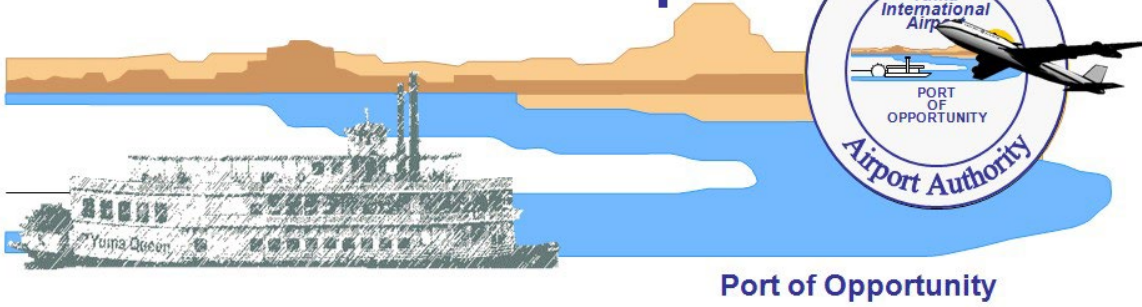


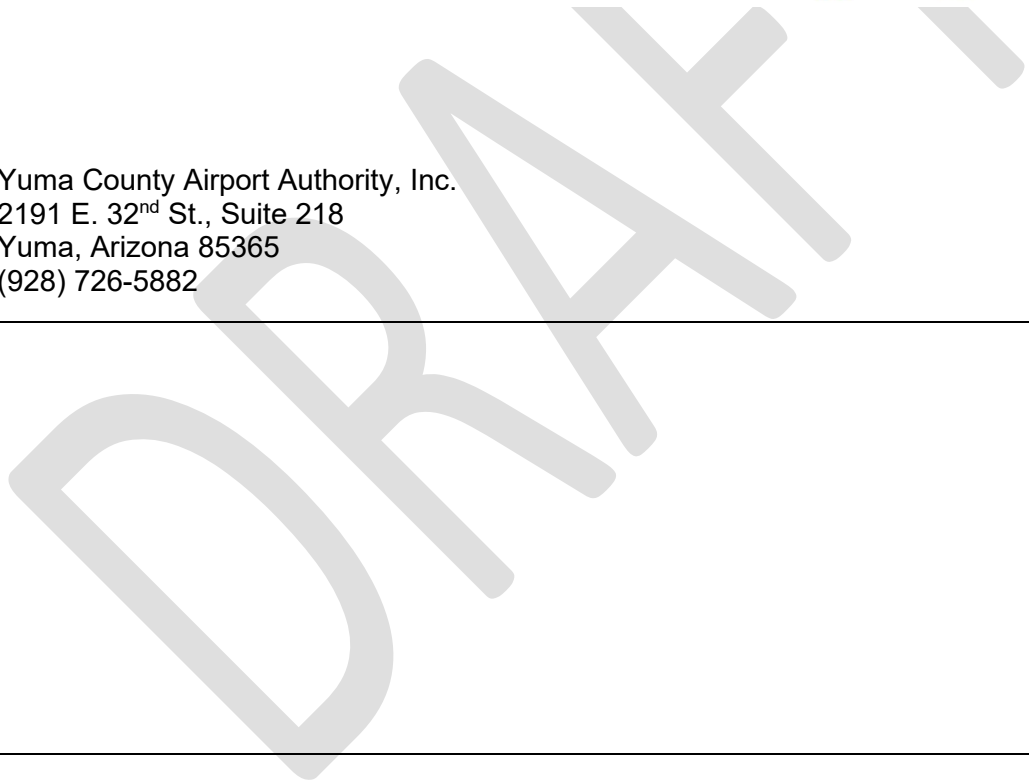


# Construction Project Manual Access Control System Update

## Yuma International Airport



Yuma County Airport Authority, Inc.  
2191 E. 32<sup>nd</sup> St., Suite 218  
Yuma, Arizona 85365  
(928) 726-5882





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## Bid Summary Sheet

<b>Project Name:</b>	Access Control System Update
<b>Project Location:</b>	Yuma International Airport Yuma, County, AZ
<b>YCAA Project Manager:</b>	Juan Trasvina (928) 928-726-5882 Operations Director Yuma County Airport Authority, Inc. 2191 E. 32nd Street, STE 218 Yuma, AZ 85365
<b>YCAA Financial Contact:</b>	Gerald L. Hinkle, Jr., CPA (928) 928-726-5882 Chief Financial Officer Yuma County Airport Authority, Inc. 2191 E. 32nd Street, STE 218 Yuma, AZ 85365
<b>Time of Commencement &amp; Completion:</b>	Contractor must begin work within 10 calendar days of the date established by the Notice to Proceed and shall complete the work within 365 days
<b>Liquidated Damages:</b>	\$500.00 Per calendar day of delay



**Public Notice**  
**Invitation to Bid**  
**Airport Access Control System**  
**Yuma International Airport**

Notice is hereby given that SEALED BIDS will be received by the Yuma County Airport Authority (YCAA) **until 3:00 PM local time on Wednesday, May 22, 2024** at the YCAA Administration Office, Second Floor, 2191 E. 32<sup>nd</sup> Street, Yuma, Arizona 85365 for the furnishing of all labor, equipment and material as required by the Contract Documents for the **Airport Access Control System Project at the Yuma International Airport**. Sealed Bids will be received by the Chief Financial Officer of the Yuma County Airport Authority, Inc. The time/date recorder located in the Administration Office will be used to record the official time of receipt. The Sealed Bid envelope shall be marked "**Airport Access Control System Project at the Yuma International Airport.**" The bidder's name, address and state Contractor's Registration and Class Number shall appear in the lower left-hand corner of the envelope.

The project is funded by the Federal Aviation Administration (FAA) under an Airport Improvement Program (AIP) grant with supplemental YCAA matching funds. Major components include the procurement and installation of airport access control system network infrastructure.

Contract documents consisting of the plans and specifications, and all addenda or other revisions shall be reviewed. The documents are available for examination from the Airport web site at [www.flyyuma.com](http://www.flyyuma.com). In order to be included in the project Bidders List maintained by the Prime Project Consultant, please email Chris Hacker at [Christopher.Hacker@kimley-horn.com](mailto:Christopher.Hacker@kimley-horn.com).

A pre-bid conference will be held in the Airport Conference Room, Yuma County Airport Authority, Inc., 2191 E 32<sup>nd</sup> St, Suite 218, Yuma, Arizona 85365 at **3:00 PM local time on Friday, May 3, 2024**. The pre-bid conference is not mandatory, but attendance is highly encouraged.

All sealed bids will be opened and publicly read aloud in the Airport Conference Room, Yuma County Airport Authority, Inc., 2191 E 32<sup>nd</sup> St, Suite 218, Yuma, Arizona 85365, immediately following receipt of bids by the Chief Financial Officer. Late submittals will not be accepted or read.

Questions regarding this project shall be directed in writing by email to Kimley-Horn, Chris Hacker at [Christopher.Hacker@kimley-horn.com](mailto:Christopher.Hacker@kimley-horn.com). Subject: Airport Access Control System

Pursuant to A.R.S. §34-201, the bid must be accompanied by a certified check, cashier's check, or surety bond - payable to the Yuma County Airport Authority, Inc. - for at least ten percent of the total bid price as a guarantee that the bidder will enter into a contract to perform the bid in accordance with the plans and Project Manual, within 10 days after the Notice of Award.

The Successful Bidder shall be required to execute and to provide a Payment Bond and a Performance Bond, each in an Amount of not less the one hundred percent (100%) of the total value of the Contract awarded to him, with a satisfactory surety or sureties for the full and faithful performance of the work within ten (10) days of receiving Notice of Award.

The Project is a Federal Aid Project under the provisions of the Airport and Airways Safety and Capacity Expansion Act of 1987. Certain mandatory Federal requirements are included in the



Contract Documents, including the Buy American Preference, Foreign Trade Restrictions, Davis Bacon Wage Rates, Affirmative Action, Government-wide Debarment and Suspension, and Government-wide Requirements for a Drug Free Workplace. The Bidder’s attention is also invited to the Federal Contract Provisions pertaining to Federal requirements regarding labor provisions, Equal Employment Opportunity (EEO) and Disadvantaged Business Enterprise (DBE) requirements.

The Yuma County Airport Authority, in accordance with Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

It is the policy of the Yuma County Airport Authority that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26 shall have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. Consequently, the DBE requirements of 49 CFR Part 26 apply to this Contract. The Contractor agrees to ensure that DBEs have an equal opportunity to participate in the performance of this contract. In this regard, all Contractors shall take all reasonable steps to ensure that DBEs have an equal opportunity to compete for and perform contracts.

Contractors shall not discriminate on the basis of race, color, or national origin or sex in the award and performance of FAA or ADOT assisted contracts.

No bid may be withdrawn after closing time for the Receipt of Proposals for a period of ninety (90) days.

The Yuma County Airport Authority, Inc. reserves the right to waive any informalities, irregularities, and/or technicalities in or reject any and all bids, and/or to award or refrain from awarding the Contract for the Work when it is best interest of the Owner.

\_\_\_\_\_  
//signed//  
Gladys Brown, CM, CAE  
Airport Director  
Yuma County Airport Authority, Inc

First Publication: April 24, 2024  
Second Publication: April 25, 2024  
Third Publication: April 26, 2024

**END OF ADVERTISEMENT FOR BIDS**



## INSTRUCTION TO BIDDERS

### 1. Communications with the Owner

All Bidder's communications (phone, fax, email, mail or courier, overnight delivery or other service) concerning this Bid shall be directed to the official Point of Contact (the "POC") Gen Grosse, Yuma County Airport Authority, Inc. [gen@yumaairport.com](mailto:gen@yumaairport.com) Attention or Subject: YCAA – Access Control Updates.

Other than the POC listed above, no Owner official or Owner employee is empowered to speak for the Owner with respect to the Bid. Any information, clarification, or interpretations obtained from any Owner official or Owner employee is used at the Bidders own risk.

Following the Bid submittal deadline, Bidder shall not contact any Owner employee, except the POC identified above. Contact by a Bidder regarding this Bid with an Owner employee other than the POC, may be grounds for rejection of the bid submitted.

### 2. Entire Contract

The Work is executed under one entire contract as defined in Article 1 of the Construction Contract.

### 3. Conditions Affecting the Work

In submitting a bid, the Bidders accept the responsibility to carefully examine the existing Plans and Specifications, Drawings and Project Manual, and fully inform themselves about all conditions and limitations affecting the Work. The bidder must be acquainted with:

- The nature and location of the Work,
- The general and local conditions, particularly those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, sewer, roads and uncertainties of weather,
- The nature of the project site which will continue to be operational during the entire project which will likely require extensive phasing and work to be completed at night,
- The character, quality and quantity of surface and subsurface materials to be encountered,
- The character of equipment and facilities needed before and during performance of the Work,
- The relation of the Plans and Specification, Drawings, and other Contract Documents to the actual conditions at the Work site (including, without limitation, measurements, dimensions, layout, location of existing or future improvements, etc.),
- And all other matters which can in any way affect the Work or costs under this contract.

After bid submittal, any unforeseen increase in cost is the responsibility of the bidder, not the Owner. The bid must cover the cost of all items required to complete the project in a form acceptable to the Owner.

Any failure by the bidder to acquaint himself with information concerning these conditions does not relieve him from responsibility for estimating properly the difficulty or cost of successfully performing the Work.

Bidders are responsible for errors in pricing their bids or any other matter that results from failure to make the examinations specified above. The accuracy of interpretation of facts disclosed by boring or other preliminary investigation is not guaranteed.

The Owner assumes no responsibility or liability for any discrepancy or omissions in the Plans and Specifications, Drawings, or Contract Documents (or as such discrepancies or omissions related to the Work site, including, without limitation, measurements, dimensions, layout, location of existing or future improvements, etc.), or any understanding or representations made by any of its employees or agents during or prior to the execution of this contract, unless (1) such understanding or representations are expressly stated in the contract, and (2) the contract expressly provides that the responsibility is assumed by the Owner.

### 4. Questions about the Documents

If any bidder has a question about the meaning of any part of the Plans and Specifications, Drawings, Project Manual, or other proposed Contract Documents, or finds discrepancies or omissions in the Plans, Drawings, Project Manual, or Contract Documents (or as they relate to the actual construction site or its layout, conditions, measurements, dimensions,



planned or existing improvements, etc.), they may submit a written request for an interpretation or correction to the appropriate contact in Paragraph 1, above.

Requests should include return address and telephone numbers. The person submitting the request is responsible for its prompt delivery. Any modifications or corrections of the proposed documents will be made only by a duly issued Addendum. A copy of the Addendum will be posted on the Owner's project webpage and emailed to each registered bidder. It is the responsibility of the bidder to ensure he has received all addendums, including those posted on the web site, prior to submitting his bid.

As questions submitted require adequate time for response preparation, Bidders must forward all questions at least 120 hours (5-days) prior to the date and time set forth for the opening of bids.

The Owner will answer questions received within 120 hours (5-days) of the bid opening by posting an Addendum on the Airport's web site at least 24 hours before the bid opening. It is the responsibility for the bidder to check the web site for late addendums posted prior to submitting a bid. Bids which do not acknowledge receipt of all addendums will not be read.

Should any potential Bidder seek and receive information from any other source other than that specified above, any and all information from that source is hereby declared to be invalid in advance of the fact and any and all such information utilized is entirely at the risk of the Bidder.

#### **5. State and Local Laws**

Bidders must be familiar with laws, acts, and ordinances of the state, city, and county in which the Project is located prior to execution of the contract.

#### **6. Time of Completion**

The successful bidder must commence Work within 10 days after the date of commencement established by the Notice to Proceed and complete all Work within the calendar days referenced in the BID SUMMARY SHEET.

If the Contractor has failed, neglected or refused to complete the Work or any portion of the Work within the time specified, or as modified by Change Order, the Contractor must pay to the Owner, as liquidated damages and not as a penalty, the amount shown on the BID SUMMARY SHEET for each calendar day the Contractor fails, neglects or refuses to perform the Work or any portion of the Work.

The successful bidder acknowledges and agrees that such liquidated damages are a reasonable estimate of the Owner's damages, considering that, under the circumstances, damages occasioned by any delays would be extremely difficult and impractical to ascertain.

#### **7. Consultants**

As a matter of identification, the names of consultants employed by the Engineer for various phases of Work are listed on Drawings and/or the Plans and Specifications. Bidders and material suppliers must not communicate directly with any consultants. Questions and requests for decisions and interpretations must be directed to the POC, who will confer with the consultants, if deemed advisable.

#### **8. Changes and Substitutions**

Items defined under manufacturers' names and catalog numbers are intended as a basis of quality and not as closed specifications, unless noted otherwise. Items other than those specifically named in Project Manual or indicated on the Drawings and/or Plans and Specifications will be considered, only if a written request for acceptance of such items is received and approved by the Owner.

#### **9. Bids**

When submitting a bid, General Contractors shall submit bids using only the "Bid Proposal Packet". The Bid Proposal Packet contains all the forms from the Project Manual including the Bid Summary Sheet, Required Documents for Bid Proposal and the Bid Form required to submit a bid.





The “Bid Proposal Packet” is a separate file that can be downloaded from the Airports web site. Revised or Amended Bid Proposal Packets may be included as part of an Addendum.

Any Bid Form improperly completed or modified in any respect may be rejected. Each bid must specify the price, written in ink or typewritten, in both words and numeric figures; for example, "one thousand two hundred dollars - \$1,200" for each separate item as required.

If a line-item unit price is left blank the price will be considered as zero (\$0.00) and extended as such.

Bidders must deliver the completed Bid Proposal Packet in a sealed envelope to the location identified in the Advertisement for Bids.

#### **10. Bid Security**

As required by A.R.S. § 34-201, each bid must be accompanied by a certified check, cashier's check, or surety bond payable to the Yuma County Airport Authority, Inc., for at least ten percent of the total bid price, including any and all Bid Alternates, as a guarantee that the bidder will enter into a contract to perform the bid in accordance with the plans and Project Manual, within 10 days after the Notice of Award. The surety bond must be issued by a company authorized to transact surety business in the State of Arizona.

If the successful Bidder fails or refuses to execute the required Contract, Performance Bond, and Payment Bond within the time specified in the Item 21 (Award of Contract), the Owner will retain the bid guarantee proceeds as liquidated damages, and not as a penalty, for delay in execution of the contract and as compensation for subsequent acceptance of a higher or less desirable bid. Each bidder acknowledges and agrees that such liquidated damages are a reasonable estimate of the Owner's damages, considering that, under the circumstances, damages occasioned by such conduct would be extremely difficult and impractical to ascertain.

#### **11. Performance Bond and Payment Bond**

When the contract is signed, the successful bidder must furnish surety bonds payable to Yuma County Airport Authority, Inc., issued by a surety company authorized to do business in the State of Arizona and represented by an agent doing business in the State of Arizona, as follows:

- a) A bond in an amount equal to one hundred percent of the contract as surety for the faithful performance of the contract.
- b) A bond in an amount equal to one hundred percent of the contract for the payment of just claims for materials, labor, and subcontractors employed by the contractor, as a guarantee of labor and materials used or incorporated in the work, and for the fulfillment of other requirements as may be required by law.

#### **12. Tax Liability Bond / Bond Exemption Certificate**

In conformance with Arizona Revised Statutes § 42-5006 and the Arizona Department of Revenue criteria concerning construction project tax liabilities and, as a requirement of this Contract, the successful bidder must furnish to the Yuma County Airport Authority, Inc., one of the following documents when the contract is signed:

- a) A copy of the Tax Liability Bond, issued by the Arizona Department of Revenue, naming this specific project as being bonded.
- b) A current Bond Exemption Certificate, issued by the Arizona Department of Revenue, naming this specific project as being exempt.

#### **13. Telegraphic, Facsimile or Electronic Modification**

Telegraphic, facsimile, or electronic modifications of bids already received by the Finance Office will not be permitted. Modifications to submitted bids must follow the process delineated under Item 15 (Withdrawal of Bids) below, whereby bids are withdrawn, modified, and resubmitted to the Chief Financial Officer in person before the specified date and time of the bid opening.

#### **14. Disqualified Bidders**

The Owner will not accept bids or award contracts to any person in arrears to the Owner for any debt or contract, in default on any Surety bond, or otherwise deficient in any obligation to the Owner, the City of Yuma or Yuma County.





### **15. Withdrawal of Bids**

A bidder may withdraw his bid prior to the deadline for bid submittal by submitting a written request for its withdrawal. Bids received after the time for opening bids or received at any place other than the place specified for receiving bids will not be considered.

If a bidder withdraws his bid after the time set for opening bids, the bid bond is subject to forfeiture as liquidated damages, and not as a penalty. Each bidder acknowledges and agrees that such liquidated damages are a reasonable estimate of the Owner's damages, considering that, under the circumstances, damages occasioned by such conduct would be extremely difficult and impractical to ascertain.

### **16. Method of Award**

Contractor shall complete all bid proposals for the base bid.

The Owner reserves the right to award any combination of the Base Bid and amended Additive Alternatives and reserves the right to reject any or all bids or to withhold the award for any reason. Base bid, unit prices, alternate prices, the bidder's prior experience with similar projects and time of completion may individually or collectively be considered as the basis for award of the Contract.

### **17. List of Subcontractors**

Each bidder must list the names of subcontractors proposed to be employed for work in the proper space on the Bid Form. Once the Contract is awarded, the subcontractor list cannot be changed unless the Owner gives prior written permission.

### **18. Qualifications**

A bidder represents it has the financial resources and necessary skills and experience to carry work through all stages to completion. A bidder unable to show evidence of these abilities to the satisfaction of the Owner is not eligible for award.

### **19. Addenda**

Any addenda issued during the time of bidding, are part of the documents for the preparation of bids and must be addressed in the bid.

### **20. Bid Opening**

Bids will be opened and publicly read aloud at the time and place specified in the Advertisement for Bids. Bidders are invited to be present at the opening.

### **21. Award of Contract**

The contract will be awarded, or all bids will be rejected within the number of days the bids must be held open as specified on the BID SUMMARY SHEET. The Owner reserves the right to accept or reject any or all bids or to waive any informality in any bid. The successful bidder will be notified in writing at the address listed on the bid that his bid has been accepted and that he has been awarded the contract. The successful bidder must return by the date indicated in the Notice of Award an executed copy of the Contract, the Certificate of Vote, the Performance Bond, the Payment Bond, Insurance Certificates, ADOR Tax Liability Bond (or Tax Liability Bond Exemption Certificate) to the Airport's Chief Financial Officer.

If the contract is awarded to a corporation or limited liability company, the Owner may require proof of valid incorporation and identification of authorized corporate/company agents before signing the contract. If the contract is awarded to a general partnership, limited liability partnership, or limited partnership, the Owner may require proof of valid registration with the Arizona Secretary of State, and identification of authorized partnership agents before signing the contract.

If the successful bidder fails to sign and return the contract by the date indicated in the Notice of Award letter, the award may be annulled at the sole discretion of the Owner and may result in forfeiture of the firm's bid bond. The contract may then be awarded to the next lowest qualified bidder.

### **22. General Requirements**

The bidders must bid on all items listed, unless otherwise specified on the Bid Form.



Bidder must present satisfactory evidence of performance skills and ability and the necessary Contractor's license and other appropriate documents required to do business in the State of Arizona for the fulfillment of this proposed contract.

In addition, bidder must supply any additional information and supporting evidence of ability to do work under the contract upon request. The successful bidder must possess or obtain a City of Yuma Business License, prior to the commencement of construction.

### **23. Filing Bids**

As provided in the Advertisement for Bids, all bids must be submitted in a plainly marked and sealed envelope addressed to the Chief Financial Officer, Yuma County Airport Authority.

The sealed bid envelope shall be marked "**Airport Access Control System Project at the Yuma International Airport.**" The bidder's name, address and state Contractor's Registration and Class Number shall appear in the lower left hand corner of the envelope.

### **24. Form of Bid and Signature**

The bid must be on the form provided. The bidder must fill in dollar amounts and be able to perform the Work required by the contract. The bid must be signed as follows:

- a) If the bidder is an individual, the bidder must sign his full name and address.
- b) If the bidder is a partnership, a partner must sign his name, the name of the partnership and business address, and list the names of all other partners.
- c) If the bidder is a corporation, an officer or authorized agent must sign his name, the corporate name, business address, and titles of all officers of the corporation.
- d) If the bidder is a limited liability company, an officer or authorized agent must sign his name, the company name, business address, and titles of all officers of the company.

Telegraphic, electronic or facsimile bids will not be considered.

Bidders must properly complete blank spaces on the bid. The wording of the bid must not be changed. Unauthorized conditions, limitations, or provisions attached to the bid will either be ignored or result in rejection of the bid. Alterations by "erasure or line through" must be explained in writing and signed by the bidder.

### **25. Permits, Licenses, Fees and Taxes**

The contractor will pay for city fees and permits directly to the City. The bidder is responsible for procuring all permits and licenses; and accomplishing all other tasks associated with permits, fees, giving any notices necessary and incident in performing the Work.

### **26. Information Available to Bidders**

- a) All documents including the Drawings, Plans, Specifications, are available for viewing at the Prime Engineer's office indicated on the BID SUMMARY SHEET as well as the Airport's website.
- b) In preparing the bid, each bidder must consider and evaluate data contained in these documents and of the location where the Work shall take place.
- c) The Construction Drawing sheets are organized to represent the total work for the base bid.

### **27. Disadvantage Business Enterprise Program**

#### **Applicable Federal Regulations:**

As a recipient of U.S. Department of Transportation Funding (USDOT), the Airport has agreed to abide by the provisions and assurances found in 49 CFR Part 26. Therefore, this contract is subject to DBE requirements issued in 49 CFR Part 26. All certified DBE firms, as defined in 49 CFR Part 26, shall have an equal opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. The prime contractor must track and report DBE participation that occurs as a result of procurement, joint venture, goods/services, or other arrangement involving certified DBEs.

#### **DBE Participation:**

For this solicitation, the Airport has not established a race-conscious DBE participation goal (e.g., contract goal). The airport extends to each firm, vendor, supplier, contractor, and subcontractor an equal economic opportunity to compete for



business. The Airport uses race-neutral measures to facilitate participation by DBEs to perform part of the work that a prime contractor might otherwise perform.

**Counting DBE Participation:**

The Airport will count DBE participation as authorized by 49 CFR Part 26.

**DBE Certification:**

Only firms (1) certified by the Arizona Unified Certified Program (AZUCP), and (2) contracted by the prime contractor to perform a function on scopes of work for which they are certified, may be considered as DBE participation on this contract.

**END OF INSTRUCTIONS TO BIDDER**

DRAFT



## BID FORM

To the YUMA COUNTY AIRPORT AUTHORITY:  
 (Hereinafter called "Owner")

The undersigned bidder, having examined the plans, specifications and other proposed Contract Documents, the extent, character and location of the proposed work, the nature and type of the demolition to be done, the condition and arrangement of existing structures affecting or affected by the proposed work, and being cognizant of the location and condition of existing access to the sites of the work, the phasing requirements intended to ensure continued operations during construction hereby proposes to furnish all materials, tools, labor and equipment for the completion of the design, and construction of the improvements listed below and all specified work appurtenant thereto in connection with this project in accordance with plans, specifications and other contract documents on file at the Office of the Airport Director at Yuma International Airport, for the Guaranteed Maximum Price prices quoted on the bid sheet(s) included herein:

Project: Access Control Updates  
 Location: Yuma International Airport, AZ  
 Project Number: FAA AIP 3-04-0053-XXX-2024

Bid Amount
Bid Amount in Words

Total Bid Amount \_\_\_\_\_

**No bid may be withdrawn for a period of ninety (90) days after bid opening.**

Company	Street Address
Signature	City State Zip
Printed Name	Phone Number
Title	
AZ Contractor's Classification & License No.	Federal Tax Identification Number



**RECEIPT OF ADDENDUM**

Project: Access Control Updates

Location: Yuma International Airport, AZ

Project Number: FAA AIP 3-04-0053-XXX-2024

**Bidder shall signify receipt of all addenda here (if any).**

Addendum Number 1 (if required) \_\_\_\_\_

Signature

Addendum Number 2 (if required) \_\_\_\_\_

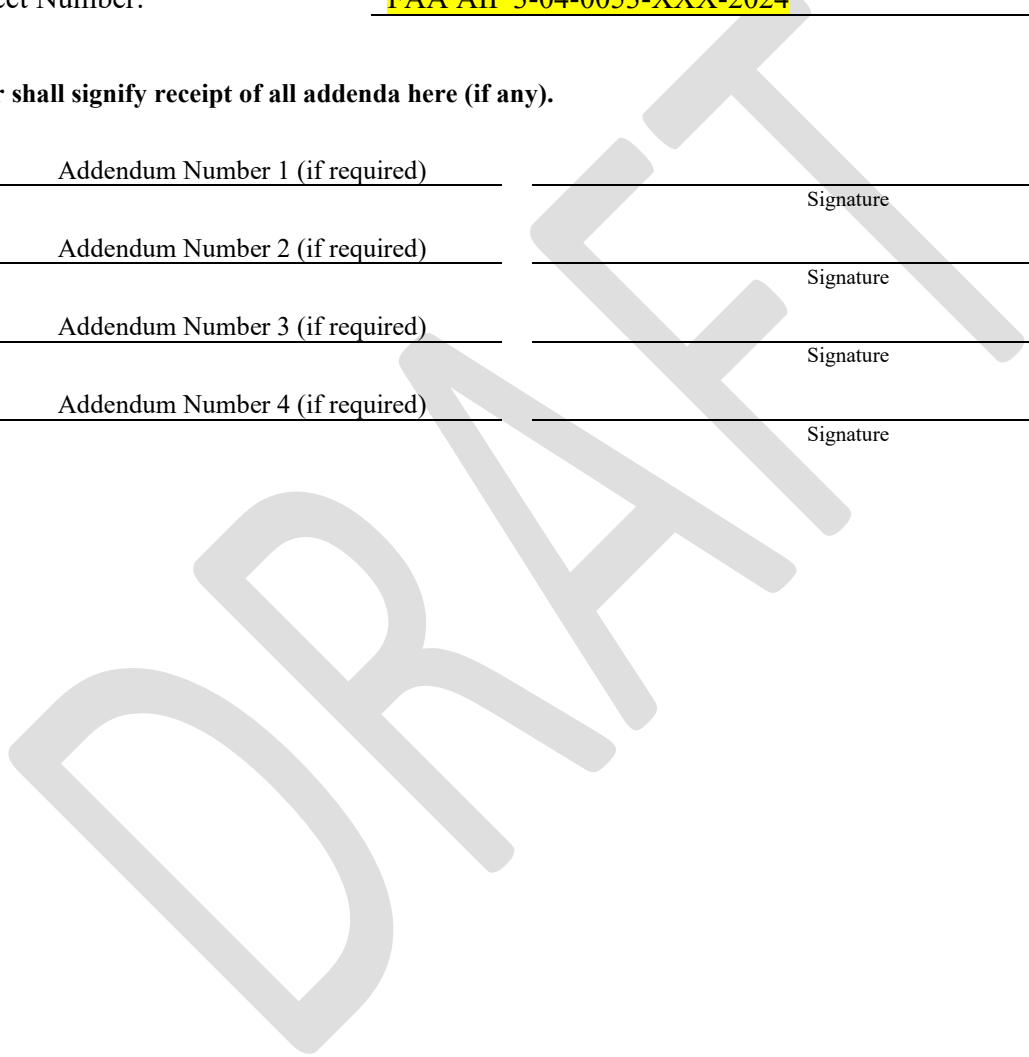
Signature

Addendum Number 3 (if required) \_\_\_\_\_

Signature

Addendum Number 4 (if required) \_\_\_\_\_

Signature





## LIST OF SUBCONTRACTORS

If awarded a contract for this project, the undersigned will employ the following subcontractors:

Business Name	Address	City State Zip
---------------	---------	----------------

Trade	License #	Phone	DBE Y/N
-------	-----------	-------	---------

Business Name	Address	City State Zip
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Trade	License #	Phone	DBE Y/N
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Business Name	Address	City State Zip
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Trade	License #	Phone	DBE Y/N
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Business Name	Address	City State Zip
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Trade	License #	Phone	DBE Y/N
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Business Name	Address	City State Zip
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Trade	License #	Phone	DBE Y/N
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Business Name	Address	City State Zip
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Trade	License #	Phone	DBE Y/N
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Business Name	Address	City State Zip
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Trade	License #	Phone	DBE Y/N
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Business Name	Address	City State Zip		
Trade	License #	Phone	DBE Y/N	

Business Name	Address	City State Zip		
Trade	License #	Phone	DBE Y/N	

Business Name	Address	City State Zip		
Trade	License #	Phone	DBE Y/N	

Business Name	Address	City State Zip		
Trade	License #	Phone	DBE Y/N	

Business Name	Address	City State Zip		
Trade	License #	Phone	DBE Y/N	

Business Name	Address	City State Zip		
Trade	License #	Phone	DBE Y/N	

Business Name	Address	City State Zip		
Trade	License #	Phone	DBE Y/N	





## BID BOND EXPLANATION

### FORM INCLUDED

1. Each bidder must complete the Bid Bond Form and return it with the Bid Form.
2. The Owner has elected to use the following form as the Bid Bond Form for this project. The bidder may use the enclosed form or submit an Arizona Statutory Bid Bond supplied by the bonding company as a substitute form for the attached. (These are the only Bid Bond forms that will be accepted. Any bidder submitting a bond form other than the ones indicated shall be considered non-responsive to the bid.)
3. As required by A.R.S. §34-201, each bid must be accompanied by a certified check, cashier's check, or surety bond payable to the Yuma County Airport Authority, Inc., for at least ten percent of the total bid price as a guarantee that the bidder will provide the required bonds and certificates, and return the signed contract to perform the Work in accordance with the Plans and Specifications, Drawings, Contract Documents, and Project Manual, within 10 days after the Notice of Award. The surety bond must be issued by a company authorized to transact surety business in the State of Arizona.
4. Bidder is advised to review this document and comply with defined requirements when submitting a bid.



## ARIZONA STATUTORY BID BOND

PURSUANT TO TITLES 28, 34 AND 41, ARIZONA REVISED STATUTES

(Penalty of this bond must not be less than 10% of the bid amount including both Bid Alternates)

KNOW ALL MEN BY THESE PRESENTS:

That, \_\_\_\_\_ (hereinafter "Principal"), as Principal, and \_\_\_\_\_ (hereinafter "Surety"), a corporation organized and existing under the laws of the State of \_\_\_\_\_, with its principal offices in the City of \_\_\_\_\_, holding a certificate of authority to transact surety business in Arizona issued by the Director of the Department of Insurance pursuant to Title 20, Chapter 2, Article 1, as Surety, are held and firmly bound unto the Yuma County Airport Authority, Inc., (hereinafter "Obligee"), as Obligee, in the amount of Ten Percent (10%) of the amount of the bid of Principal, submitted by Principal to the Obligee for the work described below, for the payment of which sum, the Principal and Surety bind themselves, and their heirs administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for Airport Access Control System Project;

Now, therefore, if the Obligee accepts the proposal of the Principal and the Principal enters into a contract with the Obligee in accordance with the terms of the proposal and gives the bonds and certificates of Insurance as specified in the standard specifications with good and sufficient surety for the faithful performance of the contract and for the prompt payment of labor and materials furnished in the prosecution of the contract, or in the event of the failure of the Principal to enter into the contract and give the bonds and certificates of Insurance, if the Principal pays to the Obligee the difference not to exceed the penalty of the bond between the amount specified in the proposal and such larger amount for which the Obligee may in good faith contract with another party to perform the work covered by the proposal then this obligation is void. Otherwise it remains in full force and effect provided, however, that this bond is executed pursuant to the provisions of Section 34-201, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions of the section to the extent as if it were copied at length herein.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
PRINCIPAL

\_\_\_\_\_  
SEAL

\_\_\_\_\_  
SURETY

\_\_\_\_\_  
SEAL

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

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

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

\_\_\_\_\_  
Agency of Record

\_\_\_\_\_  
Agency Address

# CERTIFICATE OF VOTE

Project: Access Control Updates

Location: Yuma International Airport, AZ

Project Number: FAA AIP 3-04-0053-XXX-2024

(to be filed if Contractor is a Corporation)

I, \_\_\_\_\_, hereby certify that I am the duly qualified and acting Secretary of \_\_\_\_\_ and I further certify that a meeting of the \_\_\_\_\_  
(Name of Corporation)

Directors of said Company, duly called and held on \_\_\_\_\_, at which all Directors were  
(Date of Meeting)

present and voting, the following vote was unanimously passed:

VOTED: To authorize and empower \_\_\_\_\_ to execute  
(Name of Person authorized to sign Documents)

Forms of General Bid, Contracts or Bonds on behalf of the Corporation. I further certify that the above vote is still in effect and has not been changed or modified in any respect.

\_\_\_\_\_  
(Secretary of Corporation)

\_\_\_\_\_  
Attest: (Notary Public)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
My Commission Expires: (Date)

If Bidder is a Partnership/Joint Venture, list names & addresses of partners. If the Bidder is a corporation or limited liability company, list name and titles of all officers of the corporation or limited liability company.

Partner/Officer Name	Address/Title
_____ Partner/Officer Name	_____ Address/Title
_____ Partner/Officer Name	_____ Address/Title
_____ Partner/Officer Name	_____ Address/Title
_____ Partner/Officer Name	_____ Address/Title

# NON-SEGREGATED FACILITIES CERTIFICATION

Project: Access Control Updates  
Location: Yuma International Airport, AZ  
Project Number: FAA AIP 3-04-0053-XXX-2024

The contractor named below certifies that she or he does not maintain or provide, for his employees, any segregated facilities at any of his establishments and that she or he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The federally-assisted construction contractor certifies that she or he will not maintain or provide, for his employees, segregated facilities at any of his establishments and that she or he will not permit his employees to perform their services at any location under his control where segregated facilities are maintained. The federally-assisted construction contractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms, and washrooms, 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 which are segregated by explicit directives or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason. The federally-assisted construction contractor agrees that (except where she or he has obtained identical certifications from proposed subcontractors for specific time periods) she or he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause and that she or he will retain such certifications in his files.

\_\_\_\_\_  
Company

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

# CERTIFICATE OF BUY AMERICAN COMPLIANCE FOR MANUFACTURED PRODUCTS

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

- Bidder or offeror 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 bidder or offeror agrees:

- 1. To provide to the Owner 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 bidder or offeror 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 bidder or offeror with the apparent low bid agrees:
- 1. To submit to the Owner 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 than 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

DRAFT

# CERTIFICATE OF ACCEPTANCE OF CONSTRUCTION AND PHASING PLAN (CSPP) AND AIRPORT SECURITY PLAN

Project: Access Control Updates  
Location: Yuma International Airport, AZ  
Project Number: **FAA AIP 3-04-0053-XXX-2024**

The undersigned certifies acceptance of the Airport provided Construction Safety and Phasing Plan (CSPP) and Airport Security Plan for this project and that all associated costs with the implementation of the plans are included in the bid price, and understands that the CSPP and Security plans may be augmented as required by its individual corporate policies and that any additions to the CSPP and Security plan must be approved by the Owner prior to implementation, and understands that using the CSPP and Security Plan does not relieve the Contractor in any way from the ultimate responsibility of maintaining a safe and secure work site that is compliant with all local, state and federal safety regulations.

\_\_\_\_\_  
Company  
\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Print Name  
\_\_\_\_\_  
Date



# CERTIFICATE OF ACCEPTANCE OF CONSTRUCTION AND PHASING PLAN (CSPP) AND AIRPORT SECURITY PLAN

Project: Access Control Updates

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Location: Yuma International Airport, AZ

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Project Number: **FAA AIP 3-04-0053-XXX-2024**

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The undersigned certifies acceptance of the Airport provided Construction Safety and Phasing Plan (CSPP) and Airport Security Plan for this project and that all associated costs with the implementation of the plans are included in the bid price, and understands that the CSPP and Security plans may be augmented as required by its individual corporate policies and that any additions to the CSPP and Security plan must be approved by the Owner prior to implementation, and understands that using the CSPP and Security Plan does not relieve the Contractor in any way from the ultimate responsibility of maintaining a safe and secure work site that is compliant with all local, state and federal safety regulations.

\_\_\_\_\_  
Company

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

## DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
(See reverse for public burden disclosure)

<p><b>1. Type of Federal Action:</b>  a. contract  <u>B</u> b. grant  c. cooperative agreement  d. loan  e. loan guarantee  f. loan insurance</p>	<p><b>2. Status of Federal Action:</b>  a. bid/offer/application  <u>B</u> b. initial award  c. post-award</p>	<p><b>3. Report Type:</b>  <u>A</u> a. initial filing  b. material change    <b>For material change only:</b>  Year _____ quarter _____  Date of last report _____</p>
<p><b>4. Name and Address of Reporting Entity:</b>  _____ Prime _____ Subawardee  Tier _____, if Known:    <b>Yuma County Airport Authority</b>  <b>2191 E 32<sup>nd</sup> Street, Suite 218</b>  <b>Yuma, Arizona 85365</b>    <b>Congressional District, if known: AZ 4</b></p>	<p><b>5. If Reporting Entity in No. 4 is Subawardee,</b>  Enter Name and Address of Prime:    <b>Congressional District, if known:</b></p>	
<p><b>6. Federal Department/Agency:</b>  <b>Federal Aviation Administration</b></p>	<p><b>7. Federal Program Name/Description:</b>    CFDA Number, <i>if applicable</i>: _____</p>	
<p><b>7. Federal Action Number, if known:</b>    AIP Project Number</p>	<p><b>9. Award Amount, if known:</b>    \$ _____</p>	
<p><b>10. a. Name and Address of Lobbying Registrant</b>  <i>(if individual, last name, first name, MI):</i></p>	<p><b>b. Individuals Performing Services</b> <i>(including address if different from No. 10a)</i>  <i>(last name, first name, MI):</i></p>	
<p><b>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</b></p>	<p>Signature: _____  Print Name: _____  Title: _____  Telephone No.: _____ Date: _____</p>	
<p><b>Federal Use Only</b></p>	<p><b>Authorized for Local Reproduction</b>  <b>Standard Form - LLL (Rev. 7-97)</b></p>	

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

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According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

# CERTIFICATE OF NON-COLLUSION

Project: Access Control Updates  
Location: Yuma International Airport, AZ  
Project Number: **FAA AIP 3-04-0053-XXX-2024**

The bidder hereby certifies under penalties of perjury (a) that this bid is genuine and is not made in the interest of, or on behalf of, any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; (b) that he/she has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid; (c) that he/she has not solicited or induced any person, firm or corporation to refrain from bidding; and (d) that he/she has not sought by collusion or otherwise to obtain for himself/herself any advantage over any other bidder or over the **Yuma County Airport Authority**.

\_\_\_\_\_  
Company  
\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Print Name  
\_\_\_\_\_  
Date

**END OF DOCUMENTS REQUIRED IN BID SUBMITTAL**

# CONSTRUCTION CONTRACT

Project: Access Control Updates  
Location: Yuma International Airport, AZ  
Project Number: FAA AIP 3-04-0053-XXX-2024

## AGREEMENT:

On \_\_\_\_\_, 2024, the Yuma County Airport Authority, Inc., an Arizona nonprofit corporation (“Owner”), authorized the award of **FAA AIP 3-04-0053-XXX-2024** for the construction of the **Access Control Updates** project to \_\_\_\_\_ (“Contractor”) doing business as a corporation with its principal place of business located at \_\_\_\_\_, and carrying the proper and required license issued by the Arizona Registrar of Contractors as follows:

\_\_\_\_\_

For the consideration of the payments and agreements in this contract, to be made and performed by the Owner, the Contractor agrees with the Owner to commence and complete the project as follows:

## **Article 1: Contract Documents**

- 1.0.1 The Contract Documents consist of this Project Manual, the Owner-Contractor Agreement, the Conditions of the Contract (General, Supplemental and other Conditions), the Drawings, the Construction Safety and Phasing Plan, the Plans and Specifications, all Addenda issued prior to and all modifications issued after execution of the Contract, and all applicable laws, ordinances and regulations. A modification is (1) a written amendment to the contract signed by both parties, (2) an approved Change Order, (3) a written interpretation issued by the Owner, or (4) a written order for a minor change in the Work issued by the Owner. The Contract Documents include Bidding Documents, the Instructions to Bidders, sample forms, the Contractor's Bid or portions of addenda relating to any of these, or any other documents, specifically enumerated in this Owner Contractor Agreement.
- 1.0.2 The Contract Documents form the Contract for Construction (“Contract” or “Agreement”). This Contract, together with the Contract Documents, represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, or Agreements, either written or oral. The Contract may be amended or modified only as provided herein.
- 1.0.3 In interpreting the Contract, or in the event of discrepancies or conflicts between portions of various Contract Documents, that which will result in the greatest good at the least cost to the Owner, as determined by the Owner, applies.

## **Article 2: The Work**

- 2.0.1 The Contractor will perform all the Work required under this agreement as described herein and in the Contract Documents.
- 2.0.2 The Owner or its designated Project Manager, (hereafter Project Manager), is the administrator of this Contract, the interpreter of the Contract Documents, and judge of the Contractor's performance of the Work.

## **Article 3: Time of Commencement and Completion**

Contractor must begin work within 10 calendar days of the date established by the Notice to Proceed and, subject to modifications authorized by the Project Manager and Owner, complete the Work within the time period specified in the BID SUMMARY SHEET.

## **Article 4: Contract Sum**

The Contract Sum or “Contract Amount” is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents. Owner shall not be responsible for payment of any additional amounts unless agreed upon by the parties in a signed writing in compliance with the applicable provisions of this Contract.

## **Article 5: Progress Payments**

- 5.0.1 The Contractor must apply to the Project Manager for progress payments. The Owner will make progress payments pursuant to A.R.S. § 34-221 and with the Project Manager's approval of Contractor's application. Progress payments are subject to retainage amounts as detailed below.
- 5.0.2 Application for Payment shall reflect a 10% retention amount of the dollar amount being requested. Ten per cent of all estimates shall be retained by the Owner as a guarantee for complete

performance of the contract.

- 5.0.3 Retention of payments longer than sixty days after final completion and acceptance requires a specific written finding of the reason justifying the delay in payment. The Owner will not retain any monies after sixty days which are in excess of the amount necessary to pay expenses it reasonably expects to incur in order to pay the expenses determined in the finding.
- 5.0.4 Upon 50% completion of the Work the retention amount may be lowered to 5% if requested by the Contractor and approved by the Project Manager and Owner. This retention will be paid to the Contractor within sixty (60) days following completion of the work or filing of a notice of completion of the Contract.
- 5.0.5 Before the first Application for Payment, the Contractor shall submit to the Project Manager a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Project Manager may require. This schedule, unless objected to by the Project Manager, shall be used as a basis for reviewing the Contractor's Applications for Payment.
- 5.0.6 At least ten days before the date established for each progress payment, the Contractor shall submit to the Project Manager an itemized Application for Payment for operations completed in accordance with the schedule of values. Such application shall be notarized and supported by such data substantiating the Contractor's right to payment such as copies of requisitions from Subcontractors and material suppliers, and as the Owner or Project Manager may require, and reflect retainage.
- 5.0.7 Such applications may include requests for payment on completed changes in the Work that have been properly authorized by Construction Change Orders Directives.
- 5.0.8 Such applications may not include requests for payment for portions of the Work for which the Contractor does not intend to pay to a Subcontractor or material supplier, unless others whom the Contractor intends to pay have performed such Work.
- 5.0.9 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work.
- 5.0.10 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work. Contractor shall execute and deliver all documents and/or perform all other acts necessary or required by Owner, consistent with Contractor's warranties under this paragraph, at all such times requested by Owner.
- 5.0.11 The Project Manager will, within seven (7) days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Project Manager determines is properly due, or notify the Contractor and Owner in writing of the Project Manager's reasons for withholding certification, in whole or in part. Project Manager's failure to take action before the expiration of the seven-day period shall be deemed an



approval and certification for payment.

- 5.0.12 The issuance of a Certificate for Payment will constitute a representation by the Project Manager to the Owner, based on the Project Manager's evaluation of the Work and the data comprising the application for Payment, that the Work has progressed to the point indicated and that, to the best of the Project Manager's knowledge, the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Project Manager.
- 5.0.13 The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Project Manager has: (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences or procedures; (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.
- 5.0.14 The Project Manager may withhold a Certificate for Payment, in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Project Manager's opinion, the required representations to the Owner cannot be made. If the Project Manager is unable to certify payment in the amount of the Application, the Project Manager will notify the Contractor and Owner. If the Contractor and Project Manager cannot agree on a revised amount, the Project Manager will promptly issue a Certificate for Payment for the amount for which the Project Manager is able to make such representations to the Owner.
- 5.0.15 The Project Manager may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Project Manager's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions because of:
- a. Defective Work not remedied;
  - b. Third party claims filed or reasonable evidence indicating probable filing of such claims unless the Contractor provides security acceptable to the Owner;
  - c. Failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
  - d. Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
  - e. Damage to the Owner or another contractor;
  - f. Reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
  - g. PERSISTENT failure to carry out the Work in accordance with the Contract Documents; or
  - h. Contractor's failure to make appropriate provisions for all costs necessary to complete the Project, including, but not limited to, any increased costs resulting from a discrepancy or omission in the Contract Documents.

5.0.16 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

## **5.1. Approval of Payments**

- 5.1.1 After the Project Manager has issued a Certificate for Payment, the Owner shall make payment to the Contractor within fourteen (14) days of receiving such Certificate, and shall so notify the Project Manager.
- 5.1.2 The Contractor shall promptly pay each Subcontractor and Material Suppliers (for convenience referred to collectively as “Subcontractors” or “Sub-Subcontractors”), upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.
- 5.1.3 The Project Manager will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Project Manager and Owner on account of portions of the Work done by such Subcontractor.
- 5.1.4 Neither the Owner, nor the Project Manager, shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law.
- 5.1.5 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.
- 5.1.6 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors and suppliers shall be held by the Contractor in trust for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner.
- 5.1.7 Nothing contained herein, however, shall require money to be placed in a separate account and not commingled with money of the Contractor.
- 5.1.8 If, without any justification or excuse permitted by this Agreement, the Project Manager does not issue a Certificate for Payment, through no fault of the Contractor, within seven (7) days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within fourteen (14) day of receipt of such Certificate for Payment, then the Contractor may deliver a written notice to Project Manager and Owner requesting the issuance of a Certificate for Payment, or if one has been issued, for payment of any just and uncontested payment within fifteen (15) days. Contractor shall not be permitted to stop the Work, but shall be entitled to prompt and timely payment of any just and uncontested claim for payment.

## **5.2. Substantial Completion**

- 5.2.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.
- 5.2.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Project Manager a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.
- 5.2.3 Upon receipt of the Contractor's list, the Project Manager will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Project Manager's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Project Manager. In such case, the Contractor shall then submit a request for another inspection by the Project Manager to determine Substantial Completion.
- 5.2.4 When the Work or designated portion thereof is substantially complete, the Project Manager will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion and be conditioned upon approval from the appropriate governmental authority; shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate.
- 5.2.5 Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.
- 5.2.6 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such outstanding Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

### **5.3. Partial Utilization**

- 5.3.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Work.
- 5.3.2 Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents.

- 5.3.3 When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Project Manager. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Project Manager.
- 5.3.4 Immediately prior to such partial occupancy or use, the Owner, Contractor and Project Manager shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.
- 5.3.5 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

## **Article 6: Final Payment**

- 6.0.1 Upon the Project Manager's certification that the Work has been completed and the Contract has been fully performed, all training as been accomplished, all warranties delivered, all as-built drawings and computer files delivered, all documentation including the written concurrence of bonding agencies, if applicable, has been received, and the Owner has accepted the Work, the Owner will make final payment. Final Payment and acceptance of the Work will not relieve the Contractor of its obligation to warrant the Work for a period of one year.
- 6.0.2 In addition to the above, the following required sequence of events for the issuance of final payment by the Yuma County Airport Authority, Inc., is as follows:
- a. In a coordinated effort with the Project Manager's representative, the Contractor will be responsible for the preparation and furnishing of "As-Built" record drawings. The Contractor shall obtain one set of plans from the Project Manager and record, in red colored pencil, all cases where actual field construction differs from Work shown on Plans or Contract Documents. All concealed Work and utility locations will be dimensioned.
  - b. After the construction is complete and the project's disturbed area is stabilized to at least 70% of natural background levels or responsibility of the project has been assumed by another operator, the Contractor must submit to ADEQ a Notice of Termination (NOT) to end participation in AZPDES program. A copy of the Notice of Termination must be provided to the Project Manager and Owner.
  - c. The Contractor's Affidavit Regarding Settlement of Claims is submitted to the Chief Financial Officer, Yuma County Airport Authority, Inc.;
  - d. A copy of the Affidavit and Consent of Surety is sent by the Contractor to the Contractor's Bonding Surety with a request to release final contract payment to the Contractor; and
  - e. Once the Bonding Surety advises, in writing (Consent of Surety) to the Chief Financial Officer, that payment of final contract monies to the Contractor is approved, the Yuma County Airport Authority, Inc., Accounting Division may schedule the issuance of the final payment.

## **Article 7: General Conditions.**

### **7.1. Definitions:**

- 7.1.1 **Owner.** The word “Owner” as used in these documents refers to the Yuma County Airport Authority, Inc. The official representative of the Owner in these proceedings is the Airport Director or his authorized designee.
- 7.1.2 **Engineer.** The word “Engineer” means the Engineer or firm or person, and their properly authorized assistants and inspectors, designated by the Owner to prepare Plans.
- 7.1.3 **Contractor.** The word “Contractor,” as used in the Project Manual or in the contract, means the person, firm, limited liability company, partnership, or corporation with whom the contract is made by the Owner.
- 7.1.4 **Subcontractor.** The word “Subcontractor” includes those having a direct contract with the Contractor and those who furnish material worked to a special design according to the Plans or Project Manual for this Work but does not include those who merely furnish material not so worked (unless otherwise specified in this Contract).
- 7.1.5 **Plans or Plans and Specifications.** The word “Plans” or “Plans and Specifications,” as used in the Project Manual or in the Contract, means the entirety of the official plans, working drawings or supplemental drawings or exact reproductions thereof, authorized by the Yuma County Airport Authority, Inc., which show the locations, character, dimensions and details of the project and the Work to be done and which are to be considered as a part of the contract, supplementary to the Project Manual.
- 7.1.6 **Project Manager.** The word “Project Manager” as used in these documents refers to the Project Manager, firm or person, designated by the Owner to administer the construction of the Work.

## 7.2. Project Administration.

- 7.2.1 In conformance with Arizona Revised Statutes §42-5006 and the Arizona Department of Revenue criteria concerning construction project tax liabilities and, as a requirement of this Contract, the Contractor must provide to Yuma County Airport Authority, Inc., one of the following documents:
- a. A copy of the Tax Liability Bond issued by the Arizona Department of Revenue, naming this specific project as being bonded.
  - b. A current Bond Exemption Certificate issued by the Arizona Department of Revenue, naming this specific project as being exempt.
- 7.2.2 The Finance Office will issue the project’s Notice to Proceed and Notice of Completion documentation signed by the Airport Director.
- 7.2.3 The Contractor shall comply with the Arizona Pollutant Discharge Elimination System (AZPDES) storm water Phase II requirements and in particular the Construction General Permit # AZG2003-001. The cost of such compliance must be incorporated into the appropriate Bid Form line item cost(s) and no separate payment will be made for this compliance.
- 7.2.4 Prior to, and as a prerequisite of the Notice to Proceed, the Contractor shall provide the Project Manager with the following submittals for review and approval:
- a. Proposed project materials
  - b. Construction schedule and Phasing Plan
  - c. Schedule of Values for anticipated payment requests

- d. Statement of Acceptance of the Construction Safety and Phasing Plan (CSPP) and Safety Plan Compliance Document (SPCD)
  - e. Safety Data Sheets (SDS) – (as of 12/01/2015)
  - f. Listing of after-hours/emergency contact personnel for the Contractor and subcontractor(s).
  - g. Certificates of training for all workers who will be cutting, tapping, or handling asbestos cement pipe.
  - h. A complete and accurate Notice of Intent (NOI) for coverage under the Arizona Pollutant Discharge Elimination System (AZPDES) Construction General Permit No. AZG2003-001 to be submitted to Arizona Department of Environmental Quality (ADEQ) if required.
  - i. Written designation of a “competent person”, in accordance with the definition in 29 CFR Part 1926.650, if excavation is required. This person shall remain on the Project site during all construction activities associated with his/her field of competency.
  - j. Additionally, contractor shall submit certification that the competent person has successfully completed a minimum of eight (8) hours of OSHA training related to that field of competency.
  - k. A design plan and data for all project areas in which excavation in excess of twenty feet (20’) is anticipated or planned, in accordance with 29 CFR Part 1926.650-652.
- 7.2.5 Contractor must submit all monthly estimates and final billing concurrently to the Project Manager (copy) and to the Accounting Division (original), Yuma County Airport Authority, Inc., for review and approval prior to payment.
- 7.2.6 The Contractor shall notify the Project Manager immediately of any conditions requiring changes to the Plans or Contract Documents.

### **7.3. Safety**

- 7.3.1 Occupational Safety and Health Act (OSHA) Standards for General Industry and Construction (Title 29, Code of Federal Regulations, Parts 1910 and 1926 as amended) and the FAA's Environmental Health and Safety Regulations are applicable in this Contract.
- 7.3.2 Prior to the issuance of the project's Notice to Proceed, the Contractor, as defined in the beginning of these General Conditions, must submit a statement of acceptance of the Airport's Safety and Security Plan for the specific Work to be undertaken. This Plan addresses the minimum considerations for all phases of construction to be undertaken, as called out in this Contract. The Plan also address measures to control hazards associated with materials (SDS), equipment, and safety inspections. The Contractor may augment the Airport Safety and Security Plan as necessary. Any changes must be submitted for approval.
- 7.3.3 The Contractor must provide the name of a designated safety person for coordination during the life of the project.
- 7.3.4 The after-hours or emergency response sequence to be utilized for this project is as follows. The Contractor, at its cost, will respond to the site of the problem and stabilize the situation by:
- a. Erecting traffic control signs and barricades to safely divert traffic/motorists and/or pedestrians from the problem area.
  - b. Contacting the City of Yuma Water Division to close any valves, as may be necessary.

- c. Contacting the Project Manager responsible for the project or if the Project Manager is not available, contacting the Yuma County Airport Authority, Inc., Maintenance Director or the Airport Operations Officer on duty.
  - d. Commencing such remedial activities as may be necessary to stabilize the site and protect any adjacent infrastructures.
- 7.3.5 The Contractor must keep the Yuma County Airport Authority, Inc., Maintenance Director; the Airport Operations Office; and the Project Manager informed of all restrictions to traffic flow due to the construction operations.
- 7.3.6 The Contractor must protect both pedestrians and vehicular traffic at all times with properly positioned warning signs, devices and / or flaggers. All traffic control must be in accordance with the Manual of Uniform Traffic Control Devices and with applicable Arizona and local codes. The Contractor must submit a traffic control plan to the Owner for review and approval prior to the start of construction.
- a. The Contractor is responsible for the inspection of all traffic control installations used in conjunction with this project and shall inspect, at least twice daily, to ensure same conforms to the approved Traffic Control Plan. It is recommended that this inspection take place at the start and end of each workday, and approximately the same time on non-working days and at such times as felt such inspection may be required.
  - b. The Contractor must provide the Engineering Division the name and telephone number of those persons responsible for these inspections and who are available for emergency after-hours call out.
  - c. No separate payment will be made for the activities set forth in this Section.
  - d. All signs, barricades and warning devices utilized during this Project must:
    - 1) Be installed in accordance with a plan that has been provided to the Owner by a firm or personnel certified in the area of construction traffic control by the American Traffic Safety Services Association (ATSSA) or the International Municipal Signal Association (IMSA) and said plan has been accepted by the Owner, and;
    - 2) Be installed and maintained by a firm or personnel certified in the area of construction zone traffic control by either ATSSA or IMSA.
    - 3) Be National Cooperative Highway Research Program (NCHRP) Report 350 compliant.
- Upon request, the Contractor must furnish the Owner with documentation to verify that such certifications are current.
- 7.3.7 Contractors having questions concerning these regulations and the implications of same should contact the Yuma County Airport Authority, Inc. In addition, the Contractor will:
- a. Restrict movement of construction vehicles to construction areas by flagging and barricading, erecting temporary fencing, or providing escorts, as appropriate.
  - b. Ensure that no construction employees, employees of subcontractors or suppliers, or other persons enter any part of the Air Operations Areas (AOA) from the construction site unless authorized.
- 7.3.8 The Contractor will erect and maintain all necessary safeguards as required by FAA regulations, the conditions and progress of the Work, including posting danger signs and other warnings against

hazards and promulgating safety regulations.

- 7.3.9 The Contractor shall be responsible for barricading all work areas during the construction of this project. The Contractor shall prepare and submit a barricading plan to the Owner at the pre-construction conference. It shall be the total responsibility of Contractor to maintain the barricades, lights, signs, and all other items required for the safe conduct of the project.
- 7.3.10 Contractor shall provide lighted barricades and aircraft apron lights for use at night, and shall maintain all lighted fixtures for the duration of the project, if deemed necessary by the Project Manager. Contractor shall designate an employee who will be responsible for the maintenance of the barricades and lighting system on a 24-hour basis, and shall provide a phone number where the responsible party can be reached on a 24-hour basis.
- 7.3.11 Contractor's employee will notify Owner of adjacent utilities when prosecution of the work may affect them. When the use or storage of hazardous materials is necessary for the prosecution of the Work, the Contractor will exercise the utmost care and will carry on such activities under the supervision of properly qualified personnel.
- 7.3.12 All damage, injury, or loss to any property caused, directly or indirectly, in whole or in part, by the Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, will be remedied by the Contractor.
- 7.3.13 The Contractor will designate a responsible member of its organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated in writing by the Contractor to the Owner. In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Owner, is obligated to act, at its discretion, to prevent threatened damage, injury, or loss. It will give the Owner prompt written notice of any significant changes in the Work or deviations involved. If the Contractor believes that additional emergency work by him which arose from causes beyond its control entitles him to an increase in the Contract Price or an extension of the Contract Time it may make a claim therefore as provided in the Change Order Section.
- 7.3.14 No separate payment will be made for any of the items set forth in this Section.

#### **7.4. Progress Schedules, Progress Meetings and Pre-construction Conference**

- 7.4.1 Progress Schedule: The Contractor will submit an estimated progress schedule to the Owner for approval at the pre-construction conference. This schedule will indicate the starting and completion dates of the various stages of the Work, and (if required) will include a schedule of Shop Drawing submissions. This schedule will be updated at least monthly.
- 7.4.2 Progress Meetings: The Contractor shall schedule and hold weekly progress and safety meetings in the Airport Conference room on the 2<sup>nd</sup> floor of the airport terminal building and at other times as requested by the Owner or required by progress of the Work. The Contractor, the Owner, and all Subcontractors active on the site shall be represented at each meeting. The Contractor may, at its discretion, request attendance by representatives of its suppliers, manufacturers, and other Subcontractors.
- 7.4.3 The Contractor shall preside at the meetings and provide for keeping of the minutes as well as



dissemination. The purpose of the meetings will be to review the progress of the Work, maintain coordination of efforts, discuss changes in procedures and personnel, safety issues, and resolve other problems that may develop.

7.4.4 Pre-construction Conference: Prior to the commencement of Work at the site, a pre- construction conference will be held at the Airport Conference Room at a mutually agreed upon time within ten workdays of the Notice of Award. The conference shall be attended by:

- Contractor and its superintendent
- Principal members of the Design Team
- Principal Subcontractors
- Representatives of principal suppliers and manufacturers as appropriate
- Representatives of Owner including the Consultant, Project Manager and Engineering Design Firms
- Others as requested by the Contractor or the Owner

7.4.5 Unless previously submitted to the Owner, the Contractor shall bring to the conference each of the following:

- Material Sources
- Materials Test Results and Certification
- List of Equipment to be utilized
- Description of Procedures and Work Crews
- Weekly progress reports on format provided by the Owner

7.4.6 The agenda will include:

- Contractor's tentative schedules
- Critical Work sequencing
- Transmittal, review, and distribution of Contractor's submittals
- Field decisions and Change Orders
- Use of premises, office and storage areas, security, housekeeping, and Owner's needs
- Major equipment deliveries and priorities
- Maintaining record documents
- Processing applications for payment
- Contractor's assignments for safety and first aid

7.4.7 The sequence of operations to be followed shall be prepared by the Contractor for approval by the Owner. The sequence shall meet the job requirements for completion time, avoid interference with Airport operations and shall conform to Plans and Specifications requirements.

## **7.5. Access**

The Owner will provide the Contractor with access to the property upon which the Work is to be done within five workdays AFTER the Contractor and its employees have obtained the necessary training required to operate inside the Airport Operations Area (AOA) and Secure Areas as identified by the Department of Homeland Security.

## **7.6. Physical and Subsurface Conditions**

The information contained in the Contract Documents in regard to topography, subsurface soils, subsurface structures, and any quantities based thereon, is furnished solely for the convenience of the Contractor as information available at the time. The accuracy of this information is not guaranteed and the Contractor is fully and solely responsible to verify and/or corroborate pertinent information prior to bid time. Use of the information provided in no way relieves the Contractor or others of any responsibility for loss or increased cost due to inaccuracies or deviations that may be encountered.

#### **7.7. — Reference Points**

~~The Owner will establish such general reference points as will enable the Contractor to proceed with the Work. The Contractor will be responsible for the layout of the Work and will protect and preserve the established reference points and will make no changes or relocations without the prior written approval of the Owner. It will report to the Owner whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations. The Contractor will replace and accurately relocate all reference points so lost, destroyed, or moved.~~

#### **7.8. Use of Premises**

The Contractor will confine its equipment, the storage of materials and equipment, and the operations of its workmen to areas permitted by law, ordinances, permits, or the requirements of the Contract Documents, and shall not unreasonably encumber the premises with materials or equipment.

#### **7.9. Provisions for Handling Emergencies.**

7.9.1 It is possible that emergencies may arise during the progress of the Work which may require special treatment or make advisable extra crew shifts to continue the Work for twelve (12), eighteen (18), or even twenty-four (24) hours per day. These emergencies may be caused by damage or possible damage to nearby existing structures or property, or by accidents. The Contractor must be prepared in case of such emergencies, to make all necessary repairs, and will promptly execute such Work when required by the Engineer.

7.9.2 The after-hours/emergency response sequence to be utilized for this project is as follows. The Contractor will respond to the site of the problem and stabilize the situation by:

- a. Erecting traffic control signs and barricades to safely divert vehicles/aircraft/pedestrians from the problem area.
- b. Contacting the appropriate City of Yuma Division, as may be necessary.
- c. Contacting the Project Manager responsible for the project or if the Project Manager is not available, contacting the Yuma County Airport Authority, Inc. Maintenance Director or the Airport Operations Officer on duty.
- d. Commencing such remedial activities as may be necessary to stabilize the site and protect any adjacent infrastructures.

7.9.3 No separate payment will be made for any of the items set forth in this Section.

#### **7.10. Asbestos Cement Pipe.**

- 7.10.1 All Contractors engaged by the Yuma County Airport Authority, Inc., to undertake construction involving repair, modification, removal and/or disposal of asbestos cement (cement asbestos) pipe must comply with those worker training requirements stipulated in 29 CFR 1926.1101, the Asbestos NESHAP regulations contained in 40 CFR 61 and special waste management rules for friable A.C.M. contained within Arizona Administrative Code R18-8-301/306, as well as subsequent amendments to or superseding documents concerning the above regulations.
- 7.10.2 The Contractor shall remove and dispose of all waste or scrap A.C. pipe generated during the course of the project, unless specifically noted otherwise in the contract documents.

### **7.11. Delays.**

- 7.11.1 If any delay is caused the Contractor by specific order of the Project Manager to stop work or by failure of the Owner to provide the necessary right-of-way or site for installation, or by such unforeseen causes beyond the control of the Contractor, such delay will entitle the Contractor to an equivalent extension of time, except as otherwise provided hereinafter under Suspension of Work. Provided, however, that when delay is caused by an order to suspend Work given on account of climatic conditions which in the opinion of the Project Manager could have been reasonably foreseen, the Contractor will not be entitled to any extension of time on account of such order.
- 7.11.2 Application for extension of time must be approved by the Project Manager and must be accompanied by the formal consent of the sureties, but an extension of time, whether with or without such consent, must not release the sureties from their obligations, which will remain in full force until the discharge of the Contract.
- 7.11.3 Standby time, if required, will be considered a delay to the project and, as such, will be addressed in accordance with the provisions of this section.

### **7.12. Suspension of Work.**

The Owner reserves the right to suspend the whole or any part of the Work herein specified, if deemed in its interest to do so, without compensation to the Contractor for such suspension other than extending the time for completing the Work as much as it may have been delayed by such suspension. No allowance by way of damages will be made for any such delay.

### **7.13. Project Manual and Plans.**

The Contractor must keep on the Work SITE a copy of the Project Manual and Plans, and will at all times give the Project Manager access thereto. Any Drawings or Plans listed in the Project Manual will be regarded as part of the Contract. Anything mentioned in the Project Manual and not shown on the Plans, or shown on the Plans and not mentioned in the Project Manual will be deemed as if shown as a part of this Contract. The Project Manager may furnish from time to time such additional drawings, plans, profiles, and information, as he may consider necessary for the Contractor's guidance.

### **~~7.14. Lines and Grades.~~**

~~7.14.1 All Work under this Contract must be built in accordance with the lines and grades shown on the~~

~~Plans and as given by the Engineer. The Engineer will furnish only the basic reference lines and bench marks from which the Contractor will establish such other points as he may need, except as otherwise specified herein. The protection and care of such references is the responsibility of the Contractor and any references lost or destroyed will be replaced only at the Contractor's expense.~~

~~7.14.2 The Contractor's stakes and grades are subject to check by the Project Manager for compliance with the Plans and Project Manual. The Contractor must keep the Project Manager informed a reasonable time in advance, at least twenty four (24) hours, as to his needs for checking lines and grades and for setting stakes in order that the same is done and all necessary measurements are made for record and payment with the minimum of inconvenience to the Project Manager or of delay to the Contractor.~~

## **7.15. Contractor's Supervision and Superintendence**

7.15.1 The Contractor will supervise and direct the Work efficiently and with its best skill and attention. It will be solely responsible for the means, methods, techniques, safety, sequences, and procedures of construction. Before undertaking the Work, it will carefully study and compare the Contract Documents and check and verify all figures shown thereon and all field measurements. It will immediately file a written report to the Owner and Project Manager concerning any actual or apparent conflict, error, or discrepancy that it may discover. The Contractor will be responsible for seeing that the finished Work complies accurately with the Contract Documents, notwithstanding.

7.15.2 The Contractor will keep a resident superintendent, approved by the Owner, on the Work site at all times during its progress. The superintendent will be the Contractor's representative at the site and shall have authority to act on behalf of the Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor.

7.15.3 The Contractor will provide competent, suitably qualified personnel to lay out the Work and perform construction as required by the Contract Documents. It will at all times maintain good discipline and order among its employees at the site. If the Owner assists the Contractor in the field layout, the Contractor shall furnish personnel to aid the Owner in such work. Contractor shall furnish all stakes and lathes for such layout.

7.15.4 The Owner will not be responsible for the acts or omissions of the Contractor, or any Subcontractors or Material Suppliers, or any of its or their respective agents or employees, or any other persons performing any of the Work.

7.15.5 During unfavorable weather, wet ground, or other unsuitable construction conditions, the Contractor shall confine its operations to work that will not be affected adversely by such conditions. No portion of the Work shall be constructed by Contractor under conditions that would adversely affect the quality or efficiency thereof, or compromise the safety or any workers or persons onsite, unless special means or precautions are taken by the Contractor to perform the work in a safe, proper and satisfactory manner.

## **7.16. Character of Workmen.**

7.16.1 Only skilled foremen and workmen will be employed on Work requiring special qualifications.

7.16.2 When required by the Project Manager, the Contractor shall remove from this project and any other project Contractor is performing for the Owner any person who commits trespass, or is, in the opinion of the Project Manager or Owner, disorderly, dangerous, insubordinate, or incompetent. The Contractor shall save harmless and fully indemnify the Owner, the County of Yuma and the Project Manager from any expense, damage or claims for compensation that may arise due to the enforcement of this section of the Contract.

### **7.17. Material and Workmanship.**

7.17.1 All material must be of the specified quality, and equal to the approved samples, if samples have been submitted. All Work must be done and completed in a thorough, workmanlike manner, notwithstanding any discrepancy or omission from the Project Manual or from the Plans. It is the duty of the Contractor to call the Project Manager's attention to apparent errors or omissions, and request instructions before proceeding with the Work.

7.17.2 All defective Work or material must be removed from the premises by the Contractor, whether in place or not, and must be replaced with new and satisfactory Work or material in such manner as the Project Manager may direct. All material and workmanship of whatever description is subject to the inspection of, and rejection by the Project Manager, if not in conformance with the specifications.

7.17.3 On all questions concerning the acceptability of material, machinery and classifications of material, execution of the Work, conflicting interest of Contractor's performance of related Work, and the determination of costs (within the bounds permitted by the Contract Amount), the decision of the Project Manager is final and binding upon all parties.

7.17.4 Any defective material or workmanship, or any unfaithful or imperfect Work which may be discovered before the final acceptance of the Work must be corrected immediately at the request of the Project Manager or Owner, without extra charge, notwithstanding that it might have been overlooked in previous inspections. Failure to inspect Work does not relieve the Contractor from any obligation to perform sound and reliable Work as herein specified.

### **7.18. Infringement of Patents.**

The Contractor shall hold and save the Owner and County of Yuma, and their respective officers, directors, agents and employees harmless from and against all and every demand or demands of any nature or kind, for or on account of the use of any patented invention, article or appliance, included in the material or supplies hereby agreed to be furnished under the contract. The Contractor must secure and file with his proposal such valid license as may be requisite and necessary to enable the Owner, its officers, agents and employees, or any of them to use such invention, article, material or appliance, without being disturbed or in any way interfered with by any proceeding in law or equity on account thereof. If the Contractor neglects to secure such licenses as may be necessary and requisite for the purpose aforesaid, then in that event the Owner may, at its option, refuse to consider such bid.

### **7.19. Methods and Appliances.**

The methods and appliances adopted by the Contractor must be such as will, in the opinion of the Project Manager, secure a satisfactory quality of work and will enable the Contractor to complete the Work in the time agreed upon.

## **7.20. Subcontractors.**

7.20.1 If any part of the Work to be done under this Contract is subcontracted, the subcontracting must be done in accordance with, and the Contractor agrees to be bound by, the following provisions:

- a) All subcontracts must be in writing and must provide that all Work to be performed thereunder will be performed in accordance with the terms of the Contract. All subcontracts must be provided to the Project Manager.
- b) The subcontracting of any or all of the Work to be done will in no way relieve the Contractor of any part of his full responsibility under the Contract. In case the terms of the subcontract are, in the opinion of the Project Manager, unsatisfactory from the standpoint of the Owner, or in case the Work being done under any subcontract is not conducted in a manner satisfactory to the Project Manager, the Contractor must, upon written notice to this effect, cause such subcontract to be terminated and the subcontractor and his employees to be removed from the Work. Any loss or damage that may be suffered on account of such action will be borne by the Contractor only.
- c) Prior to the execution and delivery of the Contract, the successful Bidder will submit to the Owner for acceptance a list of the names of Subcontractors and such other persons and organizations (including those who are to furnish materials or equipment fabricated to a special design) proposed for those portions of the Work as to which the identity of the Subcontractors and other persons and organizations must be submitted as specified in the Contract Documents.
- d) Prior to the execution and delivery of the Contract, the Owner will notify the successful Bidder in writing if, after due investigation, there is objection to any Subcontractor, person, or organization on such list. The failure of the Owner to make any such objection prior to the execution and delivery of the agreement shall constitute an acceptance of such Subcontractor, person, or organization. Such acceptance of any such Subcontractor, person or organization shall not constitute a waiver of any right of the Owner to reject defective Work, material, or equipment, or Work, material, or equipment not in conformance with the requirements of the Contract Documents.
- e) If the Owner registers objection to and refuses to accept any Subcontractor, person, or organization on such list, prior to execution and delivery of the Contract, the successful Bidder may either (1) submit an acceptable substitute without an increase in his Bid price or (2) withdraw his Bid. If the Owner raises objection to any Subcontractor, person, or organization on such list after the execution and delivery of the Agreement, the Contractor will submit an acceptable substitute and, upon the express written consent of the Owner, the Contract Price may be increased or decreased by the difference in cost occasioned by such substitution and an appropriate Change Order shall be issued. In the event that prior objection is raised as described above, but the Contractor fails to submit an acceptable substitute prior to execution and delivery of the Contract, no increase in contract price shall be allowed.

- f) The Contractor will not employ any Subcontractor (whether initially or as a substitute) against whom the Owner may have objection, nor will the Contractor be required to employ any Subcontractor against whom he has objection. The Contractor will not make any substitution for any Subcontractor who has been accepted by the Owner.
- g) The Contractor will be fully responsible for all acts and omissions of his Subcontractors, Material Suppliers, and of persons directly or indirectly employed by them and of persons for whose acts any of them may be liable to the same extent that he is responsible for the acts and omissions of persons directly employed by him. Nothing in the Contract Documents shall create any contractual relationship between any Subcontractor or Material Supplier and the Owner or any obligation on the part of the Owner to pay or to see to the payment of any moneys due any Subcontractor or Material Supplier, except as may otherwise be required by law. The Owner may furnish to any Subcontractor or Material Supplier, to the extent practicable, evidence of amounts paid to the Contractor on account of specific work done.
- h) The divisions and sections of the Specifications and the identifications of any drawings shall not control the Contractor in dividing the Work among Subcontractors or delineating the Work to be performed by any trade.
- i) The Contractor agrees to specifically bind every Subcontractor to all of the applicable terms and conditions of the Contract Documents. Every Subcontractor, by undertaking to perform any of the Work, will thereby automatically be deemed to be bound by such terms and conditions.

#### **7.21. Relations to Other Work.**

The Contractor will so far as practicable, arrange his Work and dispose of his materials in such a manner as not to interfere with any other work which may be scheduled for the same area, and must arrange to perform his Work in proper sequence with other work. When two or more Contractors are engaged in installation or construction work in the same vicinity, the Project Manager is authorized to direct the order, manner and rate in which each may conduct his Work so far as it affects other contracts.

#### **7.22. Work by Others**

7.22.1 The Owner may perform additional work related to the Project by itself, or may let other direct contracts therefor. The Contractor will afford the other contractors who are parties to such direct contracts (or the Owner, if it is performing the additional work himself), reasonable opportunity for the introduction and storage of materials and equipment and the execution of work, and shall properly connect and coordinate its Work with theirs.

7.22.2 If any part of the Contractor's Work depends upon the work of any such other contractor or the Owner for proper execution or results, the Contractor will inspect the work and promptly report any defects or deficiencies in writing to the Owner. Failure to make such a report shall constitute an acceptance of the other work as fit and proper for the relationship of its Work, except as to defects and deficiencies which may appear in the other work after the execution of its work.

7.22.3 The Contractor will do all cutting, fitting, and patching of its Work that may be required to make its several parts come together properly and fit it to receive or be received by such other work. The Contractor will not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of the Owner.

7.22.4 If the performance of additional work by other contractors or the Owner is not noted in the Contract Documents prior to the award of the contract, written notice thereof shall be given to the Contractor prior to starting any such additional work. If the Contractor believes that the performance of such additional work by the Owner or others involves him in additional expense or entitles him to an extension of the Contract Time, it may make a claim therefor as provided in Sections concerning Change Orders.

### **7.23. Protection of Person and Property.**

7.23.1 The Contractor must protect against injury any public or private lawns, gardens, shrubbery or trees encountered in the Work. All obstructions to traffic must be guarded by barriers and illuminated at night. The Contractor must not trespass upon private property. Access to private property will be by written permission of the property owner as obtained by the Contractor.

7.23.2 Under all circumstances the Contractor must comply with the laws and regulations relative to the safety of persons and property and the interruption of traffic, as well as the convenience of the public. The Contractor will be held responsible for and required to make good at his own expense, all damage to persons and property caused by carelessness or neglect on the part of the Contractor or subcontractor, or the agent or employees of either, during the progress of the Work and until its final acceptance.

7.23.3 Prior to the commencement of construction, the Contractor must contact adjacent property owners, who have structures such as fences, buildings, etc. adjacent to the proposed construction and note with the Owner deficiencies that exist. Further deficiencies caused by the Contractor must be repaired to the satisfaction of the Owner at the cost of the Contractor.

### **7.24 Permits, Laws, Taxes, and Regulations.**

7.24.1 The Contractor will pay for city fees and permits directly to the City. The Contractor is responsible for procuring all permits and licenses; and accomplishing all other task associated with permits, fees, giving any notices necessary in performing the Work including all governmental and public utility inspections necessary for the prosecution of the Work.

7.24.2 The Contractor will give all notices and comply with all laws, ordinances, rules, and regulations applicable to the Work. If the Contractor observes that the Specifications or Drawings are at variance therewith, it will give prompt written notice thereof to the Owner and any necessary changes shall be adjusted by an appropriate field change. If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules, and regulations, and without such notice to the Owner, it will bear all costs arising therefrom.

7.24.3 The Contractor will pay all sales, consumer, and other similar taxes required by the law of the place where the Work is to be performed.

### **7.25. Utilities.**



- 7.25.1 Locations of existing public utility lines (including, without limitation, gas, electric, water, sewer, cable, telephone, fiber optic, etc.) shown on the plans are approximate only. Where Work is to be performed adjacent to or across utility lines, the Contractor must verify the locations in the field and take the necessary precautions. The Contractor must contact the local utility companies before trenching across any existing underground utility line. Any damage to a utility shall be repaired at the Contractor's expense and the Yuma County Airport Authority, Inc. will not be responsible for any direct or indirect damage to utilities.
- 7.25.2 It is the Contractor's responsibility, in accordance with Arizona Revised Statutes §40-360.21 et seq., to notify Arizona Blue Stake (800-782-5348) at least forty-eight (48) hours in advance of beginning construction.
- 7.25.3 Omissions from, or inclusion of utility locations on plans, is not to be considered as the non-existence of, or definite location of, existing underground utilities.
- 7.25.4 Adjustment of utility facilities other than those of Yuma County Airport Authority, Inc. will be the responsibility of that particular utility, i.e. CenturyLink, Southwest Gas Corporation, Arizona Public Service Company, City of Yuma and Time Warner. The Contractor will notify and coordinate with said companies to assure the Work is completed in an expeditious manner.

## **7.26. Irrigation Ditches.**

Where the Work involves the crossing or cutting into irrigation ditches, canals or waste ditches, the Contractor must make such arrangements with the operators of such ditches as may be necessary to avoid delays in irrigation service and damage to the Work. Any ditch so cut shall be restored to its original condition in the shortest time practicable.

## **7.27. Changes in the Work.**

- 7.27.1 The Owner, without invalidating the Contract, may order a change to the Work by altering, adding to, or deducting from the Work, the Contract being adjusted as specified herein. All such Work will be executed under the conditions of the original Contract except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such change. Such Work will be governed by all applicable provisions of the Project Manual.
- 7.27.2 In order to facilitate the need for field modification documentation; the Project Manager will direct the increase or reduction of the scope of Work using the Change Order Form found in this Project Manual with the concurrence of Owner. While the change to the Work can direct or authorize increases in Work, payment for that additional Work, if such additional payment is so authorized by Owner, cannot be processed until the Contract has been modified through issuance of a Change Order, which may address several changes to the Work.
- 7.27.3 At the time of the project pre-construction conference the Contractor must identify to the Project Manager those personnel authorized to execute Change Orders on the behalf of the Contractor. This identification must be in writing and bear the notarized signature of an officer for the Contractor.
- 7.27.4 Any change in the Work that will increase the cumulative total amount of the Contract by more than \$50,000 shall require the concurrence of the Board of Directors of the Yuma County Airport Authority, Inc. All other adjustments to the Contract Amount may be authorized by the written consent of the Airport Director.

- 7.27.5 In giving instructions, the Project Manager has authority to make minor changes in the Work not involving extra cost and not inconsistent with the purposes of the Work, but otherwise, except in an emergency endangering life or property, no extra work or change will be made unless in pursuance of a written order by the Project Manager; and no claim for an addition to the total amount of the Contract will be valid unless so ordered in a written Change Order.
- 7.27.6 The value of any such change may be determined in one or more of the following ways with the concurrence of the Airport Director, or where required, the Board of Directors of the Yuma County Airport Authority, Inc.:
- a) By Contractor's estimate of the Actual Cost and the Project Manager's recommendation of acceptance of a lump sum;
  - b) By unit prices named in the Contract or subsequently agreed upon;
  - c) By actual cost, with fifteen percent (15%) added for superintendence, use of tools and profit.
- 7.27.7 Actual Cost will include the cost of labor, material, insurance, bonds, taxes, and equipment rental. The cost of labor is the amount paid for same as shown by the payrolls of the Contractor. The cost of insurance and bonds may be added when such can be shown to have been paid. The cost of material is the actual price paid for same delivered at the site of the Work. Fifteen percent (15%) will not be added to any unit or lump sum prices herein specified. In case the Work is performed by a subcontractor, the said fifteen percent (15%) will be added only once to the actual cost of the Work; however, the Contractor may add five percent (5%) to the subcontractor's price to cover his own overhead.
- 7.27.8 If none of the above methods is agreed upon, assuming the adjustment in the Contract Amount has been approved by Owner, the Contractor, provided he receives an order as above, shall proceed with the Work and may be paid as Owner directs. In such case the Contractor must keep and present daily to the Project Manager a complete, thorough, written breakdown of all labor, materials, and equipment covering all extra Work for the previous day. The Project Manager and Owner reserve the right to examine the Contractor's payroll and all other Contractor's records pertaining to the costs of materials, equipment, labor, and other applicable documents.
- 7.27.9 If the Contractor, on account of conditions developing during the progress of the Work, finds it impracticable to comply strictly with this Project Manual and applies in writing for a modification of requirements or of methods of work, such change may be made or authorized by the Project Manager if not detrimental to the Work or outside the reasonable expectations of the Owner or granting agency, and if without additional cost to the Owner.

## **7.28 Change of Contract Time.**

- 7.28.1 The Contract Time may only be changed by a Change Order. If the Contractor is entitled by the Contract Documents to make a claim for an extension in the Contract Time, its claim shall be in writing delivered to the Owner and Project Manager within 10 days of the occurrence of the event that gives rise to the claim. The Owner, in consulting with Project Manager, shall determine all claims for adjustment in the Contract Time. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.
- 7.28.2 The Contract Time may be extended in an amount equal to time lost due to delays entirely beyond the control of the Contractor if it makes a claim as provided in this section. Such delays shall include fires, floods, labor disputes, epidemics, abnormal weather conditions, acts of God, or other

occurrences of a similar nature.

- 7.28.3 Time limits stated in the Contract Documents are of the essence in this Agreement. The provisions of this Section shall not exclude recovery for damages (including compensation for additional professional services) for delay by either the Contractor or the Owner, if permitted by Arizona law and not disclaimed by this Agreement.

### **7.29. Roads.**

The Contractor must keep open streets and roads subject to interference by the prosecution of the Work, covered by this Contract until the Work is completed, unless otherwise approved by the Project Manager and Owner.

### **7.30. Land.**

The land on which the Work of this Contract is to be performed will be provided by the Owner.

### **7.31. Sanitation.**

- 7.31.1 The Contractor must establish and police sanitary rules and regulations for all forces employed under the contract. If the Contractor fails to enforce these rules the Owner may enforce them at the expense of the Contractor.

- 7.31.2 It is the Contractor's responsibility to provide adequate sanitary facilities on the locale of the project for use by the Contractor's employees.

### **7.32. Night Work.**

The Contractor may be required to work at night, if in the opinion of the Project Manager such work is necessary to maintain the required progress, or protect the Work from the elements, or to ensure continued operations in the terminal. If ordered or permitted to work nights, the Contractor must provide sufficient and satisfactory lighting and other facilities. The Contractor will receive no extra payment, but compensation will be considered as being included in the prices that formed the basis of the Contractor's bid.

### **7.33. Disposal of Excavated Material.**

- 7.33.1 Before any arrangements for disposal of excavated materials are made, the Contractor will consult with the Owner, and the Owner will have first claim on all excavated materials. In the event the Owner refuses all or part of the excavated materials, it is the responsibility of the Contractor to make arrangements for and dispose of such materials.

- 7.33.2 Should soils excavated under the project be deposited upon properties within the Yuma County Airport Authority, Inc., the site and proposed plan for placement of fill must first be reviewed and approved by the Project Manager to assure conformance with the City's Drainage Policy (Ordinance Nos. 1670 and 1836).

### **7.34. Protection of Work.**

The Contractor is responsible for the care of all Work until its completion and final acceptance, and the Contractor must at his own expense replace damaged or lost material and repair damaged parts of the Work, or the same may be done at the Contractor's expense by the Owner, and the Contractor and his sureties will be liable therefor. All new concrete construction that becomes broken or shows evidence of cracks must be completely replaced at the Contractor's expense. Under no circumstances will patchwork be performed to repair new concrete Work. The Contractor takes all risks from weather and casualties, and may not make any charge for delay from such causes. The Contractor may, however, be allowed a reasonable extension of time on account of such delays, subject to the conditions herein specified. The Contractor will remove from the vicinity of the completed Work all plant equipment and materials belonging to the Contractor or used under the Contractor's direction during construction. The Contractor must clean up all waste or excess materials within the established work limits within the project so as to make a neat and workmanlike finish to the entire project, and in the event of the Contractor's failure to remove said materials, the same may be removed by the Owner at the expense of the Contractor, and the Contractor and his sureties will be liable therefor.

### **7.35. Cleaning Up**

- 7.35.1 The Work in this contract will take place on an active airport, near powered aircraft. Aircraft engines, particularly jet or turbine powered, are very expensive and susceptible to Foreign Object Damage (FOD). The Contractor is responsible for all damage to aircraft engines resulting from construction related FOD. On a daily basis the Contractor will conduct a FOD inspection and remove or control all potential FOD items. An extra effort will be made to thoroughly clean the area prior to close of business on Fridays.
- 7.35.2 The Work in this contract will take place on an active airport, near passengers, airport tenants and other customers who expect a clean and neat facility that is unmarred by construction debris. The Contractor will keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work, and at the completion of the Work it will remove all waste materials, rubbish, and debris from and about the premises, as well as all tools, construction equipment and machinery, and surplus materials, and will leave the site clean and ready for occupancy by the Owner. The Contractor will restore to their original or better condition those portions of the site not designated for alteration by the Contract Documents.
- 7.35.3 Volatile wastes shall be properly stored in covered metal containers and removed daily. Wastes shall not be buried or burned on the site or disposed of into storm drains, sanitary sewers, streams, or waterways. All wastes shall be removed from the site and disposed of in a manner complying with local, state, and federal laws.
- 7.35.4 Adequate cleanup will be condition for recommendation of progress payment applications.
- 7.35.5 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor.

### **7.36. Inspection by Project Manager.**

7.36.1 IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO CONSTRUCT THE WORK IN STRICT ACCORDANCE WITH THE PLANS, CONTRACT DOCUMENTS, AND PROJECT MANUAL. INSPECTION BY THE PROJECT MANAGER PRIOR TO THE FINAL INSPECTION WILL NOT RELIEVE THE CONTRACTOR OF THIS RESPONSIBILITY.

7.36.2 The Project Manager will:

- a) Be present during the construction of all site concrete items of Work.
- b) Inspect all form work for any unauthorized items prior to placement of concrete. The Contractor must notify the Project Manager one day in advance of when the Work will be ready for inspection.
- c) Inspect placement of concrete and make necessary tests. The Contractor must notify the Project Manager one day in advance of the intended time of concrete placement.

7.36.3 The Project Manager may require that a sample section of curb and gutter, curb, sidewalk or other concrete items be constructed and finished to the satisfaction of the Project Manager before the Contractor is permitted to proceed with construction.

7.36.4 The Project Manager will inspect all trenches for pipe or other utilities prior to the installation of the pipe or utilities. The Project Manager may be present during all pipe-laying operations. The Project Manager will require satisfactory operation tests of all utility lines. The Contractor must notify the Project Manager at least one day in advance of the time of need for an inspection or the intended performance of any of the items of construction.

### **7.37. Access to the Work and Uncovering Finished Work**

7.37.1 The Owner and its representatives will at all times have access to the Work. The Contractor will provide proper facilities for such access and observation of the Work and also for any inspection or testing thereof by others.

7.37.2 If any Work is covered contrary to the request of the Owner, it must be uncovered for observation and replaced at the Contractor's expense, if requested by the Owner.

7.37.3 If any Work has been covered which the Owner has not specifically requested to observe prior to its being covered, or if the Owner considers it necessary or advisable that covered Work be inspected or tested by others, the Contractor, at the Owner's request, will uncover, expose, or otherwise make available for observation, inspection or testing that portion of the Work in question. The Contractor will furnish all necessary labor, material, and equipment. If it is found that such Work is defective or does not meet the requirements of the Contract Documents, the Contractor will bear all the expenses of such uncovering, exposure, observation, inspection, and testing and professional services. An appropriate Change Order shall be issued deducting all such costs from the Contract Price. If, however, such Work is found to be non-defective and meets the requirements of the Contract Documents, the Contractor will be allowed an increase in the Contract Price or extension of the Contract Time directly attributable to such uncovering, exposure, observation, inspection, testing, and reconstruction if it makes a claim therefore as provided in the Change Order Section, and the amount of such increase is approved by the Airport Director or, if required, the Board of Directors of the Yuma County Airport Authority, Inc.

### **7.38. Guarantee of Work.**

7.38.1 The Contractor must guarantee the Work against defective material and/or workmanship for a period of one (1) year from the date established by the Notice of Project Completion issued by the Owner to note acceptance of the completed Work. Upon discovery, repair work or replacement required in the opinion of the Project Manager or Owner, in consultation with Project Manager, must be done immediately by the Contractor at the Contractor's own expense.

7.38.2 If the Contractor fails to repair such defective material and/or workmanship, or to make replacements within five (5) days after written notice by the Owner, it is agreed that the Owner

will make such repairs and replacements and the actual cost of the required labor and material will be chargeable to and payable by the Contractor.

7.38.3 Any omission on the part of the Project Manager to condemn defective work or material at the time of construction will not be deemed an acceptance, and the Contractor will be required to correct defective work or material at any time before acceptance of final payment and within one (1) year thereafter.

### **7.39. General.**

7.39.1 At least 48 hours in advance of the start of construction, the Contractor must advise all airport tenants and businesses in the immediate vicinity of the project of the type of Work that is to be undertaken and its approximate duration.

7.39.2 If this project requires the interruption of water/sewer service to a property, the Contractor must advise property owners/lessor of the interruption at least twenty-four (24) hours in advance of the start of construction.

7.39.3 Access to adjacent properties, cross streets or use of streets scheduled for improvement must be reasonably maintained and fully re-established at the end of each workday.

7.39.4 The Contractor must maintain dust abatement activities for the duration of the project, including weekends and holidays.

- a) The Contractor must maintain adequate moisture levels in the surface materials to eliminate blowing dust from these materials.
- b) All haul trucks, whether involved in delivery or removal activities must be covered and/or tarped in order to negate the removal of material from trucks by winds, either natural or caused by the movement of the truck or, in accordance with the City of Yuma Ordinance No. 2638.
- c) No separate payment will be made for these activities. The cost for same will be incorporated into the appropriate Bid Form line item cost.

## **Article 8: Obligations.**

### **8.1. Contractor.**

8.1.1 The Contractor must do all the Work, and furnish all labor, equipment, transportation, tools, and such materials as required for the completion of the Work, free from all claims, liens, and charges, in the manner and under the conditions specified in the Contract.

8.1.2 The Work and materials furnished must conform strictly with the Project Manual and Contract Documents. The Contractor guarantees that all materials and equipment furnished under this contract will be new, unless otherwise specified, and that all Work is of good quality, free from defects and in conformance with the contract Project Manual. Non-conforming Work is considered defective. The use of the words "or equal" following the name of any manufacturer, vendor or proprietary product will mean that, in the opinion of the Owner, articles or materials which are offered as a substitute must be equal in quality and performance to the articles or materials specified. The Contractor must submit requests for substitution to the Owner, and will not proceed with the installation or use any proposed substitution without written permission from the Project

Manager.

- 8.1.3 The Owner reserves the right to perform work related to this project and to use its own forces, and to award other contracts in connection with the project related to the Work.
- 8.1.4 The Contractor must not assign this contract as a whole or in any part without written consent of the Owner. Any assignment without such consent may, at the option of the Owner, terminate this agreement. No portion of this Contract will be assigned to a subcontractor without the written consent of the Owner.
- 8.1.5 The Contractor must designate a superintendent upon the award of the Contract and notify the Project Manager via notarized letter of the superintendent's name, address and telephone number. The superintendent will be in charge of the operations of the Contractor in the performance of the Work and is authorized to accept any notice, consent, order, direction, decision or other communication on behalf of the Contractor that may be given to the superintendent under the Contract. The Contractor must, until the Work has been completed, keep a competent superintendent at the Work site during working hours. The Contractor must, upon the request of the Project Manager, remove any superintendent who, in the opinion of the Project Manager, is incompetent or has in the opinion of the Project Manager engaged in improper conduct, and will designate another superintendent who is acceptable to the Project Manager. The Contractor will not substitute a superintendent without the written notice to and consent of the Project Manager. Failure to comply with this paragraph by the Contractor entitles the Project Manager to refuse to issue any certificate until the superintendent has returned to the Work site or another superintendent who is acceptable to the Project Manager has been substituted.
- 8.1.6 The Contractor must guard or otherwise protect the Work and its site, and protect the contract specifications, plans, drawings, information, material, plant and real property, whether or not they are supplied by the Owner to the Contractor, against loss or damage from any cause.
- 8.1.7 If the Contractor fails to comply with any decision or direction given by the Project Manager, the Project Manager may employ such methods as the Project Manager deems advisable to undertake that action which the Contractor failed to pursue. The Contractor must, on demand, pay the Owner an amount that is equal to the aggregate of all costs, expenses, damage incurred or sustained by the Owner by reason of the Contractor's failure to comply with any decision or direction of the Project Manager, including the cost of any methods employed by the Project Manager to complete the Work.
- 8.1.8 The Contractor must, within ten days of the date an unanticipated event beyond the control of the Owner and beyond the control of the Contractor that results in an expected expense, give the Project Manager and Owner written notice of intention to claim for that extra expense or that loss or damage. When the Contractor has given a notice, the Contractor must give the Project Manager and Owner a written claim detailing the extra expense or loss or damage claimed within 15 days of the date that a Notice of Project Completion is issued and not afterwards. A written claim must contain a sufficient description of the facts and circumstances of the occurrence that is the subject of the claim to enable the Project Manager to determine whether or not the claim is justified and the Contractor must supply such further and other information for that purpose as the Project Manager requires from time to time. If the Project Manager determines that a claim is justified and so recommends payment to Owner, the Owner may make an extra payment to the Contractor in an amount that is calculated by the Project Manager. If, in the opinion of the Project Manager, an occurrence results in a savings of expenditure by the Contractor in performing the contract, the amount set out in the Articles of Agreement shall be reduced by an amount that is equal to the

saving. If the Contractor fails to give a notice and a claim within the times stipulated, no extra payment will be made to the Contractor in respect of the occurrence and Contractor will be deemed to have waived and forever relinquished any such claim.

## **8.2. Insurance.**

- 8.2.1 Without limiting any of its obligations or liabilities and at its own expense, the Contractor must purchase and maintain the stipulated minimum insurance with companies duly licensed to do business in the State of Arizona. All policies and forms must be satisfactory to the Owner. Use of alternative insurers requires Owner's prior approval.
- 8.2.2 The insurance policies, except Workers' Compensation, required by this Contract, must name the Owner, its Board of Directors and its employees, as Additional Insureds. Any insurance coverage carried by the Owner or its employees is excess coverage, and not contributory coverage to that provided by the Contractor.
- 8.2.3 Except for the Commercial General Liability insurance subject to paragraph 8.2.9, the Contractor must maintain all insurance in full force and effect until all required Work is satisfactorily completed and formally accepted by Owner. Failure to maintain the required insurance may, at the sole discretion of the Owner, constitute a material breach.
- 8.2.4 The policies may provide coverage which contains deductible or self-insured retentions. Such deductible or self-insured retentions are not applicable with respect to the coverage provided to the Owner under such policies. The Contractor is solely responsible for deductible or self-insured retention, and the Owner may require the Contractor to secure the payment of such deductible or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.
- 8.2.5 Prior to commencing Work, the Contractor must furnish Certificates of Insurance or formal endorsements, issued by Contractor's insurers to the Owner as evidence that policies providing the required coverage, conditions, and limits are in full force and effect. Such certificates must identify this Contract number or name and must provide for not less than 30 days advance Notice of Cancellation, Termination, or Material Alteration. Certificates must be sent directly to:
- Chief Financial Officer  
Yuma County Airport Authority, Inc.  
2191 E 32<sup>nd</sup> St, Suite 218  
Yuma, Arizona 85365
- 8.2.6 The Contractor must carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over the Contractor's employees engaged in the performance of the Work, and Employer's Liability insurance of not less than \$100,000 for each accident, \$100,000 disease for each employee, and \$500,000 disease policy limit.
- 8.2.7 If any Work is subcontracted, the Contractor must require all Subcontractors to provide Workers' Compensation and Employer's Liability to at least the same extent as provided by the Contractor.
- 8.2.8 The Contractor must carry Commercial/Business Automobile Liability insurance with a combined single limit for bodily injury and property damages of not less than \$1,000,000, each occurrence on all vehicles, whether owned or leased, used in performance of the Work. Such insurance must include coverage for loading and unloading hazardous materials and wastes.



- 8.2.9 The Contractor must carry Commercial General Liability insurance with an unimpaired limit of not less than \$1,000,000 for each occurrence with a \$2,000,000 General Aggregate Limit. The policy must include coverage for bodily injury, products/completed operations and blanket contractual covering, but not limited to, the liability assumed under the indemnification provisions of this Contract. The policy must be primary and the coverage MUST NOT EXCLUDE Explosion, Collapse and Underground (X, C, U). In the event the General Liability insurance policy is written on a claims made basis, coverage must extend for two years past completion and acceptance of the Work as evidenced by annual Certificates of Insurance.
- 8.2.10 The Contractor must carry Umbrella/Excess Liability insurance with an unimpaired limit of not less than \$1,000,000 per occurrence combined limit Bodily Injury and Property Damage that "follows form" and applies in excess of the Commercial General Liability, Commercial/Business Automobile Liability and Employer's Liability, as required above.
- 8.2.11 To the extent applicable, the Contractor must purchase and maintain Builder's Risk Insurance in the amount of the initial Contract Amount, as well as subsequent modifications, for the entire Work at the site on a replacement cost basis. Such Insurance must be maintained until final payment has been made or until no person or entity other than the Owner has an insurable interest in the property required to be covered, whichever is earlier. This insurance must include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the work during the life of the Contract and course of construction, and must continue until the work is completed and accepted by the Owner. For new construction projects, the Contractor assumes full responsibility for loss or damage to the Work being performed and to the buildings under construction. For renovation construction projects, the Contractor assumes responsibility for loss or damages to the Work being performed at least up to the full Contract Amount, unless otherwise required by the Contract Documents or Amendments.
- 8.2.12 Builders' Risk Insurance is on an all-risk policy form and must:
- a) Cover false work and temporary buildings;
  - b) Insure against risks of direct physical loss or damage from external causes including debris removal and demolition occasioned by enforcement of any applicable legal requirements;
  - c) Cover reasonable compensation for Engineer's service and expenses.
  - d) Builders' Risk Insurance must provide coverage from the time any covered property becomes Contractor's responsibility, and continue without interruption during construction, renovation, or installation, including any time during which the covered property is being transported to the construction or installation site, and while on the construction or installation site awaiting installation. The policy will provide coverage while the covered premises or any part are occupied. Builders' Risk Insurance must be primary and not contributory.
- 8.2.13 If the Owner requires testing of equipment or other similar operations, the Contractor is responsible for providing appropriate insurance as may be deemed necessary by the Owner.

### **8.3. Performance and Payment Bonds.**

- 8.3.1 The Contractor must maintain a Performance Bond, which is acceptable to the Owner and in the full amount of this contract and for the duration of the contract. Contractor's failure to maintain a Performance Bond is a default and the Owner may terminate this contract and pursue all other remedies.

8.3.2 The Contractor must maintain a Payment Bond, which is acceptable to the Owner and in the full amount of this contract and for the duration of the contract. Contractor's failure to maintain a Payment Bond is a default and the Owner may terminate this contract and pursue all other remedies.

#### **8.4. Indemnification.**

##### 8.4.1 Environmental Indemnification:

- a) Contractor agrees not to do, cause, fail to do, or allow any act to be done on the construction site ("Premises") which violates any State, Federal, or local environmental law, ordinance, rule or regulation and to, at all times, fully and completely comply with all applicable environmental laws and regulations. Contractor further agrees not to introduce any Hazardous Material in, on or adjacent to the Premises without obtaining the Owner's prior written approval, providing the Owner with thirty (30) days prior written notice of the exact amount, nature, and manner of intended use of such Hazardous Materials, and complying with all applicable federal, state and local laws, rules, regulations, ordinances, policies and authorities relating to the storage, use, disposal and clean-up of Hazardous Materials, including, but not limited to, the obtaining of all proper permits. As used herein, the term "Hazardous Material" shall mean any substance or material which has been determined by any state, federal or local governmental authority to be capable of posing a risk of injury to health, safety or property, including all of those materials and substances designated as hazardous or toxic by the city and county in which the Premises are located, the U.S. Environmental Protection Agency, the Consumer Product Safety Commission, the U.S. Food and Drug Administration, the Arizona Department of Environmental Quality, or any other governmental agency now and hereafter authorized to regulate materials and substances in the environment.
- b) Contractor agrees, at its sole cost and expense, to clean-up any contamination immediately, if Contractor's storage, use or disposal of any Hazardous Material in, on or adjacent to the Premises results in any contamination of the Premises, the soil, surface or ground water thereunder or in the air above and around the Premises requiring remediation under federal, state or local statutes, ordinances, regulations or policies, or at levels which are unacceptable to the Owner, in its sole and absolute discretion. To the fullest extent permitted by law, Contractor further agrees to indemnify, defend and hold the Owner and the County of Yuma, and their respective officers, directors, supervisors, employees, and agents, forever harmless from and against any claims, suits, causes of action, costs, damages, fines, and fees, including attorney's fees and costs, arising out of or in connection with:
  - Any clean-up work, inquiry or enforcement proceeding relating to Hazardous Materials currently or hereafter used, stored or disposed of by Contractor or its agents, employees, contractors or invitees of any Hazardous Materials on or about the Premises;
  - The use, storage, disposal or release by Contractor or its agents, employees, subcontractors or invitees of any Hazardous Materials on or about the Premises; and/or
  - Any and all claims arising out of or attendant to any violation or alleged violation of any environmental law or regulation by Contractor, any other person or entity for whom Contractor is legally responsible, or any person or entity under the direct supervision and control of Contractor. Contractor acknowledges that the Owner, or its designee, shall have the right, at its election, in its own name or as Contractor's agent, to negotiate, defend,

approve, and appeal, at Contractor's expense, any action taken or order issued with regard to Hazardous Material by any applicable governmental authority.

- c) Contractor covenants and agrees to comply with all applicable environmental laws and to provide the Owner, immediately upon receipt, copies of any correspondence, Notice, Pleading, Citation, Indictment, Complaint, Order, Decree or other documentation from any source asserting or alleging a circumstance or condition which requires, or may require, a cleanup, removal, remedial action, or other response by or on the part of Contractor under environmental laws or which seek criminal or punitive penalties from Contractor for an alleged violation of environmental laws. Contractor further agrees to advise the Owner in writing as soon as Contractor becomes aware of any inquiry, test, investigation, or enforcement proceeding by, against or directed at Contractor or the Premises concerning Hazardous Material, or any condition or circumstances which may result in potential violation of any environmental laws. Contractor agrees, at its sole cost and expense, and at the request of the Owner, to permit an environmental audit solely for the benefit of the Owner, to be conducted by the Owner for purposes of determining Contractor's compliance with this Section. The right to require an environmental audit granted to the Owner herein shall not create a duty on the Owner's part to inspect the Premises, or liability of the Owner for Contractor's use, storage or disposal of Hazardous Materials, it being understood that Contractor shall be solely responsible for all liability in connection therewith. This provision shall not relieve Contractor from conduction of its own environmental audits or taking any other steps necessary to comply with environmental laws.
- d) If in the opinion of the Owner, there exists any uncorrected violation by Contractor of an environmental law or any condition which requires, or may require, a cleanup, removal, or other remedial action by Contractor under any environmental laws, and such cleanup, removal or other remedial action is not completed within the period of time specified in a written notice from the Owner to Contractor, the same shall, at the option of the Owner, constitute an event of material default of this Agreement. Additionally, the Owner reserves the right to take such corrective action as it deems necessary and bill the Contractor for all associated costs, as Contractor agrees to pay all such costs pursuant to Contractor's indemnification obligations hereunder.
- e) At the conclusion of Contractor's Work, or upon the Agreement's earlier termination, Contractor covenants to return the Premises free of Hazardous Materials and in a condition which complies with all governmental statutes, ordinances, regulations and policies, recommendations of consultants hired by the Owner, and such other reasonable requirements as may be imposed by the Owner.
- f) Contractor's obligations under this Section and all indemnification obligations of Contractor under this Agreement shall survive the expiration or earlier termination of this Agreement.
- g) The Contractor must comply with all applicable federal, state, and local environmental laws, regulations and ordinances, and agrees to indemnify, defend, and hold harmless the Owner and County of Yuma, and their respective officers, directors, supervisors, employees, and agents, for any required remediation and from all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death to any person, damage to any property, or any environmental damage arising out of violations of such laws, regulations, and ordinances.

8.4.2 Contractor shall indemnify, defend, and hold the Owner and the County of Yuma and their respective officers, directors, supervisors, employees, and agents, forever harmless from and against any and all claims arising from, or in any way related to, Contractor's Work hereunder or activities in, on, around, under or upon the Premises; the conduct of Contractor's business or from any activity, work, or things done, permitted, or suffered by Contractor in or about the Premises; the death or injury of any person or damage to any property; any breach or default in the performance of any obligation on Contractor's part to be performed under the terms of this Agreement or covenant, warranty or representation; any negligence, act or omission of Contractor, or any of Contractor's agents, subcontractors, invitees, officers, directors, or employees; repair, replacement or warranty work performed for or by Contractor; and/or any other act or omission identified elsewhere in this Agreement or from any other claim or loss arising in any way whatsoever from the Agreement, which shall include, without limitation, full indemnification for and against all damages, losses, costs, attorney's fees, expenses, and liabilities incurred in defense of any such claim or any action or proceeding brought thereon. Contractor, as a material part of the consideration to the Owner, hereby assumes all risk of damage to property or injury to persons, in, upon, or about the Premises arising from any activity or cause referred to in this Section, and Contractor hereby waives all claims in respect thereof against the Owner or the County of Yuma. This indemnification shall not apply where the negligence or willful misconduct of the Owner solely causes such injury, death, or damage. The Owner shall give to Contractor reasonable notice of any such claims or actions. The Contractor shall give the Owner prompt written notice of any matter covered hereby, and shall forward to the Owner copies of every demand, notice, summons, or other process received in any demand, claim or legal proceeding covered hereby. Any payments made by the Contractor pursuant to this indemnification shall be in addition to any other remedies available to the Owner.

8.4.3 The Contractor agrees to indemnify, defend, and hold harmless the Owner and the County of Yuma, and their respective officers, directors, supervisors, employees, and agents, against all liability or loss, and against all claims or actions based upon or arising out of damage or injury to persons or property caused by or sustained in connection with the performance of the work. The Contractor's indemnification responsibility extends to all subcontractors and anyone directly or indirectly employed or contracted by them, or anyone for whose acts they may be liable, regardless of whether a claim, damage, loss or related expense is caused in part by a party indemnified under this contract, including the Owner or County of Yuma.

8.4.4 The amount and type of insurance coverage does not limit the scope of any indemnity required hereunder.

## **8.5. Rights and Remedies.**

8.5.1 The Project Manager, or properly authorized agents, will:

- a) Manage the project on behalf of the Owner;
- b) Calculate and determine the quantity of the Work performed; inspect all Work for acceptance or rejection. The Project Manager has full authority to reject or condemn any Work which does not conform to the terms and conditions of the Contract Documents.

8.5.2 All suits for breach of this Contract, and any other judicial proceeding for the enforcement or interpretation of this Contract must be instituted and maintained in a court of competent jurisdiction in the County of Yuma, State of Arizona.

8.5.3 If either party fails to insist upon strict performance of any provisions of this Contract, to exercise any rights or remedies provided by this Contract, or to delay in the exercise of any rights or

remedies, the parties are not released from any responsibilities or obligations imposed by law or by this Contract and do not waive the right to insist upon strict performance.

- 8.5.4 If a court of competent jurisdiction holds any term, part or provision of this agreement to be illegal or in conflict with any law of the State of Arizona, the validity of the remaining terms, parts, or provisions are not affected, and the rights and obligations of the parties are construed and enforced pursuant to the controlling provisions of Arizona law, if any, and as if the agreement did not contain the invalid part, term, or provision.
- 8.5.5 Claims, disputes or other matters in question between the parties relating to this Contract or breach thereof may be decided by arbitration in accordance with the Arizona Uniform Rules of Procedure for Arbitration if the parties mutually agree. Demand for arbitration must be filed in writing with the other party to this agreement.
- 8.5.6 To prevent disputes and litigation, the Project Manager will determine all questions in relation to the Work and the construction. In all cases, the Project Manager will decide questions that arise relative to the execution of the Work, and his estimates and decision are a condition precedent to the Contractor's right to receive any money or compensation for any work done or material furnished.
- 8.5.7 If an action or proceeding is brought for failure to observe any of the provisions of this contract, the prevailing party is entitled to recover, as part of such action or proceeding (including any proceedings in bankruptcy or on appeal), all litigation and collection expenses, including but not limited to witness fees, court costs, and reasonable attorney fees.
- 8.5.8 If the Contractor neglects, fails or refuses to complete the Work within the time herein specified, or any proper extension thereof granted by the Owner, then the Contractor agrees, as consideration for the awarding of this Contract, to pay to the Owner the amount identified as liquidated damages on the Bid Summary Sheet for each and every calendar day that the Contract is in default after the time stipulated in the Contract for completing the Work, not as a penalty, but as liquidated damages. The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, and said amount is agreed to be the amount of damages which the Owner would sustain and said amount may be retained from time to time by the Owner from current periodical estimates.
- 8.5.9 It is further agreed that time is of the essence for each and every portion of this Contract and for the specifications wherein as definite and certain length of times if fixed for the performance of any act whatsoever; and where under the Contract an additional time is allowed for the completion of any Work, the new time limit fixed by such extension shall be of the essence of this contract.
- 8.5.10 The Contractor will not be charged with liquidated damages when the Owner determines that the Contractor is without fault and the Contractor's reasons for a time extension are acceptable to the Owner. Further, the Contractor will not be charged with liquidated damages or any excess cost when the delay in completion of the Work is due:
- a) To any preference, priority or allocation order duly issued by the Owner;
  - b) To unforeseeable cause beyond the control and without the fault of negligence of the Contractor, including, but not restricted to, acts of God, or of the public enemy, acts of the Owner, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and severe weather; and

8.5.11 The Contractor must, within ten (10) days from the beginning of such delay, unless the Owner grants a further period of time prior to the date of final settlement of the Contract, notify the Owner, in writing, of the causes of the delay. The Project Manager will ascertain the facts and extent of the delay and notify the Contractor within a reasonable time of its decision in the matter.

8.5.12 No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

## 8.6 Termination for Convenience or Cause

8.6.1 **Termination for Convenience.** The Owner may terminate this contract in whole or in part at any time by providing fifteen (15) day written notice to the Contractor. Such action may be without cause and without prejudice to any other right or remedy of the 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:

- a. Contractor must immediately discontinue work as specified in the written notice.
- b. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
- c. Discontinue orders for materials and services except as directed by the written notice.
- d. 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.
- e. Complete performance of the work not terminated by the notice.
- f. 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.

8.6.2 **Default and termination of contract.** The Contractor shall be considered in default of his or her contract and such default will be considered as cause for the Owner to terminate the contract for any of the following reasons if the Contractor:

- a. Fails to begin the work under the contract within the time specified in the Notice to

Proceed, or

- b. Fails to perform the work or fails to provide sufficient workers, equipment and/or materials to assure completion of work in accordance with the terms of the contract, or
- c. Performs the work unsuitably or neglects or refuses to remove materials or to perform anew such work as may be rejected as unacceptable and unsuitable, or
- d. Discontinues the execution of the work, or
- e. Fails to resume work which has been discontinued within a reasonable time after notice to do so, or
- f. Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency, or
- g. Allows any final judgment to stand against the Contractor unsatisfied for a period of 10 days, or
- h. Makes an assignment for the benefit of creditors, or
- i. For any other cause whatsoever, fails to carry on the work in an acceptable manner.

Should the Project Manager consider the Contractor in default of the contract for any reason above, the Project Manager shall immediately give written notice to the Contractor and the Contractor's surety as to the reasons for considering the Contractor in default and the Owner's intentions to terminate the contract.

If the Contractor or surety, within a period of 10 days after such notice, does not proceed in accordance therewith, then the Owner will, upon written notification from the Project Manager of the facts of such delay, neglect, or default and the Contractor's failure to comply with such notice, have full power and authority without violating the contract, to take the execution of the work out of the hands of the Contractor. The Owner may appropriate or use any or all materials and equipment that have been mobilized for use in the work and are acceptable and may enter into an agreement for the completion of said contract according to the terms and provisions thereof, or use such other methods as in the opinion of the Project Manager will be required for the completion of said contract in an acceptable manner.

All costs and charges incurred by the Owner, together with the cost of completing the work under contract, will be deducted from any monies due or which may become due the Contractor. If such expense exceeds the sum which would have been payable under the contract, then the Contractor and the surety shall be liable and shall pay to the Owner the amount of such excess.

## **8.7 Miscellaneous.**

**8.7.1 Successor and Assigns:** This Agreement is not assignable unless both parties mutually consent otherwise in writing. To the extent permitted by this Agreement, the requirements of this Agreement are binding upon the heirs, executors, administrators, successors, and assigns of both parties.

**8.7.2 Governing Law:** The laws of the State of Arizona govern this Agreement as to validity, interpretation, and performance.

- 8.7.3 **Waiver:** If either party fails to require the other party to perform any provision of this Agreement, that failure does not prevent the party from later enforcing that provision. Neither party is released from any responsibilities or obligations imposed by law or this Agreement if the other party fails to exercise a right or remedy.
- 8.7.4 **Severability:** If any terms, parts, or provisions of this Agreement are for any reason invalid or unenforceable, the remaining terms, parts, or provisions are nevertheless valid and enforceable.
- 8.7.5 **Integration:** This Agreement contains the entire agreement between the parties, and no oral or written statements, promises, or inducements made by either party or its agents not contained or specifically referred to in this Agreement is valid or binding. All modifications to this Agreement must be in writing, signed and endorsed by the parties.
- 8.7.6 **No Partnership:** Nothing in this Agreement constitutes a partnership or joint venture between the parties, and neither party is the principal or agent of the other.
- 8.7.7 **Venue:** The parties must institute and maintain any legal actions or other judicial proceedings arising from this Agreement in a court of competent jurisdiction in Yuma County, Arizona.
- 8.7.8 **Compliance with Law:** The Contractor must comply with all federal, state, and local laws and ordinances applicable to its performance under this contract and as specifically stated in the Federal Contract Provisions section below. The Contractor must comply with current Davis Bacon Wage Rates as established by the U.S. Department of Labor and as detailed in the Davis Bacon Wage Rates section below. The Contractor will comply with the Americans with Disabilities Act (ADA) and will indemnify the Owner for any costs, including but not limited to, damages, attorney's fees, and staff time in any action or proceeding brought alleging violation of the ADA. The Contractor will not discriminate against any person on the basis of race, religion, color, age, sex, or national origin in the performance of this Contract, and must comply with the terms and intent of Title VII of the Civil Rights Act of 1964, P.L. 88-354 (1964). In addition, the Contractor must include similar requirements of subcontractors in any contracts entered into for performance of the Contractor's obligations under this Contract. The Contractor agrees not to participate in or cooperate with an international boycott, as defined in Section 999 (b)(3) and (4) of the Internal Revenue Code of 1954, as amended, or engage in conduct declared to be unlawful by Arizona state law. In addition, the Contractor must include similar requirements of all subcontractors in contracts entered for performance of the Contractor's obligations under this Contract. The Contractor further agrees that Owner may collect any and all information necessary to ensure compliance with the above-described laws and ordinances.
- 8.7.9 **Time of the Essence:** Time is of the essence in this Contract. Unless otherwise specifically provided, any consent to delay in the Contractor's performance of its obligation is applicable only to the particular transaction to which it relates, and is not applicable to any other obligation or transaction.
- 8.7.10 **Conflict Of Interest:** This contract is subject to the Conflict of Interest provisions of the Arizona Revised Statutes §38-511, as amended.
- 8.7.11 **Notifications:** Written notice of a change of address of either party must be given in writing to the other party. Notice of change of address is deemed effective 5 days after mailing by the party changing address.
- 8.7.12 **Interpretation:** This Agreement, and its terms and conditions shall not be construed more strictly



against the drafting party, and no such cannons of construction shall apply in its interpretation.

8.7.13 **Cross Default:** The occurrence of a default in any other agreement in which Contractor is party, and which relates to the Work hereunder in any way whatsoever, shall be a default of this Agreement, at the Owner's election. Contractor agrees to immediately notify the Owner of any such default, and provide any and all documents, correspondence, and/or the like as the Owner may request in connection with such default.

8.7.14 **Survival:** Unless expressly provided herein to the contrary, all provisions in which Contractor agrees to indemnify, defend and hold the Owner and/or the County of Yuma harmless shall survive the expiration or early termination of this Agreement.

## **Article 9: Special Conditions**

### **9.1. Owner Representative.**

The Owner will designate a staff person as access representative to coordinate all access, utility and systems interruptions, security, traffic control and any other conflicts resulting from the construction process.

### **9.2. Security Badges.**

The Contractor will be responsible to provide and maintain security-badged personnel in all areas of work. The Owner will provide security-training classes when requested one week in advance by the contractor.

### **9.3. Responsibility for Fees.**

9.3.1 The Contractor is responsible for procuring all permits and licenses, and giving any notices necessary and incident in performing the Work and paying any sales tax.

9.3.2 The Contractor is responsible for paying City of Yuma Impact and Development Fees, if any, and paying utility charges and fees.

### **9.4. Aircraft Taxiways and Aprons**

The Contractor will be responsible for the complete repair of any damage caused to aircraft taxiways, aircraft parking aprons or roadways caused by the contractor, his subcontractors, vendors or agents of any kind of the Contractor.

## **Article 10: Supplemental Conditions**

Construction Projects at Part 139 Airports, certified for commercial airline traffic must be developed in accordance with the policies, standards, and specifications approved by the Secretary, Department of Transportation. The standards contained in these supplemental conditions relate to materials and methods used in the construction of airports.

These supplemental conditions are part of FAA Advisory Circular AC 150/5370-10H Standards for Specifying Construction of Airports issued on December 21, 2018. They are the FAA’s General Provisions and include the following Sections:

Section 10	Definition of Terms
Section 20	Proposal Requirements and Conditions
Section 30	Award and Execution of Contract
Section 40	Scope of Work
Section 50	Control of Work
Section 60	Control of Materials
Section 70	Legal Regulations and Responsibility to Public
Section 80	Execution and Progress
Section 90	Measurement and Payment

**Where there is a conflict between Articles 1 thru 9 of the Construction Contract and Article 10, the most stringent provision shall apply.**

The FAA’s Office of Airport Safety and Standards makes updated standards available to the public through the Internet. These standards were downloaded from the following website:  
[https://www.faa.gov/airports/resources/advisory\\_circulars/index.cfm/go/document.current/documentNumber/150\\_5370-10](https://www.faa.gov/airports/resources/advisory_circulars/index.cfm/go/document.current/documentNumber/150_5370-10)

**Article 11: Contract Signature Page**

This Contract is effective on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CONTRACTOR**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

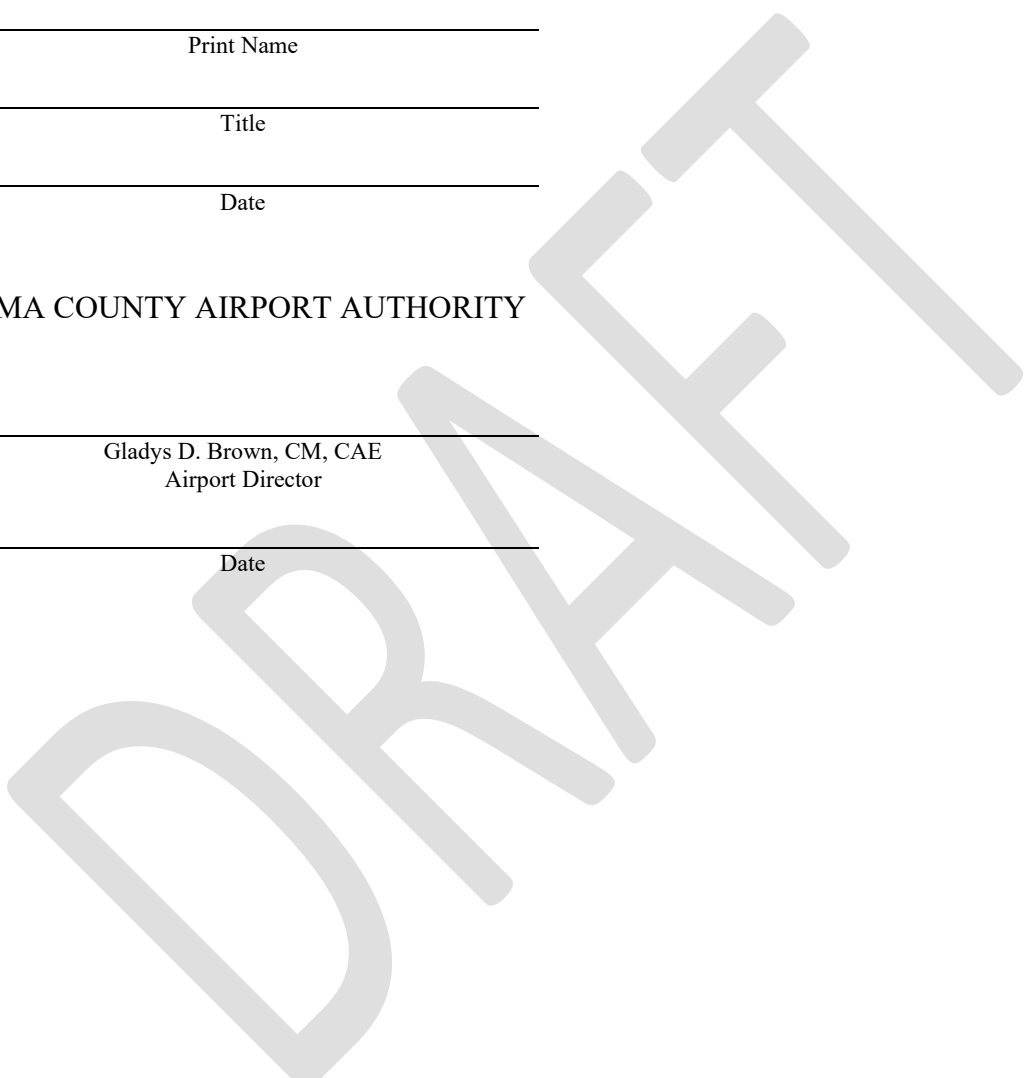
\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**YUMA COUNTY AIRPORT AUTHORITY**

\_\_\_\_\_  
Gladys D. Brown, CM, CAE  
Airport Director

\_\_\_\_\_  
Date



# PERFORMANCE BOND

Bond No. \_\_\_\_\_

(Penalty of this bond must be 100% of the Contract Amount)

\_\_\_\_\_, ("Principal"), and \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_ with its principal office in the City of \_\_\_\_\_ ("Surety"), are bound to pay the Yuma County Airport Authority, Inc. ("Obligee") in the amount of \$ \_\_\_\_\_.

The Principal and Surety bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally.

The Principal has entered into a written contract with the Obligee, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ to furnish any and all labor, equipment, transportation, plant and tools required the construction as described herein for the Yuma County Airport Authority, Inc.. This document is a part of that contract.

Now, therefore, the condition of this obligation is such, that if the principal faithfully performs and fulfills all of the undertakings, covenants, terms, conditions and agreements of the contract during the original term of the contract and any extension of the contract, with or without notice to the surety, and during the life of any guaranty required under the contract, and also performs and fulfills all of the undertakings, covenants, terms, conditions and agreements of all duly authorized modifications of the contract that may hereafter be made, notice of which modifications to the surety being hereby waived, the above obligation is void. Otherwise it remains in full force and effect.

Provided, however that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provision of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, to the extent as if it were copied at length in this agreement. **The bonding company must be found on the Department of the Treasury's Listing of Approved Sureties (Department Circular 570).** The prevailing party or any party that recovers judgment on this bond is entitled to reasonable attorneys' fees and costs as determined by the Court.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
PRINCIPAL

SEAL

By:

Title:

\_\_\_\_\_  
SURETY

SEAL

By:

\_\_\_\_\_  
Agency of Record

\_\_\_\_\_  
Agency Address

## **PAYMENT BOND EXPLANATION**

1. **FORM INCLUDED**
  - i. The OWNER has elected to use the following form as the Performance Bond Form for this project. **SUBSTITUTE FORMS WILL NOT BE ACCEPTED BY THE OWNER**
  - ii. Bidder is advised to review this document and comply with defined requirements prior to submitting a bid.
  - iii. Date of bond must coincide with the date of the Contract between the OWNER and the CONTRACTOR. Bond form will be supplied to successful bidder with Contract documents.

DRAFT

# PAYMENT BOND

Bond No. \_\_\_\_\_

(Penalty of this bond must be 100% of the Contract Amount)

\_\_\_\_\_ ("Principal"), and \_\_\_\_\_  
a corporation organized and existing under the laws of the State of \_\_\_\_\_, with its  
principal office in the City of \_\_\_\_\_ ("Surety" firmly bound to pay the Yuma County Airport  
Authority, Inc. ("Obligee") \$ \_\_\_\_\_.

The Principal and Surety bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally. **The bonding company must be found on the Department of the Treasury's Listing of Approved Sureties (Department Circular 570).**

The Principal has entered a written contract with the Obligee, dated the \_\_\_ day of \_\_\_\_\_, 2017 to furnish any and all labor, equipment, transportation, plant and tools required for the construction described herein for the Yuma County Airport Authority, Inc. This document is a part of that contract.

Now, therefore, the condition of this obligation is such, that if the principal promptly pays all monies due to all persons supplying labor or materials to the principal or the principal's subcontractors in the prosecution of the Work provided for in the contract, this obligation is void. Otherwise it remains in full force and effect.

Provided, however, that this bond is executed pursuant to the provisions of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, and all liabilities on this bond shall be determined in accordance with the provisions, conditions, and limitations, of Title 34, Chapter 2, Article 2, Arizona Revised Statutes, to the same extend as if they were copied at length in this agreement.

The prevailing party or any party which recovers judgment on this bond is entitled to reasonable attorneys' fees and costs as determined by the Court.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
PRINCIPAL SEAL SURETY SEAL

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

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

\_\_\_\_\_  
Agency of Record

\_\_\_\_\_  
Agency Address

Construction Project: YCAA – Access Control Update

ACORD™ CERTIFICATE OF LIABILITY INSURANCE					DATE (MM/DD/YY)	
PRODUCER			THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.			
			COMPANIES AFFORDING COVERAGE			
INSURED			COMPANY A			
			COMPANY B			
			COMPANY C			
			COMPANY D			
<b>COVERAGES</b>						
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY ASSIGNMENT OF INTEREST OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES, WHICH ITS SHOWN MUST HAVE BEEN RECEIVED BY PAID CLAIM.						
CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR <input type="checkbox"/> OWNERS & CONTRACTOR'S PROT				GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ PERSONAL & ADV INJURY \$ EACH OCCURRENCE \$ FIRE DAMAGE (Any one fire) \$ MED EXP (Any one person) \$	
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE \$	
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EACH ACCIDENT \$ AGGREGATE \$	
	<b>EXCESS LIABILITY</b> <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$	
	<b>WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY</b> THE PROPRIETARY PARTNERS/EXECUTIVE OFFICERS ARE: <input type="checkbox"/> INCL <input type="checkbox"/> EXCL				<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER EL EACH ACCIDENT \$ EL DISEASE - POLICY LIMIT \$ EL DISEASE - EA EMPLOYEE \$	
	OTHER					
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS						
<b>CERTIFICATE HOLDER</b>			<b>CANCELLATION</b>			
			SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL _____ DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE			
ACORD 25-S (1/95)			© ACORD CORPORATION 1988			

# CONTRACTOR'S AFFIDAVIT REGARDING SETTLEMENT OF CLAIMS

Project: Access Control Updates  
Location: Yuma International Airport, AZ  
Project Number: FAA AIP 3-04-0053-XXX-2024

To Yuma County Airport Authority, Inc.:

This is to certify that the claimant or subcontractor has discharged all lawful claims for materials, rental of equipment and labor used in connection with the construction of the above project.

The undersigned accepts \$ \_\_\_\_\_, as the specified final payment amount, as full and complete payment under the terms of the contract, and relinquishes any and all further claims or right of lien in connection with the above described project. The undersigned further agrees to indemnify and defend the Yuma County Airport Authority, Inc., and the County of Yuma, against any and all liens, claims of liens, legal actions, damages, charges and expenses the Owner or County of Yuma may suffer from failure of the undersigned to pay for labor and materials furnished for the performance of Work under the contract.

Signed and dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CONTRACTOR: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Subscribed to and sworn before me:**

\_\_\_\_\_  
Attest: (Notary Public)

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
My Commission Expires: (Date)



**PARTIAL PAYMENT REQUEST TO YUMA COUNTY AIRPORT  
AUTHORITY INC.**

Project: Access Control Updates  
Location: Yuma International Airport, AZ  
Project Number: FAA AIP 3-04-0053-XXX-2024

The approved Payment Request Form will be supplied on request in an Excel Spreadsheet.  
Alternatively, AIA or similar approved forms may be used if approved in advance by the Owner.

Applications for payment only need to be one original. Applications for payment must be produced on 8.5" x 11" paper printed on only one side.

DRAFT

**CONSENT OF SURETY**

Name of project: Access Control Update  
Bid No. \_\_\_\_\_  
Contractor: \_\_\_\_\_  
Contract start date: \_\_\_\_\_  
Original contract completion date: \_\_\_\_\_  
Current completion date: \_\_\_\_\_

In accordance with the provisions of the contract between the Yuma County Airport Authority, Inc., and \_\_\_\_\_, Contractor, \_\_\_\_\_, SURETY, approves the reduction in or partial release of retainage to the Contractor as follows:

The SURETY agrees that such a reduction in or partial release of retainage to the Contractor shall not relieve the SURETY of any of its obligations to the Yuma County Airport Authority, Inc., as set forth in the SURETY’s bond.

SURETY

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Executed this date

## CHANGE ORDERS

The following pages contain YCAA approved Construction Change Order form and Construction Change Proposal form. They are available in spreadsheet format from the Airport Chief Financial Officer.

DRAFT

## NOTICE OF AWARD

Project: Access Control Updates  
Location: Yuma International Airport, AZ  
Project Number: FAA AIP 3-04-0053-XXX-2024

TO: \_\_\_\_\_  
Company  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City      State      Zip

Re: ACCESS CONTROL UPDATES

The Yuma County Airport Authority, Inc., has accepted the Bid Submitted by you for the above described Work in response to the Advertisement for Bids dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. You are hereby notified that you were awarded this Bid by the Yuma County Airport Authority, Inc., on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ in the amount of \$\_\_\_\_\_.

You are required by the Terms and Conditions of this bid to execute the Construction Contract and to furnish Contractor's Performance and Payment Bonds and submit the appropriate Certificate(s) of Insurance within 10 days from the date of this Notice or forfeit your Bid Bond.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the Yuma County Airport Authority, Inc., Not Later Than five (5) days of the signature date below.

\_\_\_\_\_  
Gladys D. Brown, CM, CAE / Airport Director

\_\_\_\_\_  
Date

CONTRACTOR

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

Subscribed to and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary

\_\_\_\_\_  
My Commission Expires

DRAFT

## NOTICE TO PROCEED

Project: Access Control Updates  
Location: Yuma International Airport, AZ  
Project Number: FAA AIP 3-04-0053-2024

To: Contractor: \_\_\_\_\_

Notice is hereby given that the contractor named above is given this notice to proceed with work on the project referenced ABOVE in accordance with the construction contract. The contract dates for the project's start and completion are shown below

Contract Start Date: \_\_\_\_\_  
Month Day Year

Contract Completion Date: \_\_\_\_\_  
Month Day Year

**By: Yuma County Airport Authority, Inc.**

\_\_\_\_\_  
Gladys D. Brown, CM, CAE / Airport Director

\_\_\_\_\_  
Date

## Affidavit of Amounts Paid DBE Participants

CONTRACTOR		ADDRESS:
CITY:		STATE: ZIP: DATE:
STATE CONTRACT/AGREEMENT NO. JOB TITLE/DESCRIPTION:		
JOB TITLE/DESCRIPTION (cont.):		
CONTRACT BID PRICE:  \$	DBE CONDITION OF AWARD:  \$	
DBE PARTICIPANT NAME AND ADDRESS:	DESCRIPTION OF UTILIZATION:	AMOUNT PAID PARTICIPANTS

--	--	--

<p><b>AFFIDAVIT</b></p> <p>I, the undersigned, do hereby certify that in connection with all work for the project for which this statement is submitted, each DBE participant contracted by me has been paid the amounts listed.</p>	<p><b>TOTAL DBE PARTICIPATION ACHIEVED:</b></p> <p>\$ _____</p>
--	---

	<p><b>SIGNATURE</b></p>	<p><b>TITLE</b></p>
--	-------------------------	---------------------

**SEAL**      Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_

\_\_\_\_\_ Notary Public in and for the State of \_\_\_\_\_

\_\_\_\_\_ residing at \_\_\_\_\_





	if it is higher) for all
	hours spent performing on
	that contract in 2024.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/05/2024
1	01/19/2024

CARP0408-005 07/01/2023

	Rates	Fringes
CARPENTER (Including Cement Form Work).....	\$ 34.50	14.17

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ENGI0428-001 06/01/2023

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
Group 1.....	\$ 31.69	13.52
Group 2.....	\$ 34.96	13.52
Group 3.....	\$ 36.04	13.52
Group 4.....	\$ 37.07	13.52

POWER EQUIPMENT OPERATORS CLASSIFICATIONS:

GROUP 1: A-frame boom truck, air compressor, Beltcrete, boring bridge and texture, brakeman, concrete mixer (skip type), conductor, conveyor, cross timing and pipe float, curing machine, dinky (under 20 tons), elevator hoist (Husky and similar), firemen, forklift, generator (all), handler, highline cableway signalman, hydrographic mulcher, joint inserter, jumbo finishing machine, Kolman belt loader, machine conveyor, multiple power concrete saw, pavement breaker, power grizzly, pressure grout machine, pump, self-propelled chip spreading machine, slurry seal machine (Moto paver driver), small self-propelled compactor (with blade-backfill, ditch operation), straw blower, tractor (wheel type), tripper, tugger (single drum), welding machine, winch truck

GROUP 2:

ALL COUNTIES INCLUDING MARICOPA: Aggregate Plant, Asphalt

plant Mixer, Bee Gee, Boring Machine, Concrete Pump, Concrete Mechanical Tamping-Spreading Finishing Machine, Concrete Batch Plant, Concrete Mixer (paving & mobile), Elevating Grader (except as otherwise classified), Field Equipment Serviceman, Locomotive Engineer (including Dinky 20 tons & over), Moto-Paver, Oiler-Driver, Operating Engineer Rigger, Power Jumbo Form Setter, Road Oil Mixing Machine, Self-Propelled Compactor (with blade-grade operation), Slip Form (power driven lifting device for concrete forms), Soil Cement Road Mixing Machine, Pipe-Wrapping & Cleaning Machine (stationary or traveling), Surface Heater & Planer, Trenching Machine, Tugger (2 or more drums).

MARICOPA COUNTY ONLY: Backhoe < 1 cu yd, Motor Grader (rough), Scraper (pneumatic tired), Roller (all types asphalt), Screed, Skip Loader (all types 3<6 cu yd), Tractor (dozer, pusher-all).

GROUP 3:

ALL COUNTIES INCLUDING MARICOPA: Auto Grade Machine, Barge, Boring Machine (including Mole, Badger & similar type directional/horizontal), Crane (crawler & pneumatic 15>100 tons), Crawler type Tractor with boom attachment & slope bar, Derrick, Gradall, Heavy Duty Mechanic-Welder, Helicopter Hoist or Pilot, Highline Cableway, Mechanical Hoist, Mucking Machine, Overhead Crane, Pile Driver Engineer (portable, stationary or skid), Power Driven Ditch Lining or Ditch Trimming Machine, Remote Control Earth Moving Machine, Slip Form Paving Machine (including Gunnert, Zimmerman & similar types), Tower Crane or similar type.

MARICOPA COUNTY ONLY: Backhoe<10 cu yd, Clamshell < 10 cu yd, Concrete Pump (truck mounted with boom only), Dragline <10 cu yd, Grade Checker, Motor Grader (finish-any type power blade), Shovel < 10 cu yd.

GROUP 4: Backhoe 10 cu yd and over, Clamshell 10 cu yd and over, Crane (pneumatic or crawler 100 tons & over), Dragline 10 cu yd and over, Shovel 10 cu yd and over.

All Operators, Oilers, and Motor Crane Drivers on equipment with Booms, except concrete pumping truck booms, including Jibs, shall receive \$0.01 per hour per foot over 80 ft in addition to regular rate of pay

Premium pay for performing hazardous waste removal \$0.50 per hour over base rate.

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\* IRON0075-004 10/01/2023

COCONINO, MARICOPA, MOHAVE, YAVAPAI & YUMA COUNTIES

Rates Fringes

Ironworker, Rebar.....\$ 32.00 18.91

Zone 1: 0 to 50 miles from City Hall in Phoenix or Tucson  
Zone 2: 050 to 100 miles - Add \$4.00  
Zone 3: 100 to 150 miles - Add \$5.00  
Zone 4: 150 miles & over - Add \$6.50

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LABO1184-008 06/01/2023

	Rates	Fringes
Laborers:		
Group 1.....	\$ 24.18	7.59
Group 2.....	\$ 25.82	7.59
Group 3.....	\$ 26.68	7.59
Group 4.....	\$ 27.65	7.59
Group 5.....	\$ 28.75	7.59

LABORERS CLASSIFICATIONS:

GROUP 1: All Counties: Chipper, Rip Rap Stoneman. Pinal County Only: General/Cleanup Laborer. Maricopa County Only: Flagger.

GROUP 2: Asphalt Laborer (Shoveling-excluding Asphalt Raker or Ironer), Bander, Cement Mason Tender, Concrete Mucker, Cutting Torch Operator, Fine Grader, Guinea Chaser, Power Type Concrete Buggy

GROUP 3: Chain Saw, Concrete Small Tools, Concrete Vibrating Machine, Cribber & Shorer (except tunnel), Hydraulic Jacks and similar tools, Operator and Tender of Pneumatic and Electric Tools (not herein separately classified), Pipe Caulker and Back-Up Man-Pipeline, Pipe Wrapper, Pneumatic Gopher, Pre-Cast Manhole Erector, Rigger and Signal Man-Pipeline

GROUP 4: Air and Water Washout Nozzleman; Bio-Filter, Pressman, Installer, Operator; Scaffold Laborer; Chuck Tender; Concrete Cutting Torch; Gunite; Hand-Guided Trencher; Jackhammer and/or Pavement Breaker; Scaler (using boson's chair or safety belt); Tamper (mechanical all types).

GROUP 5: AC Dumpman, Asbestos Abatement, Asphalt Raker II, Drill Doctor/Air Tool Repairman, Hazardous Waste Removal, Lead Abatement, Lead Pipeman, Process Piping Installer, Scaler (Driller), Pest Technician/Weed Control, Scissor Lift, Hydro Mobile Scaffold Builder.

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PAIN0086-001 04/01/2017

	Rates	Fringes
PAINTER		

PAINTER (Yavapai County  
only), SAND BLASTER/WATER  
BLASTER (all Counties).....\$ 19.58 6.40

ZONE PAY: More than 100 miles from Old Phoenix Courthouse  
\$3.50 additional per hour.

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\* SUAZ2009-001 04/20/2009

	Rates	Fringes
CEMENT MASON.....	\$ 19.28	3.99
ELECTRICIAN.....	\$ 22.84	6.48
IRONWORKER (Rebar)		
Pima County.....	\$ 23.17	14.83
Pinal County.....	\$ 20.27	8.35
LABORER		
Asphalt Raker.....	\$ 15.49 **	3.49
Compaction Tool Operator.....	\$ 14.59 **	2.91
Concrete Worker.....	\$ 13.55 **	3.20
Concrete/Asphalt Saw.....	\$ 13.95 **	2.58
Driller-Core, diamond, wagon, air track.....	\$ 16.94 **	3.12
Dumpman Spotter.....	\$ 14.99 **	3.16
Fence Builder.....	\$ 13.28 **	2.99
Flagger		
Coconino, Mohave, Pima, Pinal, Yavapai & Yuma.....	\$ 12.35 **	1.59
Formsetter.....	\$ 16.09 **	3.97
General/Cleanup Laborer		
Coconino, Maricopa, Mohave, Pima, Yavapai & Yuma.....	\$ 14.54 **	3.49
Grade Setter (Pipeline).....	\$ 17.83	5.45
Guard Rail Installer.....	\$ 13.28 **	2.99
Landscape Laborer.....	\$ 11.39 **	
Landscape Sprinkler Installer.....	\$ 15.27 **	
Pipelayer.....	\$ 14.81 **	2.96
Powderman, Hydrasonic.....	\$ 16.39 **	2.58
OPERATOR: Power Equipment		
Asphalt Laydown Machine.....	\$ 21.19	6.05
Backhoe < 1 cu yd		
Coconino, Mohave, Pima, Pinal, Yavapai & Yuma.....	\$ 17.37	3.85
Backhoe < 10 cu yd		
Coconino, Mohave, Pima, Pinal, Yavapai & Yuma.....	\$ 18.72	3.59
Clamshell < 10 cu yd		
Coconino, Mohave, Pima, Pinal, Yavapai & Yuma.....	\$ 18.72	3.59
Concrete Pump (Truck		

Mounted with boom only)		
Coconino, Mohave, Pima,		
Pinal, Yavapai & Yuma.....\$	19.92	7.10
Crane (under 15 tons).....\$	21.35	7.36
Dragline (up to 10 cu yd)		
Coconino, Mohave, Pima,		
Pinal, Yavapai & Yuma.....\$	18.72	3.59
Drilling Machine		
(including Water Wells).....\$	20.58	5.65
Grade Checker		
Coconino, Mohave, Pima,		
Pinal, Yavapai & Yuma.....\$	16.04 **	3.68
Hydrographic Seeder.....\$	15.88 **	7.67
Mass Excavator.....\$	20.97	4.28
Milling Machine/Rotomill....\$	21.42	7.45
Motor Grader (Finish-any		
type power blade)		
Coconino, Mohave, Pima,		
Pinal, Yavapai & Yuma.....\$	21.92	4.66
Motor Grader (Rough)		
Coconino, Mohave, Pima,		
Pinal, Yavapai & Yuma.....\$	20.07	4.13
Oiler.....\$	18.15	8.24
Power Sweeper.....\$	16.76 **	4.44
Roller (all types Asphalt)		
Coconino, Mohave, Pima,		
Pinal, Yavapai & Yuma.....\$	18.27	3.99
Roller (excluding asphalt)..\$	15.65 **	3.32
Scraper (pneumatic tired)		
Coconino, Mohave, Pima,		
Pinal, Yavapai & Yuma.....\$	17.69	3.45
Screed		
Coconino, Mohave, Pima,		
Pinal, Yavapai & Yuma.....\$	17.54	3.72
Shovel < 10 cu yd		
Coconino, Mohave, Pima,		
Pinal, Yavapai & Yuma.....\$	18.72	3.59
Skip Loader (all types <3		
cu yd).....\$	18.28	5.30
Skip Loader (all types 3 <		
6 cu yd)		
Coconino, Mohave, Pima,		
Pinal, Yavapai & Yuma.....\$	18.64	4.86
Skip Loader (all types 6 <		
10 cu yd).....\$	20.15	4.52
Tractor (dozer, pusher -		
all)		
Coconino, Mohave, Pima,		
Pinal, Yavapai & Yuma.....\$	17.26	2.65
 PAINTER		
Coconino, Maricopa,		
Mohave, Pima, Pinal & Yuma..\$	15.57 **	3.92
 TRUCK DRIVER		
2 or 3 Axle Dump or		
Flatrack.....\$	16.27 **	3.30

5 Axle Dump or Flatrack.....	\$ 13.97 **	2.89
6 Axle Dump or Flatrack (< 16 cu yd).....	\$ 17.79	6.42
Belly Dump.....	\$ 14.67 **	
Oil Tanker Bootman.....	\$ 22.03	
Self-Propelled Street Sweeper.....	\$ 13.11 **	5.48
Water Truck 2500 < 3900 gallons.....	\$ 18.14	4.55
Water Truck 3900 gallons and over.....	\$ 15.92 **	3.33
Water Truck under 2500 gallons.....	\$ 15.94 **	4.16

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.20) or 13658 (\$12.90). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in



the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an

interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====  
END OF GENERAL DECISION"

DRAFT

## Federal Contract Provisions

Procurements (Bids) made under the AIP must comply with required Federal provisions established by various laws and statutes. The requirements for Construction Development depend on established contract dollar thresholds. Note that additional provisions are required in each category of Sponsor contracts if several contract dollar thresholds are exceeded. These additional provisions are listed following the general provisions that apply to each category of contract.

### A1 ACCESS TO RECORDS AND REPORTS

#### A0.0 SOURCE

2 CFR § 200.334

2 CFR § 200.337

FAA Order 5100.38

#### A0.1 APPLICABILITY

2 CFR § 200.334 requires a Sponsor to retain records pertinent to a Federal award for a period of three years from submission of final closure documents. 2 CFR § 200.337 establishes that Sponsors must provide Federal entities the right to access records pertinent to the Federal award. FAA policy extends these requirements to the Sponsor's contracts and subcontracts of AIP funded projects.

**Contract Types** – The Sponsor must include this provision in all contracts and subcontracts of AIP funded projects.

**Use of Provision** – No mandatory language provided. The following language is acceptable to the FAA with meeting the intent of this requirement. If the Sponsor prefers to use different language, the Sponsor's language must fully satisfy the requirements of 2 CFR §§ 200.334 and 200.337.

#### A0.2 MODEL CONTRACT CLAUSE

##### ACCESS TO RECORDS AND REPORTS

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Owner, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the 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.

## A2 AFFIRMATIVE ACTION REQUIREMENT

### A2.1 SOURCE

41 CFR Part 60-4

Executive Order 11246

### A2.2 APPLICABILITY

**Minority Participation.** Sponsors are required to set goals for minority participation in AIP funded projects exceeding \$10,000. The goals for minority participation derive from Economic Area (EA) and Standard Metropolitan Statistical Area (SMSA) as established in Volume 45 of the Federal Register dated 10/3/80. Page 65984 contains a table of all EAs and SMSAs and the associated minority participation goals.

To find the goals for minority participation, a Sponsor must either refer to the Federal Register Notice or to the Department of Labor online document, "[Participation Goals for Minorities and Females](#)". EAs and SMSAs span state boundaries. A Sponsor may have to refer to entries for adjacent states in order to locate the goal for the project location.

**Female Participation.** Executive Order 11246 has set a goal of 6.9% nationally for female participation for all construction projects. This value remains constant for all counties and states.

#### **Contract Types –**

*Construction* – The Sponsor must incorporate this notice in all solicitations for bids or requests for proposals for AIP funded construction work contracts and subcontracts that exceed \$10,000. Construction work means construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection and other onsite functions incidental to the actual construction.

*Equipment* – The Sponsor must incorporate this notice in any equipment project exceeding \$10,000 that involves installation of equipment onsite (e.g., electrical vault equipment). This provision does not apply to equipment acquisition projects where the manufacture of the equipment takes place offsite at a manufacturer's plant (e.g., firefighting and snow removal vehicles).

*Professional Services* – The Sponsor must incorporate this notice in any professional service agreement if the professional services agreement includes tasks that meet the definition of construction work [as defined by the U.S. Department of Labor (DOL)] and exceeds \$10,000. Examples include installation of monitoring systems (e.g., noise, environmental, etc.).

*Property/Land* – The Sponsor must incorporate this notice in any agreement associated with land acquisition if the agreement includes construction work (defined above) that exceeds \$10,000. Examples include demolition of structures or installation of boundary fencing.

**Use of Provision – MANDATORY TEXT.** The Sponsor must:

- (a) Incorporate the text of this provision in its solicitations without modification.
- (b) Incorporate the applicable minority participation goal and the covered area by geographic name.
- (c) Not simply insert a reference to the 1980 Federal Register Notice.

**A2.3 MANDATORY SOLICITATION CLAUSE**

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO  
ENSURE EQUAL EMPLOYMENT OPPORTUNITY**

1. The Offeror’s or Bidder’s attention is called to the “Equal Opportunity Clause” and the “Standard Federal Equal Employment Opportunity Construction Contract Specifications” set forth herein.
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: **[Sponsor must insert established goal]**  
 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 nonfederally 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 State of Arizona, Yuma County, and the City of Yuma.

## **A3 BREACH OF CONTRACT TERMS**

### **A3.1 SOURCE**

2 CFR Part 200, Appendix II(A)

### **A3.2 APPLICABILITY**

This provision requires Sponsors to incorporate administrative, contractual or legal remedies in the event that a contractor violates or breaches contract terms. The Sponsor must also include appropriate sanctions and penalties.

**Contract Types** – This provision is required for all contracts that exceed the simplified acquisition threshold as stated in 2 CFR Part 200, Appendix II (A). This threshold is occasionally adjusted for inflation and is \$250,000.

**Use of Provision** – No mandatory language provided. The following language is acceptable to the FAA as meeting the intent of this requirement. If the Sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of 2 CFR Part 200. Select either “contractor” or “consultant” as applicable.

### **A3.3 MODEL CONTRACT CLAUSE**

#### **BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this contract on the part of the [*Contractor* | *Consultant*] 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.

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

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

## **A4 BUY AMERICAN PREFERENCE**

### **A4.1 SOURCE**

Title 49 USC § 50101

Executive Order 14005, *Ensuring the Future is Made in All of America by All of America's Workers*

Bipartisan Infrastructure Law (Pub. L. No. 117-58), Build America, Buy America (BABA)

### **A4.2 APPLICABILITY**

The Buy American Preference incorporates statutory requirements and policies outlined in the in 49 USC § 50101, Executive Order 14005, and BABA.

Section 50101 of 49 USC requires that all steel and manufactured goods used on AIP projects be produced in the United States. This section also gives the FAA the ability to issue a waiver to a Sponsor to use non-domestic material on an AIP funded project subject to meeting certain conditions. A Sponsor may request that the FAA issue a waiver from the Buy American Preference requirements if the FAA finds that:

- 1) Applying the provision is not in the public interest.
- 2) The steel or manufactured goods are not available in sufficient quantity or quality in the United States.
- 3) The cost of components and subcomponents produced in the United States is more than 60 percent of the total components of a facility or equipment, and final assembly has taken place in the United States. Items that have an FAA standard specification item number (such as specific airport lighting equipment) are considered the equipment.
- 4) Applying this provision would increase the cost of the overall project by more than 25 percent.

Executive Order 14005 advances the Administration's priority to use terms and conditions of Federal financial assistance awards to maximize the use of goods, products, and materials produced in, and services offered in, the United States. The Order directs, to the extent appropriate and consistent with applicable law, agencies shall partner with the Hollings Manufacturing Extension Partnership (MEP) to conduct supplier scouting in order to identify American companies that are able to produce goods, products, and materials in the United States that meet Federal procurement needs, prior to consideration of using non-domestic products.

The Bipartisan Infrastructure Law, Build America, Buy America (BABA) Act strengthens Made in America Laws and bolsters America's industrial base, protects national security, and supports high-paying jobs. Under BABA, iron, steel and certain construction materials are required to be 100% produced in the United States.

Under the Bipartisan Infrastructure Law (Pub. L. No. 117-58) BABA three waivers are available for iron and steel, manufactured products, and construction materials when a Federal agency finds that –

- 1) Applying the domestic content procurement preference would be inconsistent with the public interest (a "public interest waiver");

- 2) Types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality (a “nonavailability waiver”); or
- 3) The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent (an “unreasonable cost waiver”).

BABA defines construction materials, items that are or consists primarily of non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables), glass (including optic glass), lumber or drywall.

Items that consist of two or more of the aforementioned materials that have been combined together through a manufacturing process, and items that include at least one of the listed materials combined with a material that is not listed through a manufacturing process, should be treated as manufactured products, rather than as construction materials. For example, a plastic framed sliding window should be treated as a manufactured product while plate glass should be treated as a construction material.

The Buy America Preference requirements flow down from the Sponsor to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are also in compliance.

**Note:** The Buy American Preference does not apply to temporary equipment a contractor uses as a tool of its trade and which does not remain as part of the project.

#### **Required Documentation**

**The FAA Buy American Requests.** All applications (requests) for an FAA Buy American Preference Waiver includes, at minimum, a completed Content Percentage Worksheet and Final Assembly Questionnaire. Additional information may be requested from the applicant by the FAA. Airport Sponsors, consultants, construction contractors, or equipment manufacturers are responsible for completing and submitting waiver applications. The FAA is unable to make a determination on waiver requests with incomplete information. Sponsors must confirm with the bidder or offeror to assess the adequacy of the waiver request and associated information prior to forwarding a waiver request to the FAA for action. All FAA waivers forms are available from the FAA Buy American Requirements webpage.

**Proprietary Confidentiality.** Exemption 4 of the Freedom of Information Act protects "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential. Proprietary manufacturing and design information submitted to the Federal Aviation Administration for the purposes of receiving a Buy American Waiver shall not be disclosed outside the FAA. The FAA will provide a written notification to the Airport Sponsor, manufacturer(s), contractor(s) or supplier(s) when a waiver determination is complete.

**Timing of Waiver Requests.** Sponsors desiring a Type 2 waiver should submit their waiver request, with justification, *before* issuing a solicitation for bids or a request for proposal for a project.

The Sponsor must submit a Type 2, Type 3, or Type 4 waiver request *prior* to executing the contract. The FAA will generally not consider waiver requests after execution of the contract except where extraordinary and extenuating circumstances exist.



**The Buy American Notice of Determination (NOD) Process.** The FAA Reauthorization Act of 2018 requires that all approved waivers must be posted to the FAA’s website and remain posted for public comment for 10 days, before becoming effective. All FAA waivers must complete the NOD process. Sponsors are encouraged to wait until approved waivers become effective before executing AIP projects.

**Buy American Conformance Lists.** The FAA Office of Airports maintains listings of projects and products that have received a waiver from the Buy American Preference requirements for project specific and nationwide use. Each of these conformance lists is available online at [www.faa.gov/airports/aip/buy\\_american/](http://www.faa.gov/airports/aip/buy_american/). Products listed on the FAA Nationwide Buy American Conformance list do not require additional submittal of domestic content information. Nationwide waivers expire five years from the date issued, unless revoked earlier by the FAA.

**Facility Waiver Requests.** For construction of a facility, the Sponsor may submit the waiver request after bid opening, but prior to contract execution. Examples of facility construction include terminal buildings, terminal renovation, and snow removal equipment buildings.

#### **Contract Types –**

*Construction and Equipment* – The Sponsor must meet the Buy American Preference requirements of 49 USC § 50101 and BABA for all AIP funded projects that require materials that are or consists primarily of iron, steel or manufactured goods and construction materials.

*Professional Services* – Professional service agreements (PSAs) do not normally result in a deliverable that meets the definition of a manufactured product. However, the emergence of various project delivery methods has created situations where task deliverables under a PSA may include a manufactured product. If a PSA includes providing a manufactured good as a deliverable under the contract, the Sponsor must include the Buy American Preference provision in the agreement.

*Property* – Most land transactions do not involve acquiring a manufactured product. However, under certain circumstances, a property acquisition project could result in the installation of a manufactured product. For example, the installation of property fencing, gates, doors and locks, etc. represent manufactured products acquired under an AIP funded land project that must comply with Buy American Preferences.

**Use of Provisions** – No mandatory language provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s revised language must fully comply with 49 USC § 50101 and BABA.

There are two types of FAA Buy American certifications. The Sponsor must incorporate the appropriate certifications of compliance with FAA Buy American Preference in the solicitation:

- **Construction Projects** involving the replacement, rehabilitation, reconstruction of airfield surfaces such as on runways, taxiways, taxilanes, aprons, roadways, parking lots, etc. – Insert the Certificate of compliance to FAA Buy American Preference based on Construction Projects.
- **Equipment and Buildings Projects** involving and including the acquisition of equipment such as snow removal equipment, navigational aids, wind cones, and the construction of buildings such

as hangars, terminal development, lighting vaults, aircraft rescue & firefighting buildings, etc. -  
Insert the Certificate of Compliance with FAA Buy American Preference Based on  
Equipment/Building Projects.

### **A4.3 MODEL SOLICITATION CLAUSES**

#### **A4.3.1 Certification of Compliance with FAA Buy American Preference Statement**

##### **FAA BUY AMERICAN PREFERENCE**

The Contractor certifies that its bid/offer is in compliance with 49 USC § 50101, BABA and other related Made in America Laws,<sup>1</sup> U.S. statutes, guidance, and FAA policies, which provide that Federal funds may not be obligated unless all iron, steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration 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.

The bidder or offeror must complete and submit the certification of compliance with FAA’s Buy American Preference, BABA and Made in America laws included herein with their bid or offer. The Airport Sponsor/Owner will reject as nonresponsive any bid or offer that does not include a completed certification of compliance with FAA’s Buy American Preference and BABA.

The bidder or offeror certifies that all constructions materials, defined to mean an article, material, or supply other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall used in the project are manufactured in the U.S.

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<sup>1</sup> Per Executive Order 14005 “Made in America Laws” means all statutes, regulations, rules, and Executive Orders relating to federal financial assistance awards or federal procurement, including those that refer to “Buy America” or “Buy American,” that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, and manufactured products offered in the United States.

#### **A4.3.2 Certification of Compliance with FAA Buy American Preference – Construction Projects**

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with its proposal. The bidder or offeror must indicate how it intends to comply with 49 USC § 50101, BABA and other related Made in America Laws, U.S. statutes, guidance, and FAA policies, by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e., not both) by inserting a checkmark (✓) or the letter “X”.

- Bidder or offeror hereby certifies that it will comply with 49 USC § 50101, BABA and other related U.S. statutes, guidance, and policies of the FAA by:
- a) Only installing iron, steel and manufactured products produced in the United States;
  - b) Only installing construction materials defined as: an article, material, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
  - c) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - d) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- a) To provide to the Airport Sponsor or the FAA evidence that documents the source and origin of the iron, steel, and/or manufactured product.
  - b) To faithfully comply with providing U.S. domestic products.
  - c) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
  - d) Certify that all construction materials used in the project are manufactured in the U.S.
- The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
- a) To submit to the Airport Sponsor or FAA within 15 calendar days of being selected as the responsive bidder, a formal waiver request and required documentation that supports the type of waiver being requested.
  - b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.

- c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
- d) To furnish U.S. domestic product for any waiver request that the FAA rejects.
- e) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

**Required Documentation**

**Type 2 Waiver (Nonavailability)** - The iron, steel, manufactured goods or construction materials or manufactured goods are not available in sufficient quantity or quality in the United States. The required documentation for the Nonavailability waiver is

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire
- b) Record of thorough market research, consideration where appropriate of qualifying alternate items, products, or materials including;
- c) A description of the market research activities and methods used to identify domestically manufactured items capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of sources.

**Type 3 Waiver** – The cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components and subcomponents of the “facility/project.” The required documentation for a Type 3 waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire including;
- b) Listing of all manufactured products that are not comprised of 100 percent U.S. 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).
- c) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- d) Percentage of non-domestic component and subcomponent cost as compared to total “facility” component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

**Type 4 Waiver (Unreasonable Costs)** - Applying this provision for iron, steel, manufactured goods or construction materials would increase the cost of the overall project by more than 25 percent. The required documentation for this waiver is:

- a) A completed Content Percentage Worksheet and Final Assembly Questionnaire from
- b) At minimum two comparable equal bids and/or offers;
- c) Receipt or record that demonstrates that supplier scouting called for in Executive Order 14005, indicates that no domestic source exists for the project and/or component;
- d) Completed waiver applications for each comparable bid and/or offer.

**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.

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Date

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Signature

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Company Name

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Title

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### **A4.3.3 Certification of Compliance with FAA Buy American Preference – Equipment/Building Projects**

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

- Bidder or offeror hereby certifies that it will comply with 49 USC § 50101, BABA and other related U.S. statutes, guidance, and policies of the FAA by:
  - d) Only installing steel and manufactured products produced in the United States;
  - e) Only installing construction materials defined as: an article, material, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
  - f) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - g) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- a) To provide to the Airport Sponsor or FAA evidence that documents the source and origin of the steel and manufactured product.
  - b) To faithfully comply with providing U.S. domestic product.
  - c) To furnish U.S. domestic product for any waiver request that the FAA rejects.
  - d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for a Type 3 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
  - a) To submit to the Airport Sponsor or FAA within 15 calendar days of being selected as the responsive bidder, a formal waiver request and required documentation that supports the type of waiver being requested.
  - b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.

- c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
- d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

**Required Documentation**

**Type 2 Waiver (Nonavailability)** - The iron, steel, manufactured goods or construction materials are not available in sufficient quantity or quality in the United States. The required documentation for the Nonavailability waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire
- b) Record of thorough market research, consideration where appropriate of qualifying alternate items, products, or materials including;
- c) A description of the market research activities and methods used to identify domestically manufactured items capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of sources.

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

- d) Completed Content Percentage Worksheet and Final Assembly Questionnaire including;
- e) Listing of all product components and subcomponents that are not comprised of 100 percent U.S. 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).
- f) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- g) 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 (Unreasonable Costs)** - Applying this provision for iron, steel, manufactured goods or construction materials, would increase the cost of the overall project by more than 25 percent. The required documentation for this waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire from
- b) At minimum two comparable equal bidders and/or offerors;
- c) Receipt or record that demonstrates that supplier scouting called for in Executive Order 14005, indicates that no domestic source exists for the project and/or component;
- d) Completed waiver applications for each comparable bid and/or offer.

**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.

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Date

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Signature

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Company Name

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Title

DRAFT



## A5 CIVIL RIGHTS - GENERAL

### A5.1 SOURCE

49 USC § 47123

### A5.2 APPLICABILITY

There are two separate civil rights provisions that apply to projects:

1. FAA General Civil Rights Provision and,
2. Title VI provisions, which are addressed in Appendix A6.

**Contract Types** – The General Civil Rights Provisions found in 49 USC § 47123, derived from the Airport and Airway Improvement Act of 1982, Section 520, apply to all Sponsor contracts *regardless* of funding source.

**Use of Provision – MANDATORY TEXT.** Each contract must include two civil rights provisions. The first general clause must be included in all contracts, lease agreements, or transfer agreements. An additional specific provision must be included; the applicable text is based on whether the contract is a general contract or whether the contract is a lease or transfer agreement. The Sponsor must incorporate the text of the appropriate general clause and specific clause without modification into the contract, lease, or transfer agreement.

The required clauses for each type of contact are summarized in the table below:

Contract Clause	The Sponsor must include the contract clause in:	Clause Text is Included in Paragraph
Clause that is used for all contracts, lease agreements and transfer agreements	Every contract or agreement <b>regardless of funding source.</b>	A5.3.1
Clause that is used for general contract agreements	This applies to all contracts that do not involve property agreements. It applies to all contracts not covered by A5.3.3 <b>regardless of funding source.</b>	A5.3.2
Clause that is used for lease agreements and transfer agreements	This applies to all property agreements such leases of concession space in a terminal and leases where a physical portion of the airport is transferred for use. It applies to all contracts not covered by A5.3.2 <b>regardless of funding source.</b>	A5.3.3

## **A5.3 MANDATORY CONTRACT CLAUSES**

### **A5.3.1 General Clause that is used for Contracts, Lease Agreements, and Transfer Agreements**

#### **GENERAL CIVIL RIGHTS PROVISIONS**

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

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

### **A5.3.2 Specific Clause that is used for General Contract Agreements**

The above provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract.

### **A5.3.3 Specific Clause that is used for Lease Agreements or Transfer Agreements**

If the Contractor transfers its obligation to another, the transferee is obligated in the same manner as the Contractor.

The above provision obligates the Contractor for the period during which the property is owned, used or possessed by the Contractor and the airport remains obligated to the Federal Aviation Administration.

## A6 CIVIL RIGHTS – TITLE VI ASSURANCE

### A6.1 SOURCE

49 USC § 47123

FAA Order 1400.11

### A6.2 APPLICABILITY

Title VI of the Civil Rights Act of 1964, as amended, (Title VI) prohibits discrimination on the grounds of race, color, or national origin under any program or activity receiving Federal financial assistance. Sponsors must include appropriate clauses from the Standard DOT Title VI Assurances in all contracts and solicitations.

The text of each individual clause comes from the U.S. Department of Transportation [Order DOT 1050.2](#), Standard Title VI Assurances and Nondiscrimination Provisions, effective April 24, 2013. These assurances require that the Recipient (the Sponsor) insert the appropriate clauses in the form provided by the DOT. Where the clause refers to the applicable activity, project, or program, it means the AIP project.

The clauses are as follows:

#### A6.2.1 Applicability of Title VI Solicitation Notice

Contract Clause	The Sponsor must include the contract clause in:	Clause Text is Included in Paragraph
Title VI Solicitation Notice – <ul style="list-style-type: none"> <li>Assurance 2 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses</li> <li>Assurance 30(d) of the Airport Sponsors Assurances</li> </ul>	1) All AIP funded solicitations for bids, requests for proposals, or any work subject to Title VI regulations; and 2) All Sponsor proposals for negotiated agreements <b>regardless of funding source</b> .	A6.3.1
Title VI Clauses for Compliance with Nondiscrimination Requirements <ul style="list-style-type: none"> <li>Assurance 3 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses</li> <li>Assurance 30(e)(1) of the Airport Sponsor Assurances</li> </ul>	Every contract or agreement (unless the Sponsor has determined, and the FAA concurs, that the contract or agreement is not subject to the Nondiscrimination Acts and Authorities, which is a rare occurrence).  It has been determined that service contracts with utility companies that are not already subject to substantively identical nondiscrimination requirements must include this clause.	A6.4.2

Contract Clause	The Sponsor must include the contract clause in:	Clause Text is Included in Paragraph
<p>Title VI Required Clause for Property Interests Transferred from the United States</p> <ul style="list-style-type: none"> <li>Assurance 4 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses</li> <li>Assurance 30e.3 of the Airport Sponsor Assurances</li> </ul>	<p>As a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Sponsor.</p> <p>This is a rare occurrence, and it will be the responsibility of the United States government to include the clause in the contract.</p>	<p>A6.4.3</p>
<p>Title VI Required Clause for Transfer of Real Property Acquired or Improved Under the Activity, Facility or Program –</p> <ul style="list-style-type: none"> <li>Assurance 5 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses</li> <li>Assurance 30(e)(4)(a) of the Airport Sponsor Assurances</li> </ul>	<p>As a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Sponsor with other parties for all transfers of real property acquired or improved under Airport Improvement Program</p> <p>This applies to agreements such as leases where a physical portion of the airport is transferred for use, for example a fuel farm, apron space, or a parking facility. It applies to agreements not covered by A6.4.4.</p>	<p>A6.4.4</p>
<p>Clause for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program</p> <ul style="list-style-type: none"> <li>Assurance 6 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses</li> <li>Assurance 30(e)(4)(b) of the Airport Sponsor Assurances</li> </ul>	<p>In any future (deeds, leases, licenses, permits, or similar instruments) entered into by the Sponsor with other parties for the construction or use of, or access to, space on, over, or under real property acquired or improved under Airport Improvement Program</p> <p>This applies to agreements such as leases of concession space in a terminal not covered by A6.4.3.</p>	<p>A6.4.5</p>

Contract Clause	The Sponsor must include the contract clause in:	Clause Text is Included in Paragraph
<p>Title VI List of Pertinent Nondiscrimination Acts and Authorities</p> <ul style="list-style-type: none"> <li>• Assurance 3 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses</li> <li>• Assurance 30(e)(2) of the Airport Sponsor Assurances</li> </ul>	<p>Insert this list in every contract or agreement, unless the Sponsor has determined, and the FAA concurs, that the contract or agreement is not subject to the Nondiscrimination Acts and Authorities, which is a rare occurrence.</p> <p><b>This list can only be omitted if the FAA has determined that the contractor or company is already subject to substantively identical nondiscrimination requirements.</b></p>	<p>A6.4.1</p> <p><b>List must be included in all applicable contracts.</b></p>

### **A6.3 MANDATORY SOLICITATION CLAUSE**

**The Sponsor must include this clause in:**

- 1) All AIP funded solicitations for bids, requests for proposals, or any work subject to Title VI regulations; and
- 2) All Sponsor proposals for negotiated agreements **regardless of funding source.**

#### **A6.3.1 Title VI Solicitation Notice**

**Title VI Solicitation Notice:**

The (**Name of Sponsor**), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.

### **A6.4 MANDATORY CONTRACT CLAUSES**

#### **A6.4.1 Title VI List of Pertinent Nondiscrimination Acts and Authorities**

Insert this list in every contract or agreement, unless the Sponsor has determined and the FAA concurs, that the contract or agreement is not subject to the Nondiscrimination Acts and Authorities. This list can be omitted if the FAA has determined that the contractor or company is already subject to nondiscrimination requirements, which is a rare occurrence.

#### **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 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, *et seq.*) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, *et seq.*).

#### **A6.4.2 Nondiscrimination Requirements/Title VI Clauses for Compliance**

The Sponsor must include this contract clause in:

- 1) Every contract or agreement (unless the Sponsor has determined, and the FAA concurs, that the contract or agreement is not subject to the Nondiscrimination Acts and Authorities); and
- 2) Service contracts with utility companies that are not already subject to substantively identical nondiscrimination requirements.
- 3) Other types of contracts with utility companies involving property covered by A6.4.2, A6.4.3, or A6.4.4.

**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. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability 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.

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## **A7 CLEAN AIR AND WATER POLLUTION CONTROL**

### **A7.1 SOURCE**

2 CFR Part 200, Appendix II(G)

42 USC § 7401, et seq

33 USC § 1251, et seq

### **A7.2 APPLICABILITY**

**Contract Types** – This provision is required for all contracts and lower tier contracts that exceed \$150,000.

**Use of Provision** – No mandatory language provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor's language must fully satisfy the requirements of Appendix II to 2 CFR § 200.

### **A7.3 MODEL CONTRACT CLAUSE**

#### **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 USC §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

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

## **A8 CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

### **A8.1 SOURCE**

2 CFR Part 200, Appendix II(E)

2 CFR § 5.5(b)

40 USC § 3702

40 USC § 3704

### **A8.2 APPLICABILITY**

Contract Work Hours and Safety Standards Act Requirements (CWHSSA) (40 USC §§ 3702 & 3704) requires contractors and subcontractors on covered contracts to pay laborers and mechanics employed in the performance of the contracts not less than one and one-half times their basic rate of pay for all hours worked over 40 in a workweek. CWHSSA prohibits unsanitary, hazardous, or dangerous working conditions on federally-assisted projects. The Wage and Hour Division (WHD) within the U.S. Department of Labor (DOL) enforces the compensation requirements of this Act, while DOL's Occupational Safety and Health Administration (OSHA) enforces the safety and health requirements.

#### **Contract Types –**

*Construction* – This provision applies to all contracts and lower tier contracts that exceed \$100,000, and employ laborers, mechanics, watchmen, and guards.

*Equipment* – This provision applies to any equipment project exceeding \$100,000 that involves installation of equipment onsite (e.g., electrical vault equipment). This provision does not apply to equipment acquisition projects where the manufacture of the equipment takes place offsite at the vendor plant (e.g., ARFF and SRE vehicles).

*Professional Services* – This provision applies to professional service agreements that exceed \$100,000 and employ laborers, mechanics, watchmen, and guards. This includes members of survey crews and exploratory drilling operations.

*Property* – While most land transactions do not involve employment of laborers, mechanics, watchmen, and guards, under certain circumstances, a property acquisition project could require such employment. Examples include the installation of property fencing or testing for environmental contamination

**Use of Provision – MANDATORY TEXT.** Sponsors must incorporate this text without modification.

## **A8.3 MANDATORY CONTRACT CLAUSE**

### **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 \$29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

#### **3. Withholding for Unpaid Wages and Liquidated Damages.**

The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the 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 also 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.

## **A9 COPELAND “ANTI-KICKBACK” ACT**

### **A9.1 SOURCE**

2 CFR Part 200, Appendix II(D)

29 CFR Parts 3 and 5

### **A9.2 APPLICABILITY and PURPOSE**

The Copeland (Anti-Kickback) Act (18 USC § 874 and 40 USC § 3145) makes it unlawful to induce by force, intimidation, threat of dismissal from employment, or by any other manner, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment. The Copeland Act also requires each contractor and subcontractor to furnish weekly a statement of compliance with respect to the wages paid each employee during the preceding week.

#### **Contract Types –**

*Construction* – This provision applies to all construction contracts and subcontracts financed under the AIP that exceed \$2,000.

*Equipment* – This provision applies to all equipment installation projects (e.g., electrical vault improvements) financed under the AIP that exceed \$2,000. This provision does not apply to equipment acquisitions where the equipment is manufactured at the vendor’s plant (e.g., SRE and ARFF vehicles).

*Professional Services* –The emergence of different project delivery methods has created situations where Professional Service Agreements (PSAs) include tasks that meet the definition of construction, alteration, or repair as defined in 29 CFR Part 5. If such tasks result in work that qualifies as construction, alteration, or repair and it exceeds \$2,000, the PSA must incorporate the Copeland Anti-kickback provision.

*Property* –Ordinarily, land acquisition projects would not involve employment of laborers or mechanics and thus the Copeland Anti-Kickback provision would not apply. However, land projects that involve installation of boundary fencing and demolition of structures would involve laborers and mechanics. The Sponsor must include this provision if the land acquisition project involves employment of laborers or mechanics for a contract exceeding \$2,000.

**Use of Provision** – No mandatory language provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of 29 CFR Part 5.

### **A9.3 MODEL CONTRACT CLAUSE**

#### **COPELAND “ANTI-KICKBACK” ACT**

Contractor must comply with the requirements of the Copeland “Anti-Kickback” Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. 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.

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## **A10 DAVIS-BACON REQUIREMENTS**

### **A10.1 SOURCE**

2 CFR Part 200, Appendix II(D)

29 CFR Part 5

49 USC § 47112(b)

40 USC §§ 3141-3144, 3146, and 3147

### **A10.2 APPLICABILITY**

The Davis-Bacon Act (40 USC §§ 3141-3144, 3146, and 3147) ensures that laborers and mechanics employed under the contract receive pay no less than the locally prevailing wages and fringe benefits as determined by the Department of Labor.

#### **Contract Types –**

*Construction* – Incorporate into all construction contracts and subcontracts that exceed \$2,000 and include funding from the AIP.

*Equipment* – This provision applies to all equipment installation projects (e.g., electrical vault improvements) financed under the AIP that exceed \$ 2,000. This provision does not apply to equipment acquisitions where the equipment is manufactured at the vendor’s plant (e.g., SRE and ARFF vehicles)

*Professional Services* – The emergence of different project delivery methods has created situations where Professional Service Agreements (PSAs) includes tasks that meet the definition of construction, alteration, or repair as defined in 29 CFR Part 5. If such tasks result in work that qualifies as construction, alteration, or repair and it exceeds \$2,000, the PSA must incorporate this clause.

*Property* – Ordinarily, land acquisition projects would not involve employment of laborers or mechanics and thus the provision would not apply. However, land projects that involve installation of boundary fencing and demolition of structures would involve laborers and mechanics. The Sponsor must include this provision if the land acquisition project involves employment of laborers or mechanics for a contract exceeding \$2,000.

*Fencing Projects* – Fencing projects that exceed \$2,000 must include this provision.

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

## A10.3 MANDATORY CONTRACT CLAUSE

### 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 § 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;
- (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, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or

disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the 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 the 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 that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. 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 <https://www.dol.gov/agencies/whd/government-contracts/construction/payroll-certification> 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, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the 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 Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, 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 that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the 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 §§ 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 § 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 USC § 1001.

## **A11 DEBARMENT AND SUSPENSION**

### **A11.1 SOURCE**

2 CFR Part 180 (Subpart B)

2 CFR Part 200, Appendix II(H)

2 CFR Part 1200

DOT Order 4200.5

Executive Orders 12549 and 12689

### **A11.2 APPLICABILITY**

The Sponsor must verify that the firm or individual that it is entering into a contract with is not presently suspended, excluded, or debarred by any Federal department or agency from participating in federally-assisted projects. The Sponsor accomplishes this by:

- 1) Checking the System for Award Management (SAM.gov) to verify that the firm or individual is not listed in SAM.gov as being suspended, debarred, or excluded;
- 2) Collecting a certification from the firm or individual that it is not suspended, debarred, or excluded; and
- 3) Incorporating a clause in the contract that requires lower tier contracts to verify that no suspended, debarred, or excluded firm or individual is included in the project.

**Contract Types** – This requirement applies to *covered transactions*, which are defined in 2 CFR part 180 (Subpart B). AIP funded contracts are non-procurement transactions, as defined by 2 CFR § 180.970. Covered transactions include any AIP-funded contract, regardless of tier, that is awarded by a contractor, subcontractor, supplier, consultant, or its agent or representative in any transaction, if the amount of the contract is expected to equal or exceed \$25,000. This includes contracts associated with land acquisition projects.

**Use of Provision** – No mandatory language provided. The following language is acceptable to the FAA in meeting the intent of this requirement. If the Sponsor uses different language, the Sponsor's language must fully satisfy the requirements of 2 CFR part 180. For professional service agreements, Sponsor may substitute "bidder/offeror" with "consultant."

### **A11.3 MODEL BID/PROPOSAL CERTIFICATION CLAUSES**

#### **A11.3.1 Bidder or Offeror Certification**

##### **CERTIFICATION OF OFFEROR/BIDDER REGARDING DEBARMENT**

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

### **A11.3.2 Lower Tier Contract Certification**

#### **CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT**

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

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

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

## A12 DISADVANTAGED BUSINESS ENTERPRISE

### A12.1 SOURCE

49 CFR Part 26

### A12.2 APPLICABILITY

A Sponsor that anticipates awarding \$250,000 or more in AIP funded prime contracts in a federal fiscal year must have an approved Disadvantaged Business Enterprise (DBE) program on file with the FAA Office of Civil Rights (49 CFR § 26.21). The approved DBE program will identify a 3-year overall program goal that the Sponsor bases on the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on the project (49 CFR § 26.45).

**Contract Types** – Sponsors with a DBE program on file with the FAA must include the following provisions, if applicable:

- 1) Clause in all solicitations for proposals for which a contract goal has been established,
- 2) Clause in each prime contract, and
- 3) Clause in solicitations that are obtaining DBE participation through race/gender neutral means.

#### **Use of Provision –**

1. *Solicitations with a DBE Contract Goal* – No mandatory language provided. 49 CFR §26.53 requires a Sponsor’s solicitation to address what a contractor must submit on proposed DBE participation. The language of A12.3.1 is acceptable to the FAA in meeting the intent of this requirement. If the Sponsor uses different language, the Sponsor’s revised language must fully satisfy these requirements. The Sponsor may require the contractor’s submittal on proposed DBE participation either at bid opening as a matter of responsiveness or within five days of bid opening as a matter of responsibility.
2. *Solicitations Relying on Race/Gender Neutral Means* – No mandatory language provided. The language of A12.3.2 is acceptable to the FAA in meeting the intent of this requirement. If the Sponsor uses different language, the Sponsor’s revised language must fully satisfy requirements for a Sponsor that is not applying a project specific contract goal but is covered by a DBE program on file with the FAA.
3. *Assurance for Contracts Covered by DBE Program* – **MANDATORY TEXT PROVIDED.** Sponsors must incorporate this language if they have a DBE program on file with the FAA. This includes projects where DBE participation is obtained through race/gender neutral means (i.e., no DBE contract goal). Section 26.13 of 49 CFR establishes mandatory language for contractor assurance. The Sponsor must not modify the language. Part 26 of 49 CFR requires Sponsors ensure this clause also flows down into subcontracts (i.e., must be included verbatim in subcontracts).

4. *Prompt Payment for Contracts Covered by DBE Program* – No mandatory language provided. Section 26.29 of 49 CFR requires Sponsors to include a contract clause requiring prompt payment to subcontractors no later than thirty (30) days after the prime contractor receives payment from the Sponsor. The requirement applies to all subcontractors, not just DBEs. The prompt payment language of A12.3.3 is acceptable to the FAA in meeting the intent of this requirement. If the Sponsor uses different language, such as a specific clause identified in the Sponsor’s approved DBE program plan, the Sponsor’s revised language must fully satisfy these requirements.
5. *Termination of DBE Subcontractors on Contracts with a DBE Contract Goal* - No mandatory language provided. Section 26.53 of 49 CFR prohibits unauthorized removal or replacement of DBE firms listed in response to a solicitation that had a DBE contract goal and sets forth the specific enforcement mechanism recipients must include in prime contracts. The language of A12.3.3 is acceptable to the FAA in meeting the intent of this requirement.
6. Sponsors that are not required to have a DBE program on file with the FAA are not required to include DBE provisions and clauses.

### **A12.3 REQUIRED PROVISIONS**

#### **A12.3.1 Solicitation Language (Solicitations that include a Contract Goal)**

##### Bid Information Submitted as a matter of responsiveness:

The Owner’s award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR § 26.53.

As a condition of responsiveness, the Bidder or Offeror must submit the following information with its proposal on the forms provided herein:

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1);
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner’s project goal
- 5) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; and
- 6) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.



**Bid Information submitted as a matter of responsibility:**

The Owner’s award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR § 26.53.

As a condition of responsibility, every Bidder or Offeror must submit the following information on the forms provided herein within five days after bid opening.

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1);
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner’s project goal;
- 5) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; and
- 6) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

**A12.3.2 Solicitation Language (Race/Gender Neutral Means)**

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the [Insert Name of Owner] 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.

**A12.3.3 Prime Contracts (Contracts Covered by a DBE Program)**

**Contract Assurance (49 CFR § 26.13; mandatory text provided) –**

The Contractor, subrecipient 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, 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 (49 CFR § 26.29; acceptable/sample text provided) –**

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than [specify number of days, not to exceed 30] days from the receipt of each payment the prime contractor receives from [Name of recipient]. The prime contractor agrees further to return retainage payments to each subcontractor within [specify number of days, not to exceed 30] 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 [Name of Recipient]. This clause applies to both DBE and non-DBE subcontractors.

**Termination of DBE Subcontracts (49 CFR § 26.53(f); acceptable/sample text provided) –**

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

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

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

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

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

In addition to post-award terminations, the provisions of this section apply to preaward deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

## **A13 DISTRACTED DRIVING**

### **A13.1 SOURCE**

Executive Order 13513

DOT Order 3902.10

### **A13.2 APPLICABILITY**

*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 subgrant.*

**Contract Types** – Sponsors must insert this provision in all AIP funded contracts that exceed the micro-purchase threshold of 2 CFR § 200.320 (currently set at \$10,000).

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA in meeting the intent of this requirement. If the Sponsor uses different language, the Sponsor’s revised language must fully satisfy these requirements.

### **A13.3 MODEL CONTRACT CLAUSE**

#### **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 Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the 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 \$10,000 that involve driving a motor vehicle in performance of work activities associated with the project.

## **A14 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

### **A14.1 SOURCE**

2 CFR § 200, Appendix II(K)

2 CFR § 200.216

### **A14.2 APPLICABILITY**

Sponsors and subgrant recipients are prohibited from using AIP grant funds to:

- a) Procure or obtain,
- b) Extend or renew a contract to procure or obtain, or
- c) Enter into a contract to procure or obtain certain covered telecommunications equipment.

These restrictions apply to telecommunication equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system or as critical technology as part of any system. Covered telecommunications equipment is equipment produced or provided by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of either).

**Contract Types** – The Sponsor must include this provision in all AIP funded contracts and lower-tier contracts.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s revised language must fully satisfy these requirements. Sponsor may substitute “Contractor and subcontractor” with “Consultant and sub-consultant” for professional service agreements.

### **A14.3 MODEL CERTIFICATION CLAUSE**

#### **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

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

## **A15 DRUG FREE WORKPLACE REQUIREMENTS**

### **A15.1 SOURCE**

49 CFR Part 32

Drug-Free Workplace Act of 1988 (41 USC § 8101-8106, as amended)

### **A15.2 APPLICABILITY**

The Drug-Free Workplace Act of 1988 requires some Federal contractors and *all* Federal grantees to agree that they will provide drug-free workplaces as a condition of receiving a contract or grant from a Federal agency. The Act does **not** apply to contractors, subcontractors, or subgrantees, although the Federal grantees workplace may be where the contractors, subcontractors, or subgrantees are working.

**Contract Types** – This provision applies to all AIP funded projects, but not to the contracts between the grantee (the Sponsor) and a contractor, subcontractors, suppliers, or subgrantees.

**Use of Provision** – No mandatory or recommended text provided because the requirements do not extend beyond the Sponsor level.

### **A15.3 CONTRACT CLAUSE**

None.

## A16 EQUAL EMPLOYMENT OPPORTUNITY (EEO)

### A16.1 SOURCE

2 CFR Part 200, Appendix II(C)

41 CFR § 60-1.4

41 CFR § 60-4.3

Executive Order 11246

### A16.2 APPLICABILITY

The purpose of this provision is to provide equal opportunity for all persons, without regard to race, color, religion, sex, or national origin who are employed or seeking employment with contractors performing under a federally-assisted construction contract. There are two provisions — a construction clause and a specification clause.

The equal opportunity contract clause must be included in any contract or subcontract when the amount exceeds \$10,000. Once the equal opportunity clause is determined to be applicable, the contract or subcontract must include the clause for the remainder of the year, regardless of the amount or the contract.

#### **Contract Types –**

*Construction* – The Sponsor must incorporate contract and specification language in all construction contracts and subcontracts as required above.

*Equipment* – The Sponsor must incorporate contract and specification language into all equipment contracts as required above that involves installation of equipment onsite (e.g., electrical vault equipment). This provision does not apply to equipment acquisition projects where the manufacture of the equipment takes place offsite at the vendor plant (e.g., ARFF and SRE vehicles).

*Professional Services* – The Sponsor must include contract and specification language into all professional service agreements as required above.

*Property* – The Sponsor must include contract and specification language into all land acquisition projects that include work that qualifies as construction work as defined by 41 CFR part 60 as required above. An example is installation of boundary fencing.

**Use of Provision – MANDATORY TEXT.** 41 CFR § 60-1.4 provides the mandatory **contract** language. 41 CFR § 60-4.3 provides the mandatory **specification** language. The Sponsor must incorporate these clauses without modification.

## **A16.3 MANDATORY CONTRACT CLAUSE**

### **A16.3.1 EEO Contract Clause**

#### **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, sexual orientation, gender identity, 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 consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

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

(5) The 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.

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

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in

whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: *Provided*, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

### **A16.3.2 EEO Specification**

#### **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 part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must 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 areas 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 nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The 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 therefor, 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 woman 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 work force.

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

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

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

n. Ensure that all facilities and company activities are nonsegregated 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 group 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, the Contractor may be in violation of the Executive Order if a 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, sexual orientation, gender identity, 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 part 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 numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, 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).



## **A17 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

### **A17.1 SOURCE**

29 USC § 201, et seq

2 CFR § 200.430

### **A17.2 APPLICABILITY**

The U.S. Department of Labor (DOL) Wage and Hour Division administers the Fair Labor Standards Act (FLSA). This act prescribes federal standards for basic minimum wage, overtime pay, record keeping, and child labor standards.

**Contract Types** – Per the Department of Labor, all employees of certain enterprises having workers engaged in interstate commerce; producing goods for interstate commerce; or handling, selling, or otherwise working on goods or materials that have been moved in or produced for such commerce by any person are covered by the FLSA.

All consultants, sub-consultants, contractors, and subcontractors employed under this federally assisted project must comply with the FLSA.

*Professional Services* – 29 CFR § 213 exempts employees in a bona fide executive, administrative or professional capacity. Because professional firms employ individuals that are not covered by this exemption, the Sponsor's agreement with a professional services firm must include the FLSA provision.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor's language must fully satisfy the requirements of 29 USC § 201, et seq. The Sponsor must select *contractor* or *consultant*, as appropriate for the contract.

### **A17.3 MODEL SOLICITATION CLAUSE**

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, et seq, 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* | *Consultant*] has full responsibility to monitor compliance to the referenced statute or regulation. The [*Contractor* | *Consultant*] must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

## **A18 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES**

### **A18.1 SOURCE**

31 USC § 1352 – Byrd Anti-Lobbying Amendment

2 CFR Part 200, Appendix II(I)

49 CFR Part 20, Appendix A

### **A18.2 APPLICABILITY**

Consultants and contractors that apply or bid for an award of \$100,000 or more must certify that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or another award covered by 31 USC § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

**Contract Types** – The Sponsor must incorporate this provision into all contracts exceeding \$100,000.

**Use of Provision – MANDATORY TEXT.** Appendix A to 49 CFR Part 20 prescribes language the Sponsor must use. The Sponsor must incorporate this provision without modification.

### **A18.3 MANDATORY CERTIFICATION CLAUSE**

#### **CERTIFICATION REGARDING LOBBYING**

The Bidder or Offeror certifies by signing and submitting this bid or proposal, 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 Bidder or Offeror, 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, subgrants, 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.

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## **A19 PROHIBITION OF SEGREGATED FACILITIES**

### **A19.1 SOURCE**

2 CFR Part 200, Appendix II(C)

41 CFR Part 60-1

### **A19.2 APPLICABILITY**

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

**Contract Types** – AIP Sponsors must incorporate the Prohibition of Segregated Facilities clause (41 CFR § 60-1.8) in any contract containing the Equal Employment Opportunity clause of 41 CFR § 60-1.4. This obligation flows down to subcontract and sub-tier purchase orders containing the Equal Employment Opportunity clause.

*Construction* – Construction work means construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

*Equipment* – On site installation of equipment such as airfield lighting control equipment meets the definition of construction and thus this provision would apply. This provision does not apply to equipment projects involving manufacture of the item at a vendor's manufacturing plant. An example would be the manufacture of a SRE or ARFF vehicle.

*Professional Services* – Professional services that include tasks that qualify as construction work as defined by 41 CFR part 60-1. Examples include the installation of noise monitoring equipment.

*Property/Land* – Land acquisition contracts that include tasks that qualify as construction work as defined by 41 CFR part 60-1. Examples include demolition of structures or installation of boundary fencing.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor's language must fully satisfy the requirements of 41 CFR Part 60-1.



### **A19.3 MODEL CONTRACT CLAUSE**

#### **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 Employment Opportunity clause in this contract.

(b) “Segregated facilities,” as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

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

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## **A20 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

### **A20.1 SOURCE**

29 CFR Part 1910

### **A20.2 APPLICABILITY**

**Contract Types** – All contracts and subcontracts must comply with the Occupational Safety and Health Act of 1970 (OSH). The U.S. Department of Labor Occupational Safety and Health Administration (OSHA) oversees the workplace health and safety standards wage provisions from OSH.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of 29 CFR Part 1910.

### **A20.3 MODEL CONTRACT CLAUSE**

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

## **A21 PROCUREMENT OF RECOVERED MATERIALS**

### **A21.1 SOURCE**

2 CFR § 200.323

2 CFR Part 200, Appendix II(J)

40 CFR Part 247

42 USC § 6901, et seq (Resource Conservation and Recovery Act (RCRA))

### **A21.2 APPLICABILITY**

Sponsors of AIP funded development and equipment projects must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. Section 6002 emphasizes maximizing energy and resource recovery through use of affirmative procurement actions for recovered materials identified in the Environmental Protection Agency (EPA) guidelines codified at 40 CFR part 247. When acquiring items designated in the guidelines, the Sponsor must procure items that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

**Contract Types** – This provision applies to any contracts that include procurement of products designated in subpart B of 40 CFR part 247 where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000.

*Construction and Equipment* – Include this provision in all construction and equipment projects.

*Professional Services and Property* – Include this provision if the agreement includes procurement of a product that exceeds \$10,000.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor's language must fully satisfy the requirements of 2 CFR Part 200.

### **A21.3 MODEL CONTRACT CLAUSE**

#### **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 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
- b) 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/smm/comprehensive-procurement-guidelines-construction-products](http://www.epa.gov/smm/comprehensive-procurement-guidelines-construction-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.

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## **A22 RIGHT TO INVENTIONS**

### **A22.1 SOURCE**

2 CFR Part 200, Appendix II(F)

37 CFR Part 401

### **A22.2 APPLICABILITY**

**Contract Types** – This provision applies to all contracts and subcontracts with small business firms or nonprofit organizations that include performance of *experimental, developmental, or research work*. This clause is not applicable to construction, equipment, or professional service contracts unless the contract includes *experimental, developmental, or research work*.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of 2 CFR Part 200, Appendix II.

### **A22.3 MODEL CONTRACT CLAUSE**

#### **RIGHTS TO INVENTIONS**

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

## **A23 SEISMIC SAFETY**

### **A23.1 SOURCE**

49 CFR Part 41

### **A23.2 APPLICABILITY**

**Contract Types** – This provision applies to construction of new buildings and additions to existing buildings financed in whole or in part through the Airport Improvement Program.

*Professional Services*– Sponsor must incorporate this clause in any contract involved in the construction of new buildings or structural addition to existing buildings.

*Construction* – Sponsor must incorporate this clause in any contract involved in the construction of new buildings or structural addition to existing buildings.

*Equipment* – Sponsor must include the construction provision if the project involves construction or structural addition to a building such as an electrical vault project to accommodate or install equipment.

*Land* – This provision will not typically apply to a property/land project.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of 49 CFR part 41.

### **A23.3 MODEL CONTRACT CLAUSE**

#### **A23.3.1 Professional Service Agreements for Design**

##### **SEISMIC SAFETY**

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

#### **A23.3.2 Construction Contracts**

##### **SEISMIC SAFETY**

The Contractor agrees to ensure that all work performed under this contract, including work performed by subcontractors, conforms to a building code standard that provides a level of seismic safety substantially equivalent to standards established by the National Earthquake Hazards Reduction

Program (NEHRP). Local building codes that model their code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety.

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## A24 TAX DELINQUENCY AND FELONY CONVICTIONS

### A24.1 SOURCE

Section 8113 of the Consolidated Appropriations Act, 2022 (Public Law 117-103) and similar provisions in subsequent appropriations acts.

DOT Order 4200.6 – Appropriations Act Requirements for Procurement and Non-Procurement Regarding Tax Delinquency and Felony Convictions

### A24.2 APPLICABILITY

The Sponsor must ensure that no funding goes to any contractor who:

- Has been convicted of a Federal felony within the last 24 months; or
- Has any outstanding tax liability for which all judicial and administrative remedies have lapsed or been exhausted.

**Contract Types** – This provision applies to all contracts funded in whole or part with AIP.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor's language must fully satisfy the requirements of DOT Order 4200.6.

### A24.3 MODEL CERTIFICATION CLAUSE

#### CERTIFICATION OF OFFEROR/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

#### Certifications

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

#### Note

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



the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

### **Term Definitions**

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

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

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## **A25 TERMINATION OF CONTRACT**

### **A25.1 SOURCE**

2 CFR Part 200, Appendix II(B)

FAA Advisory Circular 150/5370-10, Section 80-09

### **A25.2 APPLICABILITY**

**Contract Types** – All contracts and subcontracts in excess of \$10,000 must address *termination for cause* and *termination for convenience* by the Sponsor. The provision must address the manner (i.e., notice, opportunity to cure, and effective date) by which the Sponsor’s contract will be affected and the basis for settlement (e.g., incurred expenses, completed work, profit, etc.).

#### **Use of Provision –**

*Termination for Convenience* – No mandatory text provided. The Sponsor must include a clause for termination for convenience. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of Appendix II to 2 CFR § 200.

*Termination for Cause* – No mandatory text provided. The Sponsor must include a clause for termination for cause (includes default). The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of 2 CFR Part 200, Appendix II.

*Equipment, Professional Services, and Property* – No mandatory text provided. The Sponsor may use their established clause language provided that it adequately addresses the intent of 2 CFR Part 200 Appendix II(B), which addresses termination for cause and for convenience.

### **A25.3 MODEL CONTRACT CLAUSES**

#### **A25.3.1 Termination for Convenience**

##### **TERMINATION FOR CONVENIENCE (CONSTRUCTION & EQUIPMENT CONTRACTS)**

The Owner may terminate this contract in whole or in part at any time by providing written notice to the 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:

- g. Contractor must immediately discontinue work as specified in the written notice.
- h. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
- i. Discontinue orders for materials and services except as directed by the written notice.
- j. 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.

- k. Complete performance of the work not terminated by the notice.
- l. 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:

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

#### **TERMINATION FOR CONVENIENCE (PROFESSIONAL SERVICES)**

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

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

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

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

#### **A25.3.2 Termination for Default**

##### **TERMINATION FOR CAUSE (CONSTRUCTION)**

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

##### **TERMINATION FOR CAUSE (EQUIPMENT)**

The Owner may, by written notice of default to the Contractor, terminate all or part of this Contract for cause if the Contractor:

1. Fails to begin the Work under the Contract within the time specified in the Notice-to-Proceed;

2. Fails to make adequate progress as to endanger performance of this Contract in accordance with its terms;
3. Fails to make delivery of the equipment within the time specified in the Contract, including any Owner approved extensions;
4. Fails to comply with material provisions of the Contract;
5. Submits certifications made under the Contract and as part of their proposal that include false or fraudulent statements; or
6. Becomes insolvent or declares bankruptcy.

If one or more of the stated events occur, the Owner will give notice in writing to the Contractor and Surety of its intent to terminate the contract for cause. At the Owner's discretion, the notice may allow the Contractor and Surety an opportunity to cure the breach or default.

If within [10] days of the receipt of notice, the Contractor or Surety fails to remedy the breach or default to the satisfaction of the Owner, the Owner has authority to acquire equipment by other procurement action. The Contractor will be liable to the Owner for any excess costs the Owner incurs for acquiring such similar equipment.

Payment for completed equipment delivered to and accepted by the Owner shall be at the Contract price. The Owner may withhold from amounts otherwise due the Contractor for such completed equipment, such sum as the Owner determines to be necessary to protect the Owner against loss because of Contractor default.

Owner will not terminate the Contractor's right to proceed with the work under this clause if the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such acceptable causes include: acts of God, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, and severe weather events that substantially exceed normal conditions for the location.

If, after termination of the Contractor's right to proceed, the Owner determines that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the Owner issued the termination for the convenience the Owner.

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

#### **TERMINATION FOR CAUSE (PROFESSIONAL SERVICES)**

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

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

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

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

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

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

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

- b) **Termination by Consultant:** The Consultant may terminate this Agreement for cause in whole or in part, if the Owner:
1. Defaults on its obligations under this Agreement;
  2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
  3. Suspends the project for more than [180] days due to reasons beyond the control of the Consultant.

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

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

## **A26 TRADE RESTRICTION CERTIFICATION**

### **A26.1 SOURCE**

49 USC § 50104

49 CFR Part 30

### **A26.2 APPLICABILITY**

Unless waived by the Secretary of Transportation, Sponsors may not use AIP funds on a product or service from a foreign country included in the current list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR).

**Contract Types** – The trade restriction certification and clause apply to all AIP funded projects.

**Use of Provision – MANDATORY TEXT.** 49 CFR Part 30 prescribes the language for this model clause. The Sponsor must include this certification language in all contracts and subcontracts without modification.

### **A26.3 MANDATORY SOLICITATION CLAUSE**

#### **TRADE RESTRICTION CERTIFICATION**

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

- 1) 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 (USTR);
- 2) 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 USTR; and
- 3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

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 USC § 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/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 an Offeror 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 USTR; or
- 2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list; or
- 3) who incorporates in the public works project any product of a foreign country on such USTR 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.

The Offeror agrees that, if awarded a contract resulting from this solicitation, 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 USTR, unless the Offeror 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 (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

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## **A27 VETERAN'S PREFERENCE**

### **A27.1 SOURCE**

49 USC § 47112(c)

### **A27.2 APPLICABILITY**

**Contract Types** – This provision applies to all AIP funded projects that involve labor to carry out the project. This preference, which excludes executive, administrative, and supervisory positions, applies to covered veterans [as defined under § 47112(c)] only when they are readily available and qualified to accomplish the work required by the project.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor's language must fully satisfy the requirements of 49 USC § 47112.

### **A27.3 MODEL CONTRACT CLAUSE**

#### **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 USC § 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.





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## **A28 DOMESTIC PREFERENCES FOR PROCUREMENTS**

### **A28.1 SOURCE**

2 CFR § 200.322

2 CFR Part 200, Appendix II(L)

### **A28.2 APPLICABILITY**

To the greatest extent “practicable,” Sponsors must provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the U.S., including, but not limited to iron, aluminum, steel, cement, or other manufactured products.

**Contract Types** – Must be included in all subawards, including all contracts and purchase orders for work or products under the grant.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of 2 CFR § 200.322.

### **A28.3 MODEL CERTIFICATION CLAUSE**

#### **CERTIFICATION REGARDING DOMESTIC PREFERENCES FOR PROCUREMENTS**

The Bidder or Offeror certifies by signing and submitting this bid or proposal that, to the greatest extent practicable, the Bidder or Offeror has provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR § 200.322.

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## End of Federal Contract Provisions

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