the solicitation process or at any time during the term of the Contract, may constitute a material breach of Contract, whereupon the Contract, at the option of the Aviation Department, may be cancelled, terminated, or suspended in whole or in part, and the Contractor may be debarred from further Contracts with the City of San Antonio.

## **2. Counting Joint Ventures**

**2.1.** Joint Ventures do not have to be fifty-one percent (51%) DBE owned in order to be counted toward the participation goal. Joint ventures that do not include any DBE firms will not count toward the goal.

A joint venture with ownership of DBE partners in any percentage will be counted for that percentage equal to the distinct, clearly defined portion of the work of the Contract that the DBE performs with its own forces, (provided the DBE ownership is real and substantial and the DBEs are performing a commercially useful function).

**2.2.** The required documentation to be submitted to the City, along with the proposal, for Joint Ventures with DBE partners shall include:

- a.** *DBE LLC/Joint Venture Information (Form #10)*
- b.** The Joint Venture Agreement for the specific Contract including a detailed statement of ownership.
- c.** Corporate resolutions or other documents authorizing the firms to enter into the Joint Venture.
- d.** A description of the work to be performed by all the Joint Venture Partners.
- e.** Proof of current certification status of the individual DBE venture partners.

## **3. Reconsideration Mechanism**

**3.1.** The City's Aviation Departments DBE Liaison has set forth in the DBE Program that within 5 working days of being informed by the City that it is not responsive because it has not documented sufficient good faith efforts, a bidder may request administrative reconsideration. Bidders should make this request in writing to the following reconsideration official:

Aviation Director  
San Antonio International Airport  
9800 Airport Blvd  
San Antonio Texas, 78216  
(210)-207-3411

**3.2.** The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.



- 3.3. As part of this reconsideration, the bidder will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether the goal was met or the bidder made adequate good faith efforts to do. The bidder will be sent a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The Aviation Director, who is an official and who does not normally take part in the original good faith determination, will make the final decision on reconsideration. The result of the reconsideration process is not administratively appealable to the Department of Transportation

#### **4. Compliance**

##### **4.1. If a Respondent is awarded a Contract:**

- 4.1.1. The awarded contractor will be required to make available upon request a copy of all DBE subcontracts. The contractor shall ensure that all subcontracts or agreements with DBEs to supply labor or materials include all required contract provisions and mandate that the subcontractor and all lower tier subcontractors perform in accordance with the provisions of Part 26.
- 4.1.2. The bidder/respondent must not terminate for convenience a DBE subcontractor (or an approved substitute DBE and then perform the work of the terminated subcontract with its own forces or those of an affiliate, without the City's prior written consent. When a DBE subcontractor is terminated, or fails to complete its work on the Contract for any reason, the bidder/respondent must notify the City immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.
- 4.1.3. The Respondent will be required to make good faith efforts to find another DBE to perform at least the same amount of work under the Contract as the DBE that was terminated, to the extent needed to meet the Contract goal the City has established for this Contract. The Respondent will be required to obtain the DBE Liaison's prior approval of the substitute DBE, through the submittal of Change of Subcontractors/Suppliers (DBE Form 3) and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the Respondent fails or refuses to comply in the time specified, our office may issue a termination for default.
- 4.1.4. Each prime contract will include a provision stating:
- 4.1.5. The contractor shall utilize the specific DBEs listed in the contractor's bid response to perform the work and supply the materials for which each is listed unless the contractor obtains prior written consent of the City as provided in 49 CFR Part 26, §26.53(f). Unless such consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

#### **5. Contract Requirements**

The goals on this Contract shall also apply to amendments that require work beyond the scope of services originally required to accomplish the project. The Respondent is asked to make "good faith efforts" to obtain DBE/ participation for additional scope(s) of

services. Amendments that do not alter the type of service originally required to accomplish the project may be undertaken using the subcontractor and suppliers already under Contract to the prime Contractor. Any amendment affecting the scope of service or value of the Contract should be documented on a form acceptable to the City.

## 6. Proposal Requirements

**Failure to meet the DBE requirements will deem the response non-responsive.**

Respondent shall submit the following, indexed and labeled within “**Tab 13**” in the proposal:

- A completed and signed *DBE Good Faith Effort Plan* for Federally Funded Contracts (**Form #7**), found in this RFCSP.
- A completed *Bidder’s List Collection Form* (**Form #11**).
- A completed *Letter(s) of Intent* (**Form #8**) for all firms to be utilized on this Contract. If proposed subcontractor(s)/suppliers are certified, attach a copy of their Certification Affidavit to Form #7. If Respondent is a Joint Venture, submit the required Joint Venture documentation described in RFCSP (**Form #10**).
- A Narrative Statement which describes their:
  - Business Diversity Plan which should include, but not be limited to, the following types of information: commitment in addressing diversity; activities to be taken to assure equal employment opportunity for all persons, regardless of race, color, religion, age, national origin, citizenship status, or disability; and institutional strategies to ensure diversity.
  - Positive Historical DBE utilization on previous Contracts.
  - Efforts to achieve significant and meaningful diversity on this project team compilation.
  - *Note:* Narrative Statement does not have a limit and shall be included with submittal, placed at the end of the DBE section.

**6.1.** The selection process for this RFCSP will be based on the information submitted by Respondent as set forth in the Disadvantaged Business Enterprise (DBE) Program Requirements and Forms and utilize the following selection criteria for DBE participation evaluation purposes:

- Firm(s) presented a Business Diversity Plan and/or policy to the City.
- Firm(s) presented a positive historical DBE utilization on previous Contracts.
- Firm(s) includes DBEs in significant and meaningful diversity on this project team compilation.
- Firm(s) must make good faith efforts by either:
  1. Documents that it has obtained enough DBE participation to meet the goal; or
  2. Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so.

### **EVALUATION FOR RFCSP**

Each proposal shall be analyzed, to determine overall responsiveness, and consideration shall be given to a combination of price and other factors, such that City may determine which Respondents’ proposal will provide the best value to City. If City elects to conduct interviews of one or more Respondents, in connection with this solicitation, Respondent(s) shall be notified in writing and an interview date shall be scheduled.

<b>Evaluation Criteria Summary</b>	<b>Maximum Points</b>
A. Experience, background, qualifications of firm, key personnel, and key sub-contractors.	20
B. Understanding of the Project and Construction Management Plan.	25
C. Overall Evaluation of the Firm/Team and its Ability to Collaborate with Owner and Designer.	20
D. Price Proposal	15
E. Disadvantaged Business Enterprise (DBE) Program Requirements	20
<b>Total Maximum Points</b>	<b>100 Points</b>

**Required Forms (to be uploaded individually):**

Respondent shall upload the following forms at <https://www.civcastusa.com/>. City shall conduct due diligence and analysis of the following required forms:

1. **RESPONDENT SUBMITTAL COVER SHEET / SIGNATURE SHEET (Form #3)** – Respondent shall include the completed Submittal Cover/Signature Sheet with the other required forms. The Submittal Cover/Signature Sheet shall be signed by a person (or persons) authorized to bind Respondent and the entity/entities submitting the response. Signature pages signed by a person other than an officer of the company or partner of the firm shall be accompanied by evidence of authority. Joint ventures submittals require signatures from all firms participating in the joint venture. Submitting joint ventures are required to provide legal proof of the joint venture, such as a joint venture agreement.
2. **DISCRETIONARY CONTRACTS DISCLOSURE FORM (Form #4)** – Respondent shall complete the form online at:

<https://www.sanantonio.gov/eforms/atty/ContractsDisclosureForm.pdf>

Print a copy of the completed form and include in the packet of required forms. If Respondent is proposing as a team or joint venture, each party to that team or joint venture shall complete and submit a separate Discretionary Contracts Disclosure Form.

3. **LITIGATION DISCLOSURE FORM (Form #5)** – Respondent shall complete a Litigation Disclosure form, utilizing additional pages for explanation, if necessary, and submit the completed form. If Respondent is proposing as a team or joint venture, each party to that team or joint venture shall complete and submit a separate Litigation Disclosure Form.
4. **CERTIFICATE OF INTERESTED PARTIES TEC FORM 1295 (Form #6)** – Effective January 1, 2016, the City of San Antonio is required to comply with Texas Government Code, Chapter 2252, Subchapter Z, and Section 2252.908 (hereafter referred to as “the Code”). The Code states City shall not enter into a Contract with a business entity unless and until the business entity has submitted a Certificate of Interested Parties (hereafter referred to as “Form 1295”) to City for filing with the Texas Ethics Commission (hereafter referred to as “TEC”). The Form 1295 requirement imposed upon the City applies to **all** Contracts:
  - a. Having a value greater than \$50,000
  - b. Requiring San Antonio City Council approval and/or
  - c. Renewals, extensions or amendments requiring the approval of the San Antonio City Council.

TEC has made available on its website the new filing application that must be used by Respondent to file its Form 1295 with City. Respondent shall use TEC's application to enter the required information on Form 1295 and print a copy of the form containing a unique certification number for that response.

An authorized agent of Respondent then must sign the printed copy of the form. The completed Form 1295 containing the unique certification number then must be submitted with Respondent's submittal to City, pursuant to this solicitation, to ensure City and Respondent meet the Code requirements.

Form 1295 must be completed on-line by the business entity. It is accessible at:

[https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)

As a result of this new requirement imposed upon City by the Code, City is requiring all Respondents submitting on each project to complete Form 1295, print a copy showing the unique Certification Number and Date Filed in the Certification of Filing box at the upper right corner of Form 1295 for that submittal, sign it, and submit it with its submitted proposal.

City shall review Form 1295 as part of the Minimum Requirements Review performed upon all proposals received. Deficiencies in or missing Form 1295 shall not be a disqualifying error. Instead, City shall notify a Respondent of any requirements to cure the deficiency and/or to submit/re-submit Form 1295 within two (2) days of notice to remain eligible to be considered for a Contract award. City shall include the selected Respondent's Form 1295 in its package prepared for the San Antonio City Council's consideration for Contract award.

5. **DBE GOOD FAITH EFFORT PLAN (Form #7)** – DBE participation shall be evaluated based on the participation plan and other information submitted by respondent as set forth in the Disadvantaged Business Enterprise Program Requirements and Forms.

The following DBE Participation Percentage Points (20% total) shall be utilized for the award of this project:

- a) Up to 10 percentage (10%) points based on Narrative Statement
  - Business Diversity Plan / Outreach to small business community
  - Respondent has achieved significant and meaningful diversity in its team compilation
  - Respondent has shown positive DBE utilization on previous Contracts
- b) Up to 10 percentage (10%) points based on Respondent's meeting the DBE goal.
  - Percentage points will be based on the percentage of the goal met.
  - Respondents meeting the goal will receive 10 points.
  - Respondents attaining 50% of the goal will receive 5 points.
  - Respondents attaining 25% of the goal will receive 2.5 points
  - Less than 25% will be evaluated proportional to the level of utilization identified by the respondent.

6. **LETTER OF INTENT FOR FEDERALLY FUNDED CONTRACTS (Form #8)** – A Letter of Intent shall be submitted for all subcontractors/suppliers listed below with the Respondent's proposal.

7. **CHANGE OF DBE SUBCONTRACTORS (Form #9)** – Should the successful Respondent change DBE subcontractors, Form #9 shall be used. Approval from the City is required for all

changes or additions of subcontractors and suppliers on Federally Funded Contracts.

8. **DBE LIMITED LIABILITY COMPANY / JOINT VENTURE (Form #10)** – Respondents shall complete the form when limited liability companies and/or joint venture agreements are proposed. Approval from the City is required for LLC and/or joint venture subcontractors and suppliers on Federally Funded Contracts.
9. **BIDDERS LIST COLLECTION FORM (Form #11)** – This form shall be completed by every bidder who submits a quote/bid to the City of San Antonio and every potential subcontractor who submitted a quote/bid to each bidder on the project as indicated above; §26.11(c) requires recipients to collect information from all bidders and subcontractors, including unsuccessful ones.
10. **MANDATORY FAA CONTRACT CLAUSES (Form #12)** – Federal laws and regulations require that a recipient of federal assistance, such as the City of San Antonio, include specific clauses in certain Contracts, solicitations, or specifications. Each respondent shall review and execute the Airport Improvement Program (AIP) funded construction Contracts Mandatory Contract clauses and complete the applicable portions and upload with their proposal.
11. **SAT LOCK AND KEY CONTROL FORM (Form #13)** – Each Respondent shall review and execute the SAT lock and key control form and upload with their proposal.

## **VI. SUBMISSION INSTRUCTIONS**

All proposals shall be received in CivCast at <https://www.civcastusa.com> **NO LATER THAN 2:00 P.M. CST ON FRIDAY, MAY 12, 2020.** Any Proposal received after this time shall not be considered.

**Proposals sent by facsimile or email shall not be accepted.**

Please adhere to the following criteria:

- No smaller than 11-point font.
- Be succinct and clear.
- Keep your submittal relevant to the target project.
- Each submittal shall include the sections and attachments in the sequence listed in the **Section V**, Submittal Document Requirements and Evaluation Criteria, with each section divided by tabs and indexed, as indicated in this RFCSP.
- All pages shall be numbered and all sections shall adhere to page limits. If a section does not have a page limit specified; there are not page limits for that section.
- Pages which have project photos, charts and graphs shall be counted towards the maximum number of pages.
- Front and back covers, Table of Contents pages and tabbed divider pages shall not be counted if they do not contain submittal information.
- Unnecessarily elaborate brochures, artwork, bindings, visual aids, expensive paper or other materials are not required or encouraged.

To correctly submit a response to this RFCSP, Respondent shall reveal, disclose and state the true and correct name of the individual, proprietorship, corporation and/or partnership (clearly identifying the responsible general partner and all other partners who would be associated with the Contract, if any) submitting the response. The true and correct name shall comport exactly with the corporate and franchise records of the Texas Secretary of State and Texas Comptroller of Public Accounts. Individuals and proprietorships, if operating under other than an individual name, shall match with exact Assumed Name filings. Corporate Respondents and limited liability company Respondents shall include the 11-digit Comptroller's Taxpayer Number on the signature page of the Proposal.

## **VII. AMENDMENTS TO RFCSP**

Changes, amendments or written responses to questions received in compliance with **Section VIII, Restrictions on Communication** herein, will be posted on the CivCast website at <https://www.civcastusa.com/bids>. It is Respondent's responsibility to review this site and ascertain whether any amendments have been made prior to submission of its proposal. If Respondent does not have access to the Internet, Respondent shall notify City, in accordance with **Section VIII, Restrictions on Communication**, it wishes to receive copies of changes, amendments or written responses to questions by mail or facsimile.

No oral statement of any person shall modify or otherwise change or affect the terms, conditions or specifications stated in this RFCSP and all changes to this RFCSP, if any, shall be made by City only in writing.

## **VIII. RESTRICTION ON COMMUNICATIONS**

Respondent is prohibited from communicating with elected City officials and their staffs regarding this RFCSP or Respondent's proposal from the time this RFCSP has been released until the Contract is posted as a City Council agenda item. A person or entity who seeks or applies for a City Contract, or any other person acting on behalf of such person or entity, is prohibited from contacting City Officials and/or employees, regarding such a Contract after a request for proposal (RFP), request for qualification (RFQ), request for competitive sealed proposals (RFCSP) or other discretionary solicitation has been released. This no-contact provision shall conclude when the Contract is posted as a City Council agenda item. If a contact is required with City Officials and/or employees, such contact shall be done in accordance with procedures incorporated into the solicitation document. Violation of this provision by Respondents or their agents may lead to disqualification of their offer from consideration. As used herein, City Official is defined as the Mayor; members of City Council; Municipal Court Judges and Magistrates; City Manager; Deputy City Manager; City Clerk; Deputy City Clerk; Assistant City Clerk; Assistant City Managers; Assistants to City Manager; all City department heads and assistant department heads; Internal Auditor and Assistant Internal Auditors; Compliance Auditor; Assistant to City Council; Assistants to City Council, including Contract personnel; Assistant to Mayor; Assistants to the Mayor, including Contract personnel; Executive Secretaries; Public Utilities Supervisor; members of bid committees; members of the Historic and Design Review Commission; Zoning Commission; and members of any board or commission that is more than advisory in nature.

These restrictions on communications extend to "thank you" letters, phone calls, emails and all other contact that results in the direct or indirect discussion of this RFCSP and/or proposal submitted by Respondent. Violation of this provision by Respondent and/or its agent may lead to disqualification of Respondent's proposal from consideration.

Exceptions to the restrictions on communication with City employees include:

1. Respondent may ask questions concerning this RFCSP at the Project's Pre-Submittal Conference.
2. Respondent is highly encouraged to submit written questions concerning this RFCSP through the CivCast website at <https://www.civcastusa.com/bids> until 4:00 PM (Local Time), Tuesday, April 21, 2020. Questions received after the stated deadline shall not be answered. All questions should be sent to the CivCast website. Questions sent via email shall not be accepted.
3. Respondents and/or their agents are encouraged to contact the Aviation Department's DBE Liaison Officer for assistance or clarification with issues specifically related to the DBE policy and/or completion of the DBE forms. The point of contact, Barbara Patton, may be reached by telephone at (210) 207-3592 or by e-mail at [Barbara.Patton@sanantonio.gov](mailto:Barbara.Patton@sanantonio.gov). Respondents and/or their agents may contact Mrs. Patton at any time prior to the due date for submission of proposals.

Contacting her or her office regarding this RFCSP after the proposal due date is not permitted.

4. This exception to the restriction on communication does not apply, and there is no contact permitted to the Small Business Office regarding this solicitation, after the solicitation closing date.
5. Respondent shall provide responses to any questions asked of it by City's Staff Contact Person and/or his/her designee about City's SBEDA Program both before and after responses are received and opened. During the interview stage of this selection, if any, verbal questions to Respondent and Respondent's answers and explanations shall be permitted. If interviews are conducted, Respondent shall not bring lobbyists. City reserves the right to exclude any persons from such selection committee meetings/interviews as it deems in City's best interests.

## **IX. AWARD OF CONTRACT AND RESERVATION OF RIGHTS**

City reserves the right to award one, more than one or no Contract(s) in response to this RFCSP.

- A. A Contract, if awarded, shall be awarded to a Respondent whose proposal is deemed most advantageous to City, as determined by the selection committee and upon the approval by the San Antonio City Council.
- B. City may accept any proposal in whole or in part. If subsequent Contract negotiations are conducted, such negotiations shall not constitute a rejection or alternate RFCSP on the part of City. However, final selection of a Respondent is subject to San Antonio City Council approval.
- C. City reserves the right to accept one or more proposals or reject any or all proposals received in response to this RFCSP and to waive informalities and irregularities in any proposal received. City also reserves the right to terminate this RFCSP, reissue a subsequent solicitation and/or remedy technical errors in the RFCSP process.
- D. By executing the Submittal Cover / Signature Sheet, Respondent agrees to be bound by the terms therein. Respondent acknowledges it has received all Addenda and agrees to be bound by the terms, conditions and requirements of this submitted proposal, all documents listed in the RFCSP Submittal Checklist and Table of Contents, the enabling City Ordinance and all of the associated documentation that form the entire Contract to which Respondent shall be bound, upon the approval of the San Antonio City Council. All Contract documents are not binding on City until approved by the San Antonio City Attorney's office and the San Antonio City Council. No work shall commence on the subject Project until Respondent provides the necessary evidence of bonds and insurance required in City's General Conditions for City of San Antonio Construction Contracts and until City signs the Notice to Proceed. In the event the parties cannot negotiate within the time specified by City, City reserves the right to terminate negotiations with the selected Respondent and commence negotiations with another Respondent.
- E. This RFCSP does not commit City to enter to an agreement or award any services related to this RFCSP, nor does it obligate City to pay any costs incurred by Respondent in the preparation or submission of a response or in anticipation of a Contract.
- F. City administers its design and construction management through an Internet-based management system. All vendors shall be required to use City's system and submit Project schedules as City dictates.
- G. **Conflicts of Interest:** Respondent acknowledges that it is informed that the Charter of City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in the Ethics Code, from having a financial interest in any Contract entered into with City or any City

agency, such as City-owned utilities. An officer or employee has a “prohibited financial interest” in a Contract with City or in the sale to City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the Contract or sale: City officer or employee; his/her parent, child or spouse; a business entity in which he/she or his/her parent, child or spouse owns ten percent (10%) or more of the voting stock or shares of the business entity, or ten percent (10%) or more of the fair market value of the business entity; or a business entity in which any individual or entity listed by Respondent is a Subcontractor on a City Contract, a partner or a parent or subsidiary business entity.

- H.** Respondent is required to warrant and certify that it, its officers, employees and agents are neither officials nor employees of City, as defined in Section 2-42 of City’s Ethics Code. (Discretionary Contracts Disclosure) – Instructions and link to electronic form are included in **Form #3** of RFCSP.

**Independent Contractor:** Respondent understands, accepts and agrees, if selected, it and all persons designated by it to provide services in connection with a Contract, is/are and shall be deemed to be an Independent Contractor(s), responsible for its/their respective acts or omissions, that City shall in no way be responsible for Respondent’s actions and that none of the parties to this award shall have authority to bind the other or to hold out to third parties that it has such authority.

- I.** Effective January 1, 2006, Chapter 176 of the Texas Local Government Code requires that persons or their agents who seek to Contract for the sale or purchase of property, goods or services with City shall file a completed Conflict of Interest Questionnaire (hereafter referred as “CIQ”), with City Clerk not later than the seventh (7<sup>th</sup>) business day after the date that the person:

- (1) Begins Contract discussions or negotiations with City; or
- (2) Submits to City an application, response to a request for proposal, offers, correspondence or another writing related to a potential agreement with City. The CIQ form is available from the Texas Ethics Commission at: <http://www.ethics.state.tx.us/forms/CIQ.pdf>.

In addition to the CIQ form, City requires individuals to submit a CIQ Addendum. The CIQ Addendum is available from City:

<http://www.sanantonio.gov/atty/ethics/pdf/OCC-CIQ-Addendum.pdf>.

Completed CIQ forms and CIQ addendum forms may delivered by hand to the Office of the City Clerk, Municipal Records Facility, at 719 S. Santa Rosa, San Antonio, TX 78204 or may be mailed to the Office of the City Clerk, P.O. Box 839966, San Antonio, TX 78283-3966. Respondent shall consult its own legal advisor if it has any questions regarding the statute, CIQ form or CIQ Addendum.

- J.** All proposals become the property of City upon receipt and shall not be returned. Any information deemed to be confidential by Respondent clearly should be noted on the page(s) where confidential information is contained; however, City cannot guarantee that it shall not be compelled to disclose all or part of any public record under the Texas Public Information Act, since information deemed to be confidential by Respondent may not be considered confidential under Texas law or pursuant to a Court order.

- K.** Any cost or expense incurred by the Respondent associated with the preparation of its proposal, the Pre-Submittal Conference or during any phase of the selection process, if any, shall be borne solely by Respondent.

- L. Solicitation Process Review:** If Respondent desires a review of the solicitation process followed by City, Respondent shall deliver a written request to the Aviation Department within seven (7) calendar days from the date the Notice of Non-Selection was sent. When the Aviation Department



receives a timely written request, the Aviation Department (or his/her designee) shall review Respondents concerns and City's solicitation process for legitimacy and procedural correctness. After performing a full review, the Aviation Department shall notify Respondent in writing of his/her determination.

**M. Debriefings:** In an effort to improve solicitation responses, the Aviation Department is making available on its website a "Solicitation Response Tip List" that includes the top common items historically that "make or break" submissions to City. Providing this information prior to the due date of the proposal may provide Respondent with an opportunity to develop a better response for a solicitation. As a result of this up-front effort, each Respondent is entitled to one (1) debriefing per calendar year – available after the San Antonio City Council has made the award sought by Respondent – if Respondent:

- (a) is not the selected Respondent; and
- (b) has not been debriefed since January 1, 2020. Once Respondent has been debriefed, it shall not be eligible for future debriefings within that calendar year. Any Respondent meeting the above criteria that desires an individual proposal debriefing shall deliver a written request to the Aviation Department within seven (7) calendar days from the date a Notice of Non-Selection was sent.

**N.** City reserves the right to verify any and all information submitted by Respondents at any time during the solicitation/evaluation process.

**O.** Final approval of a selected firm(s) is subject to the action of the San Antonio City Council.

**P.** City reserves the right to contact any Respondent to negotiate a Contract, if such action is deemed desirable by City.

**Q. TEXAS GOVERNMENT CODE §2270.002:**

**Texas Government Code §2270.002** provides that a governmental entity may not enter into a Contract with a company for goods or services, unless the Contract contains a written verification from the company that it:

- (1) does not boycott Israel; and
- (2) will not boycott Israel during the term of the Contract.

Q.1 "Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Q.2 "Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.

**By submitting an offer to or executing Contract Documents with the City of San Antonio Aviation Department, Company hereby verifies that it does not boycott Israel, and will not boycott Israel during the term of the Contract. City hereby relies on Company's verification. If affirmation is found to be false, City may terminate the Contract for material breach.**

**R. TEXAS GOVERNMENT CODE § 2252.152:** Contracts with companies engaged in business with Iran, Sudan, or foreign terrorist organization prohibited.

**Texas Government Code §2252.152** provides that a governmental entity may not enter into a governmental Contract with a company that is identified on a list prepared and maintained under Texas Government Code §2270.0201 or §2252.153 "Listed Companies". Consultant/Contractor hereby certifies that it is not identified on such a list and that it will notify City should it be placed on such a list while under Contract with City. City hereby relies on Consultant's/Contractor's certification. If found to be false, or if Consultant/Contractor is identified on such list during the course of its Contract with City, City may terminate this Agreement for material breach.

**FORM 1**  
**SUBMITTAL CHECKLIST AND TABLE OF CONTENTS**

The materials and information listed on this checklist shall be submitted as part of the submittal. Failure to submit any of the requested materials or provide adequate explanation may eliminate the submittal from consideration.

Materials shall be included in the submittal in the order identified on the checklist. Identify the corresponding page numbers in the space provided.

Page No.	Form No.	Form Title
	Form 1	Submittal Checklist and Table of Contents – Indexed and labeled as Tab “1”
	No Form	Executive Summary – Indexed and labeled as Tab “2”
	Exhibit A	General Conditions Review – Indexed and labeled as Tab “3”
	No Form	Letters of Reference – Indexed and labeled as Tab “4”
	No Form	<b>Statement of Qualifications for Phase 1:</b>
		<b>Criteria A:</b>
		Experience - Indexed and labeled as Tab “5”
		Project Sheets – Indexed as Tab “6”
		Proposed Key Personnel/Organizational Chart – Indexed and labeled as Tab “7”
		Resumes – Indexed and labeled as Tab “8”
		<b>Criteria B:</b>
		Project Understanding – Indexed and labeled as Tab “9”
		Construction Management Plan – Indexed and labeled as Tab “10”
		Managing Construction Claims – Indexed and labeled as Tab “11”
		<b>Criteria C:</b>
		Overall Evaluation of the Firm/Team and its Ability to Collaborate with Owner and Designer – Indexed and labeled as Tab “12”
Page No.	Form No.	Forms Packet
	Form 2	Price Proposal Form and Unit Pricing Form – Entered in <a href="http://www.civcastusa.com">www.civcastusa.com</a>
	Form 3	Submittal Cover/Signature Sheet
	Form 4	Discretionary Contracts Disclosure Form
	Form 5	Litigation Disclosure Form
	Form 6	Certificate Of Interested Parties TEC Form 1295
	Form 7	SAIA DBE Good Faith Effort Plan for Federally Funded Contracts
	Form 8	SAIA Letter of Intent for Federally Funded Contracts

	Form 9	SAIA Change or Additions of Subcontractors/Suppliers on Federally Funded Contracts
	Form 10	SAIA DBE LLC/Joint Venture Information
	Form 11	SAIA Bidder's List Collection Form
	Form 12	Mandatory FAA Contact Clauses
	Form 13	SAT Lock and Key Control Form
	No Form	Proposal Guarantee
	No Form	Proof of Insurability

**FORM #3**  
**SUBMITTAL COVER / SIGNATURE SHEET**

**READ AND SIGN BELOW. UNSIGNED COVER SHEETS WILL NOT BE ACCEPTED.**

**Legal Name of Firm:**

**Tax ID:**

**Address:**

**City:**

**State:**

**Zip Code:**

**Contact Person:**

**Title:**

**Office Phone Number:**

**Alternate Phone Number:**

**E-Mail Address:**

**BY MY SIGNATURE BELOW**, I certify I legally am authorized to bind Respondent to the terms and conditions contained in this submitted RFCSP Proposal. I further certify the information contained in this submittal accurately reflects data regarding my organization/firm, the work to be performed and the estimates of planned/delivered services. By signing this Submittal Cover/Contract Signature Page, I understand and agree, if awarded a contract in response to this RFCSP, Respondent shall be ready, willing and able to comply with all representations made by Respondent in this Submittal and during the RFCSP Solicitation process.

Respondent certifies it fully shall comply with all of Contract Documents, pursuant to this RFCSP solicitation, for the amount(s) shown and details contained in Respondent's accompanying Proposal Form. Respondent confirms all work proposed by this RFCSP, when fully completed, shall be performed and acceptable to the entire satisfaction of the City. As the legal representative of Respondent, I certify all prices contained in this proposal carefully have been checked and are submitted as true, correct and final.

As the legally authorized representative of Respondent, I submit this proposal and, by my signature below, acknowledge that I have received and read the entire RFCSP and each of the RFSCP attachments and agree, on behalf Respondent, to be bound by the terms therein. I further acknowledge I have received all Addenda and agree with and Respondent shall be bound by the terms, conditions and requirements of this submitted proposal, all documents listed in the RFCSP Submittal Checklist and Table of Contents, the enabling City Ordinance and all of the associated documentation that form the entire Contract to which Respondent shall be bound, upon the approval of the San Antonio City Council.

I certify any objections Respondent may have with the General Conditions for City of San Antonio Construction Contracts, labeled as RFCSP "**Exhibit A**" hereto and incorporated herein, have been listed and included in Respondent's written comments under **Tab 2** hereto. I further certify all provisions contained in this submitted Proposal shall remain valid for 120 calendar days following the posted deadline date for submissions and, if Respondent is awarded a contract, throughout the entire term of the awarded contract.

\_\_\_\_\_  
Signature of Authorized Individual

\_\_\_\_\_  
Typed Name of Authorized Individual

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed Title of Authorized Individual

**FORM #4**  
**City of San Antonio**  
**CONTRACTS DISCLOSURE\***

For use of this form, see [Section 2-59 through 2-61 of the City Code \(Ethics Code\)](#)  
Attach additional sheets if space provided is not sufficient.

Contracts Disclosure Form may be downloaded at:

<http://www.sanantonio.gov/Ethics/FormsResources>

The screenshot shows the City of San Antonio website's 'ETHICS & LOBBYISTS' section. The main heading is 'FORMS & RESOURCES'. On the left is a navigation menu with categories like 'ETHICS & LOBBYISTS HOME', 'ABOUT', 'ETHICS REVIEW BOARD & OPINIONS', 'FOR CITY EMPLOYEES & OFFICIALS', 'FOR COMPLIANCE', 'FORMS & RESOURCES', 'SA.GOV RELATED SITES', 'CITY CLERK', 'ELECTIONS & CAMPAIGN FINANCE', 'MUNICIPAL ARCHIVES & RECORDS', 'OPEN GOVERNMENT', and 'OFFICE'. The 'OFFICE' section provides physical, mailing, phone, and fax addresses. The main content area is titled 'ETHICS / LOBBYISTS FORMS & RESOURCES' and includes sections for 'CITY EMPLOYEES & OFFICIALS', 'CONFLICT OF INTEREST', 'ETHICS', 'FINANCIAL DISCLOSURE', and 'LOBBYISTS'. A red arrow points to the 'Contracts Disclosure Form (PDF)' link under the 'CONFLICT OF INTEREST' section. Other links include 'Conflict Disclosure Statement (CIS) (Recusal-City Officials & Boardmembers)', 'Conflict of Interest Forms', 'Disclosure of Benefits (PDF)', 'Gifts to Closely Related Persons (PDF)', 'Petition for Declaratory Ruling (PDF)', 'Recusal & Disclosure (Recusal-City Officials & Boardmembers) (PDF)', 'Sworn Complaint of Ethics Violation (PDF)', and 'Financial Disclosure Forms'. A sidebar on the right features 'Connect with the OFFICE OF THE CITY CLERK', a 'SIGN UP FOR THE CITY ENEWS!' button, 'FEATURED ITEMS' including 'SEARCH COLLECTIONS' (with an image of a magnifying glass over a book) and 'REFERENCE & RESEARCH' (with an image of law books), and a 'LEARN ABOUT OUR HISTORY' link.

Instructions for completing the Contracts Disclosure form:

1. Click on the Contracts Disclosure Forms link under the Conflicts of Interest heading.
2. Download form and complete all fields. Note: All fields must be completed prior to submitting the form.
3. This is a high-profile contract.
4. Click the “Print” button, then upload the completed form in CivCast as indicated in the Submittal Checklist.

**FORM #5**  
**LITIGATION DISCLOSURE**

**Respond to each of the questions below by checking the appropriate box. Failure to fully and truthfully disclose the information required by this Litigation Disclosure form may result in the disqualification of your proposal from consideration or termination of the contract, once awarded.**

1. Have you or any member of your Firm or Team to be assigned to this engagement ever been indicted or convicted of a felony or misdemeanor greater than a Class C in the last five (5) years?

Yes  No

2. Have you or any member of your Firm or Team to be assigned to this engagement been terminated (for cause or otherwise) from any work being performed for the City of San Antonio or any other Federal, State or Local Government, or Private Entity?

Yes  No

3. Have you or any member of your Firm or Team to be assigned to this engagement been involved in any claim or litigation with the City of San Antonio or any other Federal, State or Local Government, or Private Entity during the last ten (10) years?

Yes  No

**If you have answered “Yes” to any of the above questions, please indicate the name(s) of the person(s), the nature, and the status and/or outcome of the information, indictment, conviction, termination, claim or litigation, as applicable. Any such information should be provided on a separate page, attached to this form and submitted with your proposal.**

**Form #6**  
**CERTIFICATE OF INTERESTED PARTIES**  
**(Form 1295)**

The Texas Government Code §2252.908, and the rules issued by the Texas Ethics Commission found in Title 1, Sections 46.1, 46.3 and 46.5 of the Texas Administrative Code, require a business entity to submit a completed Form 1295 to the City before the City may enter into a contract with that business entity.

Form 1295 must be completed online. It is available from the Texas Ethics Commission by accessing the following web address: [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm).

**Print your completed Form 1295 and the certification of filing. Sign Form 1295 in front of a notary and submit it, along with the certification of filing, with your response to this solicitation. In Box 3 of Form 1295, provide the solicitation number shown on the cover page of this solicitation (e.g. IFB 6100001234, RFO 6100001234 or RFCSP 6100001234).**

The following definitions found in the statute and Texas Ethics Commission rules may be helpful in completing Form 1295.

“Business entity” includes an entity through which business is conducted with a governmental entity or state agency, regardless of whether the entity is a for-profit or nonprofit entity. The term does not include a governmental entity or state agency.

“Controlling interest” means: (1) an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent; (2) membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or (3) service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers. Subsection (3) of this section does not apply to an officer of a publicly held business entity or its wholly owned subsidiaries.

“Interested party” means: (1) a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts; or (2) an intermediary.

“Intermediary,” for purposes of this rule, means a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:

- (1) receives compensation from the business entity for the person’s participation;
- (2) communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and
- (3) is not an employee of the business entity or of an entity with a controlling interest in the business entity.





**SAN ANTONIO INTERNATIONAL AIRPORT (SAIA)  
DBE GOOD FAITH EFFORT PLAN FOR  
FEDERALLY ASSISTED CONSTRUCTION CONTRACTS**

**NAME OF PROJECT:** \_\_\_\_\_

**SECTION A - BIDDER INFORMATION:**

Name of Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Telephone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Age of Firm (Number of Years in Business): \_\_\_\_\_ Years

Annual Gross Receipts of the Firm: \_\_\_\_\_ Less than \$500,000 \_\_\_\_\_ \$500,000 to \$1 million  
 \_\_\_\_\_ \$1 million to \$2 million \_\_\_\_\_ \$2 million to \$5 million  
 \_\_\_\_\_ Over \$5 million

Is your firm Certified: Yes \_\_\_\_\_ No: \_\_\_\_\_ If certified, Certification Number: \_\_\_\_\_

Type of Certification \_\_\_\_\_ DBE \_\_\_\_\_ MBE \_\_\_\_\_ WBE \_\_\_\_\_ AABE \_\_\_\_\_ SBE

1. List **ALL SUBCONTRACTORS/SUPPLIERS** that will be utilized on this contract. A *Letter of Intent* (DBE Form 2) **must** be submitted for all subcontractors/suppliers listed below at the time the bid is submitted. If the Aviation Department does not receive completed LOIs, then the Respondent's *Good Faith Effort Plan* will not be approved. An approved Good Faith Effort Plan is **required** prior to award of any contract.

Name & Address of Company	Scope of Work/ Supplies to be Performed/Provided by Firm	Estimated Contract Amount Or % Level of Participation	If Firm is DBE Certified, Provide Certification Number	Date Written Notice Was Sent & Method (Letter, Fax, E-mail)
1.				
2.				
3.				
4.				
5.				

(Use Additional Sheets if Necessary)

**SECTION B – DBE COMMITMENTS**

The DBE goal on this project is: \_\_\_\_\_%

1. The undersigned bidder has satisfied the requirements of the bid specification in the following manner (please check the appropriate box:

Bidder/offeror has met the DBE contract goal

The bidder/offeror is committed to a minimum of \_\_\_\_ % DBE utilization on this contract.

Bidder/offeror has not met the DBE contract goal

The bidder/offeror is committed to a minimum of \_\_\_\_% DBE utilization on this contract and has submitted documentation demonstrating good faith efforts. *(If contractor is unable to meet the goal, please fill out Section C and submit documentation demonstrating good faith efforts).*

Legal name of bidder/offeror's firm: \_\_\_\_\_

2. Name and phone number of person appointed to coordinate and administer the Federal DBE requirements on this project.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Phone Number: \_\_\_\_\_

**IF DBE GOAL WAS MET, PROCEED TO PAGE 4 AND SIGN THE GFEP. IF GOAL WAS NOT MET, PROCEED TO SECTION C.**

**SECTION C – GOOD FAITH EFFORTS (Fill out only, if the DBE goal was not achieved).**

List all firms you contacted with subcontracting/supply opportunities for this project that will not be utilized for this contact by choice of the bidder, subcontractor, or supplier. *Written notices to firms contacted by the bidder for specific scopes of work identified for subcontracting/supply opportunities must be provided to subcontractor/supplier not less than five (5) business days prior to bid/proposal due date.* The following information is required for all firms that were contacted of subcontracting/supply opportunities:

Name & Address of Company	Scope of Work/Supplies to be Performed/ Provided by Firm	If Firm is DBE Certified, Provide Certification Number	Date Written Notice Was Sent and Method (Letter, Fax, E-mail)	Reason Agreement Was Not Reached
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				

(Use additional sheets as needed)

In order to verify a bidder’s good faith efforts, please provide to the City with copies of the written notices to all firms contacted by the bidder for specific scopes of work identified in relation to the subcontracting/supply opportunities in the above named project. Copies of said notices must be provided to the DBE Liaison within five (5) business days after the bid is due. Such notices shall include information on the plans, specifications and scope of work.

1. Did you attend the pre-bid conference scheduled by the City for this project? \_\_\_\_\_ Yes \_\_\_\_\_ No
2. List all DBE listings or directories, contractor associations, and/or any other associations utilized to solicit DBE subcontractors/suppliers:

---



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3. Discuss efforts made to define additional elements of the work proposed to be performed by DBEs in order to increase the likelihood of achieving the goal:

\_\_\_\_\_  
\_\_\_\_\_

4. Indicate advertisement mediums used for soliciting bids from DBEs. (Please attach a copy of the advertisement(s):

\_\_\_\_\_  
\_\_\_\_\_

5. Discuss efforts made to assist interested DBEs in obtaining bonding, lines of credit, or insurance:

\_\_\_\_\_  
\_\_\_\_\_

6. Discuss efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services:

\_\_\_\_\_  
\_\_\_\_\_

**AFFIRMATION**

*I HEREBY AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE. I FURTHER UNDERSTAND AND AGREE THAT, THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE CONTRACT.*

NAME AND TITLE OF AUTHORIZED OFFICIAL: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

**NOTE:**

1. If the DBE goal was not met, the Aviation’s DBE Liaison Officer will evaluate the “good faith efforts” of a firm. The Good Faith Effort Plan for Federally Funded Contracts must be approved by the Aviation Department’s DBE Liaison Officer prior to award of contract.

2. If the DBE Liaison determines that the bidder has not made good faith efforts, then the bidder shall have the opportunity to appeal this decision to the Aviation Director. The Aviation Director shall review the written documentation presented by bidder and has final approval in determining whether Good Faith Efforts have been made.

***FOR SAN ANTONIO INTERNATIONAL AIRPORT USE ONLY:***

Plan Reviewed by \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of DBE Liaison Officer

Recommendation: Approval: \_\_\_\_\_ Denial: \_\_\_\_\_

Action Taken: Approved: \_\_\_\_\_ Denied: \_\_\_\_\_



SAN ANTONIO INTERNATIONAL AIRPORT (SAIA)  
 DBE GOOD FAITH EFFORT PLAN FOR  
 FEDERALLY FUNDED CONTRACTS  
 (Form #7)

NAME OF PROJECT: Remove Bridge, Remove MSW and Reconstruct Taxiway R (Connector) – Package 7

PROPOSER INFORMATION:

Name of Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Telephone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Age of Firm (Number of Years in Business): \_\_\_\_\_

Annual Gross Receipts of the Firm: \_\_\_\_\_ Less than \$500,000 \_\_\_\_\_ \$500,000 to \$1 million  
 \_\_\_\_\_ \$1 million to \$2 million \_\_\_\_\_ \$2 million to \$5 million  
 \_\_\_\_\_ Over \$5 million

Is your firm Certified: Yes: \_\_\_\_\_ No: \_\_\_\_\_ If certified, Certification Number: \_\_\_\_\_

Type of Certification \_\_\_\_\_ DBE \_\_\_\_\_ MBE \_\_\_\_\_ WBE \_\_\_\_\_ AABE \_\_\_\_\_ SBE

1. List **ALL SUBCONTRACTORS/SUPPLIERS** that will be utilized on this contract. Submit *A Letter of Intent (LOI) (DBE Form 2)* for all firms to be utilized on this contract to the Aviation Department’s DBE Liaison Officer. If the Aviation Department does not receive completed LOIs, from the Respondent, then the Respondent’s *Good Faith Effort Plan* will not be approved. An approved Good Faith Effort Plan is **required** prior to award of any contract.

Name & Address of Company	Scope of Work/ Supplies to be Performed/Provided by Firm	Estimated Contract Amount or % Level of Participation	If Firm is DBE Certified, Provide Certification Number	Date Written Notice Was Sent & Method (Letter, Fax, E-mail)
1.				
2.				
3.				
4.				
5.				

(Use Additional Sheets if Necessary)

**IF DBE GOAL HAS BEEN MET OR EXCEED, PROCEED TO ITEM 9**

2. List all firms you contacted with subcontracting/supply opportunities for this project that will not be utilized for this contact by choice of the bidder, subcontractor, or supplier. *Written notices to firms contacted by the bidder for specific scopes of work identified for subcontracting/supply opportunities must be provided to subcontractor/supplier not less than five (5) business days prior to bid/proposal due date.* The following information is required for all firms that were contacted of subcontracting/supply opportunities:

Name & Address of Company	Scope of Work / Supplies to be Performed/ Provided by Firm	Estimated Contract Amount or % Level of Participation	If Firm is DBE Certified, Provide Certification Number	Date Written Notice Was Sent & Method (Letter, Fax, E-mail)	Reason Agreement Was Not Reached
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

(Use additional sheets as needed)

In order to verify a bidder's good faith efforts, please provide to the City with copies of the written notices to all firms contacted by the bidder for specific scopes of work identified in relation to the subcontracting/supply opportunities in the above named project. Copies of said notices must be provided to the DBE Liaison within five (5) business days after the bid is due. Such notices shall include information on the plans, specifications and scope of work.

3. Did you attend the pre-bid conference scheduled by the City for this project? \_\_\_\_\_ Yes \_\_\_\_\_ No

4. List all DBE listings or directories, contractor associations, and/or any other associations utilized to solicit DBE subcontractors/suppliers:

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5. Discuss efforts made to define additional elements of the work proposed to be performed by DBEs in order to increase the likelihood of achieving the goal:

\_\_\_\_\_  
\_\_\_\_\_

6. Indicate advertisement mediums used for soliciting bids from DBEs. (Please attach a copy of the advertisement(s):

\_\_\_\_\_  
\_\_\_\_\_

7. Discuss efforts made to assist interested DBEs in obtaining bonding, lines of credit, or insurance:

\_\_\_\_\_  
\_\_\_\_\_

8. Discuss efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or related assistance or services:

\_\_\_\_\_  
\_\_\_\_\_

9. Name and phone number of person appointed to coordinate and administer the Federal DBE Good Faith Efforts of your company on this project.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Phone Number: \_\_\_\_\_

10. The Good Faith Effort Plan for Federally Funded Contracts must be approved by the Aviation Department's DBE Liaison Officer prior to award of contract.

11. The Federal DBE Good Faith Efforts Plan is subject to the review by the Aviation Department's DBE Liaison and final approval in determining whether Good Faith Efforts have been made rests with the Aviation Director.

**AFFIRMATION**

***I HEREBY AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE. I FURTHER UNDERSTAND AND AGREE THAT, THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE CONTRACT.***

NAME AND TITLE OF AUTHORIZED OFFICIAL: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

***FOR SAN ANTONIO INTERNATIONAL AIRPORT USE ONLY:***

Plan Reviewed by \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of DBE Liaison

Recommendation Approval: \_\_\_\_\_ Denial: \_\_\_\_\_

Action Taken: Approved: \_\_\_\_\_ Denied: \_\_\_\_\_



SAN ANTONIO INTERNATIONAL AIRPORT (SAIA)  
LETTER OF INTENT  
FOR FEDERALLY FUNDED CONTRACTS  
(DBE Form #8)

The requirements of 49 CFR Part 26 (Section 26.53), of the U.S. Department of Transportation, requires that all bidders/proposers comply with good faith efforts requirements as a matter of responsiveness. Each solicitation for which a contract goal has been established will require the bidders/proposers to submit the following information from each Subcontractor/Supplier for this contract (as listed on Item 1 of *DBE Good Faith Effort Plan* for [DBE Form #7] and/or *Change or addition of subcontractors/suppliers* (DBE Form #9)

NAME OF PROJECT: Remove Bridge, Remove MSW and Reconstruct Taxiway R (Connector) – Package 7

Name of Bidder/proposer's firm: \_\_\_\_\_

Address: \_\_\_\_\_ Phone No.: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Telephone: \_\_\_\_\_



Name of Sub consultant/Supplier: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Contact Person: \_\_\_\_\_

Is the above firm Certified: Yes \_\_\_\_\_ No \_\_\_\_\_ If certified, Certification No: \_\_\_\_\_

Type of Certification: \_\_\_\_\_ DBE \_\_\_\_\_ MBE \_\_\_\_\_ WBE \_\_\_\_\_ AABE \_\_\_\_\_ SBE

If firm is certified, please attach a copy of the Certification Affidavit with this form.

Age of Firm (Number of Years in Business: \_\_\_\_\_ Years

Annual Gross Receipts of the Firm: \_\_\_\_\_ Less than \$500,000 \_\_\_\_\_ \$500,000 to \$1 million  
\_\_\_\_\_ \$1 million to \$2 million \_\_\_\_\_ \$2 million to \$5 million  
\_\_\_\_\_ Over \$5 million

NAICS Code and/or Description of work to be performed by firm:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The bidder/proposer is committed to utilizing the above-named firm for the work described above. The estimated dollar value of this work is \$ \_\_\_\_\_.

Affirmation

The above named firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: \_\_\_\_\_  
Signature of Firm's Representative

\_\_\_\_\_  
Date

Title: \_\_\_\_\_



NAME OF PROJECT: Remove Bridge, Remove MSW and Reconstruct Taxiway R (Connector) – Package 7

*DECLARATION OF PRIME CONSULTANT:*

I hereby declare and affirm that I am the \_\_\_\_\_  
(Title of Declarant)

and a duly authorized representative of \_\_\_\_\_  
(Name of Prime Consultant)

to make this declaration and that I have personally reviewed the material and facts set forth in this Intent to Perform form. To the best of my knowledge, information and belief, the facts and representations contained in this form are true, the owner or authorized agent of the firm signed this form in the place indicated, and no material facts have been omitted.

The undersigned intends to enter into a formal agreement with the listed firm for work as indicated by this form and will, if requested, provide the Airport's DBE Liaison with a copy of that agreement within three (3) business days of execution.

\_\_\_\_\_  
(Name of Declarant)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

*SUBMIT THIS PAGE FOR EACH SUBCONSULTANT/SUPPLIER FOR THIS CONTRACT, AS LISTED ON ITEM 1 OF DBE GOOD FAITH EFFORT PLAN FOR FEDERALLY FUNDED CONTRACTS [DBE FORM 1] AND/OR CHANGE OR ADDITION OF SUBCONTRACTORS/SUPPLIERS ON FEDERALLY FUNDED CONTRACTS (DBE FORM 3)*

*IF THE BIDDER/OFFEROR DOES NOT RECEIVE AWARD OF THE PRIME CONTRACT, ANY AND ALL REPRESENTATIONS IN THIS LETTER OF INTENT AND AFFIRMATION SHALL BE NULL AND VOID.*



**SAN ANTONIO INTERNATIONAL AIRPORT (SAIA)  
LETTER OF INTENT  
FOR FEDERALLY FUNDED CONTRACTS  
(DBE Form 8)**

The requirements of 49 CFR Part 26 (Section 26.53), of the U.S. Department of Transportation, requires that all bidders/offers comply with good faith efforts requirements as a matter of responsiveness. Each solicitation for which a contract goal has been established will require the bidders/proposers to submit the following information from each Subcontractor/Supplier for this contract (as listed on Item 1 of *DBE Good Faith Effort Plan* for [DBE Form 7] and/or *Change or addition of subcontractors/suppliers (DBE Form 9)*

*Note: The authorized representative (AR) named below must be an individual vested with the authority to make contracting decisions on behalf of the firm.*

**NAME OF PROJECT:** \_\_\_\_\_

Name of bidder/offeror's firm: \_\_\_\_\_

Name & Title of firm's AR \_\_\_\_\_ Phone \_\_\_\_\_

Email: \_\_\_\_\_ Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_



Name of Sub consultant/Supplier: \_\_\_\_\_

Name & Title of firm's AR \_\_\_\_\_ Phone \_\_\_\_\_

Email: \_\_\_\_\_ Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Is the above firm DBE Certified: Yes \_\_\_\_\_ No \_\_\_\_\_ If certified, Certification No: \_\_\_\_\_

**If firm is certified, please attach a copy of the Certification Affidavit with this form.**

Age of Firm (Number of Years in Business: \_\_\_\_\_ Years

Annual Gross Receipts of the Firm: \_\_\_\_\_ Less than \$500,000 \_\_\_\_\_ \$500,000 to \$1 million  
 \_\_\_\_\_ \$1 million to \$2 million \_\_\_\_\_ \$2 million to \$5 million  
 \_\_\_\_\_ Over \$5 million

NAICS Code and/or Description of work to be performed by firm:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

The bidder/offeror is committed to utilizing the above-named firm for the work described above. The estimated dollar value or percentage of this work is \$ \_\_\_\_\_.

**Affirmation**

The above named firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: \_\_\_\_\_ Date \_\_\_\_\_

Signature of Firm's Representative

Title: \_\_\_\_\_

**NAME OF PROJECT:** \_\_\_\_\_

**DECLARATION OF PRIME CONSULTANT:**

I hereby declare and affirm that I am the \_\_\_\_\_  
(Title of Declarant)

and a duly authorized representative of \_\_\_\_\_  
(Name of Prime Consultant)

to make this declaration and that I have personally reviewed the material and facts set forth in this Intent to Perform form. To the best of my knowledge, information and belief, the facts and representations contained in this form are true, the owner or authorized agent of the firm signed this form in the place indicated, and no material facts have been omitted.

The undersigned intends to enter into a formal agreement with the listed firm for work as indicated by this form and will, if requested, provide the Airport's DBE Liaison with a copy of that agreement within three (3) business days of execution.

\_\_\_\_\_  
(Name of Declarant)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

**SUBMIT THIS PAGE FOR EACH SUBCONSULTANT/SUPPLIER FOR THIS CONTRACT, AS LISTED ON ITEM 1 OF DBE GOOD FAITH EFFORT PLAN FOR FEDERALLY FUNDED CONTRACTS [DBE FORM 1] AND/OR CHANGE OR ADDITION OF SUBCONTRACTORS/SUPPLIERS ON FEDERALLY FUNDED CONTRACTS (DBE FORM 3)**

*IF THE BIDDER/OFFEROR DOES NOT RECEIVE AWARD OF THE PRIME CONTRACT, ANY AND ALL REPRESENTATIONS IN THIS LETTER OF INTENT AND AFFIRMATION SHALL BE NULL AND VOID.*



**SAN ANTONIO INTERNATIONAL AIRPORT (SAIA)**  
**CHANGE OR ADDITION OF SUBCONTRACTORS/SUPPLIERS ON FEDERALLY FUNDED CONTRACTS**  
**(Form #9)**

NAME OF PROJECT: Remove Bridge, Remove MSW and Reconstruct Taxiway R (Connector) – Package 7

Name of Bidder/Proposer: \_\_\_\_\_

The above named firm requests approval of the following addition(s) and/or deletion(s) of the Subcontractor/Supplier firm(s) to the approved DBE *Good Faith Effort Plan* for Federally Funded Contracts (DBE Form 1) and *Letter of Intent* (DBE Form 2) as originally submitted as part of the above referenced project. No additional and/or substitute subcontractor/supplier shall begin work on the project until contractor receives written approval by the City.

Delete	Name of Firm	Is firm a Subcontractor or Supplier	Description of Work to be Performed by Firm	Is firm DBE Certified Yes or No?	Total Dollars of Work to be Performed by Firm

REASON(S) FOR REMOVING EACH SUBCONTRACTOR(S)/SUPPLIER(S) LISTED ABOVE: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Please indicate the name of the firm(s) you wish to add or substitute. A *Letter of Intent* (DBE Form 2) for any additional/substitute subcontractor(s)/supplier(s) must be submitted to the City for approval with this form. No additional and/or substitute subcontractor/supplier shall begin work on the project until contractor receives written approval by the City.

Add	Name of Firm	Is firm a Subcontractor or Supplier	Description of Work to be Performed by Firm	Is firm DBE Certified Yes or No?	Estimated Dollars of Work to be Performed by Firm

1. If a DBE Subcontractor/Supplier was deleted/terminated/replaced, was it replaced with another DBE Subcontractor/Supplier? Yes \_\_\_\_\_ No \_\_\_\_\_ If not, why not: \_\_\_\_\_
2. If another DBE Subcontractor/Supplier did not replace the DBE Subcontractor/Supplier, please submit for our review the good faith efforts used to find another DBE to perform at least the same amount of work under the contract as the DBE that was deleted/terminated/replaced.
3. If a Subcontractor/Supplier is added at any time during this project, Contractor shall submit for our review and approval the good faith efforts used to find a DBE to perform such work.

**AFFIRMATION**

*THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF, I FURTHER UNDERSTAND AND AGREE THAT, THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE CONTRACT.*

Name & Title of Authorized Official: \_\_\_\_\_

Signature: \_\_\_\_\_

Approved: \_\_\_\_\_

AVIATION DEPARTMENT DBE LIAISON



**SAN ANTONIO INTERNATIONAL AIRPORT (SAIA)  
DBE LLC/Joint Venture Information  
(FORM #10)**

*(to be submitted with LLC/JV agreement for review)*

**Please complete the following with regard to the proposed LLC/JV. For items 4 through 13, please reference the applicable section and page of the LLC/JV agreement at the end of the response.**

1. Name of LLC/JV: \_\_\_\_\_
2. Name, address, and phone number of LLC/JV contact person: \_\_\_\_\_  
\_\_\_\_\_
3. Firms participating in LLC/JV (*use additional pages if necessary*):

Name of Firm: _____
Address: _____ _____
Phone Number: _____
Contact Name/Phone Number: _____
Percent Ownership: _____%
ACDBE: Yes <input type="checkbox"/> No <input type="checkbox"/> Certifying Agency: _____
Type of Work for which Certification was Granted: _____

4. DBE Initial Capital Contributions \$ \_\_\_\_\_
5. Future Capital contributions (explain requirements):
6. Source of funds for the DBE capital contribution: \_\_\_\_\_ (If capital contribution is through a loan or loans from the non-DBE partner, promissory note or loan agreement must be submitted.)
7. Describe the portion of work or elements of the business controlled by the DBE.
8. Describe the portion of work or elements of the business controlled by the non-DBE.
9. Describe the DBE's involvement in the overall management of the LLC/JV (e.g. participation on a management committee or managing board, voting rights, etc.).
10. Describe the DBE's share on the profits of the LLC/JV.
11. Describe the DBE's share in the risks of the LLC/JV.
12. Describe the roles and responsibilities of each LLC/JV participant with respect to managing the LLC/JV (*use additional sheets if necessary*):
  - a. DBE joint venture participant
  - b. Non-DBE LLC/JV participant

13. Describe the roles and responsibilities of each LLC/JV participant with respect to operation of the LLC/JV (use additional sheets if necessary):
- a. DBE joint venture participant
  - b. Non-DBE LLC/JV participant
14. Which firm will be responsible for accounting functions relative to the LLC/JV's business?
15. Explain what authority each party will have to commit or obligate the other to insurance and bonding companies, financing institutions, suppliers, subcontractors, and/or other parties?
16. Please provide information relating to the approximate **number** of management, administrative, support and non-management employees that will be required to operate the business and indicate whether they will be employees of the DBE, non-DBE or LLC/JV.

	<u>Non-DBE Firm</u>	<u>DBE Firm</u>	<u>LLC/JV</u>
Management			
Administrative			
Support			
Hourly Employees			

17. Please provide the name of the person who will be responsible for hiring employees for the LLC/JV. Who will they be employed by?
18. Are any of the proposed LLC/JV employees currently employees of any of the LLC/JV partners? Yes  No
- If yes, please list the number and positions and indicate which firm currently employs the individual(s).
19. Attach a copy of the proposed LLC/JV agreement, Promissory note or loan agreement (if applicable), and any and all written agreements between the LLC/JV partners.

**SAN ANTONIO INTERNATIONAL AIRPORT (SAIA)  
Bidder's List Collection Form (Form #11)**

Project Name: Remove Bridge, Remove MSW and Reconstruct Taxiway R (Connector) – Package 7

Name of Prime Contractor:

Name/Title of person completing this form:

*This form shall be completed by every bidder who submits a quote/bid to the City of San Antonio and every potential subcontractor who submitted a quote/bid to each bidder on the project as indicated above. §26.11(c) requires recipients to collect information from all bidders and subcontractors, including unsuccessful ones.*

Firm Name/Firm Address/Phone #	DBE or Non-DBE Status (Check Box as applicable) Verify via TUCP Directory	Disadvantage Group (Check Box as applicable IF certified)	Disadvantage Gender (Check Box as applicable IF certified)	Age of Firm	Type(s) of Work/ NACIS	Annual Gross Receipts (Check Box as applicable)
	<input type="checkbox"/> Non DBE <input type="checkbox"/> DBE/ACDBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE <input type="checkbox"/> AABE	<input type="checkbox"/> Black American <input type="checkbox"/> Hispanic America <input type="checkbox"/> Native America <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Subcontinental Asian America <input type="checkbox"/> Non-Minority Women	<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years		<input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000-\$1 million <input type="checkbox"/> \$1 million-\$2 million <input type="checkbox"/> \$2 million-\$5 million <input type="checkbox"/> More than \$5 million
	<input type="checkbox"/> Non DBE <input type="checkbox"/> DBE/ACDBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE <input type="checkbox"/> AABE	<input type="checkbox"/> Black American <input type="checkbox"/> Hispanic America <input type="checkbox"/> Native America <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Subcontinental Asian America	<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years		<input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000-\$1 million <input type="checkbox"/> \$1 million-\$2 million <input type="checkbox"/> \$2 million-\$5 million <input type="checkbox"/> More than \$5 million
	<input type="checkbox"/> Non DBE <input type="checkbox"/> DBE/ACDBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE <input type="checkbox"/> AABE	<input type="checkbox"/> Black American <input type="checkbox"/> Hispanic America <input type="checkbox"/> Native America <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Subcontinental Asian America <input type="checkbox"/> Non-Minority Women	<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years		<input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000-\$1 million <input type="checkbox"/> \$1 million-\$2 million <input type="checkbox"/> \$2 million-\$5 million <input type="checkbox"/> More than \$5 million
	<input type="checkbox"/> Non DBE <input type="checkbox"/> DBE/ACDBE <input type="checkbox"/> SBE <input type="checkbox"/> WBE <input type="checkbox"/> MBE <input type="checkbox"/> AABE	<input type="checkbox"/> Black American <input type="checkbox"/> Hispanic America <input type="checkbox"/> Native America <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Subcontinental Asian America <input type="checkbox"/> Non-Minority Women	<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years		<input type="checkbox"/> Less than \$500,000 <input type="checkbox"/> \$500,000-\$1 million <input type="checkbox"/> \$1 million-\$2 million <input type="checkbox"/> \$2 million-\$5 million <input type="checkbox"/> More than \$5 million

(Duplicate form as necessary.)

## **FORM #12 – AIRPORT IMPROVEMENT PROGRAM (AIP) FUNDED CONSTRUCTION CONTRACTS MANDATORY CONTRACT CLAUSES**

### **ARTICLE I. ACCESS TO RECORDS AND REPORTS**

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the sponsor, 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 Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

### **ARTICLE II. BUY AMERICAN PREFERENCE**

The Contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A bidder or offeror must complete and submit the Buy America certification included herein with their bid or offer. The Owner will reject as nonresponsive any bid or offer that does not include a completed Certificate of Buy American Compliance.

### **ARTICLE III. CERTIFICATE OF BUY AMERICAN COMPLIANCE FOR MANUFACTURED PRODUCTS**

As a matter of bid responsiveness, the Contractor must complete, sign, date, and submit this certification statement with their proposal. The Contractor must indicate how they intend to comply with 49 USC § 50101 by selecting one on the following certification statements. These statements are mutually exclusive. Contractor must select one or the other (not both) by inserting a checkmark (✓) or the letter “X”.

- Contractor hereby certifies that it will comply with 49 USC § 50101 by:
- a) Only installing steel and manufactured products produced in the United States, or;
  - b) Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing, or;
  - c) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the Contractor agrees:

1. To provide to the City evidence that documents the source and origin of the steel and manufactured product.
2. To faithfully comply with providing US domestic product
3. To furnish US domestic product for any waiver request that the FAA rejects



4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- The Contractor hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent Contractor with the apparent low bid agrees:
1. Submit to the City within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.
  3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
  4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

**Required Documentation**

**Type 3 Waiver** - The cost of the item components and subcomponents produced in the United States is more that 60% of the cost of all components and subcomponents of the “item”. The required documentation for a type 3 waiver is:

- a) Listing of all product components and subcomponents that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety).
- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c) Percentage of non-domestic component and subcomponent cost as compared to total “item” component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a) Detailed cost information for total project using US domestic product
- b) Detailed cost information for total project using non-domestic product

**False Statements.** Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

\_\_\_\_\_

Company Name

\_\_\_\_\_

Title

#### **ARTICLE IV. GENERAL CIVIL RIGHTS PROVISIONS**

The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Contractor and sub-tier Contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

#### **ARTICLE V. TITLE VI CLAUSES COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

1. **Compliance with Regulations.** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination.** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports.** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance.** In the event of a Contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions.** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

#### **ARTICLE VI. TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”) 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 U.S.C. § 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 U.S.C. § 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 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (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 Contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which 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 (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 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, which ensures non-discrimination 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. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

#### **ARTICLE VII. DISADVANTAGED BUSINESS ENTERPRISES**

**Contract Assurance (§ 26.13).** The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor 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 City, deems appropriate, which may include, but is not limited to:

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

**Prompt Payment (§26.29).** The prime contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 10 days after the prime contractor has received a partial payment. The City must ensure prompt and full payment of retainage from the prime Contractor to the subcontractor within 10 days after the subcontractor’s work is satisfactorily completed. A subcontractor’s work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the City. When the City has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed

#### **ARTICLE VIII. RACE/GENDER NEUTRAL LANGUAGE**

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the City to practice nondiscrimination based on race, color, sex or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

#### **ARTICLE IX. ENERGY CONSERVATION REQUIREMENTS**

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq*).

## **ARTICLE X. FEDERAL FAIR LABOR STANDARDS ACT**

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

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

## **ARTICLE XI. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

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. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor 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.

## **ARTICLE XII. TRADE RESTRICTION CERTIFICATION**

Contractor by entering into the Agreement certifies that...

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (U.S.T.R.);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the U.S.T.R; and
- c. has not entered into any subcontract for any product to be used on the Federal on the project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

The Contractor must provide immediate written notice to the City if the Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time, it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to Contractor or subcontractor:

- (1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or

- (2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or,
- (3) who incorporates in the public works project any product of a foreign country on such U.S.T.R. list;

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a Contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Contractor agrees that it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by U.S.T.R, unless Contractor has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the City cancellation of the contract or subcontract for default at no cost to the City or the FAA.

### **ARTICLE XIII. VETERAN'S PREFERENCE**

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier Contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 U.S.C. 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

### **ARTICLE XIV. COPELAND "ANTI-KICKBACK" ACT**

Contractor must comply with the requirements of the Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Contractor and subcontractors 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 Contractor and each Subcontractor 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.

### **ARTICLE XV. 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 Contractor 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 Part 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 Contractor and its subcontractors 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; and
- (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 Contractor 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, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 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 Contractor, 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 Contractor 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 Contractor does not make payments to a trustee or other third person, the Contractor 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 Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets 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 Contractor under this contract or any other Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor, 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 Contractor or any subcontractor 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 work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the Contractor, 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 Contractor 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 Contractor shall maintain records which 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. Contractors 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 Contractor 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 Contractor 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 <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors 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 Contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the Federal Aviation Administration, the Contractor, 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 Contractor to require a subcontractor to provide addresses and social security numbers to the prime Contractor 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 Contractor or subcontractor 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 Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor or subcontractor 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 Contractor or

subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, 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, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, 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 Bureau of Apprenticeship and Training 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 Contractor 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 Contractor 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 Contractor's or subcontractor'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 Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor 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 which 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 Contractor 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 Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

#### 6. Subcontracts.

The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR Part 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 subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 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 Contractor and a subcontractor 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 disputes 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 Contractor (or any of its subcontractors) 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 Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor'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 U.S.C. 1001.

#### **ARTICLE XVI. TEXTING WHEN DRIVING**

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 FAA 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 sub-grant.

In support of this initiative, City encourages the Contractor 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 Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

#### **ARTICLE XVII. NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to abide by and comply with the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein the goals and timetables for minority and female participation set out below.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

##### **Timetables**

Goals for minority participation for each trade: 47.8%

Goals for female participation in each trade: 6.9%

These goals are applicable to all of the Contractor's construction work (whether or not it is Federal or federally-assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its

projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is the State of Texas, Bexar County and City of San Antonio.

### **ARTICLE XVIII. EQUAL OPPORTUNITY CLAUSE**

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

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender 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 Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with

procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

## **ARTICLE XIX. 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 Contractor, or any subcontractor 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 Contractor is participating (pursuant to 41 CFR 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. Contractors shall be able to demonstrate their participation in and compliance with the provisions of

any such Hometown Plan. Each Contractor or subcontractor 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 Contractors or subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

**4.** The Contractor 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 Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Contractors 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 Contractor 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 Contractor has a collective bargaining agreement to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246 or the regulations promulgated pursuant thereto.

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

**7.** The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor 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 Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor'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 Contractor 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 Contractor by the union or, if referred, not employed by the Contractor, this shall be

documented in the file with the reason therefore along with whatever additional actions the Contractor may have taken.

**d.** Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or female sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor'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 Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

**f.** Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor 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 as 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 Contractor'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 Contractor's EEO policy with other Contractors and subcontractors with whom the Contractor 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 Contractor'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 Contractor 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 Contractor's workforce.

**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 Contractor's obligations under these specifications are being carried out.
  - n.** Ensure that all facilities and company activities are non-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 Contractors and suppliers, including circulation of solicitations to minority and female Contractor associations and other business associations.
  - p.** Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
- 8.** Contractors 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 Contractor association, joint Contractor union, Contractor community, or other similar groups of which the Contractor 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 Contractor 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 Contractor'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 Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
- 9.** A single goal for minorities and a separate single goal for women have been established. The Contractor, 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, if the particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally,) the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.
- 10.** The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- 11.** The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- 12.** The Contractor 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 Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
- 13.** The Contractor, 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 Contractor 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 60-4.8.

**14.** The Contractor 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 number, 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, Contractors 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).

#### **ARTICLE XX. PROHIBITION OF SEGREGATED FACILITIES**

**(a)** The Contractor 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 Contractor agrees that a breach of this clause is a violation of the Equal 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, 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 Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

#### **ARTICLE XXI. PROCUREMENT OF RECOVERED MATERIALS**

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use of products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

- a)** The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or,

The Contractor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at:

[www.epa.gov/epawaste/consERVE/tools/cpg/products/](http://www.epa.gov/epawaste/consERVE/tools/cpg/products/).

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the Contractor can demonstrate the item is:

- a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
- b) Fails to meet reasonable contract performance requirements; or
- c) Is only available at an unreasonable price.

## **ARTICLE XXII. TERMINATION FOR CONVENIENCE**

The Owner may terminate this contract in whole or in part at any time by providing written notice to the Contractor. 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 Contractor shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:

- 1. Contractor 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. Take action 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 Contractor for:

- a) completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
- b) 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;
- c) reasonable and substantiated claims, costs and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
- d) reasonable and substantiated expenses to the Contractor directly attributable to Owner's termination action

Owner will not pay Contractor 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 provides are in addition to any other rights and remedies provided by law or under this contract.

### **ARTICLE XXIII. TERMINATION FOR DEFAULT**

Section 80-09 of FAA Advisory Circular 150/5370-10 establishes conditions, rights and remedies associated with Owner termination of this contract due default of the Contractor.

### **ARTICLE XXIV. CERTIFICATION OF CONSULTANT REGARDING DEBARMENT**

By entering into this Agreement Contractor certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

### **ARTICLE XXV. CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT**

Contractor, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, shall verify 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. Contractor 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 Certificate Regarding Debarment and Suspension (Bidder or Offeror), above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract

If the FAA 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

### **ARTICLE XXVI. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

#### **1. Overtime Requirements.**

No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, 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 Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual

laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$10 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 City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this clause.

**4. Subcontractors.**

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

**ARTICLE XXVII. CERTIFICATION REGARDING LOBBYING**

Contractor certifies by signing this Agreement, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### **ARTICLE XXVIII. BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this contract on the part of the Contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

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

The duties and obligations imposed by the Agreement 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.

#### **ARTICLE XXIX. CLEAN AIR AND WATER POLLUTION CONTROL**

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). The Contractor agrees to report any violation to the City immediately upon discovery. The City assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceeds \$150,000.

#### **ARTICLE XXX. DRUG-FREE WORKPLACE**

(a) Definitions. As used in this clause—

“Controlled substance” means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

“Conviction” means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

“Criminal drug statute” means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

“Drug-free workplace” means the site(s) for the performance of work done by the Contractor in connection with a specific contract where employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

“Employee” means an employee of a Contractor directly engaged in the performance of work under a Government contract. “Directly engaged” is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

“Individual” means an offeror/Contractor that has no more than one employee including the offeror/Contractor.

**(b)** The Contractor, if other than an individual, shall—within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days' performance duration—

- (1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- (2) Establish an ongoing drug-free awareness program to inform such employees about—
  - (i) The dangers of drug abuse in the workplace;
  - (ii) The Contractor's policy of maintaining a drug-free workplace;
  - (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (3) Provide all employees engaged in performance of the contract with a copy of the statement required by paragraph (b)(1) of this clause;
- (4) Notify such employees in writing in the statement required by paragraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will—
  - (i) Abide by the terms of the statement; and
  - (ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;
- (5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
- (6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:
  - (i) Taking appropriate personnel action against such employee, up to and including termination; or
  - (ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and
- (7) Make a good faith effort to maintain a drug-free workplace through implementation of paragraphs (b)(1) through (b)(6) of this clause.

**(c)** The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

**(d)** In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR [23.506](#), render the Contractor subject to suspension of contract payments, termination of the contract or default, and suspension or debarment.

**END OF SECTION**

## **FORM #12 – AIRPORT IMPROVEMENT PROGRAM (AIP) FUNDED CONSTRUCTION CONTRACTS MANDATORY CONTRACT CLAUSES**

### **ARTICLE I. ACCESS TO RECORDS AND REPORTS**

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the sponsor, 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 Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

### **ARTICLE II. BUY AMERICAN PREFERENCE**

The Contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A bidder or offeror must complete and submit the Buy America certification included herein with their bid or offer. The Owner will reject as nonresponsive any bid or offer that does not include a completed Certificate of Buy American Compliance.

### **ARTICLE III. CERTIFICATE OF BUY AMERICAN COMPLIANCE FOR MANUFACTURED PRODUCTS**

As a matter of bid responsiveness, the Contractor must complete, sign, date, and submit this certification statement with their proposal. The Contractor must indicate how they intend to comply with 49 USC § 50101 by selecting one on the following certification statements. These statements are mutually exclusive. Contractor must select one or the other (not both) by inserting a checkmark (✓) or the letter “X”.

- Contractor hereby certifies that it will comply with 49 USC § 50101 by:
- a) Only installing steel and manufactured products produced in the United States, or;
  - b) Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing, or;
  - c) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the Contractor agrees:

1. To provide to the City evidence that documents the source and origin of the steel and manufactured product.
2. To faithfully comply with providing US domestic product
3. To furnish US domestic product for any waiver request that the FAA rejects



4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- The Contractor hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent Contractor with the apparent low bid agrees:
1. Submit to the City within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.
  3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
  4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

**Required Documentation**

**Type 3 Waiver** - The cost of the item components and subcomponents produced in the United States is more that 60% of the cost of all components and subcomponents of the “item”. The required documentation for a type 3 waiver is:

- a) Listing of all product components and subcomponents that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety).
- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c) Percentage of non-domestic component and subcomponent cost as compared to total “item” component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a) Detailed cost information for total project using US domestic product
- b) Detailed cost information for total project using non-domestic product

**False Statements.** Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

\_\_\_\_\_

Company Name

\_\_\_\_\_

Title

#### **ARTICLE IV. GENERAL CIVIL RIGHTS PROVISIONS**

The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

his provision binds the Contractor and sub-tier Contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

#### **ARTICLE V. TITLE VI CLAUSES COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”) agrees as follows:

1. **Compliance with Regulations.** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination.** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports.** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance.** In the event of a Contractor’s noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions.** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

#### **ARTICLE VI. TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”) 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 U.S.C. § 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 U.S.C. § 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 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (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 Contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which 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 (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 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, which ensures non-discrimination 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. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq*).

#### **ARTICLE VII. DISADVANTAGED BUSINESS ENTERPRISES**

**Contract Assurance (§ 26.13).** The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the Contractor 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.

**Prompt Payment (§26.29).** The prime Contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the prime Contractor receives from City. The prime Contractor agrees further to return retainage payments to each subcontractor within ten (10) days after the subcontractor'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 City. This clause applies to both DBE and non-DBE subcontractors.

#### **ARTICLE VIII. RACE/GENDER NEUTRAL LANGUAGE**

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the City to practice nondiscrimination based on race, color, sex or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

#### **ARTICLE IX. ENERGY CONSERVATION REQUIREMENTS**

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq*).

#### **ARTICLE X. FEDERAL FAIR LABOR STANDARDS ACT**

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

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

#### **ARTICLE XI. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

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. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor 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.

#### **ARTICLE XII. TRADE RESTRICTION CERTIFICATION**

Contractor by entering into the Agreement certifies that...

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (U.S.T.R.);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the U.S.T.R; and
- c. has not entered into any subcontract for any product to be used on the Federal on the project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

The Contractor must provide immediate written notice to the City if the Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time, it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to Contractor or subcontractor:

- (1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or

- (2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or,
- (3) who incorporates in the public works project any product of a foreign country on such U.S.T.R. list;

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a Contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Contractor agrees that it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by U.S.T.R, unless Contractor has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the City cancellation of the contract or subcontract for default at no cost to the City or the FAA.

### **ARTICLE XIII. VETERAN'S PREFERENCE**

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier Contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 U.S.C. 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

### **ARTICLE XIV. COPELAND "ANTI-KICKBACK" ACT**

Contractor must comply with the requirements of the Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Contractor and subcontractors 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 Contractor and each Subcontractor 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.

### **ARTICLE XV. 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 Contractor 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 Part 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 Contractor and its subcontractors 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; and
- (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 Contractor 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, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 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 Contractor, 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 Contractor 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 Contractor does not make payments to a trustee or other third person, the Contractor 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 Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets 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 Contractor under this contract or any other Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor, 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 Contractor or any subcontractor 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 work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the Contractor, 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 Contractor 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 Contractor shall maintain records which 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. Contractors 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 Contractor 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 Contractor 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 <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors 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 Contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the Federal Aviation Administration, the Contractor, 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 Contractor to require a subcontractor to provide addresses and social security numbers to the prime Contractor 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 Contractor or subcontractor 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 Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor or subcontractor 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 Contractor or

subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, 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, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, 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 Bureau of Apprenticeship and Training 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 Contractor 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 Contractor 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 Contractor's or subcontractor'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 Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor 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 which 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 Contractor 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 Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

#### 6. Subcontracts.

The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR Part 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 subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 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 Contractor and a subcontractor 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 disputes 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 Contractor (or any of its subcontractors) 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 Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor'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 U.S.C. 1001.

#### **ARTICLE XVI. TEXTING WHEN DRIVING**

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 FAA 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 sub-grant.

In support of this initiative, City encourages the Contractor 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 Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

#### **ARTICLE XVII. NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to abide by and comply with the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein the goals and timetables for minority and female participation set out below.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

##### **Timetables**

Goals for minority participation for each trade: 47.8%

Goals for female participation in each trade: 6.9%

These goals are applicable to all of the Contractor's construction work (whether or not it is Federal or federally-assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its

projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is the State of Texas, Bexar County and City of San Antonio.

### **ARTICLE XVIII. EQUAL OPPORTUNITY CLAUSE**

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

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender 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 Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with

procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

## **ARTICLE XIX. 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 Contractor, or any subcontractor 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 Contractor is participating (pursuant to 41 CFR 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. Contractors shall be able to demonstrate their participation in and compliance with the provisions of

any such Hometown Plan. Each Contractor or subcontractor 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 Contractors or subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

**4.** The Contractor 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 Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Contractors 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 Contractor 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 Contractor has a collective bargaining agreement to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246 or the regulations promulgated pursuant thereto.

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

**7.** The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor 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 Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor'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 Contractor 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 Contractor by the union or, if referred, not employed by the Contractor, this shall be

documented in the file with the reason therefore along with whatever additional actions the Contractor may have taken.

**d.** Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or female sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor'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 Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

**f.** Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor 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 as 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 Contractor'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 Contractor's EEO policy with other Contractors and subcontractors with whom the Contractor 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 Contractor'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 Contractor 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 Contractor's workforce.

**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 Contractor's obligations under these specifications are being carried out.
  - n.** Ensure that all facilities and company activities are non-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 Contractors and suppliers, including circulation of solicitations to minority and female Contractor associations and other business associations.
  - p.** Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
- 8.** Contractors 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 Contractor association, joint Contractor union, Contractor community, or other similar groups of which the Contractor 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 Contractor 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 Contractor'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 Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
- 9.** A single goal for minorities and a separate single goal for women have been established. The Contractor, 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, if the particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally,) the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.
- 10.** The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- 11.** The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- 12.** The Contractor 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 Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
- 13.** The Contractor, 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 Contractor 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 60-4.8.

**14.** The Contractor 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 number, 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, Contractors 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).

#### **ARTICLE XX. PROHIBITION OF SEGREGATED FACILITIES**

(a) The Contractor 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 Contractor agrees that a breach of this clause is a violation of the Equal 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, 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 Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

#### **ARTICLE XXI. PROCUREMENT OF RECOVERED MATERIALS**

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use of products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

- a) The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or,

The Contractor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at:

[www.epa.gov/epawaste/consERVE/tools/cpg/products/](http://www.epa.gov/epawaste/consERVE/tools/cpg/products/).

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the Contractor can demonstrate the item is:

- a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
- b) Fails to meet reasonable contract performance requirements; or
- c) Is only available at an unreasonable price.

## **ARTICLE XXII. TERMINATION FOR CONVENIENCE**

The Owner may terminate this contract in whole or in part at any time by providing written notice to the Contractor. 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 Contractor shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:

1. Contractor 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. Take action 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 Contractor for:

- a) completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
- b) 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;
- c) reasonable and substantiated claims, costs and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
- d) reasonable and substantiated expenses to the Contractor directly attributable to Owner's termination action

Owner will not pay Contractor 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 provides are in addition to any other rights and remedies provided by law or under this contract.

### **ARTICLE XXIII. TERMINATION FOR DEFAULT**

Section 80-09 of FAA Advisory Circular 150/5370-10 establishes conditions, rights and remedies associated with Owner termination of this contract due default of the Contractor.

### **ARTICLE XXIV. CERTIFICATION OF CONSULTANT REGARDING DEBARMENT**

By entering into this Agreement Contractor certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

### **ARTICLE XXV. CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT**

Contractor, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, shall verify 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. Contractor 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 Certificate Regarding Debarment and Suspension (Bidder or Offeror), above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract

If the FAA 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

### **ARTICLE XXVI. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

#### **1. Overtime Requirements.**

No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, 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 Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual

laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$10 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 City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this clause.

### 4. Subcontractors.

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

## **ARTICLE XXVII. CERTIFICATION REGARDING LOBBYING**

Contractor certifies by signing this Agreement, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### **ARTICLE XXVIII. BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this contract on the part of the Contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

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

The duties and obligations imposed by the Agreement 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.

#### **ARTICLE XXIX. CLEAN AIR AND WATER POLLUTION CONTROL**

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). The Contractor agrees to report any violation to the City immediately upon discovery. The City assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceeds \$150,000.

#### **ARTICLE XXX. DRUG-FREE WORKPLACE**

(a) Definitions. As used in this clause—

“Controlled substance” means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

“Conviction” means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

“Criminal drug statute” means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

“Drug-free workplace” means the site(s) for the performance of work done by the Contractor in connection with a specific contract where employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

“Employee” means an employee of a Contractor directly engaged in the performance of work under a Government contract. “Directly engaged” is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

“Individual” means an offeror/Contractor that has no more than one employee including the offeror/Contractor.

**(b)** The Contractor, if other than an individual, shall—within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days' performance duration—

- (1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- (2) Establish an ongoing drug-free awareness program to inform such employees about—
  - (i) The dangers of drug abuse in the workplace;
  - (ii) The Contractor's policy of maintaining a drug-free workplace;
  - (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (3) Provide all employees engaged in performance of the contract with a copy of the statement required by paragraph (b)(1) of this clause;
- (4) Notify such employees in writing in the statement required by paragraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will—
  - (i) Abide by the terms of the statement; and
  - (ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;
- (5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
- (6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:
  - (i) Taking appropriate personnel action against such employee, up to and including termination; or
  - (ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and
- (7) Make a good faith effort to maintain a drug-free workplace through implementation of paragraphs (b)(1) through (b)(6) of this clause.

**(c)** The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

**(d)** In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR [23.506](#), render the Contractor subject to suspension of contract payments, termination of the contract or default, and suspension or debarment.

**END OF SECTION**

**Form #13 - San Antonio International Airport  
(SAT) LOCK AND KEY CONTROL**

**What does this mean?**

Controlling, maintaining, and the accountability for issuance of keys, coded cards and push button combinations that provides access to the AOA and Secured Area.

**Issuance of key Requirements:**

- Only those persons who have a current SAT ID badge.
- Only those persons whose official duties approved by SAT require access to the AOA and Secured Area.
- Each key must be stamped with a warning against duplication.
- Each key must be numbered consecutively.
- The individual accessing the AOA and Secured Area is responsible for monitoring and securing the gate. Must comply with SAT escort requirements when using any SAT perimeter gate to access the AOA and Secured Area.

**Access Media Issuance Records:**

- Name and telephone number of persons to whom the keys have been issued.
- Number and type of keys issued.
- Total number of keys in the system.
- Date of last key or combination code change.
- Date of each internal audit of access media.
- Number and type of unaccountable keys

**Lock & Key Audits:**

- SAT Security will conduct audits of contractor “Lock and Key” procedures to ensure accountability and compliance annually.

**Unaccountable access media:**

- Any lost/stolen or unaccounted keys will require immediate notification to SAT. Report lost/stolen keys to SAT OCC at 210-207-3433.

**Key Control Requirements:**

- All access media providing unescorted access to the AOA and Secured Area of the airport shall be accounted for, whether issued or not.
- All un-issued access media and lock combinations must be stored securely to prevent access by unauthorized persons.

**I have reviewed and understand the above LOCK AND KEY CONTROL requirements for SAT and understand non-compliance could result in an Airport Security Violation and possible TSA Civil Penalty.**

<hr/>	<hr/>	<hr/>
<b>Print Name</b>	<b>Company</b>	<b>Title</b>
<hr/>	<hr/>	<hr/>
<b>Signature</b>	<b>Date</b>	
<hr/>	<hr/>	
<b>ASC Reviewer</b>	<b>Date</b>	

\_\_\_\_ I have received a copy of the LOCK AND KEY CONTROL requirements.  
**Initials**





**San Antonio International Airport (SAT)  
LOCK AND KEY CONTROL**

**What does this mean?**

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- Any lost/stolen or unaccounted keys will require immediate notification to SAT. Report lost/stolen keys to SAT OCC at 210-207-3433.

**Key Control Requirements:**

- All access media providing unescorted access to the AOA and Secured Area of the airport shall be accounted for, whether issued or not.
- All un-issued access media and lock combinations must be stored securely to prevent access by unauthorized persons.

**Non-compliance of these requirements could result in a Security Violation issued against that individual and/or the company and possible TSA Civil Penalty.**

**COPY**



## San Antonio International Airport Key Authorization Request

**Instructions:** Please fill out this form completely. Requesting manager must sign and date. Employee must sign and date San Antonio International Airport (SAT) Key Authorization Request" prior to key issuance.

Please print clearly while completing all of the information

Applicant Information			
Last Name		Contact Phone	
First Name		Date	
Middle Initial		Key Type Request	<input type="checkbox"/> 1542 <input type="checkbox"/> Standard Key
City Employee – Complete Section Below		Other Applicant – Complete Section Below	
Employee Number		Email Address	
Current Department		Business Name	
Division		Business Address	
Airport Badge Number (Required)		Airport Badge Number (Required)	
<b>Signature</b>		<b>Signature</b>	
Type Badge	<input type="checkbox"/> Yellow <input type="checkbox"/> Red	Type Badge	<input type="checkbox"/> Yellow <input type="checkbox"/> Red
Key Request Justification (Reason for the request and list areas requiring access)			
Division Manager's Approval			
First/Last Name (Print Clearly)		Phone	
<b>Signature</b>		Date	
Approved: <input type="checkbox"/> Yes <input type="checkbox"/> No			
Aviation Approvers (REQUIRED FOR 1542, MEDECO, MASTER & GRAND MASTER KEYS)			
Airport Security Manager (Print Clearly)		Phone	
Signature		Date	
Approved: <input type="checkbox"/> Yes <input type="checkbox"/> No			
Aviation Director or Designee (Print Clearly)		Phone	
Signature		Date	
Approved: <input type="checkbox"/> Yes <input type="checkbox"/> No			

### Key Issuance

SAT Lock Smith or Security** (Print Clearly)		Phone
Signature		Date
**1542 Keys – Airport Security will issue key Standard Keys – SAT Locksmith will issue key	Approved: <input type="checkbox"/> Yes <input type="checkbox"/> No	Key # Issued _____

### Key Return

SAT Lock Smith or Security** (Print Clearly)		
Signature		
Returned: <input type="checkbox"/> Yes <input type="checkbox"/> No	Broken: <input type="checkbox"/> Yes <input type="checkbox"/> No	Lost: <input type="checkbox"/> Yes <input type="checkbox"/> No
Reason _____	Key # Issued _____	Key # Issued _____
Date	Date	Date      \$25.00 Fee: <input type="checkbox"/> Paid

**Additional Key Wizard issuance receipts may be attached to Key Authorization Requests for tracking purposes**



## Aviation Department Key Policy

### REQUIREMENTS

Only individuals with a valid business to work at San Antonio International Airport (SAT) and are in possession of a current SAT Identification Media “SAT badge” will be granted an airport key with the appropriate approvals from Management and Aviation Department. The Aviation Department reserves the right to deny key requests or withdrawal keys at any time and for any reason.

### EMPLOYEE RESPONSIBILITIES

All individuals possessing keys to the San Antonio International Airport are responsible for said keys. The individual accepts responsibility for any costs associated with re-keying due to loss of keys or other methods of access. (Refer to Section 3-183 of the SAT Airport Rules & Regulations) All lost keys must be reported immediately to the Operations Control Center and or Airport Security. The Aviation Department reserves the right to deny key requests or withdraw keys at any time and for any reason.

### NON COMPLIANCE

- A lost or unaccounted for key issuance will be followed with a charge back fee of \$25.00 per key. (Refer to Section 3-183 of the SAT Airport Rules & Regulations) The \$25.00 fee will be waived for stolen keys when a police report is received.
- A second or third violation of the same category by an individual or organization will result in a Security Violation Notice being issued to the organizations manager, in addition, the organization’s badging privileges may be suspended until such time as the organizations manager can demonstrate to the Airport Security Manager that the violation will not occur again.
- Upon a company receiving a Security Violation Notice, and having been assessed fees and failed to pay them, they may be subject to temporary suspension of further SAT

Badge processing for any of their employees. This suspension will remain in place until payment of fees is received by SAT or payment coordination is made with SAT's Fiscal Department. (Refer to Airport Security Violation/Badge Revocation Program; Company Violation Appendix 23-2)

- Aviation employees are subject to corrective action as outlined in the City of San Antonio's Administrative Directive 4.11 Coaching and Discipline.

There are three types of key systems at SAT: 1542 Key, 1542 Medeco Key and a Standard Key

**1542 Key** – This key accesses portals of one or more areas at San Antonio International Airport that are designated as a Secured Area, Security Identification Area (SIDA), and Air Operations Area (AOA) or Sterile Areas.

**1542 Medeco Key-** This electronic key accesses perimeter gates of one or more areas at San Antonio International Airport. This key will be issued to Airport Security personnel and contractors or construction workers who need temporary access to perimeter gates.

1542 Key issuance will be managed by the Airport Security Division. 1542 Keys will be issued only on a job related need. Each key must be stamped with a warning against duplication and numbered consecutively as per the Airport Security Program (ASP). Must complete the Key Authorization Request Form (AVI-FM-0051) and get the appropriate approvals from Management and or the Aviation Department. Any 1542 Master, Great Grand Master and or Terminal keys will need final approval from the Security Manager and Aviation Director or designee prior to issuance. The applicant must also read and sign the 1542 Lock & Key Control Policy (AVI-FM-0052) prior to key issuance. In turn each applicant must be given a copy of their signed policy at time of issuance. The Airport Security Division will manage and track all 1542 Keys. All 1542 Keys will be audited on at least an annual basis.

#### KEY CONTROL DATABASE

Each key issuance will be recorded in the (Key Wizard) database.

If the request for a key only shows what door(s) this individual needs, the SAT Locksmith can verify the cut code for that door in the Control Key Database by searching for the door number and / or key code.

The list of available and already issued keys for that door number and or code will show up in the database, as each and every key is Stamped and Sequenced.

Once the key cut / code is found in the database, get the key from key cabinet, Update the status of the key in the key control database to show the following for the cut code and issue number associated with each key issued.

- Badge Number
- First Name
- Last Name
- Affiliated Organization
- Issued Date
- Issued Status
- Approvals

If a new company needs to be added to the data base, then enter all information into the Key Wizard database.

- Department / Company
- Address Complete
- City / State / Zip
- Mobile Phone
- E-Mail address
- Save all entries

#### KEY RETURN

1542 Keys must be immediately returned to Airport Security upon any contractor job completion or contract expiration, expired SAT badge, retirement or termination. Upon notification of any SAT badge deletion, the SAT Locksmith and Airport Security should be notified immediately. The SAT Locksmith will enter into the key Control Database all information of returned key(s) and place key(s) back in to the key inventory (Key Wizard). Airport Security will document all 1542 key returns.

Individual organization Manager(s) Supervisor(s) are responsible to the operator for obtaining and returning keys and other security items.

Fill out the key return portion on Key Authorization Request Form (AVI-FM-0051). List each key being returned, from the individual and the organization. The status of the returned keys will be changed in the Key Control Database (Key Wizard). The returned key(s) will be stored back into the Airport Security key cabinet location with a returned date. Key(s) will be available for issuance to another individual.

#### BROKEN KEY

- Airport Security will first collect the broken key and document on Key Authorization Request Form (AVI-FM-0051) and will reissue a new key and number.

- If the SAT Locksmith has another key of the same cut code, the individual with the broken key will be issued this new cut code. Appropriate entries will be made in the key Control Database and on the Key Authorization Request Form (AVI-FM-0051) to indicate the new issue number to the individual, and to indicate the retrieval of the broken key by entering in to the key control database the broken key.
- If there is no key to issue to the individual, SAT Locksmith will cut that same code and transfer all key ID and key sequence number to the bow of the new cut key.

### LOST KEY

- In the event of any airport issued key is lost, stolen or otherwise unaccounted for the individual who was issued the key must immediately contact the Operations Control Center at 210-207-3433. A police report will be filled out.
- SAT Locksmith will need the police case number to enter in the Key Control Database.
- The lost, stolen or unaccounted for key will be found in the Key Control Database, and its status will be entered into the database.
- The Individual will be reissued a key if a new request for key and letter from his/her Manager is provided to replace the lost, stolen or unaccounted for key.
- A lost, stolen or unaccounted for key issuance will be followed with a charge back fee of \$25.00 per key. (Reference Section 3-183 of the SAT Airport Rules & Regulations) The \$25.00 fee will be waived for stolen keys when a police report is received.

**Standard Key** – This key accesses portals of all other areas at San Antonio International Airport that are not designated as Secured Area, Security Identification Area (SIDA), and Air Operations Area (AOA), Sterile Areas and perimeter gates but may have some restricted access to sensitive areas of the airport to include IDF doors

Standard Key issuance will be managed by the SAT Locksmith. Keys will be issued on a job related need. Must complete the Key Authorization Request Form (AVI-FM-0051) and get the appropriate approvals from Management and Aviation Department. Upon receiving a key, the individual will be entered in to the Key Wizard program.

Temporary issuance of a Standard Key: Consultants, Contractor(s) / Construction workers who are in possession of a SAT badge may be issued a key on a temporary basis and that record will be kept on a clipboard / binder. The clip / binder shall include the persons full name, badge number, company, key cut code and key issuance number. The key must be turned in upon completion of the work.

Standard keys are stored in a locked metal cabinet located in the SAT Locksmith Office, in the Facility Maintenance Yard (Locksmith shop). The keys are stored by Alfa Numeric, cut code and by Terminal. The keys stored in the cabinet are recorded in to the key control Database (Key Wizard). The applicant requesting a key must bring to the SAT Locksmith a completed Key Authorization Request Form (AVI-FM-0051) with appropriate Division Manager approvals.

#### KEY CONTROL DATABASE

Each key issuance will be recorded in the (Key Wizard) database.

If the request for a key only shows what door(s) this individual needs, the SAT Locksmith can verify the cut code for that door in the Control Key Database by searching for the door number and / or key code.

The list of available and already issued keys for that door number and or code will show up in the database, as each and every key is stamped and sequenced.

Once the key cut / code is found in the database, get the key from key cabinet, update the status of the key in the key control database to show the following for the cut code and issue number associated with each key issued.

- Badge Number
- First Name
- Last Name
- Affiliated Organization
- Issued Date
- Issued Status
- Approvals

If a new company needs to be added to the data base, then enter all information into the Key Wizard database.

- Department / Company
- Address Complete
- City / State / Zip
- Mobile Phone
- E-Mail address
- Save all entries



## KEY RETURN

Standard Keys must be immediately returned to the SAT Locksmith upon any contractor job completion or contract expiration, expired SAT badge, retirement or termination. Upon notification of any SAT badge deletion, the SAT Locksmith should be notified immediately. The SAT Locksmith will enter into the Key Control Database all information of returned key(s) and place key(s) back in to key inventory (Key Wizard). Individual organization Manager(s) Supervisor(s) are responsible to the operator for obtaining and returning keys and other security items.

Fill out the key return portion on Key Authorization Request Form (AVI-FM-0051). List each key being returned, from the individual and the organization. The status of the returned keys will be changed in the Key Control Database (Key Wizard). The returned key(s) will be stored back into the key cabinet location with a returned date. Key(s) will be available for issuance to another individual..

## BROKEN KEY

- If the SAT Locksmith has another key of the same cut code, the individual with the broken key will be issued this new cut code. Appropriate entries will be made in the Key Control Database and on the Key Authorization Request Form (AVI-FM-0051) to indicate the new issue number to the individual, and to indicate the retrieval of the broken key by entering in to the key control database the broken key.
- If there is no key to issue to the individual, SAT Locksmith will cut that same code and transfer all key ID and key sequence number to the bow of the new cut key.

## LOST KEY

- In the event of any airport issued key is lost, stolen or otherwise unaccounted for the individual who was issued the key must immediately contact the Operations Control Center at 210-207-3433.
- The lost, stolen or unaccounted for key will be found in the Key Control Database, and its status will be entered into the database.
- The Individual will be reissued a key if a new request for key and letter from his/her Manager is provided to replace the lost, stolen or unaccounted for key.
- A lost, stolen or unaccounted for key issuance will be followed with a charge back fee of \$25.00 per key. (Reference Section 3-183 of the SAT Airport Rules & Regulations) The \$25.00 fee will be waived for stolen keys when a police report is received.

**EXHIBIT 2**  
**SPAWGLASS CIVIL CONSTRUCTION, INC. BID RESPONSE**

**PROJECT:**

Remove Bridge, Remove MSW and Reconstruct Taxiway R, Package 7

**BIDDER:**

SpawGlass Civil Construction, Inc.

**TOTAL BID:**

\$10,904,545.47

**COMPLETION TIME:**

Not Required

**BIDDER INFO:**

13800 West Road

Houston, TX 77041

P: 281-970-5300

F: 281-970-5305

**BID TOTALS**

<b>BASE BID</b>	Total
Base Bid	\$10,904,545.47
Total	\$10,904,545.47

<b>ALTERNATE 1</b>	Total
Alternate 1	\$2,910,440.18
Total	\$2,910,440.18

<b>ALTERNATE 2</b>	Total
Alternate 2	\$263,536.17
Total	\$263,536.17

<b>ALTERNATE 3</b>	Total
Alternate 3	\$462,293.64
Total	\$462,293.64

<b>ALTERNATE 4</b>	Total
Alternate 4	\$309,118.68
Total	\$309,118.68

<b>ALTERNATE 5</b>	Total
Alternate 5	\$3,742,787.66
Total	\$3,742,787.66

<b>Base Bid</b>					
No.	Description	Unit	Qty	Unit Price	Ext Price
100.1	Mobilization/Demobilization	LS	1	\$820,000.00	\$820,000.00
100.2	Insurance and Bonds	LS	1	\$82,000.00	\$82,000.00
100.3	Airside Safety and Security / Traffic Control	LS	1	\$1,461,869.37	\$1,461,869.37

101.1	Preparing Right-of-Way	LS	1	\$45,623.51	\$45,623.51
C-100	Contractor Quality Control	LS	1	\$579,939.85	\$579,939.85
C-105	Field Office and Curing Facilities	LS	1	\$154,584.38	\$154,584.38
540.1	Storm Water Pollution Prevention Plan	LS	1	\$378,432.64	\$378,432.64
SP-101.1	Remove and Dispose of Existing Bridge Deck	LS	1	\$153,749.76	\$153,749.76
SP-101.2	Remove and Dispose of Existing Bridge Pier	VF	2450	\$18.17	\$44,516.50
P-101-5.1	Portland Cement Concrete Pavement Removal, Including Thickened Edge and Reinforcement	SY	4040	\$38.70	\$156,348.00
P-101-5.2	Bituminous Pavement Removal	SY	3750	\$11.27	\$42,262.50
P-101-5.3	Cement-Treated Base Removal	SY	11080	\$11.30	\$125,204.00
P-101-5.4	Concrete Pavement Saw Cut (Full Depth)	LF	280	\$7.41	\$2,074.80
P-101-5.5	Asphalt Pavement Saw Cut	LF	70	\$5.95	\$416.50
P-151-4.1	Clearing and Grubbing	AC	4.82	\$4,448.19	\$21,440.28
P-152-4.1	Unclassified Excavation (Remove, Haul, and Stockpile)	CY	94850	\$11.63	\$1,103,105.50
P-152-4.2	Embankment (From Stockpile)	CY	120170	\$13.59	\$1,633,110.30
P-152-4.5	Construct 2' Clay Cap over Remaining MSW	SY	1430	\$106.31	\$152,023.30
MSW 0030.1	Contaminated Water Storage and Disposal	GAL	300000	\$1.13	\$339,000.00
MSW 0040.1	Municipal Solid Waste Material Removal and Disposal (TW R Connector)	CY	25320	\$96.69	\$2,448,190.80
P-620-5.1	Reflective Yellow Taxiway Pavement Markings	SF	620	\$3.82	\$2,368.40
P-620-5.3	Non-Reflective Black Pavement Markings	SF	120	\$3.82	\$458.40
P-620-5.5	Pavement Marking Obliteration	SF	570	\$4.96	\$2,827.20
T-904-5.1	Sodding	SY	34400	\$32.28	\$1,110,432.00
T-905-5.1	Topsoil, 2" Depth	CY	1910	\$9.48	\$18,106.80
L-100-5.1	Electrical Demolition	LS	1	\$13,230.34	\$13,230.34
L-105-6.1	Temporary Jumpers, Lighting and Signage	LS	1	\$13,230.34	\$13,230.34

	Sub Total:	\$10,904,545.47
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<b>Alternate 1</b>					
No.	Description	Unit	Qty	Unit Price	Ext Price
100.1	Mobilization/Demobilization	LS	1	\$200,001.01	\$200,001.01
100.2	Insurance and Bonds	LS	1	\$20,000.00	\$20,000.00
100.3	Airside Safety and Security / Traffic Control	LS	1	\$209,430.25	\$209,430.25
101.1	Preparing Right-of-Way	LS	1	\$2,850.26	\$2,850.26
C-100	Contractor Quality Control	LS	1	\$61,785.13	\$61,785.13
C-105	Field Office and Curing Facilities	LS	1	\$24,343.28	\$24,343.28
540.1	Storm Water Pollution Prevention Plan	LS	1	\$7,013.72	\$7,013.72
P-101-5.2	Bituminous Pavement Removal	SY	2280	\$7.79	\$17,761.20
P-101-5.3	Cement-Treated Base Removal	SY	2280	\$10.25	\$23,370.00
P-101-5.5	Asphalt Pavement Saw Cut	LF	660	\$5.44	\$3,590.40
P-152-4.1	Unclassified Excavation (Remove, Haul, and Stockpile)	CY	380	\$39.56	\$15,032.80
P-152-4.2	Embankment (From Stockpile)	CY	-20480	\$12.41	(\$254,156.80)
P-155-8.1	Lime-Treated Subgrade (6" Depth)	SY	12490	\$5.42	\$67,695.80
P-155-8.2	Lime	TON	270	\$226.84	\$61,246.80
P-208-5.1	Uncrushed Aggregate Base Course, 13" Depth	SY	2370	\$33.57	\$79,560.90
P-209-5.1	Crushed Aggregate Base Course, 6" Depth	SY	12490	\$15.54	\$194,094.60
P-209-5.2	Crushed Aggregate Base Course, 8" Depth	SY	1340	\$21.29	\$28,528.60
P-304-8.1	Cement-Treated Base Course, 12" Depth	SY	12490	\$49.69	\$620,628.10
P-401-8.1	Plant Mix Bituminous Pavement, 5" Surface Course	TON	360	\$150.26	\$54,093.60
P-403-8.2	HMA Pavement, 9" Base Course	TON	660	\$133.40	\$88,044.00
P-501-8.1	Portland Cement Concrete Pavement, 16"	SY	11710	\$115.45	\$1,351,919.50
P-604-6.1	Preformed Sealer, 1/2-inch Joint	LF	9720	\$5.80	\$56,376.00

P-604-6.2	Preformed Sealer, 1-inch Joint	LF	370	\$9.67	\$3,577.90
P-605-5.1	Hot Applied Edge Seal	LF	190	\$18.73	\$3,558.70
P-620-5.1	Reflective Yellow Taxiway Pavement Markings	SF	4610	\$3.49	\$16,088.90
P-620-5.3	Non-Reflective Black Pavement Markings	SF	3790	\$3.49	\$13,227.10
P-620-5.4	Surface Painted Hold Position Signs	SF	410	\$9.52	\$3,903.20
P-620-5.5	Pavement Marking Obliteration	SF	740	\$4.53	\$3,352.20
T-904-5.1	Sodding	SY	-10690	\$32.28	(\$345,073.20)
T-905-5.1	Topsoil, 2" Depth	CY	-590	\$9.48	(\$5,593.20)
L-108-5.1	No. 8 AWG , 5 kV, L-824, Type C Cable, Installed in Duct Bank or Conduit	LF	6000	\$1.81	\$10,860.00
L-108-5.2	No. 6 AWG, Solid, Bare Copper Counterpoise Wire, Including Connections	LF	4000	\$1.81	\$7,240.00
L-110-5.1	Non-Encased Duct Bank, 4-Way 4"	LF	200	\$54.37	\$10,874.00
L-110-5.2	Concrete Encased Duct Bank, 4-Way 4"	LF	500	\$102.69	\$51,345.00
L-110-5.3	Non-Encased Conduit, 1-Way 2"	LF	2800	\$24.16	\$67,648.00
L-110-5.4	Concrete Encased Conduit, 1-Way 2"	LF	220	\$30.20	\$6,644.00
L-115-5.1	Concrete Aircraft Load Rated Electrical Handhole	EA	3	\$15,705.73	\$47,117.19
L-125-5.1	New Size "B" L-867 Base Can for Any New, Reinstalled or Future Fixture in New Paved Shoulder	EA	31	\$1,812.20	\$56,178.20
L-125-5.2	New L-861T(L) Taxiway Edge Light with New Isolation Transformer on New or Existing Base	EA	29	\$604.07	\$17,518.03
L-125-5.3	Reinstall L-861E Taxiway Edge Light with New Isolation Transformer on New or Existing Baase	EA	2	\$604.07	\$1,208.14
L-125-5.4	New Size 3, 1-Module Guidance Sign with New Isolation Transformer and New Concrete Foundation	EA	1	\$7,556.87	\$7,556.87
				Sub Total:	\$2,910,440.18

**Alternate 2**

No.	Description	Unit	Qty	Unit Price	Ext Price
100.1	Mobilization/Demobilization	LS	1	\$12,001.01	\$12,001.01
100.2	Insurance and Bonds	LS	1	\$1,200.00	\$1,200.00
100.3	Airside Safety and Security / Traffic Control	LS	1	\$57,404.24	\$57,404.24
101.1	Preparing Right-of-Way	LS	1	\$2,850.26	\$2,850.26
C-100	Contractor Quality Control	LS	1	\$15,258.72	\$15,258.72
C-105	Field Office and Curing Facilities	LS	1	\$6,085.82	\$6,085.82
540.1	Storm Water Pollution Prevention Plan	LS	1	\$7,013.72	\$7,013.72
P-152-4.2	Embankment (From Stockpile)	CY	-4500	\$12.41	(\$55,845.00)
P-155-8.1	Lime-Treated Subgrade (6" Depth)	SY	7370	\$5.42	\$39,945.40
P-155-8.2	Lime	TON	160	\$226.84	\$36,294.40
P-208-5.1	Uncrushed Aggregate Base Course, 13" Depth	SY	7370	\$28.06	\$206,802.20
P-403-8.1	HMA Pavement, 3" Surface Course	TON	1160	\$128.51	\$149,071.60
P-605-5.1	Hot Applied Edge Seal	LF	2340	\$5.07	\$11,863.80
P-620-5.1	Reflective Yellow Taxiway Pavement Markings	SF	2160	\$3.49	\$7,538.40
T-904-5.1	Sodding	SY	-7130	\$32.28	(\$230,156.40)
T-905-5.1	Topsoil, 2" Depth	CY	-400	\$9.48	(\$3,792.00)
				Sub Total:	\$263,536.17

<b>Alternate 3</b>					
No.	Description	Unit	Qty	Unit Price	Ext Price
100.1	Mobilization/Demobilization	LS	1	\$34,000.00	\$34,000.00
100.2	Insurance and Bonds	LS	1	\$3,400.00	\$3,400.00
100.3	Airside Safety and Security / Traffic Control	LS	1	\$57,404.24	\$57,404.24
101.1	Preparing Right-of-Way	LS	1	\$2,850.26	\$2,850.26
C-100	Contractor Quality Control	LS	1	\$36,243.99	\$36,243.99
C-105	Field Office and Curing Facilities	LS	1	\$6,085.82	\$6,085.82



540.1	Storm Water Pollution Prevention Plan	LS	1	\$7,013.72	\$7,013.72
P-101-5.2	Bituminous Pavement Removal	SY	6640	\$9.53	\$63,279.20
T-904-5.1	Sodding	SY	6640	\$32.68	\$216,995.20
T-905-5.1	Topsoil, 2" Depth	CY	1110	\$9.48	\$10,522.80
L-100-5.1	Electrical Demolition	LS	1	\$12,081.33	\$12,081.33
L-108-5.1	No. 8 AWG , 5 kV, L-824, Type C Cable, Installed in Duct Bank or Conduit	LF	360	\$1.81	\$651.60
L-108-5.2	No. 6 AWG, Solid, Bare Copper Counterpoise Wire, Including Connections	LF	360	\$1.81	\$651.60
L-110-5.3	Non-Encased Conduit, 1-Way 2"	LF	360	\$24.16	\$8,697.60
L-125-5.1	New Size "B" L-867 Base Can for Any New, Reinstalled or Future Fixture in New Paved Shoulder	EA	2	\$604.07	\$1,208.14
L-125-5.2	New L-861T(L) Taxiway Edge Light with New Isolation Transformer on New or Existing Base	EA	2	\$604.07	\$1,208.14
				Sub Total:	\$462,293.64

<b>Alternate 4</b>					
No.	Description	Unit	Qty	Unit Price	Ext Price
100.1	Mobilization/Demobilization	LS	1	\$20,001.01	\$20,001.01
100.2	Insurance and Bonds	LS	1	\$2,000.00	\$2,000.00
100.3	Airside Safety and Security / Traffic Control	LS	1	\$57,404.24	\$57,404.24
101.1	Preparing Right-of-Way	LS	1	\$2,850.26	\$2,850.26
C-100	Contractor Quality Control	LS	1	\$25,079.64	\$25,079.64
C-105	Field Office and Curing Facilities	LS	1	\$6,085.82	\$6,085.82
540.1	Storm Water Pollution Prevention Plan	LS	1	\$7,013.72	\$7,013.72
P-101-5.7	Cold Milling, 3" Depth	SY	960	\$7.39	\$7,094.40
P-151-4.1	Clearing and Grubbing	AC	0.87	\$7,480.33	\$6,507.89
P-152-4.1	Unclassified Excavation	CY	290	\$38.11	\$11,051.90
P-152-4.6	Compacted Subgrade, 6" Depth	SY	1120	\$22.69	\$25,412.80

P-209-5.1	Crushed Aggregate Base Course, 6" Depth	SY	1120	\$7.77	\$8,702.40
P-403-8.1	HMA Pavement, 3" Surface Course	TON	210	\$159.74	\$33,545.40
P-403-8.3	HMA Pavement, 9.5" Surface Course	TON	580	\$132.40	\$76,792.00
P-605-5.1	Hot Applied Edge Seal	LF	100	\$41.08	\$4,108.00
T-904-5.1	Sodding	SY	2920	\$4.69	\$13,694.80
T-905-5.1	Topsoil, 2" Depth	CY	160	\$11.09	\$1,774.40
				Sub Total:	\$309,118.68

<b>Alternate 5</b>					
No.	Description	Unit	Qty	Unit Price	Ext Price
100.1	Mobilization/Demobilization	LS	1	\$250,000.00	\$250,000.00
100.2	Insurance and Bonds	LS	1	\$25,000.00	\$25,000.00
100.3	Airside Safety and Security / Traffic Control	LS	1	\$57,386.35	\$57,386.35
101.1	Preparing Right-of-Way	LS	1	\$2,849.37	\$2,849.37
C-100	Contractor Quality Control	LS	1	\$51,249.94	\$51,249.94
C-105	Field Office and Curing Facilities	LS	1	\$6,083.92	\$6,083.92
540.1	Storm Water Pollution Prevention Plan	LS	1	\$8,823.16	\$8,823.16
P-101-5.5	Asphalt Pavement Saw Cut	LF	572	\$5.43	\$3,105.96
P-101-5.6	Cold Milling, 5" Depth	SY	69816	\$3.05	\$212,938.80
P-101-5.8	Asphalt Crack Seal Repair	LF	2000	\$6.04	\$12,080.00
P-401-8.1	Plant Mix Bituminous Pavement, 5" Surface Course	TON	18327	\$137.15	\$2,513,548.05
P-620-5.1	Reflective Yellow Taxiway Pavement Markings	SF	25576	\$3.49	\$89,260.24
P-620-5.2	Reflective White Taxiway Pavement Markings	SF	67187	\$3.49	\$234,482.63
P-620-5.3	Non-Reflective Black Pavement Markings	SF	18646	\$3.49	\$65,074.54
P-620-5.4	Surface Painted Hold Position Signs	SF	994	\$9.52	\$9,462.88
P-620-5.5	Pavement Marking Obliteration	SF	13152	\$4.53	\$59,578.56

L-105-6.1	Temporary Jumpers, Lighting and Signage	LS	1	\$12,077.56	\$12,077.56
SP-1	Two-Course Surface Treatment (FAA Access Roads)	SY	17610	\$7.37	\$129,785.70
				Sub Total:	\$3,742,787.66

**ACKNOWLEDGE ADDENDA**

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NAME	ACKNOWLEDGEMENT DATE
Amendment 1	05/11/2020 14:52:10 PM
Amendment 2	05/11/2020 14:52:11 PM
Amendment 3	05/11/2020 14:52:12 PM
Amendment 4	05/11/2020 14:52:12 PM
Amendment 5	05/11/2020 14:52:13 PM
Amendment 6	05/11/2020 14:52:14 PM
Amendment 7	05/11/2020 14:52:14 PM
Amendment 8	05/11/2020 14:52:15 PM
Amendment 9	05/11/2020 14:52:15 PM

**REQUIRED DOWNLOADS**

TYPE	NAME	DOWNLOAD DATE
Invitation To Bid	RFCSP	3/30/2020 7:16:55 AM
Bid Docs	Exhibit A - General Conditions	3/30/2020 7:16:55 AM
Bid Docs	Exhibit B - General Wage Decision	3/30/2020 7:16:55 AM
Bid Docs	Exhibit C - Performance and Payment Bond	3/30/2020 7:16:55 AM
Bid Docs	Exhibit D - Additional Supplemental Conditions for Aviation Projects	3/30/2020 7:16:55 AM
Bid Docs	Exhibit E - Soil Management Plan	3/30/2020 7:16:55 AM
Bid Docs	Exhibit F - Special Conditions for Construction in the AOA	3/30/2020 7:16:55 AM
Bid Docs	Exhibit G - Environmental Work Plan	3/30/2020 7:16:55 AM
Bid Docs	Exhibit H - Construction Security Plan	3/30/2020 7:16:55 AM
Plans	Exhibit I - Safety Bulletins	3/30/2020 7:16:55 AM
Bid Docs	Exhibit J - Crane and Temp Construction Equipment Procedures	3/30/2020 7:16:55 AM
Bid Docs	Exhibit K - FAA General Provisions	3/30/2020 7:16:55 AM
Bid Docs	Exhibit L - Civil Technical Specifications	3/30/2020 7:16:55 AM
Bid Docs	Exhibit M - Civil Technical Specifications Alt 5	3/30/2020 7:16:55 AM
Bid Docs	Exhibit N - Electrical Technical Specifications	3/30/2020 7:16:55 AM
Bid Docs	Exhibit O - MSW Material Specifications	3/30/2020 7:16:55 AM
Bid Docs	Exhibit P - Stormwater and Other Specs	3/30/2020 7:16:55 AM
Bid Docs	Exhibit Q - FAA Advisory Circulars	3/30/2020 7:16:55 AM
Bid Docs	Exhibit R - Construction Safety and Phasing Plan	3/30/2020 7:16:55 AM
Plans	Construction Plans	3/30/2020 7:16:55 AM
Bid Docs	Exhibit T - Insurance Requirements	3/30/2020 7:16:55 AM
Bid Docs	Form 1 - Submittal Checklist and Table of Contents	3/30/2020 7:16:55 AM

Bid Docs	Form 3 - Submittal Cover Signature Sheet	3/30/2020 7:16:55 AM
Bid Docs	Form 4 - Contracts Disclosure Form and Instructions	3/30/2020 7:16:55 AM
Bid Docs	Form 5 - Litigation Disclosure Form	3/30/2020 7:16:55 AM
Bid Docs	Form 6 - Certificate of Interested Parties_Form 1295	3/30/2020 7:16:55 AM
Bid Docs	Form 9 - Change of DBE Subcontractors	3/30/2020 7:16:55 AM
Bid Docs	Form 10 - DBE LLC JV	3/30/2020 7:16:55 AM
Bid Docs	Form 11 - Bidders List Collection Form	3/30/2020 7:16:55 AM
Bid Docs	Form 13 - SAT Lock and Key Control Form	3/30/2020 7:16:55 AM
Bid Docs	DBE Presentation	4/21/2020 2:24:19 PM
Bid Docs	Pre-Submittal Sign In Sheet	4/16/2020 10:34:15 AM
Bid Docs	Pre-Submittal Presentation	4/21/2020 2:23:20 PM
Addenda	Amendment 1	5/11/2020 2:52:24 PM
Bid Docs	Form 7 - DBE Good Faith Effort Plan REV	4/21/2020 2:22:59 PM
Bid Docs	Form 8 - DBE Letter of Intent REV	4/21/2020 2:22:23 PM
Bid Docs	Form 12 - Mandatory FAA Contract Clauses REV	4/21/2020 2:21:56 PM
Bid Docs	RFCSP - Section E. DBE Program Requirements	4/21/2020 2:15:16 PM
Addenda	Amendment 2	5/11/2020 2:52:33 PM
Addenda	Amendment 3	5/11/2020 2:52:35 PM
Addenda	Amendment 4	4/22/2020 2:00:48 PM
Addenda	Amendment 5	5/11/2020 2:52:38 PM
Addenda	Amendment 6	5/5/2020 1:10:45 PM
Addenda	Amendment 7	5/5/2020 1:11:08 PM
Addenda	Amendment 8	5/11/2020 2:52:40 PM
Addenda	Amendment 9	5/11/2020 2:52:42 PM

**EXHIBIT 3**  
**ENABLING ORDINANCE NO. \_\_\_\_\_**

**EXHIBIT 4**  
**SPAWGLASS CIVIL CONSTRUCTION, INC. REVISED BID RESPONSE**



# CIVCAST BID FORM - Remove Bridge, Remove MSW and Reconstruct Taxiway R, Package 7

Instructions: Only input the UNIT PRICE in green. Dont type in the \$ sign or commas.



Base Bid \$10,904,545.47

Section						
Title	Item No.	Description	Unit	Qty	Unit \$ Price	Ext \$ Price
Base Bid						
Base Bid	100.1	Mobilization/Demobilization	LS	1.00	\$820,000.00	\$820,000.00
Base Bid	100.2	Insurance and Bonds	LS	1.00	\$82,000.00	\$82,000.00
Base Bid	100.3	Airside Safety and Security / Traffic Control	LS	1.00	\$1,461,869.37	\$1,461,869.37
Base Bid	101.1	Preparing Right-of-Way	LS	1.00	\$45,623.51	\$45,623.51
Base Bid	C-100	Contractor Quality Control	LS	1.00	\$579,939.85	\$579,939.85
Base Bid	C-105	Field Office and Curing Facilities	LS	1.00	\$154,584.38	\$154,584.38
Base Bid	540.1	Storm Water Pollution Prevention Plan	LS	1.00	\$378,432.64	\$378,432.64
Base Bid	SP-101.1	Remove and Dispose of Existing Bridge Deck	LS	1.00	\$153,749.76	\$153,749.76
Base Bid	SP-101.2	Remove and Dispose of Existing Bridge Pier	VF	2,450.00	\$18.17	\$44,516.50
Base Bid	P-101-5.1	Portland Cement Concrete Pavement Removal, Including Thickened Edge and Reinforcement	SY	4,040.00	\$38.70	\$156,348.00
Base Bid	P-101-5.2	Bituminous Pavement Removal	SY	3,750.00	\$11.27	\$42,262.50
Base Bid	P-101-5.3	Cement-Treated Base Removal	SY	11,080.00	\$11.30	\$125,204.00
Base Bid	P-101-5.4	Concrete Pavement Saw Cut (Full Depth)	LF	280.00	\$7.41	\$2,074.80
Base Bid	P-101-5.5	Asphalt Pavement Saw Cut	LF	70.00	\$5.95	\$416.50
Base Bid	P-151-4.1	Clearing and Grubbing	AC	4.82	\$4,448.19	\$21,440.28
Base Bid	P-152-4.1	Unclassified Excavation (Remove, Haul, and Stockpile)	CY	94,850.00	\$11.63	\$1,103,105.50
Base Bid	P-152-4.2	Embankment (From Stockpile)	CY	120,170.00	\$13.59	\$1,633,110.30
Base Bid	P-152-4.5	Construct 2' Clay Cap over Remaining MSW	SY	1,430.00	\$106.31	\$152,023.30
Base Bid	MSW 0030.1	Contaminated Water Storage and Disposal	GAL	300,000.00	\$1.13	\$339,000.00
Base Bid	MSW 0040.1	Municipal Solid Waste Material Removal and Disposal (TW R Connector)	CY	25,320.00	\$96.69	\$2,448,190.80
Base Bid	P-620-5.1	Reflective Yellow Taxiway Pavement Markings	SF	620.00	\$3.82	\$2,368.40
Base Bid	P-620-5.3	Non-Reflective Black Pavement Markings	SF	120.00	\$3.82	\$458.40
Base Bid	P-620-5.5	Pavement Marking Obliteration	SF	570.00	\$4.96	\$2,827.20
Base Bid	T-904-5.1	Sodding	SY	34,400.00	\$32.28	\$1,110,432.00
Base Bid	T-905-5.1	Topsoil, 2" Depth	CY	1,910.00	\$9.48	\$18,106.80
Base Bid	L-100-5.1	Electrical Demolition	LS	1.00	\$13,230.34	\$13,230.34
Base Bid	L-105-6.1	Temporary Jumpers, Lighting and Signage	LS	1.00	\$13,230.34	\$13,230.34
						\$10,904,545.47

**EXHIBIT 5**  
**CONTRACT MANDATORY CLAUSES**

## **FORM #12 – AIRPORT IMPROVEMENT PROGRAM (AIP) FUNDED CONSTRUCTION CONTRACTS MANDATORY CONTRACT CLAUSES**

### **ARTICLE I. ACCESS TO RECORDS AND REPORTS**

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the sponsor, 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 Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

### **ARTICLE II. BUY AMERICAN PREFERENCE**

The Contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A bidder or offeror must complete and submit the Buy America certification included herein with their bid or offer. The Owner will reject as nonresponsive any bid or offer that does not include a completed Certificate of Buy American Compliance.

### **ARTICLE III. CERTIFICATE OF BUY AMERICAN COMPLIANCE FOR MANUFACTURED PRODUCTS**

As a matter of bid responsiveness, the Contractor must complete, sign, date, and submit this certification statement with their proposal. The Contractor must indicate how they intend to comply with 49 USC § 50101 by selecting one on the following certification statements. These statements are mutually exclusive. Contractor must select one or the other (not both) by inserting a checkmark (✓) or the letter “X”.

- Contractor hereby certifies that it will comply with 49 USC § 50101 by:
- a) Only installing steel and manufactured products produced in the United States, or;
  - b) Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing, or;
  - c) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the Contractor agrees:

1. To provide to the City evidence that documents the source and origin of the steel and manufactured product.
2. To faithfully comply with providing US domestic product
3. To furnish US domestic product for any waiver request that the FAA rejects

4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- The Contractor hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent Contractor with the apparent low bid agrees:
1. Submit to the City within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
  2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.
  3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
  4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

**Required Documentation**

**Type 3 Waiver** - The cost of the item components and subcomponents produced in the United States is more that 60% of the cost of all components and subcomponents of the “item”. The required documentation for a type 3 waiver is:


- a) Listing of all product components and subcomponents that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety).
- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c) Percentage of non-domestic component and subcomponent cost as compared to total “item” component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

**Type 4 Waiver** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a) Detailed cost information for total project using US domestic product
- b) Detailed cost information for total project using non-domestic product

**False Statements.** Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

5/11/2020  
\_\_\_\_\_  
Date  
SpawGlass Civil Construction, Inc.  
\_\_\_\_\_  
Company Name

  
\_\_\_\_\_  
Signature  
President  
\_\_\_\_\_  
Title

#### **ARTICLE IV. GENERAL CIVIL RIGHTS PROVISIONS**

The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Contractor and sub-tier Contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

#### **ARTICLE V. TITLE VI CLAUSES COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

1. **Compliance with Regulations.** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination.** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports.** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance.** In the event of a Contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions.** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

#### **ARTICLE VI. TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”) 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 U.S.C. § 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 U.S.C. § 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 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (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 Contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which 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 (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;

- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 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, which ensures non-discrimination 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. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

#### **ARTICLE VII. DISADVANTAGED BUSINESS ENTERPRISES**

**Contract Assurance (§ 26.13).** The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor 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 City, deems appropriate, which may include, but is not limited to:

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

**Prompt Payment (§26.29).** The prime contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 10 days after the prime contractor has received a partial payment. The City must ensure prompt and full payment of retainage from the prime Contractor to the subcontractor within 10 days after the subcontractor’s work is satisfactorily completed. A subcontractor’s work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the City. When the City has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed

#### **ARTICLE VIII. RACE/GENDER NEUTRAL LANGUAGE**

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the City to practice nondiscrimination based on race, color, sex or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

#### **ARTICLE IX. ENERGY CONSERVATION REQUIREMENTS**

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq*).

## **ARTICLE X. FEDERAL FAIR LABOR STANDARDS ACT**

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

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

## **ARTICLE XI. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

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. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor 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.

## **ARTICLE XII. TRADE RESTRICTION CERTIFICATION**

Contractor by entering into the Agreement certifies that...

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (U.S.T.R.);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the U.S.T.R; and
- c. has not entered into any subcontract for any product to be used on the Federal on the project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

The Contractor must provide immediate written notice to the City if the Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time, it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to Contractor or subcontractor:

- (1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or



- (2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or,
- (3) who incorporates in the public works project any product of a foreign country on such U.S.T.R. list;

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a Contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Contractor agrees that it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by U.S.T.R, unless Contractor has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the City cancellation of the contract or subcontract for default at no cost to the City or the FAA.

### **ARTICLE XIII. VETERAN'S PREFERENCE**

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier Contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 U.S.C. 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

### **ARTICLE XIV. COPELAND "ANTI-KICKBACK" ACT**

Contractor must comply with the requirements of the Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Contractor and subcontractors 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 Contractor and each Subcontractor 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.

### **ARTICLE XV. 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 Contractor 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 Part 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 Contractor and its subcontractors 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; and
- (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 Contractor 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, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 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 Contractor, 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 Contractor 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 Contractor does not make payments to a trustee or other third person, the Contractor 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 Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets 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 Contractor under this contract or any other Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor, 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 Contractor or any subcontractor 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 work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the Contractor, 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 Contractor 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 Contractor shall maintain records which 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. Contractors 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 Contractor 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 Contractor 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 <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors 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 Contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the Federal Aviation Administration, the Contractor, 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 Contractor to require a subcontractor to provide addresses and social security numbers to the prime Contractor 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 Contractor or subcontractor 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 Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor or subcontractor 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 Contractor or

subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, 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, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, 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 Bureau of Apprenticeship and Training 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 Contractor 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 Contractor 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 Contractor's or subcontractor'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 Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor 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 which 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 Contractor 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 Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

#### 6. Subcontracts.

The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR Part 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 subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR Part 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 Contractor and a subcontractor 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 disputes 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 Contractor (or any of its subcontractors) 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 Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor'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 U.S.C. 1001.

#### **ARTICLE XVI. TEXTING WHEN DRIVING**

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 FAA 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 sub-grant.

In support of this initiative, City encourages the Contractor 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 Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

#### **ARTICLE XVII. NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to abide by and comply with the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein the goals and timetables for minority and female participation set out below.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

##### **Timetables**

Goals for minority participation for each trade: 47.8%

Goals for female participation in each trade: 6.9%

These goals are applicable to all of the Contractor's construction work (whether or not it is Federal or federally-assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its

projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is the State of Texas, Bexar County and City of San Antonio.

### **ARTICLE XVIII. EQUAL OPPORTUNITY CLAUSE**

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

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender 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 Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with



procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

## **ARTICLE XIX. 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 Contractor, or any subcontractor 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 Contractor is participating (pursuant to 41 CFR 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. Contractors shall be able to demonstrate their participation in and compliance with the provisions of

any such Hometown Plan. Each Contractor or subcontractor 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 Contractors or subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

**4.** The Contractor 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 Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Contractors 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 Contractor 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 Contractor has a collective bargaining agreement to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246 or the regulations promulgated pursuant thereto.

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

**7.** The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor 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 Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor'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 Contractor 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 Contractor by the union or, if referred, not employed by the Contractor, this shall be

documented in the file with the reason therefore along with whatever additional actions the Contractor may have taken.

**d.** Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or female sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor'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 Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

**f.** Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor 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 as 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 Contractor'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 Contractor's EEO policy with other Contractors and subcontractors with whom the Contractor 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 Contractor'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 Contractor 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 Contractor's workforce.

**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 Contractor's obligations under these specifications are being carried out.
  - n.** Ensure that all facilities and company activities are non-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 Contractors and suppliers, including circulation of solicitations to minority and female Contractor associations and other business associations.
  - p.** Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
- 8.** Contractors 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 Contractor association, joint Contractor union, Contractor community, or other similar groups of which the Contractor 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 Contractor 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 Contractor'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 Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
- 9.** A single goal for minorities and a separate single goal for women have been established. The Contractor, 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, if the particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally,) the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.
- 10.** The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- 11.** The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- 12.** The Contractor 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 Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
- 13.** The Contractor, 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 Contractor 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 60-4.8.

**14.** The Contractor 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 number, 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, Contractors 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).

#### **ARTICLE XX. PROHIBITION OF SEGREGATED FACILITIES**

**(a)** The Contractor 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 Contractor agrees that a breach of this clause is a violation of the Equal 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, 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 Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

#### **ARTICLE XXI. PROCUREMENT OF RECOVERED MATERIALS**

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use of products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

- a)** The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or,

The Contractor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at:

[www.epa.gov/epawaste/consERVE/tools/cpg/products/](http://www.epa.gov/epawaste/consERVE/tools/cpg/products/).

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the Contractor can demonstrate the item is:

- a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
- b) Fails to meet reasonable contract performance requirements; or
- c) Is only available at an unreasonable price.

## **ARTICLE XXII. TERMINATION FOR CONVENIENCE**

The Owner may terminate this contract in whole or in part at any time by providing written notice to the Contractor. 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 Contractor shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:

- 1. Contractor 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. Take action 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 Contractor for:

- a) completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
- b) 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;
- c) reasonable and substantiated claims, costs and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
- d) reasonable and substantiated expenses to the Contractor directly attributable to Owner's termination action

Owner will not pay Contractor 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 provides are in addition to any other rights and remedies provided by law or under this contract.

### **ARTICLE XXIII. TERMINATION FOR DEFAULT**

Section 80-09 of FAA Advisory Circular 150/5370-10 establishes conditions, rights and remedies associated with Owner termination of this contract due default of the Contractor.

### **ARTICLE XXIV. CERTIFICATION OF CONSULTANT REGARDING DEBARMENT**

By entering into this Agreement Contractor certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

### **ARTICLE XXV. CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT**

Contractor, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, shall verify 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. Contractor 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 Certificate Regarding Debarment and Suspension (Bidder or Offeror), above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract

If the FAA 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

### **ARTICLE XXVI. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

#### **1. Overtime Requirements.**

No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, 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 Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual

laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$10 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 City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this clause.

**4. Subcontractors.**

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

**ARTICLE XXVII. CERTIFICATION REGARDING LOBBYING**

Contractor certifies by signing this Agreement, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



#### **ARTICLE XXVIII. BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this contract on the part of the Contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

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

The duties and obligations imposed by the Agreement 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.

#### **ARTICLE XXIX. CLEAN AIR AND WATER POLLUTION CONTROL**

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). The Contractor agrees to report any violation to the City immediately upon discovery. The City assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceeds \$150,000.

#### **ARTICLE XXX. DRUG-FREE WORKPLACE**

(a) Definitions. As used in this clause—

“Controlled substance” means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

“Conviction” means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

“Criminal drug statute” means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

“Drug-free workplace” means the site(s) for the performance of work done by the Contractor in connection with a specific contract where employees of the Contractor are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

“Employee” means an employee of a Contractor directly engaged in the performance of work under a Government contract. “Directly engaged” is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

“Individual” means an offeror/Contractor that has no more than one employee including the offeror/Contractor.

**(b)** The Contractor, if other than an individual, shall—within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days' performance duration—

- (1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
- (2) Establish an ongoing drug-free awareness program to inform such employees about—
  - (i) The dangers of drug abuse in the workplace;
  - (ii) The Contractor's policy of maintaining a drug-free workplace;
  - (iii) Any available drug counseling, rehabilitation, and employee assistance programs; and
  - (iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (3) Provide all employees engaged in performance of the contract with a copy of the statement required by paragraph (b)(1) of this clause;
- (4) Notify such employees in writing in the statement required by paragraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will—
  - (i) Abide by the terms of the statement; and
  - (ii) Notify the employer in writing of the employee's conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;
- (5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;
- (6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:
  - (i) Taking appropriate personnel action against such employee, up to and including termination; or
  - (ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and
- (7) Make a good faith effort to maintain a drug-free workplace through implementation of paragraphs (b)(1) through (b)(6) of this clause.

**(c)** The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

**(d)** In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR [23.506](#), render the Contractor subject to suspension of contract payments, termination of the contract or default, and suspension or debarment.

**END OF SECTION**