

AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES CONTRACT

This Amendment No. 1 to the Contract for Professional Services (“Amendment”) is made and entered into by and between the Trustees of the Oklahoma City Airport Trust (“Trust”), a public trust, and KSA Engineers, Inc., (“Consultant”), an Oklahoma professional corporation.

WITNESSETH:

WHEREAS, the Trust leases, operates, and maintains certain real estate for The City of Oklahoma City (“City”) more commonly known as Wiley Post Airport (“Airport”), which is located in Oklahoma County, Oklahoma; and

WHEREAS, on June 12, 2023 the Trust and the Consultant entered into a Contract for Professional Services (“Contract”) to provide professional architectural and engineering services for Project No. OCAT WPA 2403, “Construct New Airport Traffic Control Tower” (“Project”) work will include, but is not limited to, site selection study, environmental impact evaluation, cost estimating, development of plans, specifications, bidding, and construction phase services; and

WHEREAS, the parties need to amend the existing scope of services to include the revisions set forth in this Amendment’s Exhibit “A”, attached and incorporated by reference; and

WHEREAS, the aggregate total compensation for all Tasks 1, 2, and 3 professional services, set forth in Exhibit A, under this Contract shall not exceed ~~\$324,735~~ \$1,714,202.50, which includes ~~\$318,615~~ \$1,668,264 for Basic Services, \$0 for Additional Services, and ~~\$6,120~~ \$45,938.50 for Reimbursable Expenses, as more specifically set forth in Exhibit C attached hereto.

WHEREAS, the Trust anticipates the remaining scope of services for this Contract, as more specifically described in this Contract’s Basic Services, will be included within this Contract by future amendment.


NOW, THEREFORE, based upon due consideration, the parties agree to the following:

1. This Amendment shall be effective as of August 22, 2024 (“Effective Date”).
2. The parties hereby agree to delete and to replace the Contract’s Exhibit “A” and Exhibit “C” with the Amendment’s Exhibit “A” and Exhibit “C” which are attached hereto and incorporated herein by this reference.
3. The Parties agree that Article 24 – Nondiscrimination is hereby deleted in its entirety and reserved with the following language:

“ARTICLE 24 – RESERVED”

4. The Parties agree that Article 26 – Airport Improvement Program Compliance’s Paragraphs A. - T. are hereby deleted and replaced in their entirety with the attached Exhibit “I” as attached hereto and incorporated herein by this reference.
5. The parties further agree that, except as amended by this Amendment all items, provisions, and conditions of the original Contract shall remain in full force and effect, and the provisions of this Amendment shall become a part of the original Contract as though fully set forth therein.

KSA Engineers, Inc.


Signature
Printed Name: Mitchell L. Fortner
Title: President

APPROVED by the Oklahoma City Airport Trust and signed by the Chairman this 22ND day of AUGUST, 2024.

ATTEST:

OKLAHOMA CITY AIRPORT TRUST


Trust Secretary


Chairman



REVIEWED for form and legality.


Assistant Municipal Counselor /
Attorney for the Trust

EXHIBIT A
BASIC SERVICES

Contract for Professional Services with KSA Engineers, Inc.
Project No. OCAT WPA 2403
Construct New Airport Traffic Control Tower
Wiley Post Airport

PROJECT DESCRIPTION AND LOCATION

Project will be located at Wiley Post Airport (WPA) for the Construct New Airport Traffic Control Tower. The existing ATCT is beyond its useful life and has limited sight lines for airport traffic control which is required to be addressed. An Airport Master Plan was performed by Coffman Associates, Inc. which identified the need for a new ATCT. The final location for the new tower was not identified in master plan due to the level of detail required to be studied for that determination. A tower location study will be performed to help identify the most appropriate location and height for the ATCT prior to detailed design of the tower.

The purpose of the project for the Wiley Post Airport (PWA) is to acquire FAA signature approvals for a recommended/approved site and environmental clearance via an approved Documented Categorical Exclusion (CATEX) for a replacement Air Traffic Control Tower (ATCT) at PWA. This project will be funded by local funds and potentially reimbursed in the future by a Federal Aviation Administration (FAA) grant. The Contract Tower Siting Study will be conducted in accordance with the FAA Siting Process of a Federal Contract Tower (FCT), ref. Order 6480.4C, Chapter 9 and the new FAA Virtual Immersive Siting Tower Assessment (VISTA) process for FCT siting. A Document CATEX will be submitted for a site adjacent to the existing tower/terminal and will be in accordance with applicable FAA regulations.

A new ATCT will be located on the airport property at an approved site and height selected through the FAA VISTA Siting Process. Preliminary evaluation of the candidate sites has currently determined that the proposed cab floor height will be less than 100' above ground level.

SCOPE OF SERVICES

1.0 Preliminary Engineering Report and Design - Task 1

1.1 SITING REPORT

Siting Study

1.1.1 Task – Kick-off Meeting, Survey and Data Collection

Consultant will meet with Airport and City officials, local air traffic controllers, the FAA National Coordinator and FCT Program Implementation Manager (PIM) to discuss site observations and evaluate several potential ATCT locations to arrive at a minimum of three (3) candidate sites for further study. Consultant will coordinate with field surveyor to verify latitude/longitude/elevation of key airfield points and probable sites. Consultant will take photographs and gather data on buildings and airfield features to incorporate into a 3D computer simulation completed by Consultant in accordance with the VISTA Memo dated November 5, 2021. Consultant will gather other pertinent data about the airport and aircraft operations necessary to conduct the study.

At each of the three (3) candidate sites, Consultant will provide preliminary engineering services to produce conceptual site plans including access, fencing, parking, drainage, utilities, and other required infrastructure. Site development sketch plans will be prepared to scale in AutoCAD and provided in PDF form for the study. Each site is anticipated to be approximately 200-foot by 200-foot in area. Consultant will also provide an Engineer's Opinion of Preliminary Construction Cost (EOPCC).

Survey data collection shall include setting and confirming elevation of each runway end and selected taxiway elevations; corner ground elevation and the highest roof elevation at each of ten (10) buildings on the airport nearest the three (3) candidate tower locations; and verify existing control points as provided by the Owner.

1.1.2 Task – Draft Siting Report

Consultant will prepare and provide a Draft Siting Report for review and comment to PWA and City officials, local air traffic controllers, the FAA National Coordinator and FCT PIM for review and comment. Proposed controller eye heights will be determined for each candidate site and tested with the FAA Visibility Tool. The Consultant will build a 3D Interactive Computer Simulation of the airport and proposed control tower/cab, in accordance with VISTA, analyze impacts to airspace and NAVAIDs, and evaluate lines-of-sight to validate the three (3) candidate sites for further study. The report will address the characteristics of each of the three (3) candidate sites with detailed narratives and graphics as well as address the FAA siting requirements and potential hazards. A Site Comparison Chart will be presented for quick reference of siting criteria results.

Advanced Siting Report

1.1.3 Task – Review Meeting

A review meeting will be held with PWA and City officials, local air traffic controllers, the FAA National Coordinator and FCT PIM to discuss review comments and necessary updates to the report. A preliminary assessment of potential hazards for each site will be addressed, all to be reevaluated at the FAA Safety Panel. Data for FAA Airspace Determinations will also be submitted to the National Coordinator for the three (3) candidate sites to result in a NASWATCH Report (including TERPS and FAR Part 77) from FAA Flight Standards and Technical Operations.

1.1.4 Task – Submitted Siting Report

Consultant will incorporate all applicable review comments from the Task 1.3 review meeting. Additional supporting narratives and appendices will be added to document panoramic photos and 3D panoramic screen shots from the three (3) candidate sites. Consultant will determine sources, layouts, and connections of all required utilities for each of the three (3) candidate sites. In addition, preliminary layouts will include access and parking as required. The consultant will provide Engineers' Opinion of Probable Construction Cost (EOPCC) for each site. The updated Siting Report will be submitted to PWA and City officials, local air traffic controllers, and the FAA Contract Tower Program Manager.

1.2 FUNCTIONAL HAZARD ASSESSMENT (FHA) & SAFETY ASSESSMENT (SA)

1.2.1 Task – Function Hazard Assessment

The Preliminary Hazard List (PHL) issued in the FAA Order 6480.4C will be applied to each candidate site to make a preliminary determination of risk with respect to frequency and severity. Mitigation methods will be explored for each risk. These will be recorded for further consideration by PWA and City officials, local air traffic controllers, and FAA subject matter experts during Task 2.2.

1.2.2 Task – FAA Safety Panel Session

The Safety Risk Management Panel (SRMP) Session will be a one-day meeting conducted at the airport (or virtually) with Airport and City personnel, invited stakeholders, the FAA National Coordinator, FCT PIM, local air traffic controllers, and subject matter experts from several FAA lines of business. Consultant will be in attendance to support the effort with data and preliminary findings. Afterwards, Consultant will submit an update to the Siting Report, as required, and work with the FAA to produce a Safety Assessment document for the Recommended Site.

1.2.3 Task – Safety Assessment

The Safety Assessment (SA) follows a specific FAA format which presents the progression of the analysis of how the hazards of each site were evaluated together with any mitigation procedures that were recommended by the safety panel and who is responsible for implementing each. This document will be prepared by the National Coordinator's team and reviewed and commented on by the Consultant and other Safety Panel participants. Consultant will include the final SA and supporting notes and graphics as an appendix to the Siting Report.

1.2.4 Task – Virtual Reality

Consultant will provide and facilitate, in real-time, Virtual Reality (VR) technology for review and validation of the 3D model. VR will be used by the Airport Sponsor, local air traffic control representatives, and the FAA to ensure coordination of the ATCT pre-sites with of existing and future airport facilities. VR will be used to assess the LOS of the pre-sites and identify adjustments in cab height and orientation. VR will also be utilized to confirm stair placement, column/mullion placement, and operational positions.

1.3 FINAL SITING REPORT

1.3.1 Task – Safety Risk Management Document

Consultant will provide final documentation of the completed Siting Report for PWA officials to submit as the FAA approval signature document. The Siting Report will then be transmitted by the FAA National Coordinator to the FAA ATO Planning Manager for appropriate circulation to obtain FAA approval signatures authorizing the Recommended Site.

1.4 DOCUMENTED CATEX

Consultant will provide PWA with services to environmentally clear the Recommended Site, as selected during the Siting Process (Task 1.1). Coordination of the environmental process will be initiated by contacting the FAA Airports District Office (ADO) regarding this project. Consultant will begin by providing a FAA Document Categorical Exclusion (CATEX) as outlined in FAA Order 1050.1F, paragraph 5-6.4(dd) for the Recommended Site. A CATEX can only be submitted on a tower adjacent to the existing terminal/tower. Any other location will require an Environmental Assessment which is not included in this proposal.

A Phase 1 Cultural Resources Investigation will be conducted on an approximate 0.5-acre site at the recommended tower site (assumed to be adjacent to the existing terminal/tower). The purpose of the investigation will be to determine if any cultural resource sites eligible or potentially eligible for the National Register of Historic Places occur within the footprint of the proposed future construction area. The investigation will include background research and an intensive sub-surface testing program within the proposed project area. Subsurface testing will consist of shovel testing in a grid pattern across the project area. Shovel testing will occur at intervals meeting the State of Oklahoma archaeological survey expectations. Excavations will be conducted by hand with shovels and post-hole diggers. Shovel tests will be excavated in 10-to-20-centimeter levels to the sterile clay substrate or a maximum depth of 1 meter, whichever is reached first. All excavated material will be screened through 1/4-inch wire hardware cloth. Artifacts will be bagged and labeled by provenience. All shovel test locations and site boundaries will be mapped utilizing a GPS data recorder. A final report of the findings will be provided to be included in the CATEX. The report will detail the research, methods, previous archaeological research, culture history, environmental setting, findings, and conclusions.

Consultant will describe the proposed project and provide information on the potential impacts of the proposed project and obtain knowledge of the environmental features of the airport. Consultation with applicable Federal, state, and local resource agencies responsible for specially protected resources will be pursued prior to submitting to the FAA. An appendix that contains supporting data such as figures, correspondence, and existing completed studies by others (or related executive summaries) will accompany the completed CATEX, when submitted to the FAA for final approval.

Consultant will provide a first draft to the FAA for review. Upon receipt of comments to the first draft, a final draft will be completed addressing comments and resubmitted for final review. Upon final review, final documents will be submitted for approval as required.

EXCLUSIONS:

The following items are not included in this scope of work. An amendment to this contract can be negotiated to add any of the excluded services if desired by the City and Airport.

1. Grant or funding applications.
2. Environmental clearance beyond a Documented CATEX as outlined above.
3. Subsurface utility engineering will not be performed. Existing utilities will be approximated based on

information provided by the Airport and utility owners.

SCHEDULE:

KSA proposes the following schedule for the work outlined in this scope of work. Calendar day durations do not include time for Airport, City, and Agency review. Overall project timeline is dependent on FAA review and response times.

Siting Study	Calendar Days from Notice to Proceed	Duration (Calendar Days)	Calendar Deadline
Notice to Proceed	0	-	
Submit Preliminary Siting Report	60	60	
Submit Advanced Siting Report	105	45	
Submit Functional Hazard Assessment & Safety Assessment	150	45	

CATEX	Calendar Days from Notice to Proceed	Duration (Calendar Days)	Calendar Deadline
Notice to Proceed	0	-	
Submit Preliminary CATEX	90	90	
Respond to Comments and submit Final EA	150	60	

Design and Bid Phase

The purpose of the project for Wiley Post Airport (PWA) is to complete the design and bidding for a new Air Traffic Control Tower (ATCT) at PWA. This project will be funded by a Bipartisan Infrastructure Law (BIL) Grant administered through the Federal Aviation Administration (FAA). The design and bidding will be conducted in accordance with applicable FAA regulations.

The new ATCT will be located on the airport property at the approved site and height selected through the FAA VISTA Siting Process. This process is ongoing. The attached proposal is based on selection of a site adjacent to the existing terminal building. The ATCT will have an occupied “functional shaft” constructed using standard commercial construction materials and procedures (structural precast concrete wall panels and steel frame cab is assumed). A functional shaft means it will house the typical air traffic operational support functions to satisfy the requirements of the contract tower program including ATC equipment and telco room, elevator, stairs, restroom, office, break room, conference/training area, restroom, and janitor closet. No other uses are anticipated in this project scope.

An 8-sided control cab will be designed on top of the 4-sided shaft. A base building is not needed to support a contract tower at this location, therefore the design of one is not included in this scope of work. The exterior architectural features of the ATCT will be coordinated with the Airport and incorporated into the design of the tower. Normal and customary mechanical, electrical, plumbing, and fire protection systems will be included (split ductless, VRF HVAC system is assumed). Project will include new ATCT equipment specifications to replace or transfer and/or upgrade electronics in accordance with the FAA Minimum Equipment List for Contract Towers and manage transfer coordination of existing FAA equipment (by FAA) to be reused including the Sector Shout Lines and multi-point lines from the old ATCT.

General facility requirements include building systems (HVAC, lighting, plumbing and electrical) that shall be energy efficient and relatively low maintenance, finishes are to be economical, durable and relatively low maintenance, and site lighting will be limited to wall packs on the exterior of the building in accordance with current contract tower minimum requirements for security.

The site will include a standby emergency generator sized to serve the critical functions of the ATCT. Site, access, and utility improvements will include site preparation, grading, stormwater conveyance in accordance with The City of Oklahoma City and FAA requirements, automobile access road and parking, site lighting, fencing with a controlled access gate, water, sewer, and power. Landscaping will not be included due to the proximity to aircraft operations area(AOA).

The following permits will be secured for the bidding and construction of the new ATCT:

- FAA Obstruction Evaluation Determination via the OE/AAA online portal.
- All City of Oklahoma City Building Permits (ready for contractor's purchase).

Project Design Submittals and Reviews will take place in coordination with the tower design at the 10% Preliminary Planning Document and 50% Design Development levels of effort. Review comments will be addressed at each milestone. The design will culminate by addressing prior review comments to result in an Issued for Bid submittal.

2.1 – PROJECT MANAGEMENT AND COORDINATION

Consultant will perform project management tasks related to the overall design effort, including coordination with Airport, City, and utilities and review of subconsultant plans and specifications. Consultant will prepare the FAA grant application after bids are received.

2.2 – SITE INVESTIGATION

Topographic Survey.

Geotechnical Investigation. The results of the geotechnical investigation will be used to design the ATCT foundations and site pavement section(s).

2.3 – ATCT DESIGN

- a. Consultant will be leading the design efforts and will provide services to manage the design team. The basis for the site development plans will be established following the receipt of the FAA Siting Study concept for Site 1 to PWA, on a site size anticipated to be 1 acre. The basis for floor plans will be derived from the FAA's standard facility documents supporting an anticipated 440 SF, Intermediate Activity Level (IAL) CAB. This facility will not need and will not be designed for FAA Tech Ops personnel.
- b. The design for this ATCT will be in accordance with the FAA Minimum Facility Requirements for ATC Towers in the FAA Contract Tower Program.
- c. **Project Management Services** - services necessary to manage the design team and coordinate with Consultant, PWA and the End User and includes the following scope items:
 - i) Develop and maintain regular communications plan with Consultant & PWA personnel.
 - ii) Develop and maintain regular project management and coordination between team members
 - iii) Coordinate and arrange design charrette, any on-site progress meetings and design review meetings
 - iv) Attend up to eighteen (12) project related meetings such as project kick-off meeting (on-site), design charrette (on-site) , all progress meetings and design review meetings (virtually)
 - v) Coordinate and lead regularly scheduled, bi-weekly design team progress meetings
 - vi) Coordinate and arrange for design phase submittal deliverables
 - vii) Coordinate and edit front-end (Division 1) specifications based on PWA and Consultant input
 - viii) Schedule and attend (virtually) coordination meetings as needed with Utility Providers & Authorities Having Jurisdiction.
- d. **Civil and Site Design, Airfield Electrical, Security and System Infrastructure Design Services** – to be provided by Consultant Engineers.
- e. **Airfield Lighting Control Services** – services necessary to develop the plans and technical specifications

including:

- i) Conduct site visit and gather field information on existing Airfield Lighting Control and Monitoring System (ALCMS) in the existing ATCT and the Airfield Lighting Vault (AFLV) and the communications/control link between the two. Also determine the existing control and monitoring capability of the approach lighting systems.
 - ii) Code & Criteria Review
 - iii) Develop Lighting Control Block Diagram
 - iv) Develop plans and details
 - v) Coordinate with all other disciplines
 - vi) Technical Quality Control Reviews for milestone Submittals and Constructability Review for Final Submittal
 - vii) Cost Estimate Reviews and coordination
- f. **Architectural & Interior Design Services** - services necessary to develop the plans and technical specifications including:
- i) Architectural documentation of the Air Traffic Control Tower (ATCT) including:
 - ii) Code & Criteria Review
 - iii) Consultant will develop the floor plans, incorporating requirements from the FAA & PWA and input during the kick-off charrette.
 - iv) Based on approved floor plans, Consultant will prepare a conceptual elevation study presenting up to two (2) different options resulting in up to two (2), full size sheet, photo-realistic color renderings framed for PWA
 - (1) The two renderings will be of the final version (1 day, 1 night).
 - v) Once conceptual floor plans are approved, Consultant will prepare the construction documents (i.e.: drawings, specifications, basis of design narrative, etc.) for the building based upon the agreed to floor plans including:
 - (1) Life Safety Plans
 - (2) Floor Plans
 - (3) Ceiling Plans
 - (4) Roof Plans
 - (5) Exterior Elevations
 - (6) Building & Wall Sections
 - (7) Enlarged Plans & Details
 - (8) Finish Schedule and Legends
 - (9) Interior Design Plans (furniture plans, etc.)
 - (10) Exterior & Interior Building Signage Plans
 - vi) Collaboration with the project team for the development of construction documents
 - vii) Discipline coordination with
 - (1) Civil / Site
 - (2) Structural
 - (3) Mechanical – HVAC Systems
 - (4) Mechanical – Plumbing Systems
 - (5) Fire Protection Systems
 - (6) Electrical – Power and Lighting
 - (7) Electrical – Communications
 - (8) Cost Estimator
 - viii) Development of “generic” slat wall style Console Furniture Plans and Details for ATCT Cab.
 - ix) Building permitting assistance local authorities.
 - (1) Electronic Submittals
 - (2) Owner Review Comment Responses & agreed to updates
 - x) Technical Quality Control Reviews for milestone Submittals and Constructability Review for Final Submittal
 - xi) Cost Estimate Reviews and coordination
- g. **Structural Design Services** - services necessary to develop the plans and technical specifications including:
- i) Code & Criteria Review

- ii) Development of comprehensive list of items and associated requirements related to Delegated Design portions of the work such as piles, precast concrete, load bearing metal stud framing, etc.
- iii) Collaboration with the project team for the development of construction documents Design documentation (i.e.: supporting calculations, etc.)
- iv) Verification of cladding pressures for walls and roofs
- v) Foundation Plans (anticipating structural building piles)
 - (1) Pile plans & details
 - (2) Pile Cap plans & details
 - (3) Foundation ring wall plans and details
 - (a) Including penetrations for FAA communications conduits, water, etc.
- vi) Wall and Floor Framing Plans
- vii) Roof Framing Plans
- viii) Exterior Wall Framing Elevations
- ix) Enlarged Plans & Details
- x) Discipline coordination with
 - (1) Civil Site
 - (2) Architectural
 - (3) Mechanical – HVAC Systems
 - (4) Mechanical – Plumbing Systems
 - (5) Fire Protection Systems
 - (6) Electrical – Power and Lighting
 - (7) Electrical – Communications
- xi) Technical Quality Control Reviews for milestone Submittals and Constructability Review for Final Submittal
- xii) Cost Estimate Reviews and coordination
- h. **Mechanical Design Services** - services necessary to develop the plans and technical specifications for Mechanical, Plumbing and Fire Protection Systems including:
 - i) Code & Criteria Review
 - ii) HVAC Systems Plans (including 100% redundancy in critical areas)
 - iii) Building & Mechanical Plumbing Plans (including 100% redundancy in critical areas)
 - iv) CAB glass defogging system
 - v) Emergency Generator Fuel Storage Tank and Service Lines
 - vi) Fire Protection Systems Plans limited to defining the project parameters including Tower risers and fire pump, Schedules, Details, Control Diagrams, etc.
 - (1) The project does not anticipate the need for a fire water supply tank
 - vii) HVAC Schedules, Details, Control Diagrams, etc.
 - viii) Plumbing Schedules, Details, Control Diagrams, etc.
 - ix) Cab Glass Defogger System Schedules, Details, Control Diagrams, etc.
 - x) Emergency Generator Fuel Storage Tank System Schedules, Details, Control Diagrams, etc.
 - xi) Discipline coordination with
 - (1) Civil Site for Utilities
 - (2) Architecture
 - (3) Structural
 - (4) Electrical – Power and Lighting
 - (5) Electrical – Communications
 - xii) Technical Quality Control Reviews for milestone Submittals and Constructability Review for Final Submittal
 - xiii) Cost Estimate Reviews and coordination
- i. **Electrical Design Services** - services necessary to develop the plans and technical specifications for Power, Lighting, Communications, Security Infrastructure and Fire Alarm Systems including:
 - i) Code & Criteria Review
 - ii) Development of supporting calculations, etc. for the buildings based upon planned functional requirements
 - iii) Floor Plans (Power, Emergency Power, Lighting, Communications, Security Infrastructure, low voltage design, Fire Alarm and FAA Communications infrastructure)

- iv) Coordination and incorporation of FAA provided Critical Power Distribution System (CPDS) One Line and Emergency Power Management System (EPMS) requirements.
- v) Reflected Ceiling Plan coordination
- vi) Lightning Protection Plans
- vii) Enlarged Plans & Details
- viii) Fixture Schedule, Equipment Schedules and Legends
- ix) Discipline coordination with
 - (1) Civil / Site
 - (2) Architecture
 - (3) Structural
 - (4) Mechanical – HVAC Systems
 - (5) Mechanical – Plumbing Systems
 - (6) Fire Protection Systems
- x) Coordination with FAA's approved vendor who provides the Electrical Arc Flash Coordination Study (per 2016 A/E Manual this is Schneider).
- xi) Technical Quality Control Reviews for milestone Submittals and Constructability Review for Final Submittal
- xii) Cost Estimate Reviews and coordination
- j. **Fire Protection Design Services** - services necessary to develop the plans and technical specifications for Fire Protection Systems including:
 - i) Code & Criteria Review
 - ii) Fire Protection Systems Plans limited to defining the project parameters including Tower risers and fire pump, Schedules, Details, Control Diagrams, etc.
 - (1) The project does not anticipate the need for a fire water supply tank
 - (2) Provide Rational Analysis of the Smoke Control System.
 - iii) Discipline coordination with
 - (1) Civil Site for Utilities
 - (2) Architecture
 - (3) Structural
 - (4) Electrical – Power and Lighting
 - (5) Electrical – Communications
 - (6) Mechanical
 - iv) Technical Quality Control Reviews for milestone Submittals and Constructability Review for Final Submittal
 - v) Cost Estimate Reviews and coordination
- k. **Design Quality Control**
 - i) Design Quality Assurance Peer Reviews
 - (1) At the 50% and 100% design phase submissions, the Team will provide peer quality assurance review services of the submitted materials. The review will focus on meeting PWA's needs and the content of the submitted materials. Review comments will be shared with the design team for all technical disciplines and there will be participation in design review meetings to discuss the comments and the proposed resolution from the design team.
 - (2) A member of the a peer review team will participate in the project meetings identified in paragraph q of this scope of work and communicate design decisions to the peer review team.
 - ii) As indicated above in each discipline scope, in addition to the required Technical Quality Control Discipline Reviews at each design milestone, the design team shall participate in a multi-disciplinary constructability and coordination review of the project documents. This will involve review of drawings and specifications prior to the issuance of the 100% design level submittal including:
 - (1) Site Utility Plans
 - (2) Architectural Plans
 - (3) Structural Plans
 - (4) Mechanical, Plumbing & Fire Protection Plans
 - (5) Electrical, Lighting, Fire Alarm & Telecommunications Plans
- l. **ATC Electronic Equipment**
 - i) Provide specifications and associated plans to acquire the necessary equipment to satisfy the FAA's

- Minimum Equipment List for Contract Towers (MEL). Durable equipment meeting industry standards will be specified accompanied by plans for console equipment layout, antennas installation, and backup weather systems. The backup weather system design will include the site selection and layout of sensors at a location on the airfield. Its location will be coordinated with the FAA Non-Fed Coordinator and a 7460-1. Equipment in the existing ATCT will be evaluated for possible reuse in the new ATCT. Coordination with FAA for provision of their equipment into the new ATCT will also be addressed.
- m. **Cost Estimating and Scheduling** - services necessary to develop the construction cost estimates at each design milestone including:
 - i) Provide Cost Estimates, in representative detail to the milestone submittal, in a CSI Format Breakout including site development and Building Facilities (sub-structure, super-structure, exterior envelope, interior build out & finishes, mechanical, plumbing, fire protection, electrical, communications, security infrastructure and communications).
 - (1) Provide Summary Report breakout in accordance with the CSI format
 - (2) Provide a summary deviation report at each milestone identifying changes from previous submittals.
 - n. **Progress Coordination** - In order to be effective as a team, it is critical to the project to have regularly scheduled (Design Team proposes every two weeks 1 meeting building design) design progress review meetings.
 - o. **Project Meeting Attendance** - In addition Consultant plans for a combination of onsite & virtual attendance by the following people at the following design related milestone meetings, user interviews, and review conferences to be held at PWA:
 - i) Project Kick-off Meeting / Design Charrette
 - (1) This meeting is anticipated at PWA to kick off of the project. Attendees will include the Project Manager and Architect to be on-site throughout the 2-day meeting. The Structural Engineer, Airfield Lighting Engineer, and Fire Protection Engineer shall attend virtually at predetermined periods of scope discussion.
 - (2) This is also the time to work with the End User and the End User's Technical Representatives (i.e.: FAA local group) to develop / confirm their needs and requests along with the appropriate Airport Representatives.
 - (3) The team will work to develop a conceptual floor plan which meets the minimum functional requirements.
 - ii) 50% and 100% Design Milestone Review Meetings:
 - (1) Attendees will include the Project Manager and Architect (on-site), Structural Engineer, Fire Protection Engineer, Airfield Lighting Engineer (virtually at predetermined times).
 - p. **Bid Support Period** – the following anticipated services are necessary to support PWA's bid period. In addition to Consultant's general project management the following shall be provided:
 - i) Bidding Phase Services to include:
 - (1) Preparing for pre-bid meeting – attend virtually.
 - (2) Respond to written questions (RFIs). As warranted, A/E will assist in preparing related modifications to the plans and/or specifications to be issued in addenda.
 - (3) Assist in evaluating bids received.
 - (4) Bid Opening Meeting – attend virtually
 - ii) Bidding Phase Services not to include:
 - (1) Delivery of disks (CDs) or other electronic delivery to Airport Authority for issuance to prospective bidders, subcontractors and plan-houses. This will be performed by Consultant.
 - (2) Compile and distribute addenda. This will be performed by Consultant.
 - (3) Conduct legal reviews of bids.
 - (4) Assembly, printing and reproduction of conformed sets of Contract Documents for execution of contracts and for construction. This will be performed by Consultant, if required.
 - q. **Permitting** – the following anticipated services are necessary to support permitting of the drawings. In addition to Consultant's general project management the following shall be provided:
 - (1) Coordination with the local Authority having Jurisdiction, City of Oklahoma City, Oklahoma.
 - (2) Address permit review comments and revise drawings as needed for the following disciplines:
 - (a) Architecture

- (b) Structural
- (c) Mechanical
- (d) Electrical
- (e) Fire Protection
- (f) Coordinate Civil Consultants

2) Qualifications and Assumptions:

- a. There is no work related to the disposition or demolition of the existing ATCT and other FAA spaces. Therefore, there will not be a need for any lead-based paint, asbestos containing materials or polychlorinated biphenyl (PCB) surveys.
- b. The project design will be limited to the minimum requirements of the applicable FAA Orders and requirements in effect at the time of NTP / Kick Off Meeting.
 - (1) Should new orders and requirements be presented, they can be reviewed, and a determination of design impact can be presented for consideration and an adjustment in design scope will be provided.
- c. The design proposal is based on there being no changes to the FAA provided Critical Power Distribution System (CPDS) One Line or Emergency Power Management System (EPMS) requirements after the 50% Design Submittal review process.
- d. MEP services provided by a consultant selected by Consultant.
- e. Photo-realistic renderings of the Tower are not included in the scope of services. Consultant can provide photo-realistic 3D renderings of the Tower thru additional services.
- f. All deliverables will be developed using Autodesk's Revit software for buildings, AutoCAD Civil 3-D software for site related drawings and AIA's Masterspec in CSI Format for specifications.
 - (1) Includes four (4) sets of 11x17 size drawings and 8 ½ x 11 for specifications shall be provided to Consultant at each design milestone.
- g. Airfield Lighting and building permitting process activities are included in this scope of work, however, actual permit fees are not included.
 - (1) These activities include coordination with local stormwater management, zoning site development and building departments
- h. There are no environmental remediation services included in our scope of work.
- i. Domestic water, fire protection water and sanitary sewer location and availability to be confirmed.
- j. It is anticipated that the local water services have sufficient pressure and flow for domestic use, fire protection and irrigation for the project area.
- k. It is anticipated that this new Facility will be considered no higher than a Security Level 2 (SL-2)
- l. Office and Shop furniture (desks, chairs, files, systems furniture, etc.) shall be planned for, however, detailed furniture bid documents are not included.
- m. Development of any alternate or additional development site plans beyond that listed above for the new ATCT project is excluded.
- n. If the complexity of the project scope increases beyond the scope of work presented, we will reevaluate the professional services and may require a contract adjustment to reflect the additional effort required.
- o. Scope change process – Consultant to expeditiously provide contract modifications for any agreed to change proposals.
- p. Consultant, unless listed above, will manage the Advertising and Bid Process.
- q. Delays on the part of the Airport or for unanticipated reviews, or requested changes will require additional fees.
- r. Consultant to contract with Subconsultants to provide the Project Survey and Geotech. Report. Consultant will meet w/ the Survey, Utility and Geotechnical consultants to review the project site and ensure that all pertinent information and approvals are in place to start the project.
- s. Environmental remediation services are not included.
- t. Selection of building structural, mechanical, fire protection and electrical related systems, will be determined during the conceptual design period. At that point, they will be set for the project. Any changes after the systems are decided upon will require additional fees.
- u. There are no known (to the design team) external factors that will impact the structural design (i.e.: rock quarry blasting or other ground vibrations).
- v. The water supply for the fire protection system is presumed to be of adequate flow and pressure, only needing to provide pump(s) to serve the tower. Should available water supply result in the need for a water

- storage tank or separate pump house will require additional design and fees.
- w. Consultant to provide project marked up / edited front end specifications (Division 00 - Procurement and Contracting Requirements, Division 01 - General Requirements, etc.) and bid forms to Consultant for inclusion in the project specifications.
- x. Integration of a Temporary Tower into the program will require additional fees.
- y. It is assumed that a green building certificate (such as LEED or similar) will not be pursued for this project. There are no services included in our scope of work to achieve a Green Building Certificate.

2.4 – SITE DESIGN

Consultant will perform civil and utility engineering services to design the new ATCT site per applicable local, state, and federal code requirements. Civil engineering elements to be considered include:

- a. Site visits necessary to complete design tasks.
- b. Site grading to meet foundation, drainage and detention, accessibility requirements for the new ATCT facility utilizing the topographic survey provided under Task 1.
- c. Hydraulic and hydrology modeling for the sizing of storm water conveyance systems in accordance with FAA and City of Oklahoma City requirements.
- d. Access road and vehicle parking for new ATCT site utilizing the pavement recommendations provided as part of the geotechnical investigation.
- e. Utility design for water and sewer service extensions to the new ATCT building in accordance with City of Oklahoma City requirements.
- f. Utility franchise coordination for extensions of telecom, gas, and electric utilities to the new ATCT building.
- g. Design of security fencing and controlled access gate per FAA security requirements.
- h. Prepare Stormwater Pollution Prevention Plan and Construction Safety Phasing Plan per FAA requirements for the project construction.
- i. 3-phase electric service to the new ATCT building and controlled access gate in accordance with City of Oklahoma City utility requirements.
- j. Parking and access road lighting in addition to any flood lighting placed on the new ATCT building.
- k. New home run cabling and controls required for airfield lighting control from the new ATCT.
- l. Consultant will prepare the necessary paperwork and compile preliminary and design information for the following permits. Comments from permitting authorities will be responded to via a formal comment response letter with any necessary additional or revised information to secure permit approval.
 - i. Approval of utility design from the City of Oklahoma City.
 - ii. FAA Obstruction Evaluation Determination via the OE/AAA online portal.

TASK 3 – BIDDING

Consultant will provide the following bid phase services:

- a. Attend and conduct pre-bid conference.
- b. Respond to bidder questions via addenda.
- c. Attend bid opening.

EXCLUSIONS

The following items are not included in this scope of work. An amendment to this contract can be negotiated to add any of the excluded services if desired by the Airport.

- a. Payment of any Application Fees, Permitting, Impact fees, Public Notice, Legal Advertisement, or connection fees are understood to be paid by the Airport.
- b. LEED Certification and Systems Commissioning will not be pursued for this Project.
- c. Demolition of the existing ATCT is not included nor is a hazardous materials investigation and mitigation plan.
- d. Proposal does not include the services of a licensed landscape architect.
- e. Property acquisition, avigation and utility easement metes and bounds exhibits prepared and signed by a

- registered RPLS, and landowner coordination/negotiation are not included.
- f. Subsurface utility engineering will not be performed. Existing utilities will be approximated based on information provided by the Airport and utility owners.

SCHEDULE:

KSA proposes the following schedule for the work outlined in this scope of work. Calendar day durations do not include time for Airport, City, and Agency review. Overall project timeline is dependent on FAA review and response times. The design team will proceed with design after each submission and incorporate comments as they are received.

Design Phase	Calendar Weeks from Notice to Proceed	Duration (Calendar Weeks)	Calendar Deadline
Notice to Proceed	0	-	
Submit 10% Planning Document	6	6	
Submit 50% Design Documents	18	12	
Submit Issued for Bid Documents	28	10	
Open Bids	TBD	TBD	

EXHIBIT C
COMPENSATION

Contract for Professional Services with KSA Engineers, Inc.
Project No. OCAT WPA 2403
Construct New Airport Traffic Control Tower
Wiley Post Airport

Under the terms of this Contract, the Consultant agrees to perform the work and services described in this Contract. The Project's preliminary estimated construction cost is \$12,000,000. The Trust agrees, in accordance with the limitations and conditions set forth in the Contract, to pay the Consultant an amount not to exceed ~~\$324,735~~ \$1,714,202.50 (~~2.7%~~ 14.3% of the preliminary estimated construction cost), which includes: for Basic Services, an amount not to exceed ~~\$318,615~~ \$1,668,264 (~~2.66%~~ 13.9%); for Additional Services, an amount not to exceed \$0; and for Reimbursable Expenses, an amount not to exceed ~~\$6,120~~ \$45,938.50; all of which are specifically set forth in this Exhibit C.

C.1. Basic Services

Compensation for Basic Services may not exceed a cumulative total of ~~\$318,615~~ \$1,668,264, and in no event may the Consultant receive compensation in excess of the amount listed for each task for performance of its Basic Services.

The Consultant may receive up to the following amounts of the not to exceed amounts for services rendered upon the completion of the following tasks. Partial payments of the not to exceed amounts for each task may be invoiced for incremental work completed. Not to exceed amounts below are accumulative for successive tasks.

Task 1 – Preliminary Design Phase
an amount not to exceed:
\$318,615 (~~2.66~~ 19.1%)

Completion and acceptance by the Director of Airports of the Preliminary Design Phase with Report and Drawings for the Project.

Task 2 – Final Design Phase
an additional amount not to exceed:
\$1,330,159 ~~\$0~~ (~~0~~ 79.7%)

Completion and acceptance by the Trust of the Final Design Phase with plans and specifications for the Project ready to advertise for construction.

Task 3 – Bidding Services Phase
an additional amount not to exceed:
\$19,490 ~~\$0~~ (~~0~~ 1.2%)

Provide final contract documents for advertisement through Periscope and services through award of the construction contract to the successful Bidder.

Task 4 – Construction Administration Services
(lump sum basic services)
an additional amount not to exceed:
\$0 (0%)

Beginning at NTP for construction through completion and final acceptance by the Trust of the completed Project. Said amount is to be paid proportionately to the level of completion of Project construction. The proportionate amount is to be consistent with the Construction Contractor's percentage of completion.

Task 5 – Final Close Out Documents/Services
an additional amount not to exceed:
\$0 (0%)

Upon satisfactory completion of the project, and prior to acceptance of the project, provide documents including as-built drawings.

C.2. Additional Services

The Consultant will provide Additional Services as outlined in Exhibit B and as directed in writing by the Director of Airports. Each month, the Consultant will submit to the Trust certified time sheets for employees engaged in the provision of Additional Services. The Trust agrees to pay the Consultant, as compensation for such Additional Services, an amount equal to time expended, multiplied by the corresponding hourly rate included herein; provided that no claims or invoices for Additional Services will be recognized or be binding on the Trust unless such Additional Services are first approved by the Director of Airports. The approved hourly payroll rates for the classification of employees involved in this Project are as follows:

WAGE RATES, INCLUDING OVERHEAD, ADMINISTRATIVE EXPENSES, AND PROFIT

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Project Principal.....	\$ 290
Sr. Project Manager.....	\$ 235
Sr. Aviation Planner.....	\$ 220
Aviation Planner	\$ 180
Sr. Project Engineer	\$ 180
Design Engineer.....	\$ 125
Design Technician	\$ 90
Project Assistant.....	\$ 120

1. Project Representative Services: Total costs for Project Representative Services shall not exceed an amount of \$0.00, to be paid hourly.
2. FAA Safety Management System (SMS) Review: Total costs for FAA Safety Management System (SMS) Review shall not exceed an amount of \$0.00.
3. Miscellaneous Additional Services: Total costs for Miscellaneous Additional Services shall not exceed an amount of \$0.00.

Provided, however, that the Trust, at its sole discretion, may authorize additional funds to the Project for payment of Additional Services in excess of the maximum limitation amount(s) as set forth above.

C.3. Reimbursable Expenses

1. **Extra Printing and Reproduction.** Printing and reproduction of any reports, studies and final drawings, specifications, and cost estimates required by the Trust in excess of those as set forth in Section 2 of the Contract will be reimbursed at the actual cost thereof when printed by the Consultant. When documents are printed by others, an administrative fee of not to exceed five percent (5%) percent may be added to the cost of reproduction and printing. Costs for these expenses will not exceed a total amount of ~~\$0~~ without prior approval of the Trust.
2. **Boundary, Site, and Topographical Surveys.** The Consultant may self-perform or use contract land surveyors to perform land surveys necessary for development of plans. Such work is not part of the Consultant's professional fees and Consultant will be reimbursed for such work by the Trust. Invoices for land survey work will be accepted, reviewed, and certified by the Consultant and submitted separately to the Trust as a separate line item on claim vouchers. Total costs for land surveying shall not exceed an amount of ~~\$ 2,950~~ \$5,100. Provided, however, that the Trust, at its sole discretion, may authorize additional funds to the Project for payment of surveying costs and charges in excess of the maximum limitation amount as set forth above.
3. **Geotechnical Investigation, Laboratory Analysis, and Field Testing.** The Consultant shall be reimbursed for the payment of all geotechnical investigation, laboratory analysis, and field testing not paid directly by the Trust and provided by the Consultant pursuant to Section 2, Subsection A, Paragraph (3) of the Contract, but such costs shall not exceed ~~\$0~~ \$35,868.50. The cost for all geotechnical investigation, laboratory analysis, or fielding testing provided by the Consultant shall be based on the rates and charges included in existing City contracts where applicable.
4. **Transportation, Lodging, and Subsistence.** Expense of transportation when traveling out of state in connection with the Project will be reimbursed at the actual cost of transportation (Coach Class) plus actual cost of lodging and subsistence; provided such cost of lodging and subsistence shall not exceed the amount authorized in Federal Travel Regulations ("FTR"), Chapters 300-304, in effect on the date of this Contract and as subsequently amended. The total cost of transportation, lodging and subsistence for this Project shall not exceed ~~\$ 3,170~~ \$ 4,970.

EXHIBIT I
MANDATORY FEDERAL PROVISIONS

ARTICLE A.1. ACCESS TO RECORDS AND REPORTS

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

ARTICLE A.2. AFFIRMATIVE ACTION REQUIREMENT

ARTICLE A.3. BREACH OF CONTRACT TERMS

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

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

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

ARTICLE A.4. BUY AMERICAN PREFERENCES

ARTICLE A.5. CIVIL RIGHTS PROVISIONS

A.5.1 GENERAL CIVIL RIGHTS PROVISIONS

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

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

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

**A.5.2 TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND
AUTHORITIES**

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

Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);

49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);

The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);

Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, *et seq.*) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;

The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);

Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];

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

ARTICLE A.6. CLEAN AIR AND WATER POLLUTION CONTROL

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

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

ARTICLE A.7. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

1. Overtime Requirements.

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

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

In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

3. Withholding for Unpaid Wages and Liquidated Damages.

The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.

4. Subcontractors.

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

ARTICLE A.8. COPELAND "ANTI-KICKBACK" ACT

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

ARTICLE A.9. DAVIS-BACON REQUIREMENTS

1. Minimum Wages.

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

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

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

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

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

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

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

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

and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

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

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

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

3. Payrolls and Basic Records.

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

trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

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

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

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

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

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

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

(iii) The Contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such

representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR § 5.12.

4. Apprentices and Trainees.

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

(ii) Trainees. Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee

program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

5. Compliance with Copeland Act Requirements.

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

6. Subcontracts.

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

7. Contract Termination: Debarment.

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

8. Compliance with Davis-Bacon and Related Act Requirements.

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

9. Disputes Concerning Labor Standards.

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

10. Certification of Eligibility.

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

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

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

ARTICLE A.10. DEBARMENT AND SUSPENSION

By submitting signing this agreement the consultant certifies that at the time the consultant submits its qualifications that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

Certification Regarding Debarment and Suspension Lower Tier Participants.

The Consultant, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction,” must confirm each lower tier participant of a “covered transaction” under the Project is not presently debarred or otherwise disqualified from participation in this federally assisted Project. The Consultant 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 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 tell a higher tier that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available ding suspension and debarment.

ARTICLE A.11. DISADVANTAGED BUSINESS ENTERPRISE

Contract Assurance (49 CFR § 26.13) –

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

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

Prompt Payment (49 CFR § 26.29) –

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime

contractor receives from the Trust. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the the Trust. This clause applies to both DBE and non-DBE subcontractors.

Termination of DBE Subcontracts (49 CFR § 26.53(f)) –

The prime contractor must not terminate a DBE subcontractor listed in response to this Contract's solicitation (or an approved substitute DBE firm) without prior written consent of the Trust. This includes, but is not limited to, instances in which the prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

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

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

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

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

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

ARTICLE A.12.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 Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$10,000 that involve driving a motor vehicle in performance of work activities associated with the project.

ARTICLE A.13. DOMESTIC PREFERENCES FOR PROCUREMENTS

CERTIFICATION REGARDING DOMESTIC PREFERENCES FOR PROCUREMENTS

The Bidder or Offeror certifies by signing and submitting this bid or proposal that, to the greatest extent practicable, the Bidder or Offeror has provided a preference for the purchase, acquisition,

or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR § 200.322.

ARTICLE A.14. EQUAL EMPLOYMENT OPPORTUNITY

A.14.1. EEO Contract Clause

EQUAL OPPORTUNITY CLAUSE

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

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under this section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further

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

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

A.14.2. EEO SPECIFICATIONS
STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION CONTRACT SPECIFICATIONS

1. As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
- d. "Minority" includes:
 - (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
 - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

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

3. If the Contractor is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall

good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

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

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

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

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

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

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

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

- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.
- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

- n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
- o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
- p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.
11. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.
14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union

affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

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

ARTICLE A.15. FEDERAL FAIR LABOR STANDARDS ACT **[FEDERAL MINIMUM WAGE]**

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

ARTICLE A.16. FOREIGN TRADE RESTRICTION **TRADE RESTRICTION CERTIFICATION**

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

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

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

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

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

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

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

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

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

ARTICLE A.17. LOBBYING 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:

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

contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

ARTICLE A.18. OCCUPATIONAL SAFETY AND HEALTH ACT

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

ARTICLE A.19. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

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

ARTICLE A.20. PROHIBITION OF SEGREGATED FACILITIES

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

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

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

ARTICLE A.21. RECOVERED MATERIALS

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

items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

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

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

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

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

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

ARTICLE A.22. RIGHTS TO INVENTIONS

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

ARTICLE A.23. SEISMIC SAFETY

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

ARTICLE A.24. TAX DELINQUENCY AND FELONY CONVICTION

The Consultant shall complete the Certification Regarding Tax Delinquency and Felony Convictions attached hereto as Exhibit G to indicate its current status as it relates to tax delinquency and felony conviction.

ARTICLE A.25. TERMINATION OF CONTRACT

TERMINATION FOR CONVENIENCE (PROFESSIONAL SERVICES CONTRACTS)

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

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

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

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

TERMINATION FOR CAUSE (PROFESSIONAL SERVICES)

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

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

a) **Termination by Owner:** The Owner may terminate this Agreement for cause in whole or in part, for the failure of the Consultant to:

1. Perform the services within the time specified in this contract or by Owner approved extension;
2. Make adequate progress so as to endanger satisfactory performance of the Project; or
3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

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

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice.

Compensation will not include anticipated profit on non-performed services.

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

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

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

1. Defaults on its obligations under this Agreement;
2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;

3. Suspends the project for more than 180 days due to reasons beyond the control of the Consultant.

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

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

ARTICLE A.26. VETERAN'S PREFERENCE

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