

Terms and Conditions

The Awarded Respondent (hereinafter "Company") agree as set forth below:

A. Indemnification and Hold Harmless

To the maximum extent permitted by Florida law, in addition to Company's obligation to provide pay for and maintain insurance as set forth elsewhere in the Contract, Company will indemnify and hold harmless the Authority, its members, officers, agents, employees, and volunteers from any and all liabilities, suits, claims, procedures, liens, expenses, losses, costs, 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 the Contract;
4. performance, non-performance or purported performance of the 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 Company or the Company's officers, employees, agents, volunteers, subcontractors, invitees, or any other person directly or indirectly employed or utilized by the Company. This indemnity and hold harmless obligation expressly excludes any portion of the forgoing liability caused by the negligence, willfulness or other acts or omissions of the Authority Indemnified Parties.

In addition to the duty to indemnify and hold harmless, Company will have the separate and independent duty to defend the Authority, its members, officers, agents, employees, and volunteers from all suits, claims, proceedings or actions of any nature seeking damages, equitable or injunctive relief, liens, expenses, losses, costs, royalties, fines, 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 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 the Contract;
4. performance, non-performance or purported performance of the 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 Company or the Company's officers, employees, agents, volunteers, subcontractors, invitees, or any other person directly or indirectly employed or utilized by the Company regardless of whether it is caused in part by the Authority, its members, officers, agents, employees, or volunteers. This duty to defend exists immediately upon presentation of written notice of a suit, claim or action of any nature to the Company by a party entitled to a defense hereunder. This defense obligation shall exclude any and all claims caused by the negligence, acts, or omissions of the Authority Indemnified Parties.

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 Company agrees to the following:

To the maximum extent permitted by Florida law, Company will indemnify and hold harmless the 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 the Company and persons directed or controlled by the Company in the performance of the Contract.

If the above indemnity or defense provisions or any part of the above indemnity or defense provisions are limited by Fla. Stat. § 725.06(1) or any other applicable law, the monetary limitation on the extent of the indemnification shall be the greater of the (i) monetary value of the Contract, (ii) coverage amount of Commercial General Liability Insurance required under the 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 the Contract.

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 Company 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 Company and persons employed or utilized by the Company in the performance of the Contract. This indemnification in this paragraph shall survive the termination of the 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.

Company's obligations to defend and indemnify as described in this Article will survive the expiration or earlier termination of the Contract until it is determined by final judgment that any suit, claim or other action against the Authority, its members, officers, agents, employees, and volunteers is fully and finally barred by the applicable statute of limitations or repose.

Nothing in this Article will be construed as a waiver of any immunity from or limitation of liability the Authority, or its members, officers, agents, employees, and volunteers may have under the doctrine of sovereign immunity under common law or statute.

The 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 Company of any of its obligations under this Article.

If this Article or any part of this Article 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.

B. Warranty of Services

Company warrants that, subject to the Company's Product Specifications and Limited Warranty (together, the "Product Warranty"), the battery-electric buses and chargers procured under the Contract will be built in accordance with applicable commercially reasonable industry or workmanship standards for like-kind products and delivered on-time as specified in the project schedule.

Outside of Product Warranty, Company (a) makes no warranties or representations, either expressed or implied, as to the goods (or any of its parts or accessories) or services provided hereunder and (b) makes no warranty of merchantability or fitness of the goods or services provided hereunder for any particular purpose.

C. Non-Discrimination

During the performance of the Contract, the Company, for itself, its assignees and successors in interest, agrees as follows:

1. The Company will comply with the regulations relative to non-discrimination in federally assisted programs of the Department of Transportation (DOT) Title 49, Code of Federal Regulations, Part 21, as amended from time to time (hereinafter referred to as the Regulations), which are incorporated herein by reference and made a part of the Contract .
2. Civil Rights. The Company, with regard to the work performed by it under 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 Company 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. During the performance of the Contract, the Company, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:
 - a. 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);
 - b. 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);
 - c. 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);
 - d. 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;
 - e. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
 - f. 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);
 - g. 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);
 - h. 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;
 - i. 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);
 - j. 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;
 - k. 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, the Company must take reasonable steps to ensure that LEP persons have meaningful access to the Company’s programs (70 Fed. Reg. at 74087 to 74100); and
 - l. Title IX of the Education Amendments of 1972, as amended, which prohibits the Company from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).
3. In all solicitations either by competitive bidding or negotiation made by the Company for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or Company must be notified by the Company of Company’s obligations under the Contract and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.
4. The Company will provide all information and reports required by the Regulations or directives issued pursuant thereto and must permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Authority or the Federal Aviation Administration (FAA)

to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Company is in the exclusive possession of another who fails or refuses to furnish this information, the Company will so certify to the Authority or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.

5. In the event of the Company's non-compliance with the non-discrimination provisions of the Contract, the Authority will impose such contractual sanctions as it or the FAA may determine to be appropriate, including, but not limited to, withholding of payments to the Company under the Contract until the Company complies, and/or cancellation, termination or suspension of the Contract, in whole or in part.
6. The Company will include the provisions of Paragraph C, Non-Discrimination, Items 1 through 5 above in every subcontract and subconsultant contract, including procurement of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Company will take such action with respect to any subcontract or procurement as the Authority or the FAA may direct as a means of enforcing such provisions, including sanctions for non-compliance. Provided, however, that in the event the Company becomes involved in or is threatened with litigation with a subcontractor or Company as a result of such direction, the Company may request the Authority to enter into such litigation to protect the interests of the Authority and, in addition, the Company may request the United States to enter into such litigation to protect the interests of the United States.
7. The Company assures that, in the performance of its obligations under the Contract, it will fully comply with the requirements of 14 CFR Part 152, Subpart E (Non-Discrimination in Airport Aid Program), as amended from time to time, to the extent applicable to the Company, to ensure, among other things, that no person will be excluded from participating in any activities covered by such requirements on the grounds of race, creed, color, national origin, or sex. The Company, if required by such requirements, will provide assurances to the Authority that the Company will undertake an affirmative action program and will require the same of its subconsultants.

D. Compliance

1. Company shall be subject to and in compliance with all Rules and Regulations, Policies, Standard Procedures and Operating Directives of the Authority.
2. Company shall have in its possession all applicable permits or licenses that may be required by federal, state, or local law to furnish goods, materials, machinery, apparatus or services required under the scope of the Contract.
3. Company shall be subject to and in compliance with all federal, state, or local law in the performance of the Contract.

E. Accounting Records and Audit Requirements

1. Books and Records
In connection with payments to Company under the Contract, it is agreed Company will maintain full and accurate books of account and records customarily used in this type of business operation, in conformity with Generally Accepted Accounting Principles (GAAP). Company will maintain such books and records for five years after the end of the Term of the Contract. Company will not destroy any records related to the Contract without the express written permission of the Authority.
2. Financial Reports
Company will submit all financial reports required by Authority in connection with payments to Company under the Contract, in the form and within the time period required by Authority.
3. Authority, Right to Perform Audits, Inspections, or Attestation Engagements. Subparts 1 and 2 shall be referred to herein as the "Records".

At any time or times during the Term of the Contract or within three 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 Company's Records for the purpose of determining payment eligibility under the Contract or over selected operations performed by Company under the Contract for the purpose of determining compliance with the Contract.

Free and unrestricted access will be granted to all of Company's Records directly pertinent to the Contract or any work order, as well as Records of parent, affiliate and subsidiary companies and any subconsultants or subcontractors. If the Records are kept at locations other than the Airport, Company will arrange for said Records to be mailed or couriered to the Airport for Authority auditors to conduct the engagements as set forth in this Article. In the event Company maintains its accounting or Contract information in electronic format, upon request by Authority auditors, Company will provide a download or extract of data files in a computer readable format acceptable to the Authority at no additional cost. Authority has the right during the engagement to interview Company's employees, subconsultants, and subcontractors, and to make photocopies of records as needed.

Company 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. The parties recognize that Authority will 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 that Authority may assess liquidated damages in the amount of one hundred dollars (\$100) per day for each record requested that is not received. Such damages may be assessed beginning on the fourteenth (14th) day following initial request or eighth (8th) day following the date the request was made for subsequent requests. Accrual of such damages will continue until specific performance is accomplished. If as a result of any engagement, it is determined that Company has overcharged Authority, Company will re-pay Authority for such 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 Company has overcharged Authority by more than three percent of the reimbursable amount, excluding any lump sum amount, contained in the Contract, Company will also pay for the entire cost of the engagement.

Company 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. Company 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 the Contract.

F. Applicable Law and Venue

The Contract will be construed in accordance with the laws of the State of Florida. Venue for any action brought pursuant to the Contract will be in the Circuit Court of Hillsborough County, Florida, or in the Tampa Division of the U.S. District Court for the Middle District of Florida. Each party hereby waives any claim against the other party, 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 the Contract or any part thereof, or by any judgment or award in any suit or proceeding declaring the Contract null, void, or voidable, or delaying the same, or any part hereof, from being carried out.

G. Dispute Resolution

1. Dispute Resolution

- a. A claim is a written demand or assertion by one of the parties seeking, as a matter of right, an adjustment or interpretation of the Contract, payment of money, extension of time or other relief with respect to the terms of the Contract. The term claim also includes other matters in question between Authority and Company arising out of or relating to the Contract. The responsibility to substantiate claims will rest with the party making the claim.
- b. If for any reason Company deems that additional cost or time is due to Company for work not clearly provided for in the Contract, or previously authorized changes in the work, Company will notify Authority in writing of its intention to claim such additional cost or time. Company will give Authority the opportunity to keep strict account of actual cost and/or time associated

with the claim. The failure to give proper notice as required herein will constitute a waiver of said claim.

- c. Written notice of intention to claim must be made within ten (10) days after the claimant first recognizes the condition giving rise to the claim or before the work begins on which Company bases the claim, whichever is earlier.
- d. When the work on which the claim for additional cost or time is based has been completed, Company will, within ten (10) days, submit Company's written claim to Authority. Such claim by Company, and the fact that Authority has kept strict account of the actual cost and/or time associated with the claim, will not in any way be construed as proving or substantiating the validity of the claim.
- e. Pending final resolution of a claim, Company will proceed diligently with performance of the Contract and maintain effective progress to complete the work within the time(s) set forth in the Contract; provided, however, Company shall have the right to suspend performance (i) if the claim arises from or relates to Authority's nonpayment of required payments and fees under this Contract, or (ii) if both parties mutual consent to a suspension in writing..
- f. The making of final payment for the Contract may constitute a waiver of all claims by Authority except those arising from:
 - (1) Claims, security interests or encumbrances arising out of the Contract and unsettled;
 - (2) Failure of the work to comply with the requirements of the Contract;
 - (3) Terms of special warranties required by the Contract;
 - (4) Latent defects.

2. Resolution of Claims and Disputes

- a. Authority will review claims and may (1) request additional information from Company which will be immediately provided to Authority, or (2) render a decision on all or part of the claim. Authority will notify Company in writing of the disposition of the claim within 21 days following the receipt of such claim or receipt of the required additional information.
- b. If Authority decides that the work relating to such claim should proceed regardless of Authority disposition of such claim, Authority will issue to Company a written directive to proceed. Company will proceed as instructed.
- c. Notwithstanding this Paragraph G, nothing herein is intended to prevent a party from seeking a judicial remedy for any dispute arising from this Contract pursuant to Section F above.

H. Conflict of Interest

Prior to doing business with the Authority and throughout the Term of the Contract, the Company shall notify the Authority if any Company's corporate officer or member is related to an Authority employee or member of the Authority Board of Directors.

I. Compliance with Public Records Law

IF THE COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE 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.

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

1. Keep and maintain public records required by Authority in order to perform the Services contemplated by the Contract.
2. 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.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract Term and following completion of the Contract.
4. Upon completion of the Contract, keep and maintain public records required by Authority to perform the Services. Company shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Authority, upon request from Authority custodian of public records, in a format that is compatible with the information technology systems of Authority.

The Company specifically waives any claims against the Authority related to the disclosure of any materials if made under a public records request.

BYD Coach and Bus LLC –
Printed Name and Title

Signature

Date

End of Document

Required Contract Provisions for Airport Improvement Programs and for Obligated Sponsors

GENERAL REQUIREMENT FOR CONTRACTS.

Subject to the applicability criteria noted in the specific contract provisions, these contract provisions apply to all work performed on the Contract.

- A. Failure to comply with the terms of these contract provisions may be sufficient grounds to:
 - 1. Withhold progress payments or final payment,
 - 2. Terminate the contract,
 - 3. Seek suspension/debarment, or
 - 4. Any other action determined to be appropriate by the sponsor or the FAA.

1.0 ACCESS TO RECORDS AND REPORTS

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

2.0 AFFIRMATIVE ACTION REQUIREMENT

- A. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
- B. The goals and timetables for minority and female participation, expressed in percentage terms for the Company's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables

- 1. Goals for minority participation for each trade: Hillsborough, Pasco Pinellas Counties (17.9%); Hernando County (17.1%)
- 2. Goals for female participation in each trade (6.9%)

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

to this second area, the Company is also subject to the goals for both federally funded and non-federally funded construction.

The Company's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training shall be substantially uniform throughout the length of the Contract, and in each trade, and the Company shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Company to Company or from project to project, for the sole purpose of meeting the Company's goals, shall be a violation of the Contract, the Executive Order, and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

- C. The Company shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP), within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the Contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of subcontract; and the geographical area in which the subcontract is to be performed.
- D. As used in this notice and in the Contract resulting from this solicitation, the "covered area" is Hillsborough, Pinellas, Pasco, and Hernando Counties.

3.0 BREACH OF CONTRACT TERMS

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

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

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

4.0 BUY AMERICAN PREFERENCE

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

Nationwide Buy American Waivers Issued list.

A bidder or offeror must complete and submit the appropriate Buy America certification included herein (Section 00419 – Certificate of Buy American Compliance) with their bid or offer. The Authority will reject as nonresponsive any bid or offer that does not include a completed Certificate of Buy American Compliance.

Type of Certification is based on Type of Project:

There are two types of Buy American certifications.

- A. For projects for a facility, the Certificate of Buy American Compliance for Total Facility (Terminal or Building Project) must be submitted.
- B. For all other projects, the Certificate of Buy American Compliance Based for Manufactured Products (Non-building construction projects such as runway or roadway construction; or equipment acquisition projects) must be submitted.

5.0 CIVIL RIGHTS

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

This provision binds the Company and subtier Companies from the bid solicitation period through the completion of the Contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

This provision also obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program. In cases where Federal assistance provides, or is in the form of personal property; real property or interest therein; structures or improvements thereon, this provision obligates the party or any transferee for the longer of the following periods:

- A. The period during which the property is used by the airport Authority or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or
- B. The period during which the airport Authority or any transferee retains Authority ship or possession of the property.

6.0 CIVIL RIGHTS – TITLE VI ASSURANCES

A. Compliance with Nondiscrimination Requirements

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

1. Compliance with Regulations:

The Company (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Contract.

2. Non-discrimination:

The Company, 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 Company will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment:

In all solicitations, either by competitive bidding, or negotiation made by the Company 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 Company of the Company's obligations under this Contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

4. Information and Reports:

The Company 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 Authority or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a Company is in the exclusive possession of another who fails or refuses to furnish the information, the Company will so certify to the Authority or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance:

In the event of a Company's noncompliance with the Nondiscrimination provisions of this Contract, the Authority 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 Company under the Contract until the Company complies; and/or
- b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions:

The Company will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Company will take action with respect to any subcontract or procurement as the Authority or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Company becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Company may request the Authority to enter into any litigation to protect the interests of the Authority. In addition, the Company 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 Acts and Authorities

During the performance of this Contract, the Company, for itself, its assignees, and successors in interest (hereinafter referred to as the "Company") agrees to comply with the following non-discrimination 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 Companies, 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 discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
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, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); and
12. Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et. seq.).

7.0 CLEAN AIR AND WATER. POLLUTION CONTROL

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

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

8.0 CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

A. Overtime Requirements.

No Company or subcontractor contracting for any part of the Contract Work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

B. Violation; Liability for Unpaid Wages; Liquidated Damages.

In the event of any violation of the clause set forth in paragraph A of this clause, the Company and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Company and subcontractor shall be liable to the United States (in the case of work done

under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph A of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph A of this clause.

C. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration (FAA) or the Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Company or subcontractor under any such contract or any other Federal contract with the same prime Company, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Company, such sums as may be determined to be necessary to satisfy any liabilities of such Company or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph B of this clause.

D. Subcontractors.

The Company or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs A. through D. and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The Company shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs A. through D. of this clause.

9.0 COPELAND "ANTI-KICKBACK" ACT

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

10.0 DAVIS-BACON REQUIREMENTS

A. Minimum Wages

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

Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Company and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (A)(4) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (A)(2) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Company and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

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

- a. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- b. The classification is utilized in the area by the construction industry; and
- c. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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

(C) In the event the Company, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the

proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (A)(2) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

3. Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Company shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
4. If the Company does not make payments to a trustee or other third person, the Company may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the Company, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Company to set aside in a separate account assets for the meeting of obligations under the plan or program.

B. Withholding.

The Federal Aviation Administration or the Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Company under this Contract or any other Federal contract with the same Company, or any other Federally-assisted Contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Company, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Company or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the Contract, the Federal Aviation Administration may, after written notice to the Company, Authority, applicant, or Authority, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

C. Payrolls and basic records.

1. Payrolls and basic records relating thereto shall be maintained by the Company during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct

classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Company shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Company's employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

2. a. The Company shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the Contract, but if the agency is not such a party, the Company will submit the payrolls to the Authority , for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The Company is responsible for the submission of copies of payrolls by all subcontractors. Company and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the Contract, but if the agency is not such a party, the Company will submit them to the applicant, Authority , or Authority , as the case may be, for transmission to the Federal Aviation Administration, the Company, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime Company to require a subcontractor to provide addresses and social security numbers to the prime Company for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or Authority).
- b. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Company or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:

- i. That the payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i) and that such information is correct and complete;
 - ii. That each laborer and mechanic (including each helper, apprentice and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3; and
 - iii. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.
 - c. The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (C)(2)(b) of this section.
 - d. The falsification of any of the above certifications may subject the Company or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.
3. The Company or subcontractor shall make the records required under paragraph (C)(1) of this section available for inspection, copying or transcription by authorized representatives of the Authority , the Federal Aviation Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Company or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Company, Authority , applicant or Authority , take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.
 4. Each month, Company shall submit an updated signed subcontractor listing to the Authority with its pay application. The subcontractor listing shall accurately and completely list all active as well as inactive subcontractor as of the pay application date. Active subcontractor continue to perform work on the Project and have not submitted a final certified payroll. Inactive subcontractor have completed work on the Project and have submitted a final certified payroll. Subcontractors include all lower sub-tiers of all subcontractors.

D. Apprentices and Trainees.

1. Apprentices. Apprentices will be permitted to work at less than the predetermined rate

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

2. Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the

payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Company will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

E. Compliance with Copeland Act Requirements.

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

F. Subcontracts.

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

G. Contract Termination: Debarment.

A breach of the Contract clauses in paragraph A through J of this section may be grounds for termination of the Contract, and for debarment as a Company and a subcontractor as provided in 29 CFR 5.12.

H. Compliance With Davis-Bacon and Related Act Requirements.

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

I. Disputes Concerning Labor Standards.

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

J. Certification of Eligibility.

1. By entering into this Contract, the Company certifies that neither it (nor he or she) nor any person or firm who has an interest in the Company's firm is a person or firm

ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

2. No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
3. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

11.0 DEBARMENT AND SUSPENSION (NON-PROCUREMENT)

A. CERTIFICATION OF OFFERER/BIDDER REGARDING DEBARMENT

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

B. CERTIFICATION OF LOWER TIER COMPANYS REGARDING DEBARMENT

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

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

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

12.0 DISADVANTAGED BUSINESS ENTERPRISE

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

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

- (1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- (2) A description of the work that each DBE firm will perform;

- (3) The dollar amount of the participation of each DBE firm listed under (1)
- (4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Authority 's project goal;
- (5) If Bidder or Offeror cannot meet the advertised project DBE goal; evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR Part 26.

Contract Assurance (§ 26.13) - The Company or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Company shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the Company to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as the recipient deems appropriate which may include, but is not limited to:

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

Prompt Payment (§26.29) The prime Company agrees to pay each subcontractor under this Contract for satisfactory performance of its Contract no later than ten (10) days from the receipt of each payment the Company receives from Authority . The Company agrees further to return retainage payments to each subcontractor within ten (10) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Authority. This clause applies to both DBE and non-DBE subcontractors.

13.0 DISTRACTED DRIVING

TEXTING WHEN DRIVING

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

In support of this initiative, the Authority encourages the Company to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Company must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

14.0 ENERGY CONSERVATION REQUIREMENTS

Company and Subcontractor agree to comply with mandatory standards and policies relating to energy

efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201 *et. seq.*).

15.0 EQUAL EMPLOYMENT OPPORTUNITY

EQUAL OPPORTUNITY CLAUSE

During the performance of this Contract, the Company agrees as follows:

- A. The Company will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Company will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Company agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- B. The Company will, in all solicitations or advertisements for employees placed by or on behalf of the Company, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- C. The Company will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Company's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- D. The Company will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- E. The Company will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- F. In the event of the Company's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Company may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS

- A. As used in these specifications:
1. "Covered area" means the geographical area described in the solicitation from which this Contract resulted;
 2. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
 3. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
 4. "Minority" includes:
 - a. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - c. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);
 - d. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - e. American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
- B. Whenever the Company, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this Contract resulted.
- C. If the Company is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its

affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Companies shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Company or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Companies or subcontractors toward a goal in an approved Plan does not excuse any covered Company's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

- D. The Company shall implement the specific affirmative action standards provided in paragraphs G.1 through G.16 of these specifications below. The goals set forth in the solicitation from which this Contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Company should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Companies performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Company is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
- E. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the Company has a collective bargaining agreement to refer either minorities or women shall excuse the Company's obligations under these specifications, Executive Order 11246 or the regulations promulgated pursuant thereto.
- F. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the Company during the training period and the Company shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.
- G. The Company shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Company's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Company shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:
 - 1. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Company's employees are assigned to work. The Company, where possible, will assign two or more women to each construction project. The Company shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Company's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

2. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Company or its unions have employment opportunities available, and maintain a record of the organizations' responses.
3. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Company by the union or, if referred, not employed by the Company, this shall be documented in the file with the reason therefore along with whatever additional actions the Company may have taken.
4. Provide immediate written notification to the Director when the union or unions with which the Company has a collective bargaining agreement has not referred to the Company a minority person or female sent by the Company, or when the Company has other information that the union referral process has impeded the Company's efforts to meet its obligations.
5. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Company's employment needs, especially those programs funded or approved by the Department of Labor. The Company shall provide notice of these programs to the sources compiled under G.1 above.
6. Disseminate the Company's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Company in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
7. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
8. Disseminate the Company's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Company's EEO policy with other Companies and subcontractors with whom the Company does or anticipates doing business.

9. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the Company's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Company shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
 10. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a Company's workforce.
 11. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
 12. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 13. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Company's obligations under these specifications are being carried out.
 14. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 15. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction Companies and suppliers, including circulation of solicitations to minority and female Company associations and other business associations.
 16. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Company's EEO policies and affirmative action obligations.
- H. Companies are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (G.1 through G.16). The efforts of a Company association, joint Company union, Company community, or other similar groups of which the Company is a member and participant, may be asserted as fulfilling any one or more of its obligations under G.1 through G.16 of these specifications provided that the Company actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Company's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Company. The obligation to comply, however, is the Company's and failure of such a group to

fulfill an obligation shall not be a defense for the Company's noncompliance.

- I. A single goal for minorities and a separate single goal for women have been established. The Company, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the Company has achieved its goals for women generally) the Company may be in violation of the Executive Order if a specific minority group of women is underutilized.
- J. The Company shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- K. The Company shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- L. The Company shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Company who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
- M. The Company, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Company fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
- N. The Company shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Companies shall not be required to maintain separate records.
- O. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

16.0 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE) - 29 USC § 201, et seq.

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

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

17.0 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES CERTIFICATION REGARDING LOBBYING

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

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

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

18.0 PROHIBITION of SEGREGATED FACILITIES

- A. The Company agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Company agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

- B. "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.
- C. The Company shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

19.0 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Company must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Company retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Company must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

20.0 PROCUREMENT OF RECOVERED MATERIALS

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

- a) The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or,
- b) The Company has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/epawaste/conserve/tools/cpg/products/.

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

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

21.0 RIGHT TO INVENTIONS

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

22.0 SEISMIC SAFETY

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

The Company agrees to ensure that all work performed under this contract, including work performed by subcontractors, conforms to a building code standard that provides a level of seismic safety substantially equivalent to standards established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety.

23.0 TAX DELINQUENCY AND FELONY CONVICTIONS

CERTIFICATION OF OFFERER/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS

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

Certifications

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

Note

If the Company responds in the affirmative to either of the above representations, the Company is ineligible to receive an award unless the Authority has received notification from the agency suspension

and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The Company therefore must provide information to the Authority about its tax liability or conviction, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before an award decision is made.

24.0 TERMINATION OF CONTRACT

Termination for Convenience (Construction & Equipment Contracts)

The Authority may terminate this Contract in whole or in part at any time by providing written notice to the Company. Such action may be without cause and without prejudice to any other right or remedy of Authority. Upon receipt of a written notice of termination, except as explicitly directed by the Authority, the Company shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:

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

Authority agrees to pay Company for:

- a) completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
- b) documented expenses sustained prior to the effective date of termination in performing work and furnishing labor, materials, or equipment as required by the contract documents in connection with uncompleted work;
- c) reasonable and substantiated claims, costs and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
- d) reasonable and substantiated expenses to the Company directly attributable to Authority's termination action

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

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

Termination for Default (Construction)

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

25.0 TRADE RESTRICTION CERTIFICATION

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror -

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

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

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

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

- (1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or
- (2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or
- (3) who incorporates in the public works project any product of a foreign country on such U.S.T.R. list;

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

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

knowledge that the certification is erroneous.

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

26.0 VETERAN'S PREFERENCE

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

END OF SECTION

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]

END OF SECTION

Appendix F - Cost Proposal for
Electric Buses
Tampa International Airport
Tampa, Florida

Item	Description	Unit Price	Est. Qty	Extended (Unit Price x Est Qty)
1	Purchased Electric Buses	\$ 755,297.00	4	\$ 3,021,188.00
2	Chargers	\$ 80,000.00	3	\$ 240,000.00
3	**Chargers Network Access Fees for 10 years	\$ 15,300.00	1	\$ 15,300.00
Total				\$ 3,276,488.00
Total proposed cost without maintenance option				\$ 3,276,488.00

Total Proposed Cost Without Maintenance options in Words

4	Electric Buses Maintenance Option	\$56,373.23	4	\$ 225,492.92
5	Chargers Maintenance Option	Quote	3	#VALUE!
Total				#VALUE!
*Total proposed cost with maintenance options				#VALUE!

Total Proposed Cost with Maintenance options in Words

- ** The network access fees shall include any cost associated with maintaining the network capability of chargers for 10 years.
- * The costs for the Electric Buses and Chargers maintenance options will not be included in the Cost Proposal evaluation criteria.
- * Respondent is not required to provide a Maintenance option and one should only be included if Respondent agrees to perform the option.

Name of Respondent: Patrick Duan

Signature of Respondent:  _____

Title: SVP of Operations

Date: 4/21/2021

Insurance Requirements

The Awarded Respondent will be required to provide an Authority approved insurance certificate that includes all required coverage and limits as outlined below within ten (10) calendar days of award and prior to commencement of Services. Failure on Awarded Respondent's part to submit the required insurance to the Authority by the required date may result in cancellation of the Contract.

A. Self-insurance

Self-insurance will only be accepted upon written request and approval by the Authority. In order for the Awarded Respondent's self-insurance program to be considered, the Awarded Respondent must submit the following documents to the Authority for review and approval within ten (10) calendar days of award:

1. An audited financial statement for the most recent completed fiscal year.
2. An explanation of how the program is funded.
3. Number of years the Awarded Respondent has been in business.
4. Size of the Awarded Respondent (based on number of office locations).
5. The total dollar amount of claims paid during the past five (5) years.

B. Insurance Limits and Coverage

The following minimum limits and coverage will be maintained by the Awarded Respondent throughout the term of the Contract. In the event of default on the following requirements, Authority reserves the right to take whatever actions deemed necessary to protect its interests. Required liability and property insurance policies, other than Workers' Compensation/Employer's Liability and Professional Liability, will provide that the Authority, members of the Authority governing body, and the Authority officers, volunteers and employees are included as additional insured.

1. Required Coverage – Minimum Limits

a. Commercial General Liability Insurance

The minimum limits of insurance (inclusive of any amounts provided by an umbrella or excess policy) covering the Services performed pursuant to the 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, Awarded Respondent under the Contract or the use or occupancy of Authority premises by, or on behalf of, Awarded Respondent in connection with the 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	\$1,000,000
Each Occurrence	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Products and Completed Operations	\$1,000,000

b. Workers' Compensation and Employer's Liability Insurance

The minimum limits of Workers' Compensation/Employer's Liability insurance (inclusive of any amount provided by an umbrella or excess policy) are:

Part One (Workers' Compensation)	"Statutory"
Part Two (Employer's Liability)	
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 Business Auto Liability insurance (inclusive of any amounts provided by an umbrella or excess policy) are:

Each Occurrence – Bodily Injury and Property Damage combined	\$1,000,000
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d. Garagekeepers Liability

Such insurance shall cover damage to vehicles in the care, custody and control of Awarded Respondent and be no more restrictive than that provided by Section III (Garagekeepers Coverage) of the latest version of the standard Garage Coverage form (ISO Form CA 00 05).

The minimum limits for Garagekeepers Comprehensive and Collision coverage shall be:

Each Vehicle	\$1,000,000
Each Occurrence All Vehicles	\$1,000,000

e. Waiver of Subrogation: Awarded Respondent, for itself and on behalf of its insurers, to the full extent permitted by law without voiding the insurance required hereunder, waives all rights against Authority and members of Authority governing body,

Authority officers, volunteers and employees, for damages or loss to the extent covered and paid for by any insurance maintained by the Awarded Respondent.

2. Incident Notification

The Awarded Respondent will promptly notify the Airport Operations Center (AOC) of all incidents involving bodily injury or property damage occurring on Authority-owned property, tenant owned property or third party property.

3. Customer Claims, Issues, or Complaints

All customer claims, issues, or complaints regarding property damage or bodily injury related to the Awarded Respondent will be promptly handled, addressed and resolved by the Awarded Respondent.

The Awarded Respondent will track all customer claims, issues, and complaints and their status on a Claims Log available for review, as needed, by Authority Risk Management. The Claims Log should include a detailed report of the incident along with the response and/or resolution. Authority Risk Management has the option to monitor all incidents, claims, issues or complaints where the Authority could be held liable for injury or damages.

4. Conditions of Acceptance

The insurance maintained by Awarded Respondent 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.

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