

**HILLSBOROUGH COUNTY AVIATION
AUTHORITY**



**MAINTENANCE CONTRACT
TERMINAL AUTOMATED PEOPLE MOVER SYSTEMS
TAMPA INTERNATIONAL AIRPORT**

CONTRACT START DATE: 5/01/22

CONTRACT END DATE: 4/30/27

CONTRACTOR: Bombardier Transportation (Holdings) USA, Inc.

TABLE OF CONTENTS

1.0 CONTRACT PROVISIONS.....	1
1.1 PURPOSE	1
1.2 TERM OF CONTRACT	1
1.3 SCOPE OF WORK.....	1
1.4 Contract Service Availability.....	4
1.5 Authority's Responsibilities.....	7
1.6 ADDITIONAL CONDITIONS	10
1.7 CONTRACTOR'S PERSONNEL	14
1.8 COMPENSATION.....	15
1.9 EXTRA WORK AND CHANGES IN THE WORK.....	17
1.10 OPTIONAL TRAINING	18
2.0 STANDARD PROVISIONS	18
2.1 CONTRACT SUPERVISION	18
2.2 CONTRACTOR'S PERSONNEL STANDARDS	18
2.3 INSPECTIONS	19
2.4 OWNERSHIP OF DOCUMENTS	22
2.5 ASSIGNMENT.....	22
2.6 INDEMNIFICATION	22
2.7 CLAIMS AND DISPUTES	25
2.8 RESOLUTION OF CLAIMS AND DISPUTES	26
2.9 LIMITATION OF LIABILITY.....	27
2.10 COMPLIANCE WITH TAXES, LICENSES, PERMITS, AND RULES.....	27
2.11 COMPLIANCE WITH LAWS, REGULATIONS, ORDINANCES, RULES	28
2.12 HAZARDOUS SUBSTANCES AND COMPLIANCE.....	28
2.13 WAIVERS.....	32
2.14 WAIVER OF CLAIM	32
2.15 TIME OF ESSENCE.....	32
2.16 RESERVED.....	33
2.17 EQUAL OPPORTUNITY REPORT	33
2.18 WOMAN AND MINORITY BUSINESS ENTERPRISES (W/MBE) ASSURANCES.....	33
2.19 FLORIDA PUBLIC ENTITY CRIMES	34
2.20 CONTRACT MADE IN FLORIDA AND FULLY INTEGRATED	35
2.21 NONDISCRIMINATION/AFFIRMATIVE ACTION.....	35
2.22 TERMINATION	38
2.23 FEDERAL RIGHT TO RECLAIM	39
2.24 PRESS RELEASES OR OTHER SPECIALIZED PUBLICITY DOCUMENTS	39
2.25 PROJECT COORDINATION	39
2.26 CODE OF ETHICS	39
2.27 PUBLIC RECORDS.....	39
2.28 PROTECTION OF PERSONS AND PROPERTY	40
2.29 PROHIBITION AGAINST CONTINGENT FEES.....	41

2.30	CERTIFICATION OF NON-SEGREGATED FACILITIES.	41
2.31	PROHIBITION AGAINST CONTRACTING WITH SCRUTINIZED COMPANIES	42
2.32	E-VERIFY REQUIREMENT.....	42
2.33	DATA SECURITY.....	43
2.34	NON-EXCLUSIVE RIGHTS.....	43
2.35	RIGHT TO DEVELOP AIRPORT.....	43
2.36	RIGHT OF FLIGHT.....	43
2.37	SUBORDINATION OF AGREEMENT.....	44
2.38	SUBORDINATION TO TRUST AGREEMENT.....	44
2.39	SECURITY BADGING.....	44
2.40	RELATIONSHIP OF THE PARTIES.....	45
2.41	RIGHT TO AMEND.....	45
2.42	COMPANY TENANCY.....	45
2.43	AMERICANS WITH DISABILITY ACT.....	45
2.44	PROPERTY RIGHTS RESERVED.....	46
2.45	FAA APPROVAL.....	46
2.46	AGENT FOR SERVICE OF PROCESS.....	46
2.47	INVALIDITY OF CLAUSES.....	46
3.0	CONTRACT FORMS, AWARD, AND EXECUTION OF CONTRACT	46
3.1	APPROVAL OF CONTRACT.....	46
3.2	INSURANCE COVERAGES AND LIMITS	47
3.3	INSURANCE CONDITIONS OF ACCEPTANCE – S250.06.....	48
3.4	NOTICE-TO-PROCEED	48

ATTACHMENT A: SYSTEM SAFETY PROGRAM PLAN FOR AUTOMATED PEOPLE MOVER SYSTEMS AT TAMPA INTERNATIONAL AIRPORT

ATTACHMENT B: STANDARD PROCEDURE S250.06 CONTRACTUAL INSURANCE TERMS AND CONDITIONS

ATTACHMENT C: SOFTWARE SOURCE CODE ESCROW AGREEMENT

ATTACHMENT D: SPARE PARTS INVENTORY

ATTACHMENT E: E-VERIFY CERTIFICATION

ATTACHMENT F: SCRUTINIZED COMPANY CERTIFICATION

MAINTENANCE CONTRACT
AUTOMATED PEOPLE MOVER SYSTEMS
TAMPA INTERNATIONAL AIRPORT

1.0 CONTRACT PROVISIONS

1.1 Purpose

THIS CONTRACT is made and entered into this 1st day of May, 2022, between the Hillsborough County Aviation Authority, a public body corporate under the laws of the State of Florida (hereinafter referred to as "Authority"), and Bombardier Transportation (Holdings) USA, Inc. authorized to do business in the State of Florida (hereinafter referred to as "Contractor").

The purpose of this Contract is to provide first class maintenance and to ensure safe, consistent, and highly-reliable operation of the Automated People Mover System (APMS) at the Tampa International Airport Terminal (Airport). Toward this end the Contractor will furnish qualified and competent personnel and first-quality materials and supplies to provide the maintenance program and training requirements hereinafter described. The Contractor will provide the Authority access to the maintenance program plan when requested in accordance with the Authority's System Safety Program Plan (SSPP).

The equipment covered by this Contract will be all APMS equipment provided by the Contractor under previous Contracts and serving Airsides A, C, E and F, and the Main Terminal at the Airport, other than preventative maintenance for the Power Distribution Systems (PDS) equipment. Any maintenance to equipment installed for an Airside D expansion will be negotiated at a later date as a change order to this Contract.

1.2 Term of Contract

The term of this Contract will commence on May 1, 2022 and terminate in five (5) years on April 30, 2027 unless terminated sooner in accordance with the terms and conditions contained herein. The Authority has the right to renew this Contract for two additional five-year extensions at the discretion of the Chief Executive Officer and may exercise the option by giving the Contractor no less than 60 days written notice of the exercise of such option prior to the termination of the Contract. In the event that the Authority elects not to exercise its option, the Authority shall have no liability to Contractor for any claim of damages arising out of such decision.

1.3 Scope of Work

- A. The Contractor will furnish all management, supervision, clerical support, labor and materials necessary to maintain the APMS in accordance with the terms and

conditions of this Contract. The Work under this Contract will include furnishing all labor and materials necessary to accomplish the preventive maintenance, failure mode recovery, lubrication, corrective maintenance, testing, replacement of worn parts, replacement and repair of spare equipment for the Terminal APMS, on all equipment furnished by the Contractor as listed above.

- B. Contractor will comply with the SSPP for the Fixed Guideway Transit Systems covered under this contract, also known as the Automated People Mover System (APMS) or shuttle systems as it pertains to the Florida Department of Transportation safety and reporting requirements, (see Attachment A which is and will be updated annually). The Contractor will participate in the annual update of the SSPP and provide certification of compliance and system safety to the Authority.
- C. The Contractor will be responsible for the proper operation and maintenance of the vehicle radio and communication systems associated with the APMS.
- D. The Contractor will be responsible for proper operation of the vehicle emergency lighting during a two (2) hour period of failure of normal electrical power; however, the Contractor will not be held responsible for any other failures resulting from the failure of normal electrical power services furnished by the Authority.
- E. The Contractor will be responsible for maintaining the exterior of the vehicles including cleaning. At a minimum the exterior glass will be cleaned every two (2) weeks and vehicle exterior washed once monthly. The exterior paint will be waxed and buffed on each vehicle every other year.
- F. The Contractor will provide, train, and supervise all Contractor's maintenance personnel and provide all materials and equipment required to accomplish the tasks specified herein, to assure that the APMS provides safe and reliable service for passengers. The Contractor will maintain all training records and certifications for all personnel and make those records available to the Owner on request.
- G. Reserved.
- H. The Contractor will be required to perform general housekeeping duties within the maintenance facilities, system guideway running surface, and wayside control rooms except as provided for herein.
- I. The Contractor may submit to the Authority new techniques or suggested improvements for upgrading and/or maintaining the APMS. There will be no compulsion for the Authority to accept these suggestions and equipment improvements and their implementation will be at the sole discretion of the Authority. This provision shall not apply to items related to obsolescence.
- J. With the exception of copyrighted or proprietary material, the Contractor will

provide electronic information, including electronic alarm data contained within the APMS which will be fully accessible to the Authority.

- K. At the Authority's option, the Contractor agrees to perform upgrades of the APMS. Such upgrades, Capital Asset Replacement Projects (CARP), will be recommended by Contractor to be necessary and desirable for the continuing performance, reliability and maintainability of the system, based on age and condition of the system and subsystems and confirmed by the Authority. Authority and Contractor agree to meet at least annually to review the projects and schedules for the upcoming five year period. Authority will issue a Work Order or other Contract document to Contractor to initiate the CARP. If Authority in its sole discretion opts not to initiate a CARP, Contractor shall be entitled to additional time and compensation as agreed by parties for additional maintenance and repairs necessitated by failure or degradation of those elements. Further, incidents of full or partial outages occurring as a result of failure or degradation of these elements shall be excluded from calculation of Contract Service Availability. Additionally, if during the term of this Contract, cars, trains or legs are added, replaced or deleted from the APMS, both parties agree the Contractor's compensation will be adjusted accordingly, in such amount or amounts as will be mutually agreed to by means of good faith negotiation by the Authority and the Contractor, utilizing prices already established herein as a starting point.

L. Software Maintenance and Support:

1. During the term of this Contract, the Contractor will provide service and fully support the currently-installed version or any Contractor required updates of the software at no additional cost to the Authority for the term of the agreement.
2. Contractor will give a written response within thirty (30) days to written inquiries by the Authority for additional software information or assistance.
3. The Contractor may periodically make available updates and related documentation for the software, consistent with the Authority's originally purchased equipment configuration. The Authority will have the option of incorporating any updates based on a review of the Contractor's proposal for installing said updates.
4. The Contractor will make available subsequent new operator training classes which the Authority may utilize at the Authority's expense.
5. The Contractor will furnish, and keep current, the shuttle software source code for all legs in machine-readable format and documentation to be held in a third party escrow account set up and paid for by the Authority. If the Contractor terminates operations at the Airport due to extraordinary business circumstances and can no longer provide software support, the Authority will have the right to provide written notice by

certified mail to the Contractor and Escrow Agent to access and take possession of the software source code from escrow within 10 days of such notification in order to continue operation of the installed system. Software escrow agreement fiduciary information is provided as **Attachment C.**

1.4 Contract Service Availability

- A. Contract Service Availability (CSA) will mean the relationship of time between the scheduled operating time and the chargeable downtime of the vehicles on any leg of the Airside APMS.
- B. System reliability and availability must be maintained by the Contractor. If the system should experience a deterioration in reliability or availability levels, the Contractor will conduct an immediate technical investigation of the system and submit a report to the Authority indicating the cause and most practical means for restoring to acceptable levels the reliability and availability of the system no later than 30 days following the date of the deterioration in reliability or availability levels.
- C. Notwithstanding anything herein to the contrary, the system reliability and availability of the APMS must be maintained in first class automatic operation by the Contractor. All vehicles within design life will be subject to the per month Contract Service Availability (CSA) of not less than 99.5% for each Airside Shuttle Leg. All vehicles past Design Life will be subject to the per month CSA of not less than 98.5% for each Airside Shuttle Leg. The Authority will have the right to waive the CSA requirements in its sole discretion. This waiver may be given during periods where APMS operations availability is impacted by Authority activities. Any such waiver must be in writing.
- D. Availability will be calculated for each Leg, and measured by the following relationship:
$$\text{Availability} = \frac{\text{Scheduled Operating Time} - \text{Total Countable Delay Time}}{\text{Scheduled Operating Time}}$$

Scheduled Operating Time = Minutes per day X Number of days in the month.

Countable Delay Time = Total chargeable downtime experienced while in scheduled operation during the month, subject to the exclusions noted below.
- E. Non-Chargeable Outages are certain events which may cause stoppages of the system but are not considered chargeable downtime events. The following are considered exclusions for the purpose of determining Downtime and System Availability.
 - 1. Outages or operations at less than full capacity specifically authorized by the Authority.

2. Documented willful passenger induced system interruptions.
3. Interruptions caused by unauthorized intrusions of persons and intrusions by animate or inanimate objects into the system.
4. Interruptions caused by non-system induced loss of service.
5. Periods of normal operating time when the environmental limits specified in the Authority Hurricane Plan are exceeded.
6. Interruptions that result in stoppages equal to or less than one (1) minute during which time corrective action effectively restores the vehicle(s) to service except as noted in Schedule of Partial outages.
7. Documented acts of vandalism causing system interruptions.
8. The overrun portion of any scheduled maintenance outage period, if the overrun time was beyond the control of the Contractor and caused by a higher priority outage on another operating shuttle car.
9. Outages caused by non-repair or non-replacement of a subsystem recommended for repair or replacement by the Contractor with verified documentation as agreed to by both parties.
10. Outages approved by the Airport Operations Manager during slow traffic conditions to correct an inconvenience to the traveling public such as an inoperative shuttle door that could be repaired in a short period of time.

F. Partial Outages (Shuttles, Legs A, C, E, and F)

Certain events in and of themselves may not cause an outage but do degrade other aspects of the system and thus will be considered downtime events and charged as follows, subject to conditions included in 1.3., Paragraph K:

1. One or more of the car environmental control systems totally out of service (heating or cooling) will be charged at one fourth (1/4) of the total time out per car for all the time beyond the third regular night maintenance period.
2. One or more of the car Light Emitting Diode (LED) graphics displays having ten (10) or more LEDs dimmed or out will be charged at one fourth (1/4) of the total time out per car.
3. One alighting and/or boarding door blocked off will be charged at one eighth (1/8) the time out per car for all the time beyond the first regular night maintenance period.
4. One car of a two-car train blocked off will be charged at one quarter (1/4) the total time operated in this condition beyond the first regular night maintenance period.

5. Trains operated manually or in any mode or procedure, which significantly reduces automatic mode capacity, will be charged as an outage unless specifically authorized otherwise by the Authority.
6. Excessive System non-chargeable alarms recorded in the Airport Operations Center, i.e. alarms of one (1) minute or less, not attributable to passenger interference and not attributable to Main Terminal station door equipment installed for Airside C until corrected by a CARP project, exceeding ten (10) per day per applicable leg will be charged at two (2) minutes per recorded alarm.

H. SERVICE INTERRUPTION

1. In the event of a service outage or failure due to causes within the Contractor's maintenance responsibility herein, the Contractor will restore with due diligence the said inoperative system Leg to an operative condition.
2. Notice of an outage is to be given by system radio to the maintenance personnel on duty and the Authority Airport Operations Center personnel on duty. Time and cause of notice is to be duly recorded on the standard Contractor system log form in use at the time.
3. Notice of restoration of service by the Contractor is to be given by system radio or in person by a representative of the Contractor, to the Authority Airport Operations Center personnel on duty, who will verify restoration of service and record time of same.
4. During the operation of the APMS for the term of this Contract, the Contractor will pay liquidated damages in the amount shown on the following table for any system availability below the applicable target. . The amount of the liquidated damage may be deducted from any sums due the Contractor from the Authority. If the sums due are insufficient to cover the liquidated damages, the Contractor will pay such deficit to the Authority within ten days after written request is made therefore. The liquidated damages set forth in this paragraph do not encompass or apply to a material breach of Contract, in which event the parties may seek any remedy available to them. The parties expressly agree that these liquidated damages are not a penalty and represent reasonable estimates of fair compensation for the losses that reasonably may be anticipated from such failure.
5. Vehicles will be replaced during the term of this contract. A grace period shall be applied to the calculation of System Availability for each leg under construction until final acceptance of the new vehicles.
6. While new vehicles are under the 12-month warranty period, there will be a reduction of \$930.00 per vehicle per month.

System Availability Payment Factor for Vehicles within Design Life	
System Availability	Availability Payment Factor
99.5% > 100% Payment	
.9949 to .9925	1.5% of monthly contract amount per Leg
.9924 to .9900	3.0% of monthly contract amount per Leg
.9899 to .9875	7.0% of monthly contract amount per Leg
.9874 to .9850	13.0% of monthly contract amount per Leg
.9849 to .9825	20.0% of monthly contract amount per Leg
.9824 to .9800	25.0% of monthly contract amount per Leg
.9799 or less	33.3% of monthly contract amount per Leg

System Availability Payment Factor for Vehicles past Design Life	
System Availability	Availability Payment Factor
98.5% > 100% payment	
.9849 to .9825	1.5% of monthly contract amount per Leg
.9824 to .9800	3.0% of monthly contract amount per Leg
.9799 to .9775	7.0% of monthly contract amount per Leg
.9774 to .9750	13.0% of monthly contract amount per Leg
.9749 to .9725	20.0% of monthly contract amount per Leg
.9724 to .9700	25.0% of monthly contract amount per Leg
.9699 or Less	33.3% of monthly contract amount per Leg

1.5 Authority's Responsibilities

The Authority will provide the following facilities and services to the Contractor free of charge:

- A. The existing maintenance shops and office space located in the Long Term Parking Garage and each Airside or other comparable space as determined by the Authority, which accommodates storage of spare parts, renewal parts, accessories, tires, motors, test equipment, tools, and work areas as required for maintenance to be provided hereunder. In the event it becomes necessary to relocate any of the existing maintenance shops, the Authority will review with and solicit comments from the Contractor on the proposed new location, layout, and accommodations.
- B. The existing maintenance area of each system leg to permit the Contractor to perform its services in a safe and workmanlike manner. These areas will be adequately lighted and ventilated. The Contractor will be responsible for general housekeeping of these areas in accordance with Authority requirements, but in no event will the Contractor or its employees violate Occupational Safety and Health Administration (OSHA) requirements.

- C. Electric service entrance equipment for single-phase power in offices and three-phase power in Airside workshops.
- D. Lighting, electric power, air conditioning, heat, water, and sanitary services for the maintenance shop and areas.
- E. Employee parking privileges as designated by the Authority comparable to Authority employees for all of the Contractor's maintenance personnel and one (1) service vehicle.
- F. Roadway access and employee vehicle permits for onsite transportation via approved thoroughfares.
- G. Access to and use of Authority's spare parts for the systems, provided that Contractor replenishes spares at Contractor's sole expense.
- H. Adequate time to perform scheduled inspections, as well as routine and preventive maintenance services as specified herein. All inspections and maintenance services will be performed on a schedule, which is mutually acceptable and will cause a minimum disruption to the operation of the Airport. Trains will normally be scheduled as follows:
 - 1. The trains on Legs A, C, E and F will normally be scheduled so that during each day between the hours of 12:00 Midnight and 6:00 AM any one train per leg will be available to the Contractor to perform maintenance for six (6) continuous hours per day. Additionally, one (1) daytime outage up to two hours will be provided per shuttle train to allow adequate inspection and preventive maintenance of the system, as requested by the Contractor and scheduled by the Authority. These night and day maintenance outages may be continuous if requested by the Contractor. The Authority may alter this schedule to accommodate periodic, short term operational needs.
 - 2. If it is necessary for the Contractor to have more hours to perform a maintenance task, the Contractor will inform the Authority in writing, providing at least 24 hours advance notice, of the details of the specific task and an estimate of the required time. The Authority will endeavor to arrange for the required maintenance time.
- I. All identification material for Contractor's employees, such as badges and passes, required for said employees to perform the Work required hereunder in compliance with the Authority's security regulations, SIDA Training, Airport Security Program, Policy & Procedures, TSA Regulations, Security Directives and Amendments. Contractor will be responsible for all costs incurred under this paragraph subject to the provisions in Section 2.11.
- J. Operation of the APM Systems will be coordinated by the Central Control Operators located in the Airport Operations Center. Responsibilities of the Authority will include:

1. Selecting the operational mode for the APM Systems. Contractor will make recommendation to the Authority of best operational mode, which will provide maximum service.
 2. Monitoring system operations and reporting promptly all system interruptions either due to system failure or Authority request.
 3. Observing passenger activities.
 4. Responding to passenger inquiries via the train communication system.
 5. Coordination with the Contractor's maintenance representative regarding performance of APM System failure mode/recovery operations and maintenance activities.
 6. Provide direction to the Contractor's maintenance representative under circumstances (emergency or otherwise) not covered in this Contract.
 7. For purposes of communicating with the Contractor's maintenance representative, the Authority will provide operators to be at the site at all times when the systems are in operation, designated to serve as the Authority's representatives. All Authority communications to the Contractor regarding the operation of the APM Systems will be through the representatives. The Authority will issue the Contractor nineteen (19) handheld radios to operate on the Authority's FCC license. The Contractor will be responsible for costs associated with repairing or replacing damaged radios.
- K. Reserved
- L. Vehicle exterior decals will be provided by the Authority and installed and maintained by the Contractor. Routine maintenance of the vehicle exterior will be performed by the Contractor.
- M. Maintenance and replacement of vehicle carpeting.
- N. Janitorial cleaning service for the APM vehicle interiors and spaces utilized by the Contractor at the shuttle maintenance areas at Airside A, C, E and F, and the Contractor's office area.
- O. Compliance with the FDOT Bridge Procedures and Inspections regulations relating to the roadway structures including piers, foundations, superstructures, and running surfaces. This includes any related repair or replacement services required, except for any warranty-related service to components constructed, renovated, or repaired by the Contractor under previous or future Contracts with the Authority.
- P. Access to and use of Authority's forklifts. Contractor will provide regular

maintenance. Battery replacement will be provided by the Authority as required.

- Q. Power Distribution Systems (PDS). Authority is responsible for the PDS switchgear and breakers. Contractor is responsible for PDS downstream of the switchgear breakers.

1.6 Additional Conditions

A. Assembly Repairs

Repairs will be conducted utilizing methods to minimize interference with the operation of the Airport. Therefore all repairs required on the vehicles and control system, (where more efficient to do so) will be expedited by removing the faulty assembly and replacing it with a spare. The faulty item will then be repaired onsite or in a qualified repair facility and returned to the Authority's spare stock. To this extent the Contractor will have qualified service localities, which can make repairs or conduct overhauls as necessary. Tire replacements will be accomplished in the maintenance area facilities. Spare wheels with mounted tires will be stored to facilitate changes.

B. Spare Parts

As spare parts are used by the Contractor from the Authority's spare parts stock, the Contractor will replace such spares with new or rebuilt replacement spares at the Contractor's cost. The quantity and quality of each item may be varied at the Contractor's discretion as long as the system safety and performance is not reduced. The Contractor may also change the spare parts mix subject to the Authority's written approval. The listing of Spare parts is provided as **Attachment D**. The Contractor is responsible for leaving these parts and quantities in inventory at the end of the contract. The Contractor will be responsible for supplying whatever level of parts required to maintain System Service Availability. Should the Contractor be required to add additional tools, spares or inventory in order to maintain the system, these items will be paid for by the Contractor and will also be required to remain on site after the end of the Contract term. Refer to paragraphs 1.3.K and 1.6.F for parts and tools subject to obsolescence and CARP.

C. Subcontracts

The Contractor may, with advance written authorization from the Authority, subcontract or hire other vendors, as required, to perform some portions of the maintenance services, but will be solely responsible for any Work completed in this manner.

The Authority reserves the right to investigate the qualifications and responsibility of proposed or actual subcontractors and to prohibit same from performing Work under this Contract where such investigation, in the sole

judgment of the Authority, reveals that such subcontractors are unqualified and/or non-responsible. The Authority's criteria for such determination may include, without limitation, financial condition, experience, character of workers, condition of equipment and/or past performance. If the Authority has reasonable objection to any such proposed person or entity, the Contractor will submit a substitute to whom the Authority has no reasonable objection. The Contractor will not contract with a proposed person or entity to whom the Authority has made reasonable and timely objection. The Contractor will not be required to contract with anyone whom the Contractor has reasonable objection.

The following paragraphs in this section apply solely to construction Work.

By appropriate agreement, written where legally required for validity, the Contractor will require each subcontractor, to the extent of the Work to be performed by the subcontractor, to be bound to the Contractor by the terms and conditions of this Contract and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Contract Documents, assumes toward the Authority. Contractor shall require all subcontractors and suppliers to comply with Authority's safety plan. Nothing herein shall limit the Contractor from imposing more stringent safety requirements than the Authority's safety plan on subcontractors and suppliers. Each subcontract agreement will preserve and protect the rights of the Authority under the Contract Documents with respect to the Work to be performed by the subcontractor so that subcontracting thereof will not prejudice such rights and will allow to the subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Authority. Where appropriate, the Contractor will require each subcontractor to enter into similar agreements with sub-subcontractors. The Contractor will make available to each proposed subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the subcontractor will be bound and upon written request of the subcontractor, identify to the subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed sub-subcontractors.

The Contractor will provide to the Authority fully signed copies of all subcontracts and proposals with submission of the subcontractor's first billing in the submitted application for payment, such subcontracts and proposals to be subject to Chapter 119, Fla. Stat.

The Authority reserves the right, but does not assume the obligation to, pay any and all subcontractors and suppliers directly or via joint check if a dispute arises with the Contractor.

In an emergency, the Vice President of Maintenance reserves the right to waive

requirements in this provision.

D. Records

The Contractor will keep detailed records and inventory data of all onsite maintenance operations. The Authority may inspect the maintenance records and inventory data on the subject equipment to ascertain the Contractor's compliance with the Contract and will be furnished copies of records and data. All records and data will remain the property of the Contractor until the end of this Contract or until otherwise agreed upon by both parties.

E. Reports

The Contractor will prepare a monthly report of operations and maintenance activities in electronic form and submit it for Authority review within the first ten (10) days of the month with the Contractor's Invoice. The report will include a computation of Contract Service Availability for the previous month, a summary of significant maintenance activities and vehicle/train accumulated mileage, a summary of any Extra Work invoiced to the Authority, a summary of planned/scheduled maintenance activities for the coming month, a list of outages that may be back chargeable to the monthly invoiced amount, and a summary of any problems that can be foreseen which should be of concern to the Authority and/or any anticipated activity which will require Authority approval and/ or coordination.

F. Obsolescence

If any component, spare part, or subsystem of the APMS has been confirmed to be obsolete or cannot be acquired or manufactured, the Contractor will advise and provide such documented evidence to the Authority in a timely fashion of such obsolete component, spare part or subsystem. Contractor will work with the Authority and recommend, if possible, such parts that are equal or better in quality and operation, than original parts. However, the Contractor shall not be liable for additional costs, including the need for additional services and/or material/equipment, or be subject to payment deductions under CSA, arising out of or related to obsolescence of the APMS due to reasons beyond the Contractor's control. Contractor will be responsible for performing annual strategic reviews with their suppliers with regard to potential obsolescence for all parts with a goal to monitor and manage obsolescence.

G. Access to the Work

The Authority shall, at all times, have access to the Work.

H. Authority's right to stop or reject Work

If (1) the Contractor fails to perform in accordance with the Contract Documents or (2) an incident has occurred which resulted in fatalities, personal injuries

and/or damage to vehicle(s), equipment, other property, or facilities, the Authority may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been fully investigated and eliminated.

I. Authority's right to suspend Work

The Authority may, at any time, and without cause, suspend the Work or any portion thereof for a period of not more than ninety (90) Calendar Days by notice in writing to the Contractor which shall fix the date on which Work shall be resumed. The Contractor shall resume the Work on the date so fixed. The Authority and Contractor agree to negotiate a reduced fee during the period work is suspended.

J. Control of Premises

Access to the APMS operations and maintenance areas shall be limited to Contractor's personnel and those Authority employees and/or individuals authorized by the Authority and Contractor that have completed the required safety training for access to those areas, provided that those persons identified by the Authority do not interfere with or jeopardize the Contractor's responsibility for safely operating and maintaining the APMS. Access to the premises shall be strictly controlled and the Contractor shall keep a record of all individuals with access authority and a plan by which this access authority can be managed and changed. Officers, employees or agents of the Contractor shall never enter restricted or operational areas of the Airport without the express permission of the Authority, or any other governmental bodies having jurisdiction of such areas, and the Contractor hereby assumes liability arising from any such unauthorized incursions.

K. Contractor's Qualified Personnel, Warranty and Guaranty

All Work shall be performed only by competent and qualified personnel, licensed/certified to perform assigned work, under the supervision and employment of the Contractor. All Contractor personnel, tools and equipment, spare parts and any other materials or assets assigned to this Work will provide exclusive services for the Authority and this APMS and Contractor's personnel shall not perform any work or be assigned to duties on Contractor's other APM systems whether at the Airport or not, unless approved in writing by the Authority. Contractor shall conform with the Authority's reasonable requests regarding assignment of personnel, but all personnel, including any assigned at Authority's request, shall be supervised by Contractor.

Contractor represents and warrants that it is and will be at all times qualified and capable of performing every phase of the Work to complete the Work in accordance with the terms of the Contract Documents. Contractor warrants that all work and related services shall be performed in accordance with generally accepted professional standards of good and sound transit industry practices and all requirements of the Contract Documents. Contractor warrants that the

Work, including but not limited to each item of materials and equipment incorporated therein, shall be new or like new, shall be of suitable grade of its respective kind for its intended use, shall be free from defects in design, engineering, materials, construction, installation and workmanship, and shall conform in all respects with all applicable requirements of federal, state and local laws, licenses, and permits, the Drawings and Specifications and all descriptions set forth therein, applicable construction and industry codes and standards, and all other requirements of the Contract Documents.

The Contractor warrants that the parts, materials and components used under the Contract shall be suitable for the purpose intended. Wherever possible, replacement parts shall be new and from the same manufacturer as the original parts. Where these parts are not available, the Contractor may provide rebuilt parts from the original manufacturer or use new parts from another manufacturer. In either case, such parts shall be equal or better, in quality and operation, than original parts and free from any and all defects. The Contractor also warrants that its employees or subcontractors shall be sufficiently skilled to produce quality repair, replacement, and maintenance work which is free of blemishes (surface defects) and flaws (internal defects). The Contractor further warrants that operation and maintenance methods and procedures employed on the APMS shall, in the past, have been proven to be suitable for the results expected. If the Contractor proposes to use an unproven and untried (1) operation or maintenance method or procedure or, (2) part, material or component, the Authority must be advised of that fact, in advance and in writing. The Authority may permit experimentation, but it may require special guarantees of the Contractor to cover the work produced by the new and untried method or the part, material, or component.

The Contractor shall provide all of the labor, equipment, software, cabling, materials, appurtenances and components which are required to repair or replace any Work which does not satisfy the quality of work warranty described above and shall replace and install any equipment, software, cabling, material, appurtenance or component which does not comply with the Contractor's warranty for a period of one year after the repair or replacement is completed, at no cost to the Authority.

1.7 Contractor's Personnel

- A. The Contractor will provide a minimum of two (2) on-site, experienced and fully qualified uniformed service engineers and/or technicians for each of the three shifts on a seven (7) days per week basis. The Contractor will determine and provide additional personnel as necessary to accomplish first-class maintenance and to ensure safe, consistent, and highly-reliable operation of the APMS at the Airport. Also, the Contractor will assign an experienced on-site Manager who will be responsible to the Authority and will cooperate with the Authority's operations personnel in accomplishing the orderly operation and maintenance of the APMS. Contractor agrees to ensure the project remains staffed at a minimum of 20 people. In the event one or more of the 20 positions is vacant

for 90 days or more, Authority may assess the Contractor to pay the amount of \$100/calendar day/position to Authority as a liquidated damage to compensate the Authority for the staff shortage. The amount would be assessed from Day 91 until the position is filled and would be deducted from the monthly invoice submitted by Contractor to Authority. The parties expressly agree that these liquidated damages are not a penalty and represent reasonable estimates of fair compensation for the losses that reasonably may be anticipated from such failure to comply.

- B. No more than one (1) vehicle, clearly marked with the company name, will be allowed to park in the Long Term Parking Garage at the Airport to service this Contract. The Contractor will not be reimbursed for any unauthorized parking costs incurred.
- C. In the event any of the Contractor’s key personnel positions become vacant, Contractor will designate an interim replacement within 48 hours and Contractor has 90 days to fill the position. The Authority has the right to review the qualifications of, and reject, any replacement key personnel in its sole discretion. Key personnel means the Site Manager.

1.8 Compensation

- A. The Authority agrees to pay the Contractor for the maintenance services described herein, Three Hundred Twenty One Thousand Four Hundred Sixty Three and No One Hundredths Dollars (\$321,463.00) per month, to be adjusted annually as described below, and continuing for the term of this Maintenance Contract. A reduced maintenance price will be payable by the Authority for any or all trains or equipment covered hereunder taken out of service by the Authority for a period of at least thirty (30) days. The reduced price will be negotiated with the Contractor based on the circumstances and length of the anticipated outage. The Authority will provide the Contractor with ninety (90) days written notice in the event of such reduction. An increased maintenance price will be payable by the Authority for any trains or equipment added to the system during the term of the contract. The increased price will be negotiated with the Contractor based on the quantity and nature of the added elements. The Contractor will maintain a staff of maintenance personnel on the Airport site to maintain the APMS twenty-four (24) hours per day each day of the year per the system reliability and availability requirements of the Contract.

	materials	labor	Labor & materials monthly price
(16) Shuttle cars @ A, C, E and F	\$48,219.45	\$273,243.55	\$321,463.00

- B. At the beginning of each month, the Contractor will submit to the Authority an invoice for the services performed by the Contractor under this Contract for the previous month. The Authority will, thereafter, certify the correctness of such

invoice and after such certification the Authority will pay within 45 days to the Contractor, by check, the amount so certified. No certification or payment will, at any time, preclude the Authority from showing that such certification or payment was incorrect or from recovering any money paid in excess of that due hereunder.

- C. The amount paid to the Contractor on a monthly basis will be adjusted in accordance with the Section 1.4 I. System Availability Payment Factors.
- D. The amount payable monthly to the Contractor for maintenance services during the period of this Contract will be adjusted annually by the Authority. For the purpose of this price adjustment provision only, the following definitions apply:
 - 1. Labor Index will be the Average Hourly Earnings for all Employees Total Private in Florida of the Employment Cost Index (NAICS), series ID: SMU12000000500000003 . This index will be the final rate as published by the Bureau of Labor Statistics, U.S. Department of for the month of December prior to the reference month.
 - 2. Material Index will be the final PPI Commodity Data, series ID: WPUSI093011, not seasonally adjusted, for “Machinery and Motive Products” in the Bureau of Labor Statistics, U.S. Department of Labor, for the month of December prior to the reference month.
 - 3. The reference month will be May, the month of commencement of this Contract.
 - 4. Annual Adjustment Date will be the date on which this Contract becomes effective and annually thereafter. Actual adjustment will occur when final indices are released and published.
 - 5. Labor Adjustment Component, for the purpose of adjustment, the proportion of the monthly Contract price representing Labor is accepted as 85% at the commencement of the contract.
 - 6. Materials Adjustment Component, for the purpose of adjustment, the proportion of the monthly Contract price representing Material is accepted as 15% at the commencement of the contract.
- E. The adjustment procedures will be as follows:
 - 1. The Labor Adjustment Component will be adjusted for changes in labor costs. The Labor Index for the fourth quarter prior to the reference month will be compared with the Labor Index for the fourth quarter prior to the reference month in which the first annual adjustment date occurs and the percentage increase or decrease determined. The adjustment for changes in labor will be obtained by applying such percentages of increase or decrease to the current labor cost and the result will be accepted as a basis for an increase or decrease in the payment due each

month for the next twelve (12) month period. This procedure will be repeated annually and automatically for the remaining term of this Contract on each Annual Adjustment Date.

2. The Material Adjustment Component will be adjusted for changes in material costs. The Material Index for the month of December prior to the reference month will be compared with the Material Index for the month of December prior to the reference month in which the first Annual Adjustment Date occurs and the percentage increase or decrease determined. The adjustment for changes in material cost will be obtained by applying such percentage of increase or decrease to the current material cost and the result will be accepted as a basis for an increase or decrease in the payment due each month for the next twelve (12) month period. This procedure will be repeated annually and automatically for the remaining term of this Contract on each Annual Adjustment Date.

Should the indices referred to above be discontinued, or should the basis of their calculation be modified, proper indices will be selected by mutual agreement of the parties to the Contract.

1.9 Extra Work and Changes in the Work

- A. If Extra Work, not included in this Contract, is requested by the Authority, the Authority will compensate the Contractor. However, Extra Work performed by the usual and regular labor force during usual and regular work shifts will not be billed as extra compensation. For the materials portion of any Extra Work performed, the Contractor will be paid its actual cost plus a handling charge of 25% for parts or purchased materials used in the performance of such Extra Work. It is understood that the Authority can purchase parts, equipment, or materials for use under this Contract. Mutually agreed upon Work, which is not covered by this Contract, and is required, may be considered as Extra Work.
- B. Whenever any Work is performed by the Contractor and such Work, in accordance with the terms of the Contract, entitles the Contractor to compensation in addition to the monthly price for maintenance, then the Contractor will, at the request of the Authority, furnish to the Authority or its authorized representative at the end of each day, a daily time slip(s). The time slip(s) will show the name and number of each workman employed on such Work, the number of hours during which he was employed, the character of his duties, and the actual costs. In addition, a memorandum showing the list price and materials furnished in the performance of such Work will be provided. Accordingly, all claims will be submitted within a reasonable time after completion of the Work from which the claim arises.
- C. The Contractor will not be required to install additional attachments, equipment, or appurtenances to the trains or guideways even such as are recommended or required by insurance companies, or by governmental authorities, without

additional compensation thereof. If directed by the Authority to install any such additional equipment or appurtenances, the Contractor will be compensated therefore as set forth above.

- D. The following major subsystems will be repaired, overhauled or replaced by the Contractor as Extra Work:
- UPS system replacements
 - Interior and Exterior LED graphic panels

When service on these items is required, the Contractor will request in writing, written authorization from the Authority's Vice President of Maintenance. Once authorized, the Contractor will perform the services and invoice the Authority as specified under this Extra Work Section.

- E. Any additional required maintenance will be negotiated under the Extra Work quotation.

1.10 Optional Training

- A. The Authority may elect optional training. The Contractor will provide a proposal for training at the request of the Authority. If this option is exercised, the Contractor will provide complete training of Authority personnel to operate the System. The Authority will provide the classrooms used for classroom training.
- B. This will in no way relieve the Contractor of any responsibilities or obligations under the provisions of any warranties, agreements to maintain, or similar continuing commitments.
- C. The Authority can require the Contractor to provide this training at any time during the contract period.

2.0 STANDARD PROVISIONS

2.1 Contract Supervision

All work performed by the Contractor must be satisfactory to Authority representatives designated to coordinate this Contract. The Contractor must provide adequate supervision and inspections to assure competent performance of the work.

2.2 Contractor's Personnel Standards

- A. The Contractor must use all reasonable care consistent with its rights to manage and control its operation, not to employ any persons, use any labor, use or have any equipment, or permit any condition to exist which may cause, or be conducive to, any complaint, trouble, dispute or controversy which interferes or is likely to interfere with the operation of the Airport or with other Airport employees. The Authority's Vice President of Maintenance may reject any

Contractor employee if the employee is deemed to be unsuitable to work at the Airport and the Contractor must immediately replace that employee.

- B. The Contractor must observe and obey (and compel its officers, employees, agents, guests, subcontractors, and those doing business with it to observe and obey) the policies, procedures, rules and regulations of the Authority, as communicated from the Authority to the Contractor, and such further rules and regulations which may be promulgated by the Authority during the effective period of this Contract.
- C. Prior to each performance, the Contractor must provide to the Authority a written list of the names and addresses of all employees and the positions of the employees who are to perform the duties outlined in this Contract.
- D. The Contractor must comply with all Federal, State and local laws, executive orders, rules and regulations applicable to this type of service, including Authority rules and regulations and also comply with all pertinent regulations contained in the published security plan for the Airport.
- E. In addition to reporting unusual or catastrophic events in a timely manner, the contractor must at all times comply with the current reporting requirements of the SSPP Section 10 Procedure For Accident Investigation.
- F. If any type of strike, boycott, picketing or work stoppage is directed against the Contractor at the airport, which results in the discontinuance of services performed hereunder, the Authority will have the right during said period to, by itself or by any third person or persons, perform said services and invoice the Contractor for any costs in excess of the Contract prices. The Authority will prorate payments for work completed but not invoiced by the Contractor up until the time of any work stoppage.
- G. Contractor must not utilize subcontractors in the performance of the work unless previously approved in writing by the Authority. In no event will the Contractor utilize independent Contractors to perform any work under this Contract.

2.3 Inspections

- A. The Authority, either directly or through a third party, will have the right at all times to examine materials, equipment, and personal practices used by the Contractor and to observe the operations of the Contractor, its agents, servants, and employees.
- B. In the event the Authority requests or conducts any inspections or tests directly or by a third party, and finds deficiencies, the Contractor must correct such deficiencies, including the provision of an immediate response to life safety issues, which result from such inspections or tests, and send a written response to all comments or recommendations within thirty (30) days of receipt of the

written inspection or test report, except in instances requiring an immediate response, as determined by the Authority. In the event the Contractor does not agree with the findings of the Authority's independent third party, the Contractor must provide specific evidence to substantiate its disagreement.

- C. The Authority or its representative may during regular business hours inspect, copy, and audit the Contractor's books and records which pertain to the costs incurred in furnishing the services provided under this Contract. Contractor hereby agrees that all such records and instruments will be made available to the Authority at Tampa, Florida, for at least a five (5) year period following each anniversary of each year this Contract is in effect. If the books and records are kept at locations other than Tampa, Contractor must arrange for them to be brought to a location convenient to the auditors for the Authority in order for the Authority to conduct the audits described in this Article.
- D. **AUTHORITY'S RIGHT TO PERFORM AUDITS, INSPECTIONS, OR ATTESTATION ENGAGEMENTS**

Books and Records

In connection with payments to Contractor under this Contract, it is agreed Contractor will maintain full and accurate books of account and records customarily used in this type of business operation. The Authority, Federal Aviation Administration, Federal Highway Administration, Florida Department of Transportation, Florida Department of Financial Services, Florida Auditor General, Florida Inspector General, Florida Chief Financial Officer, and the Comptroller General of the United States, or any duly authorized representative of each, may have the right to audit the Contractor's records for the purpose of making audits, examinations, excerpts, and/or transcriptions and to determine payment eligibility under this Contract and compliance with this Contract. The Authority also has the right to perform inspections or attestation engagements. Access will be to any and all of the Contractor's records, including books, documents, papers, accounting procedures and practices, and any other supporting evidence the Authority reasonably deems pertinent to this Contract as well as reasonably pertinent records of parent, affiliate and subsidiary companies. The Contractor will maintain such books and records for five years after the end of the term of this Contract. Records include, but are not limited to, operational records related to the Services provided, support for invoices submitted to Authority, detailed time keeping system records, and other books, documents, paper, and records of Contractor directly pertinent to this Contract. Contractor will not destroy any records related to this Contract in violation of the State of Florida General Records Schedule GS1-SL for State and Local Government Agencies.

Financial Reports

Contractor will submit all financial reports related to the Services performed under this Contract required by Authority, in the form and within the reasonable time period required by Authority.

Authority Right to Perform Audits, Inspections, or Attestation Engagements

At any time or times during the term of the Contract or within three (3) years after the end of the Contract, Authority, or its duly authorized representative, will be permitted to initiate and perform audits, inspections or attestation engagements over Contractor's records for the purpose of determining payment eligibility under the Contract or over selected operations performed by Contractor under this Contract for the purpose of determining compliance with the Contract.

The Contractor agrees to provide all relevant documents to satisfy the Authority's right to audit the Contractor's performance. The Contractor will be subject to audits of its performance of maintenance activities, availability performance, adherence to the safety plan, or other requirements consistent with the Contract Documents.

Reasonable access will be granted to all of Contractor's records directly pertinent to this Contract or any work order, as well as pertinent records of parent, affiliate and subsidiary companies and any subconsultants or subcontractors if required. The records may be produced at the location where they are kept in the normal course of business. If the records are kept at locations other than the Airport, Contractor and Authority will mutually agree on a location or manner of producing the records, such as by video conference. In the event Contractor maintains its accounting or Contract information in electronic format, Contractor may agree to provide a download or extract of data files in a computer readable format acceptable to the Authority at no additional cost, or provide in another acceptable format. Authority has the right during the engagement to interview Contractor's employees, subconsultants, and subcontractors, and to make photocopies of records as needed.

Contractor agrees to deliver or provide access to all records requested by Authority auditors within fourteen (14) calendar days of the request at the initiation of the engagement and to deliver or provide access to all other records requested during the engagement within seven (7) calendar days of each request. Contractor may request additional time in certain circumstances and the Authority will not unreasonably deny such request. The parties recognize that Authority may incur additional costs if records requested by Authority auditors are not provided in a timely manner and that the amount of those costs is difficult to determine with certainty. Consequently, the Parties agree Authority may assess liquidated damages in the amount of one hundred dollars (\$100.00) per day, for each requested record not received and will continue until specific performance is accomplished, where it is possible to do so. In no event, however, will any liquidated damages assessed in accordance with this section 2.3.D exceed \$10,000 in the aggregate per five year Contract term or five year Contract extension.

If, as a result of any engagement, it is determined that Contractor has overcharged Authority, Contractor will re-pay Authority for the overcharge and the Authority may assess interest of up to twelve percent (12%) on the

overcharge from the date the overcharge occurred. If it is determined that Contractor has overcharged Authority by more than three percent of the reimbursable amount, excluding any lump sum amount, contained in this Contract, Contractor will also pay for the entire cost of the engagement.

Contractor will include a provision providing Authority the same access to business records at the subconsultant and subcontractor level in all of its subconsultant and subcontractor agreements executed related to this Contract.

Approvals by Authority's staff for any services not included in this Contract do not act as a waiver or limitation of the Authority's right to perform audits, inspections, or attestation engagements.

The Contractor will notify the Authority no later than seven days after receiving knowledge that it is subject to any other audit, inspection or attestation engagement related to this Contract and provide a copy of any audit documents so received.

The Contractor agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

2.4 Ownership of Documents

All equipment maintenance documents, logs, site-specific software, with the exception of copyrighted and proprietary material of the Contractor, will become the property of the Authority to be used as the Authority desires, without restrictions. One copy of the aforementioned work papers, software, and work products will be retained by the Contractor.

2.5 Assignment

This Contract is not assignable except to an affiliated entity without Authority approval which approval will not be unreasonably withheld. Otherwise, this contract is not assignable without Authority approval, which will be given in the Authority's sole discretion..

2.6 Indemnification

- A. To the maximum extent permitted by Florida law, in addition to Contractor's obligation to provide pay for and maintain insurance as set forth elsewhere in this Contract, Contractor will indemnify and hold harmless Authority, its members, officers, agents, employees, and volunteers from any and all liabilities, suits, claims, procedures, liens, expenses, losses, costs, royalties, fines and damages (including but not limited to claims for attorney's fees and court costs) caused in whole or in part by the:
 - 1. Presence on, use or occupancy of Authority property;
 - 2. Acts, omissions, negligence (including professional negligence and malpractice), errors, recklessness, intentional wrongful conduct,

- activities, or operations;
- 3. Any breach of the terms of this Contract;
- 4. Performance, non-performance or purported performance of this Contract;
- 5. Violation of any law, regulation, rule, Advisory Circular or ordinance;
- 6. Infringement of any patent, copyright, trademark, trade dress or trade secret rights; and/or
- 7. Contamination of the soil, groundwater, surface water, storm water, air or the environment by fuel, gas, chemicals or any other substance deemed by the Environmental Protection Agency or other regulatory agency to be an environmental contaminant

by the Contractor or Contractor's officers, employees, agents, volunteers, subcontractors, invitees, or any other person directly or indirectly employed or utilized by the Contractor, regardless of whether the liability, suit, claim, lien, expense, loss, cost, fine or damages is caused in part by the Authority, its members, officers, agents, employees or volunteers or any other indemnified party. This indemnity obligation expressly applies, and shall be construed to include, any and all claim(s) caused in part by the negligence, acts or omissions of the Authority, its members, officers, agents, employees, and volunteers.

- B. In addition to the duty to indemnify and hold harmless, Contractor will have the separate and independent duty to defend Authority, its members, officers, agents, employees, and volunteers from all suits, claims or actions of any nature seeking damages, equitable or injunctive relief expenses, liens, losses, costs, royalties, fines, or attorney's fees or any other relief in the event the suit, claim, or action of any nature arises in whole or in part from:

- 1. The presence on, use or occupancy of Authority property;
- 2. Acts, omissions, negligence (including professional negligence and malpractice), errors, recklessness, intentional wrongful conduct, activities, or operations;
- 3. Any breach of the terms of this Contract;
- 4. Performance, non-performance or purported performance of this Contract;
- 5. Violation of any law, regulation, rule, order, decree, Advisory Circular or ordinance;
- 6. Infringement of any patent, copyright, trademark, trade dress or trade secret rights; and/or
- 7. Contamination of the soil, groundwater, surface water, storm water, air or the environment by fuel, gas, chemicals or any other substance deemed by the Environmental Protection agency or other regulatory agency to be an environmental contaminant

By the Contractor or Contractor's officers, employees, agents, volunteers, subcontractors, invitees, or any other person directly or indirectly employed or utilized by Contractor regardless of whether it is caused in part by Authority, its members, officers, agents, employees, or volunteers or any other indemnified

party. This duty to defend exists immediately upon presentation of written notice of a suit, claim or action of any nature to Contractor by a party entitled to a defense hereunder. This defense obligation expressly applies, and shall be construed to include, any and all claim(s) caused in part by the negligence, acts or omissions of the Authority, its members, officers, agents, employees, and volunteers.

- C. If the above indemnity or defense provisions or any part of the above indemnity or defense provisions are limited by Fla. Stat. § 725.06(2)-(3) or Fla. Stat. § 725.08, then with respect to the part so limited, Contractor agrees to the following: To the maximum extent permitted by Florida law, Contractor will indemnify and hold harmless Authority, its members, officers, agents, employees, and volunteers from any and all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fee, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of Contractor and persons employed or utilized by Contractor in the performance of this Contract.
- D. If the above indemnity or defense provisions or any part of the above indemnity or defense provisions are limited by Florida Statute § 725.06 (1) or any other applicable law, then with respect to the part so limited the monetary limitation on the extent of the indemnification shall be the greater of the (i) monetary value of this Contract, (ii) coverage amount of Commercial General Liability Insurance required under this Contract or (iii) \$1,000,000.00. Otherwise, the obligations of this Article will not be limited by the amount of any insurance required to be obtained or maintained under this Contract.
- E. In addition to the requirements stated above, to the extent required by FDOT Public Transportation Grant Agreement and to the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the State of Florida, FDOT, including the FDOT's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of this Contract. This indemnification in this paragraph shall survive the termination of this Contract. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida's and FDOT's sovereign immunity.
- F. Contractor's obligations to defend and indemnify as described in this Article will survive the expiration or earlier termination of this Contract until it is determined by final judgment that any suit, claim or other action against Authority, its members, officers, agents, employees, and volunteers its fully and finally barred by the applicable statute of limitations or repose.
- G. Nothing in this Article will be construed as a waiver of any immunity from or limitation of liability Authority, or its members, officers, agents, employees, and volunteers may have under the doctrine of sovereign immunity under common

law or statute.

- H. Authority and its members, officers, agents, employees, and volunteers reserve the right, at their option, to participate in the defense of any suit, without relieving Contractor of any of its obligations under this Article.
- I. If the above Article A - H or any part of Article A – H is deemed to conflict in any way with any law, the Article or part of the Article will be considered modified by such law to remedy the conflict.
- J. FDOT Grant Funding is not applicable to this Contract.

2.7 Claims and Disputes

- A. A claim is a written demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of the Contract terms, payment of money, extension of time, or other relief with respect to the terms or circumstances of the Contract. The term claim also includes other disputes and matters in question between the Authority and Contractor arising out of the Contract. Claims must be made by written notice. The responsibility to substantiate claims will rest with the party making the claim. If for any reason the Contractor deems that additional compensation or contract time is due to the Contractor for work not clearly provided for in the Contract, or previously authorized changes in the work, the Contractor will notify the Authority in writing of its intention to claim such additional compensation or contract time before the Contractor begins the work on which the Contractor bases the claim. If such notification is not given or the Authority is not afforded proper opportunity by the Contractor for keeping strict account of actual cost or time as required, then the Contractor hereby agrees to waive any claim for such additional compensation or contract time. Such notice by the Contractor and the fact that the Authority has kept account of the cost or time of the work will not in any way be construed as proving or substantiating the validity of the claim. When the work for which the claim for additional compensation or contract time is based has been completed, the Contractor will, within 10 calendar days, submit Contractor's written claim to the Authority. The failure to give notice as required herein will constitute a waiver of said claim.
- B. Claims arising prior to final payment or the earlier termination of the Contract will be referred initially to the Authority for action.
- C. Intention to claim must be made within 10 calendar days after the claimant first recognizes the condition giving rise to a claim or before the work begins on which the Contractor bases the claim, whichever is earlier. If the Contractor wishes to reserve its rights, written notice of any event that may give rise to a claim must be given within 10 calendar days of the event, whether or not any impact in money or time has been determined. Any change or addition to a previously made claim will be made by timely written notice in accordance with this paragraph. The failure to give notice as required herein will constitute a

waiver of said claim.

- D. Pending final resolution of a claim unless otherwise agreed in writing, the Contractor will proceed diligently with performance of the Contract.

2.8 Resolution of Claims and Disputes

- A. The following shall occur as a condition precedent to the Authority's review of a claim unless waived in writing by the Authority.

Field Representatives' Meeting: Within five calendar days (5) after a claim is submitted in writing, the Contractor's Site Manager who has authority to resolve the dispute shall meet with the Authority's Contract Manager who has authority to resolve the dispute in a good faith attempt to resolve the dispute. If a party intends to be accompanied at a meeting by legal counsel, the other party shall be given at least three (3) working days' notice of such and also may be accompanied by legal counsel. All negotiations pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations for purposes of rules of evidence.

Management Representatives' Meeting: If the Field Representatives' Meeting fails to resolve the dispute or if they fail to meet, a senior executive for the Contractor and the Authority's Vice President of Maintenance, neither of which have day to day Project Management responsibilities, shall meet, within ten days (10) after a dispute occurs, in an attempt to resolve the dispute and any other identified disputes or any unresolved issues that may lead to dispute. The Authority may invite the Design Professional to this meeting. If a party intends to be accompanied at a meeting by legal counsel, the other party shall be given at least three (3) working days' notice of such and also may be accompanied by legal counsel. All negotiations pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations for purposes of rules of evidence.

Following the Field Representatives' Meeting and the Management Representatives' Meeting, the Authority will review the Contractor's claims and may (1) request additional information from the Contractor which will be immediately provided to Authority, or (2) render a decision on all or part of the claim in writing of the disposition of the claim within 21 days following the receipt of such claim or receipt of additional information requested.

If the Authority decides that the Work relating to such Claim should proceed regardless of the Authority's disposition of such Claim, the Authority will issue to the Contractor a written directive to proceed. The Contractor will proceed as instructed.

- B. The Authority will review claims and may (1) defer any action with respect to all or part of a claim and request additional information from the claimant which additional information claimant will immediately provide to said Authority, or (2) render a decision in all or part of the claim. The Authority will notify the parties

in writing of the disposition of such claim. If the Authority decides that the work relating to such claim should proceed regardless of the Authority's disposition of such claim, the Authority will issue to the Contractor a written directive to proceed. The Contractor will proceed as instructed.

- C. Prior to the initiation of any litigation to resolve disputes between the parties, the parties will make a good faith effort to resolve any such disputes by negotiation between representatives with decision-making power. Following negotiations, as a condition precedent to litigation, the parties will mediate any dispute with a mediator selected by the Authority and approved by the Contractor. Such mediation shall occur in Hillsborough County, Florida.
- D. Any litigation between Authority and Contractor (which term for the purposes of this subparagraph will include Contractor's surety or insurer), whether arising out of any claim or arising out of the Contract or any breach thereof, will be bought, maintained and pursued only in the appropriate courts of the State of Florida. Venue of any such litigation between Authority and Contractor will lie exclusively in Hillsborough County, Florida. Contractor consents and submits to the exclusive jurisdiction of any such court and agrees to accept service of process from the State of Florida in any matter to be submitted to any such court.

2.9 Limitation of Liability

Contractor's overall liability to Authority under this Contract shall be limited to 100% of the annual contract price on an annual basis, subject to adjustment pursuant to the terms of this Contract, except for (i) fraud, willful misconduct or gross negligence, (ii) third party personal injury and property damage claim indemnity, (iii) indemnity relating to intellectual property rights, and (iv) proceeds available from any insurance policies required of the Contractor under this Contract. Neither party shall be liable to the other for special, indirect, incidental or consequential damages for breach of this Contract. The parties agree that the liquidated damages specified elsewhere in this Contract are not and shall not be deemed to be special, indirect, incidental or consequential damages for purposes of the previous sentence.

2.10 Compliance with Taxes, Licenses, Permits, and Rules

- A. The contractor must comply and cause its subcontractors to comply with all applicable municipal, state and federal laws, applicable national and local codes, the Authority's rules and regulations, policies, procedures, and directives, as amended from time to time, including compliance with Authority's Airport Master Security Plan, and the Contractor must obtain all necessary permits, pay all required fees and taxes, and otherwise perform its services in a legal manner
- B. As Florida is a "Clean Indoor Air State", the Contractor must comply and cause its subcontractors to comply with the provisions of the Clean Indoor Air Act and policies of the Authority. All mechanical equipment machine rooms are non-smoking areas.

- C. As between the Contractor and the Authority, the Authority agrees to pay, as an addition to the prices herein quoted, the amount of any tax based upon the transfer, use, ownership, or possession of the equipment to which the Contract relates, imposed by any law enacted after the date of this Contract or imposed upon the Authority by an existing law. By so agreeing, the Authority does not in any way admit the validity of any such tax.
- D. Contractor's personnel must immediately report all accidents or incidents occurring on the airport to the Authority's Operations Center and Maintenance Department. Unusual or catastrophic events involving personnel or equipment covered by this Contract must, within five calendar days be followed by a written report to the Authority detailing the circumstances surrounding the event and the actions taken or to be taken by the Contractor.

2.11 Compliance with Laws, Regulations, Ordinances, Rules

Contractor and its subcontractors must at all times comply with applicable federal, State, and local laws and regulations, Authority rules, regulations, policies, procedures and directives as are now or may hereinafter be prescribed by Authority, all applicable health rules and regulations and other mandates whether existing or as promulgated from time to time by the federal, State, or local government, or Authority including, but not limited to, permitted and restricted activities, security matters, parking, ingress and egress, environmental and storm water regulations and any other operational matters related to the operation of the Airport. Contractor, its officers, employees, agents, subcontractors, and those under its control, will comply with security measures required of Contractor or Authority by the Federal Aviation Administration ("FAA"), or Transportation Security Administration ("TSA"), contained in any Airport master security plan approved by the TSA to include an Airport Tenant Security Program as outlined in TSA 1540 and 1542, as amended, respective to Contractor's Premises. If Contractor, its officers, employees, agents, subcontractors or those under its control fail or refuse to comply with said measures and such non-compliance results in a monetary penalty being assessed against Authority, then, in addition to any other remedies available to Authority, Contractor will be responsible and must reimburse Authority in the full amount of any such monetary penalty or other damages. This amount must be paid by Contractor within ten (10) calendar days of written notice.

If, during the term of this Contract, there are changes to existing laws or new laws, ordinances or regulations not pending at the time of signing this Contract which affect the cost or time of performance, the Contractor shall immediately notify the Authority in writing and submit documentation of its effect on both time and cost. Upon concurrence by the Authority as to the effect of such changes, an adjustment in the compensation and/or time of performance will be made.

2.12 Hazardous Substances and Compliance

- A. Hazardous Substances shall mean any substance that (i) the presence of which requires investigation, reporting, removal or remediation under any Environmental Law; (ii) that is or becomes defined as a "hazardous waste," "hazardous substance," "hazardous material," "extremely hazardous substance,"

or other type of pollutant or contaminant under any applicable Environmental Law; (iii) that is toxic, reactive, explosive, corrosive, flammable, radioactive, carcinogenic, mutagenic, teratogenic, or otherwise hazardous and is or becomes regulated by any applicable Environmental Law; (iv) that is or contains oil, gasoline, diesel fuel, aviation fuel, or other petroleum hydrocarbons, products or derivatives, other than petroleum, crude oil, and petroleum products to the extent contained within regularly operated motor vehicles; (v) that is or contains PCBs, asbestos, radon, urea formaldehyde or any substance that contains per- and polyfluoroalkyl substances (PFAS); (vi) that is fungi or bacterial matter which reproduces through the release of spores or the splitting of cells, including but not limited to, mold (including, without limitation, penicillium/aspergillus and stachybotrys chartarum), and Legionella (legionella pneumophila); or (vii) the presence of which causes or threatens to cause a nuisance upon the Property or to adjacent property or poses or threatens to pose a hazard to the health or safety of any person, to plant or animal life, or to the environment, including, but not limited to sewage sludge, industrial slag, solvents and/or any other similar substances or materials.

Notwithstanding the foregoing, "Hazardous Substances" shall not include (i) "de minimis" quantities of such materials; (ii) substances customarily present in the ordinary course of business of ownership, operation and maintenance of a residential and commercial mixed-use property in a prudent manner, but only during the period that the same are stored in reasonable and customary quantities and stored and/or used in accordance with applicable Environmental Laws; or (iii) any quantities of such materials which are permitted to remain in the environment, including soil, sediments, groundwater, or other environmental media pursuant to principles of risk-based corrective action under applicable Environmental Laws.

- B. General Conditions. Notwithstanding any other provisions of this Contract, and in addition to any and all other requirements of this Contract or any other covenants, representations, or warranties of Contractor, Contractor hereby expressly covenants, warrants, and represents to Authority, in connection with Contractor's operations on its Premises and at the Airport, the following:
1. Contractor is knowledgeable of and agrees to comply with all applicable Environmental Laws that apply to Contractor's facilities or operations at its Contractor Premises or the Airport. The Contractor acknowledges that such Environmental Laws change from time to time, and Contractor agrees to keep informed of any such future changes.
 2. In addition to any and all other requirements of Contractor to indemnify and hold Authority harmless contained in this Contract, to the maximum extent permitted by State law, Contractor agrees to indemnify and defend and hold harmless Authority and all other Indemnified Parties from all costs, claims, demands, actions, liabilities, complaints, fines, citations, violations, or notices of violation arising from or attributable to:
(i) any violation by Contractor or any of its Contractor Parties of such

applicable Environmental Laws and for any non-compliance by Contractor or any of its Contractor Parties with any permits issued to Contractor pursuant to such Environmental Laws, (ii) a presence or release of Hazardous Substances into the environment caused in whole or in part by Contractor or any of its Contractor Parties at its Contractor Premises or the Airport, or the subsurface, waters, air, or ground thereof, in excess of levels allowable by Environmental Laws, or the violation of any Environmental Laws due to Contractor's or its Contractor Parties' management, control, authorization, handling, possession, or use of Hazardous Substances at its Contractor Premises or elsewhere at the Airport; (iii) any breach by Contractor of any of the requirements of this Article 22; (iv) Contractor's remediation or failure to remediate Hazardous Substances as required by this Contract; which indemnity will include, but not be limited to, enforcement actions to assess, abate, remediate, undertake corrective measures, and monitor environmental conditions and for any monetary penalties, costs, expenses, or damages, including natural resource damages, imposed against Contractor or its Contractor Parties or against Authority by reason of Contractor's or its Contractor Parties' violation or non-compliance with Environmental Laws. The Contractor's obligations hereunder will survive the termination of the Term of this Contract, and will not be affected in any way by the amount of or the absence in any case of covering insurance or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting the Airport or any part thereof, except that, in the event that Authority recovers funds from insurance carriers in connection with claims associated with (i), (ii), (iii) or (iv) above, Authority may not recover the same funds from Contractor; and provided, further, that the foregoing indemnity obligations are subject to the provisions of paragraphs (C) and (D) of Article 16 to the extent applicable.

3. The Contractor agrees to cooperate with any investigation, audit, or inquiry by Authority or any Governmental Authority regarding possible violation of any Environmental Law upon the Contractor Premises or elsewhere at the Airport.
4. The Contractor agrees that all remedies of Authority as provided herein with regard to violation of any Environmental Laws will be deemed cumulative in nature and will survive termination of this Contract.
5. The Contractor agrees that any notice of violation, notice of non-compliance, or other enforcement action of the nature described herein will be provided to Authority within twenty-four (24) hours of receipt by Contractor or Contractor's agent. In the event Authority receives a notice of violation, notice of non-compliance, or other enforcement action of the nature described herein, it will promptly provide that notice to Contractor. Any violation or notice of violation or non-compliance with an Environmental Law that Contractor fails to rectify within the cure period

established in the "Default and Termination" Article of this Contract will be deemed an Event of Default under this Contract.

6. In entering this Contract, Authority expressly relies on the covenants, representations, and warranties of Contractor as stated herein.

C. Environmental Considerations.

1. The Contractor and its Contractor Parties will not discharge or spill any Hazardous Substance into any component of the storm drainage system or onto any paved or unpaved area within the boundaries of the Contractor Premises. In addition, neither Contractor nor any Contractor Party will discharge or spill any Hazardous Substance into any component of the sanitary sewer system without first neutralizing or treating same as required by applicable anti-pollution laws or ordinances, in a manner satisfactory to Authority and other Governmental Authorities having jurisdiction over or responsibility for the prevention of pollution of canals, streams, rivers, bays, and other bodies of water. The Contractor's discharge, spill or introduction of any Hazardous Substance onto the Contractor Premises or into any component of Authority's sanitary or storm drainage systems will, if not remedied by Contractor with all due dispatch, at the sole discretion of Authority, be deemed an Event of Default and cause for termination of this Contract by Authority, subject to notice and cure. Such termination will not relieve Contractor of or from liability for such discharge or spill.
2. If Contractor is deemed to be a generator of hazardous waste, as defined by Applicable Laws, Contractor will obtain a generator identification number from the EPA and the appropriate generator permit and will comply with all Applicable Laws, including but not limited to, ensuring that the transportation, storage, handling, and disposal of such hazardous wastes are conducted in full compliance with Applicable Laws.
3. The Contractor agrees to provide Authority, within ten (10) days after Authority's request, copies of all hazardous waste permit application documentation, permits, monitoring reports, transportation, responses, storage and disposal plans, safety data sheets and waste disposal manifests prepared or issued in connection with Contractor's use of the Contractor Premises or operations at the Airport.
4. At the end of the Term of this Contract, Contractor will dispose of all solid and hazardous wastes and containers in compliance with all Applicable Laws. Copies of all waste manifests will be provided to Authority at least thirty (30) days prior to the end of the Term of this Contract.

- D. Prior Environmental Impacts. Nothing in this Article will be construed to make Contractor liable in any way for any environmental impacts or release of Hazardous Substances affecting the Contractor Premises that occurred prior to

Contractor's entry upon the Contractor Premises or that occurred as a result of the actions of Authority or any of its employees, agents, or contractors.

- E. Off-Site Environmental Impacts. Nothing in this Article will be construed to make Contractor liable in any way for any environmental impacts or release of Hazardous Substances affecting the Contractor Premises that occurs by reason of the migration or flow to the Contractor Premises from verifiable or documented off-site environmental impacts that is not attributable to Contractor's activities at the Contractor Premises.
- F. The Contractor shall comply with Section 19 of SSPP.

2.13 Waivers

No waiver by Authority at any time of any of the terms, conditions, covenants, or agreements of this Contract, or noncompliance therewith, will be deemed or taken as a waiver at any time thereafter of the same or any other term, condition, covenant or Contract herein contained, nor of the strict and prompt performance thereof by the Contractor. No delay, failure or omission of Authority to exercise any right, power, privilege or option arising from any default nor subsequent payment of charges then or thereafter accrued, may impair any such right, power, privilege or option, or be construed to be a waiver of any such default or relinquishment thereof or acquiescence therein. No notice by Authority will be required to restore or revive time as being of the essence hereof after waiver by Authority or default in one or more instances. No option, right, power, remedy or privilege of Authority will be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of the rights, powers, options, or remedies given to Authority by this Contract are cumulative and no one of them will be exclusive of the other or exclusive of any remedies provided by law, and that the exercise of one right, power, option or remedy by Authority will not impair its rights to any other right, power, option or remedy.

Contractor's remedies are limited to those remedies specified herein. This provision shall take precedence over any conflicting Contract provisions.

2.14 Waiver of Claim

Contractor hereby waives any claim against City of Tampa, Hillsborough County, State of Florida and Authority, and its officers, board members, agents, or employees for loss of anticipated profits caused by any suit or proceedings directly or indirectly attacking the validity of this Contract or any part thereof, or by any judgment or award in any suit or proceeding declaring this Contract null, void, or voidable, or delaying the same, or any part hereof, from being carried out.

2.15 Time of Essence

Time is of the essence with respect to this Contract.

2.16 Reserved

2.17 Equal Opportunity Report

The Contractor agrees that, with regard to the furnishing of services hereunder, it will not discriminate on the grounds of race, sex, creed, color, or national origin, and the Contractor assures that it will undertake an Affirmative Action Program as required by 14 CFR Part 152 Subpart E. Contractor must, upon request, furnish any pertinent information regarding compliance with federal regulations and the Contractor's own employment policies and practices as the Federal Aviation Administration, the Authority or the Secretary of Labor may require. The Contractor must require similar compliance by its Subcontractors. Where the Contract price is \$10,000.00 or greater, the Contractor must comply with Part 152 of the Federal Aviation Regulations (FAR) as amended and specifically FAR parts 152.411 (c) and (d).

2.18 Woman and Minority Business Enterprises (W/MBE) Assurances

A. Authority Policy

Authority is committed to the participation of Woman and Minority-Owned Business Enterprises (W/MBEs) in non-concession, non-federally funded contracting opportunities in accordance with Authority W/MBE Policy and Program. Contractor will take all necessary and reasonable steps in accordance therewith to ensure that W/MBEs are encouraged to compete for and perform subcontracts under this Contract.

B. Non-Discrimination

1. Contractor and any subcontractor of Contractor will not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Contractor will carry out applicable requirements of Authority W/MBE Policy and Program in the award and administration of this Contract. Failure by 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 Authority deems appropriate.
2. Contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any agreement, management contract, or subcontract, purchase or lease agreement.
3. Contractor agrees to include the statements in paragraphs (A) and (B) above in any subsequent agreement or contract that it enters and cause those businesses to similarly include the statements in further agreements or contracts.

C. W/MBE Participation

1. W/MBE Expectancy: No specific expectancy for W/MBE participation has been established for this Contract; however, Contractor agrees to make a

good faith effort, in accordance with Authority W/MBE Policy and Program, throughout the term of this Contract, to contract with W/MBE firms certified as a woman-owned or minority-owned business by the City of Tampa, Hillsborough County, the State of Florida Department of Management Services, Office of Supplier Diversity, or as a Disadvantaged Business Enterprise (DBE) under the Florida Unified Certification Program pursuant to 49 CFR part 26 in the performance of this Contract.

2. W/MBE Termination and Substitution: Contractor is prohibited from terminating or altering or changing the scope of work of a W/MBE subcontractor except upon written approval of Authority in accordance with Authority procedures relating to W/MBE terminations contained in the W/MBE Policy and Program. Failure to comply with the procedure relating to W/MBE terminations or changes during the Contract will be a material violation of the Contract and will invoke the sanctions for non-compliance specified in this Contract and the W/MBE Policy and Program.
3. Monitoring: Authority will monitor the ongoing good faith efforts of Contractor in meeting the requirements of this Article. Authority will have access to the necessary records to examine such information as may be appropriate for the purpose of investigating and determining compliance with this Article, including, but not limited to, records, records of expenditures, contracts between Contractor and the W/MBE participant, and other records pertaining to W/MBE participation, which Contractor will maintain for a minimum of three years following the end of this Contract. Opportunities for W/MBE participation will be reviewed prior to the exercise of any renewal, extension or material amendment of this Contract to consider whether an adjustment in the W/MBE requirement is warranted. Without limiting the requirements of this Contract, Authority reserves the right to review and approve all subleases or subcontracts utilized by Contractor for the achievement of these goals.
4. Prompt Payment: Contractor agrees to pay each subcontractor under this Contract for satisfactory performance of its contract no later than ten (10) calendar days from the receipt of each payment Contractor receives from Authority. Contractor agrees further to release retainage payments to each subcontractor within ten (10) calendar 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 Authority. This clause applies to both W/MBE and non-W/MBE subcontractors.

2.19 Florida Public Entity Crimes

The Contractor attests compliance with Section 287.133, Florida Statutes concerning Public Entity Crimes.

A person or affiliate who has been placed on the convicted vendor list following a conviction for

a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a Contractor, supplier, subcontractor, or consultant under a contract with any public entity and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017 of the Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

2.20 Contract Made in Florida and Fully Integrated

This Contract has been made in and will be construed in accordance with the laws of the State of Florida. All duties, obligations and liabilities of Authority and Contractor are expressly set forth herein and this Contract can only be amended in writing signed by both parties. It is agreed that the venue of any action brought under this Contract will be the appropriate court located in Hillsborough County, Florida, as applicable.

2.21 Nondiscrimination/Affirmative Action

A. 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 subcontractors and consultants) will comply with the Title VI List of Pertinent Nondiscrimination Statutes 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, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, 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 Acts and the Regulations relative to Nondiscrimination 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 Owner or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of Contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Owner 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 Contractor's noncompliance with the Nondiscrimination provisions of this Contract, the Owner 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 the contract, in whole or in part.
 6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through five 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 Owner 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 Owner to enter into any litigation to protect the interests of the Owner. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.
- B. Title VI List of Pertinent Nondiscrimination Authorities During the performance of this Contract, the Contractor, for itself, its assignees, and successors in interest agrees to comply with the following nondiscrimination statutes and authorities; including but not limited to:
1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
 2. 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);

3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
5. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
6. Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
7. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
8. Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
9. The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
10. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which 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;
11. 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, Contractor must

take reasonable steps to ensure that LEP persons have meaningful access to Contractor's programs (70 Fed. Reg. at 74087 to 74100); and

12. Title IX of the Education Amendments of 1972, as amended, which prohibits Contractor from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

C. Duration: Contractor must comply with this section during the period during which Federal financial assistance is extended to Owner, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case this provision obligates the Contractor for the longer of the following periods:

1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or

2. So long as the Owner retains ownership or possession of the property.

2.22 Termination

A. This contract may be terminated by the Authority with or without cause upon at least ninety (90) days written notice to the Contractor.

B. In the event of termination by Authority without cause, the Contractor will be entitled to receive that portion of the Contract Sum attributable to the work performed in conformance with the Contract through the date of termination, together with reasonable termination expenses incurred; but the Contractor will not be entitled to any further or additional compensation from the Authority, including, but not limited to damages or lost or anticipated profits on portions of the work not performed.

C. In the event of termination for cause, the Authority may retain all payments due to the Contractor at the date of termination until all of the Authority's damages (including attorney's fees) have been established and deducted from payments due.

D. In the event this Contract is terminated, the Authority will be entitled to retain and use all project documents furnished or prepared by or for the Contractor or design professionals retained by the Contractor.

In the event the Authority terminates Contractor for cause pursuant to this contract and it is later determined that such termination was not proper or such termination right was not otherwise available to the Authority, such termination will be deemed a termination without cause and Contractor's rights and remedies will be limited to those set forth in the paragraph above.

E. In the event this Contract is terminated, the Contractor and the Authority will

negotiate a transition plan to facilitate the award and transition of a new maintenance contractor.

2.23 Federal Right to Reclaim

In the event a United States governmental agency may demand and take over the entire facilities of the Airport or the portion thereof wherein the Premises are located, for public purposes, for a period in excess of 90 consecutive days, then this Contract will hereupon terminate and the Authority will be released and fully discharged from any and all liability hereunder. In the event of such termination, nothing herein will be construed as relieving either party from any of its liabilities relating to events or claims of any kind whatsoever prior to this termination.

2.24 Press Releases or Other Specialized Publicity Documents

Press releases or other specialized publicity documents, including the Contractor's and subcontractor's advertising and news bulletins, which are related to this Contract and are intended by the Contractor for the press, broadcasting, or television or other dissemination including, but not limited to billboards and electronic media, will be drawn up in consultation with the Authority. Except as otherwise required by law or regulation, the Contractor, or employees thereof, will not release or distribute any materials, photographs, videos or information relating to this Contract, depicting the Work, or containing the name of the Authority or any of its employees without prior written approval by the Vice President of Maintenance.

2.25 Project Coordination

During the duration of the Contract, other construction and/or design-build projects will be underway at the Airport. It will be the responsibility of the Contractor to use good faith efforts to coordinate its Work with these other projects to the extent they don't interfere with the Contractor's Work. Any problems with such coordination will be brought to the attention of the Authority who will direct the affected parties accordingly.

2.26 Code of Ethics

The Contractor will conduct all Work in this Contract in accordance with the Authority's Policy P150, Code of Ethics and Ethics Program.

2.27 Public Records

COMPLIANCE WITH PUBLIC RECORDS LAW

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (813) 870-8721, ADMCENTRALRECORDS@TAMPAAIRPORT.COM,

HILLSBOROUGH COUNTY AVIATION AUTHORITY, P.O. BOX 22287, TAMPA FL 33622.

Contractor agrees in accordance with Florida Statute Section 119.0701 to comply with public records laws including the following:

- A. Keep and maintain public records required by Authority in order to perform the Services contemplated by this Contract.
- B. Upon request from Authority custodian of public records, provide Authority with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Fla. Stat. or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Contract term and following completion of this Contract.
- D. Upon completion of this Contract, keep and maintain public records required by Authority to perform the Services. Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Authority in a format that is compatible with the information technology systems of Authority.

2.28 Protection of Persons and Property

- A. The Contractor will be responsible for all damage or injury to property of any character during the prosecution of the Work resulting from any act, omission, neglect or misconduct in the Contractor's manner or method of executing the Work, or at any time due to defective Work or materials.
- B. The Contractor will be responsible for initiating, maintaining and providing supervision of all safety precautions and programs in connection with the Contractor's performance of this Contract.
- C. The Contractor will designate, in writing to the Authority, a Competent Person in the Contractor's organization whose duty will be safety, protection of persons and property and the prevention of accidents at the Project site.
- D. The Contractor will take reasonable precautions for the safety of and will provide reasonable protection to prevent damage, injury or loss to: (1) employees on the Work site(s) and other persons who may be affected thereby; (2) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site(s), under care, custody or control of the Contractor; (3) other property at or adjacent to the Work site(s), such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of Work; and (4) any other

property of the Authority or construction by separate contractors.

- E. The Contractor will erect and maintain reasonable safeguards for safety and protection during the course of maintenance, including posting danger signs and other warnings against hazards, and will give appropriate notice and warnings to Authority and users of adjacent sites and utilities.
- F. When use or storage of explosives, hazardous materials, equipment, or unusual methods are necessary for execution of the Work outside of the normal maintenance plan, the Contractor will provide Authority with prior written notice of such and will exercise utmost care and carry on such activities under the supervision of properly qualified personnel.
- G. The Contractor will comply with the applicable provisions of the Occupational Safety and Health Act of 1970, (as amended) and applicable regulations and requirements under said Act. The Contractor will maintain an accurate record of all accidents causing death, traumatic injury, occupational disease, or damage to property, materials, supplies and equipment incidental to Work performed under this Contract.
- H. The Contractor will be in charge and care of the Work and will take every precaution against injury or damage due to the action of the elements, whether arising from the execution or failure to execute if required

2.29 Prohibition Against Contingent Fees

The Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Contract and that the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or other consideration, contingent upon or resulting from the award or making of this Contract. If the Authority finds that Contractor violates this provision, the Authority may terminate this Contract without liability and, at its discretion, deduct from this Contract, or otherwise recover, the full amount of any fee, commission, percentage, gift, or consideration.

2.30 Certification Of Non-Segregated Facilities

The Contractor certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments and that Contractor does not permit its employees to perform their services at any location under Contractor's control where segregated facilities are maintained. The Contractor certifies that it will not maintain or provide for its employees segregated facilities at any of its establishments and that Contractor will not permit its employees to perform their services at any location under Contractor's control where segregated facilities are maintained. The 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 room, 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 Contractor agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000.00 (U.S.) which are not exempt from the provisions of the equal opportunity clause and that Contractor will retain such certifications in its files.

2.31 Prohibition Against Contracting With Scrutinized Companies

This Contract will be terminated in accordance with Section 287.135(3), Florida Statutes if it is found that the Contractor submitted a false Scrutinized Company Certification as provided in Section 287.135(5), Florida Statutes or has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

2.32 E-Verify Requirement

In accordance with the State of Florida, Office of the Governor, Executive Order Number 11-116 (Verification of Employment Status), all agencies under the direction of the Governor are to include as a condition of all state contracts for the provision of goods or services to the state in excess of nominal value, an express requirement that contractors utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the contractor during the contract term, and an express requirement that contractors include in such subcontracts the requirement that subcontractors performing work or providing services pursuant to the state contract utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term. Any Programs with Florida Department of Transportation (FDOT) funding will contain this assurance as a condition for any new Joint Participation Agreements dated after January 4, 2011. The Contractor will verify all of their new employees and will require that their subcontractors verify all of their new employees in accordance with the E-verify requirements set out above.

FDOT considers the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the Contractor knowingly employs unauthorized aliens, such violation will be cause of unilateral cancellation of this Contract.

By entering into this Contract, the Contractor becomes obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility." This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit attesting that the subcontractor uses the E-verify system and subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If this contract is terminated for a violation of the Section 448.095 by the Design-Builder, the Design-Builder may not be awarded a public contract for a period of 1 year after the date of termination.

2.33 Data Security

Contractor will establish and maintain safeguards against the destruction, loss or alteration of Authority data or third party data that Contractor may gain access to or be in possession of in providing the services of this Contract. Contractor will not attempt to access, and will not allow its personnel access to, Authority data or third party data that is not required for the performance of the services of this Contract by such personnel.

Contractor and its employees, vendors, subcontractors, and subconsultants will adhere to and abide by the security measures and procedures established by Authority and any terms of service agreed to by the Authority with regards to data security. In the event Contractor or Contractor's subcontractor (if any) discovers or is notified of a breach or potential breach of security relating to Authority data or third party data, Contractor will promptly:

- A. Notify Authority of such breach or potential breach; and
- B. If the applicable Authority data or third party data was in the possession of Contractor at the time of such breach or potential breach, Contractor will investigate and cure the breach or potential breach.

2.34 Non-Exclusive Rights

This Contract will not be construed to grant or authorize the granting of an exclusive right within the meaning of 49 USC 40103(e) or 49 USC 47107(a), as may be amended from time to time, and related regulations.

2.35 Right to Develop Airport

It is covenanted and agreed that Authority reserves the right to further develop or improve the Airport and all landing areas and taxiways as it may see fit, regardless of the desires or views of Contractor or its subcontractors and without interference or hindrance.

2.36 Right of Flight

Authority reserves, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the real property owned by Authority with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from or operating on Airport.

Contractor expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions to such a height so as to comply with Federal Aviation Regulations, Part 77 and Authority Height Zoning Regulations. Contractor further expressly agrees for itself, its successors and assigns, to prevent any interference with or adversely affect the operation or maintenance of Airport, or otherwise constitute an Airport hazard.

2.37 Subordination of Agreement

It is mutually understood and agreed that this Contract will be subordinate to the provisions of any existing or future agreement between Authority and the United States of America, its Boards, Agencies, Commissions, , relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport, and this Contract will be subordinate to the license or permit of entry which may be granted by the Secretary of Defense.

2.38 Subordination to Trust Agreement

This Contract and all rights of the Contractor hereunder are expressly subject and subordinate to the terms, covenants, conditions and provisions of any Trust Agreements or other debt instruments executed by the Authority to secure bonds issued by, or other obligations of, the Authority. The obligations of Contractor hereunder may be pledged, transferred, hypothecated, or assigned at any time by Authority to secure such obligations. Conflicts between the terms of the Contract and the provisions, covenants and requirements of the debt instruments mentioned above will be resolved in favor of the provisions, covenants and requirements of such debt instruments. Authority will use good faith efforts to ensure Contractor's rights are not negatively impacted by any such subordination.

2.39 Security Badging

All employees of the Contractor or subcontractors requiring access to the Airport are required to be supplied with identification badges to be worn at all times while within the area. Badges can be plastic wallet size, metal pin or sticker with a minimum of 2-1/2" diameter and worn on outer garments so as to be clearly visible. Badging is to be uniform in appearance and sufficiently distinctive in design or color to clearly distinguish, on sight, employees assigned to this Contract. The badge number will be prominent for easy identification. Badges are to be identified numerically and issued individually to whom it was assigned. Blocks of numbers can be assigned to subcontractors. Responsibility for supply issuance and control of identification badges will be that of the Contractor, through the CSO.

In addition, for all Work within the AOA at Tampa International Airport only, the Contractor's onsite supervisors will be badged with Airport ID badges provided by Authority Operations. Supervisors requiring unescorted access to the Security Identification Display Area (SIDA) will be subjected to a FBI fingerprint-based Criminal History Records Check (CHRC) and a Transportation Security Administration Security Threat Assessment (STA). An ID badge will not be issued to an individual until they successfully pass a CHRC and STA.

New applicants applying for a TPA ID badge will continue to be charged for the CHRC and an additional STA fee based upon the expiration length from date of issue. The new STA fees will also apply to ID badge renewals. Each time an individual renews their ID badge (including lost, stolen, name change, etc.), the authorized issue will be charged the STA fee (depending on expiration date period). Contractor shall inquire as to the current applicable rates for the above fees.

Personnel will wear the badge on outermost garment at all times while on the AOA. All employees of Contractor or subcontractor requiring access to the Airport are required to be supplied with identification badges to be worn at all times while within the area. Blocks of numbers can be assigned to subcontractors. Responsibility for supply issuance and control of identification badges will be that of the Contractor, through the CSO and the Owner. The Contractor will be assessed Three Hundred Dollars (\$300.00) in liquidated damages for each security badge that is not returned to the Owner at the time of badge expiration or Contract completion. These liquidated damages will be paid promptly by the Contractor by company check, or the amount will be withheld by Owner from payments due to the Contractor. Contractor agrees that liquidated damages described herein are not a penalty and are reasonable considering the impacts that a Breach of Security could have to public safety and welfare and the operations of the Airport.

2.40 Relationship of the Parties

Contractor is and will be deemed to be an independent contractor and operator responsible to all parties for its respective acts or omissions, and Authority will in no way be responsible therefore.

2.41 Right to Amend

In the event that the United States Government including but not limited to the FAA and TSA, or its successors, Florida Department of Transportation, or its successors, or any other governmental agency requires modifications or changes in this Contract as a condition precedent to the granting of funds for the improvement of the Airport, Contractor agrees to consent to such amendments, modifications, revisions, supplements, or deletions of any of the terms, conditions, or requirements of this Contract as may be reasonably required to obtain such funds; provided, however, that in the event such amendments, modifications, revisions, supplements or deletions create additional costs to Contractor, Authority will reimburse Contractor for all reasonable additional costs of compliance.

2.42 Contractor Tenancy

The undersigned representative of Contractor hereby warrants and certifies to Authority that Contractor is an organization in good standing in its state of registration, that it is authorized to do business in the State of Florida, and that the undersigned officer is authorized and empowered to bind the organization to the terms of this Contract by his or her signature thereto.

2.43 Americans With Disability Act

Contractor will comply with the applicable requirements of the Americans with Disabilities Act; the Florida Americans with Disabilities Accessibility Implementation Act; Florida Building Code, Florida Accessibility Code for Building Construction; and any similar or successor laws, ordinances, rules, standards, codes, guidelines, and regulations and will cooperate with Authority concerning the same subject matter.

2.44 Property Rights Reserved

This Contract will be subject and subordinate to all the terms and conditions of any instruments and documents under which Authority acquired the land or improvements thereon, of which said Assigned Areas are a part. Contractor understands and agrees that this Contract will be subordinate to the provisions of any existing or future agreement between Authority and the United States of America, or any of its agencies, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport, and to any terms or conditions imposed upon the Airport by any other governmental entity.

2.45 FAA Approval

This Contract may be subject to approval of the FAA. If the FAA disapproves this Contract, it will become null and void, and both Parties will bear their own expenses relative to this Contract.

2.46 Agent for Service of Process

It is expressly agreed and understood that if Contractor is not a resident of the State of Florida, or is an association or partnership without a member or partner resident of said State, or is a foreign corporation, then in any such event Contractor does designate the Secretary of State, State of Florida, as its agent for the purpose of service of process in any court action between it and Authority arising out of or based upon this Contract, and the service will be made as provided by the laws of the State of Florida, for service upon a non-resident. It is further expressly agreed, covenanted, and stipulated that if for any reason service of such process is not possible, and Contractor does not have a duly noted resident agent for service of process, as an alternative method of service of process, Contractor may be personally served with such process out of this State, by the certified return receipt mailing of such complaint and process or other documents to Contractor at the address set out hereinafter in this Contract or in the event of a foreign address, deliver by Federal Express and that such service will constitute valid service upon Contractor as of the date of mailing and Contractor will have thirty (30) days from date of mailing to respond thereto. It is further expressly understood that Contractor hereby agrees to the process so served, submits to the jurisdiction of the state or federal courts located in Hillsborough County, Florida, and waives any and all obligation and protest thereto, any laws to the contrary notwithstanding.

2.47 Invalidity of Clauses

The invalidity of any part, portion, sentence, article, paragraph, provision, or clause of this Contract will not have the effect of invalidating any other part, portion, sentence, article, paragraph, provision, or clause of this Contract, and the remainder of this Contract will be valid and enforced to the fullest extent permitted by law.

3.0 CONTRACT FORMS, AWARD, AND EXECUTION OF CONTRACT

3.1 Approval of Contract

No Contract is binding upon the Authority until it has been executed by the Authority and

delivered to the Contractor.

3.2 Insurance Coverages and Limits

Insurance

Contractor must maintain the following limits and coverages uninterrupted or amended through the term of this Contract. In the event the company becomes in default of the following requirements the Authority reserves the right to take whatever actions deemed necessary to protect its interests. Required liability policies other than Workers' Compensation/Employer's Liability and Professional Liability, will provide that the Authority, members of the Authority's governing body, and the Authority officers, volunteers and employees are included as additional insured.

Required Coverage – Minimum Limits

The minimum limits of insurance (inclusive of any amounts provided by an umbrella or excess policy) covering the work performed pursuant to this Contract will be the amounts specified herein. To the extent it is used to meet the minimum limit requirements, any Umbrella or Excess coverage shall follow form to the Employer's Liability, Commercial General Liability and Business Auto Liability coverages, including all endorsements and additional insured requirements. Any applicable Aggregate Limits in the Umbrella or Excess policy(ies) shall not be shared or diminished by claims unrelated to this Contract.

A. Commercial General Liability Insurance

The minimum limits of insurance covering the work performed pursuant to this Contract will be the amounts specified herein. Coverage will be provided for liability resulting out of, or in connection with, ongoing operations performed by, or on behalf of, Contractor under this Contract or the use or occupancy of Authority premises by, or on behalf of, Contractor in connection with this Contract. Coverage shall be provided on a form no more restrictive than ISO Form CG 00 01. Additional insurance coverage shall be provided on a form no more restrictive than ISO Form CG 20 10 10 01 and CG 20 37 10 01.

	Contract Specific
General Aggregate	\$10,000,000
Each Occurrence	\$10,000,000
Personal and Advertising Injury Each Occurrence	\$10,000,000
Products and Completed Operations Aggregate	\$10,000,000

B. Workers' Compensation and Employer's Liability Insurance

The minimum limits insurance are:

Part One:	"Florida Statutory"
Part Two:	

Each Accident	\$1,000,000
Disease – Policy Limit	\$1,000,000
Disease – Each Employee	\$1,000,000

- C. Business Automobile Liability Insurance
 Coverage will be provided for all owned, hired and non-owned vehicles. Coverage shall be provided on a form no more restrictive than ISO Form CA 00 01.

The minimum limits of insurance covering the work performed pursuant to this Contract will be:

Each Occurrence – Bodily Injury and Property Damage combined	\$5,000,000
---	-------------

- D. Waiver of Subrogation
 Contractor, for itself and on behalf of its insurers, to the full extent permitted by law without voiding the insurance required by the Contract, waives all rights against the Authority, members of Authority’s governing body and Authority officers, volunteers and employees, for damages or loss to the extent covered and paid for by any insurance maintained by Contractor.

3.3 Conditions of Acceptance

The insurance maintained by Contractor must conform at all times with Authority Standard Procedure S250.06, Contractual Insurance Terms and Conditions, which may be amended from time to time and can be downloaded from Authority website at www.TampaAirport.com > Learn about TPA > Airport Business > Procurement > Additional Supplier Resources

3.4 Notice-To-Proceed

Notice-To-Proceed will be issued by the Authority after receipt of the required Certificate of Insurance and/or endorsements, duly executed, and in a form acceptable to the Authority. Work under the Contract may not start until the Authority has issued a written Notice-To-Proceed.

IN WITNESS WHEREOF, the parties hereto have set their hands and corporate seals by their proper officers, duly authorized to do so:

By the Contractor this _____ day of _____, 2022

BOMBARDIER TRANSPORTATION (HOLDINGS) USA, INC.

By: _____

Title: _____

printed name

printed address

Signed, sealed and delivered in the presence of:

Witness

Printed name

Witness

Printed name

Notary for Bombardier Transportation (Holdings) USA, Inc.

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 2021, by _____ as

(Name of person)

_____, for _____.

(type of authority)

(name of party on behalf of whom contract was executed)

Signature of Notary

Print, Type, or Stamp Commissioned Name of Notary

Personally Known OR Produced Identification
Type of Identification Produced

By the Owner this 5th day of April, 2022.

HILLSBOROUGH COUNTY AVIATION AUTHORITY

(Affix Corporate Seal)

By: _____
Gary Harrod, Chairman

ATTEST:

Jane Castor, Secretary

Signed, sealed, and delivered
in the presence of:

Witness

Print Name

Witness

Print Name

APPROVED AS TO FORM FOR LEGAL SUFFICIENCY:

By: _____
Michael Kamprath, Assistant General Counsel

Notary for Hillsborough County Aviation Authority

**STATE OF FLORIDA
COUNTY OF HILLSBOROUGH**

The foregoing instrument was acknowledged before me by means of physical presence or online authorization, this ____ day of _____, 2022, by Gary Harrod, in the capacity of Chairman, and by Jane Castor in the capacity of Secretary, for Hillsborough County Aviation Authority, a public body corporate under the laws of the State of Florida, on its behalf.

Signature of Notary

Print, Type, or Stamp Commissioned Name of Notary

Personally Known OR Produced Identification
Type of Identification Produced

ATTACHMENT A:

**SYSTEM SAFETY PROGRAM PLAN FOR AUTOMATED PEOPLE MOVER SYSTEMS AT
TAMPA INTERNATIONAL AIRPORT**

**ATTACHMENT B: STANDARD PROCEDURE S250.06 CONTRACTUAL
INSURANCE TERMS AND CONDITIONS**

ATTACHMENT C: SOFTWARE SOURCE CODE ESCROW AGREEMENT

A software source code escrow agreement will be made and entered into by and among Hillsborough County Aviation Authority ("Authority"), having its principal office at Tampa International Airport, mailing address, P.O. Box 22287, Tampa, FL 33622, and Bombardier Transportation (Holdings) USA, Inc. ("Licensor"), a corporation organized under the laws of the State of Delaware, which has its principal office at 1251 Waterfront Place, Pittsburgh, PA 15222, and an Escrow Agent to be agreed. The account, if needed, will contain relevant source code related to new work by Contractor at the Airport, including that related to Central Control and 300R vehicles.

ATTACHMENT D: SPARE PARTS INVENTORY

ATTACHMENT E: E-VERIFY CERTIFICATION

This certification is required in accordance with the State of Florida, Office of the Governor, Executive Order Number 11-116 (Verification of Employment Status) and Fla. Stat. Section 448.095.

The State of Florida, Office of the Governor, Executive Order Number 11-116 (Verification of Employment Status), and any projects with Florida Department of Transportation (FDOT) funding as part of a Joint Participation Agreement between FDOT and the Authority, require, as a condition of all contracts for the provision of goods or services, an express requirement that contractors utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the contractor during the term of the contract, and an express requirement that contractors include in subcontracts the requirement that subcontractors performing work or providing services pursuant to the contract utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

Company: _____ FID or EIN
No.: _____

Address: _____ City/State/Zip: _____

I, _____, as a representative of _____

certify and affirm that this company will comply with the E-Verification requirements of Executive Order Number 11-116 and Fla. Stat. Section 448.095.

Signature Title

Printed Name Date

[Affix Corporate Resolution if not signed by the President or Vice President of the Company]

ATTACHMENT F: SCRUTINIZED COMPANY CERTIFICATION

This certification is required pursuant to Florida Statute Section 287.135.

As of July 1, 2018, a company that, at the time of bidding or submitting a bid/response for a new contract/agreement or when entering into or renewing a contract/agreement for goods or services, is on the Scrutinized Companies that Boycott Israel List, created pursuant to Florida Statute Section 215.4725, or is engaged in a boycott of Israel, is ineligible for, and may not bid on, submit a proposal/response for, or enter into or renew a contract/agreement with an agency or local governmental entity for goods or services of any amount.

Additionally, as of July 1, 2018, a company that, at the time of bidding or submitting a bid/response for a new contract/agreement or when entering into or renewing a contract/agreement for goods or services, is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Florida Statute Section 215.473, or has been engaged in business operations in Cuba or Syria, is ineligible for, and may not bid on, submit a proposal/response for, or enter into or renew a contract/agreement with an agency or local governmental entity for goods or services of \$1 million or more.

Each Bidder and any subcontractor(s) it proposes for contracts/agreements of \$1 million or more, or for any amount if on the Scrutinized Companies that Boycott Israel List or if engaged in a boycott of Israel, must submit a fully executed copy of this form. If the Bidder is found to have submitted a false certification, been placed on the Scrutinized Companies that Boycott Israel List, is engaged in a boycott of Israel, or for any contract for goods or services of \$1 million or more, has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is found to have been engaged in business operations in Cuba or Syria, the Owner may terminate any resulting contract.

Company:	_____	FID or EIN No.:	_____
Address:	_____	City/State/Zip:	_____
_____	Signature	_____	Title
_____	Printed Name	_____	Date