

INVITATION TO BID

2024 Fuel Farm Improvements - Construction



Naples Airport Authority
160 Aviation Drive North
Naples, FL 34104

Issued

Friday, April 12, 2024

Bid Due Date

Wednesday, May 29, 2024

City of Naples Airport Authority

INVITATION TO BID

2024 Fuel Farm Improvements

The Naples Airport Authority (NAA) invites the submission of Bid Proposals from all interested and qualified parties with construction experience for the 2024 Fuel Farm Improvements - Construction Project at the **Naples Airport**. Bid Packet may be obtained from <https://flynaples.com/doing-business-with-the-authority/open-bids/> beginning Friday, April 12, 2024.

Bid proposals must be submitted on the forms provided in the Bid Packet **no later than 10:00 A.M. Local Time on Wednesday May 29, 2024**, at which time bids will be publicly opened and read aloud in the General Aviation Terminal, 2nd Floor Larson Conference Room, Naples Airport, 160 Aviation Drive North, Naples, Florida, 34104.

This project will improve capabilities of airport fueling operations to address the aging infrastructure and obsolescence, inefficient loading/unloading configuration, changes to code requirements, environmental wear and tear, and lack of resiliency in the system. These improvements include replacement of all piping, much of the electrical infrastructure along with elevation above base flood plain, upgrades to safety shut-off valves and dispensers at improved loading positions, a new operator office, new meters and controls, and an additional loading rack and tank for Sustainable Aviation Fuel (SAF). Additionally, all site work such as grading, containment, drainage features, and access road widening is included to complete this upgrade.

The complete scope of work is outlined in the drawings dated April 2, 2024 and specifications dated April 12, 2024.

Bidders are strongly encouraged to attend a non-Mandatory **Pre-bid Conference and Site Visit** to be held at **9:00 A.M. Local Time, Tuesday, April 23, 2024**, at the Naples Airport, General Aviation Terminal, 2nd Floor Larson Conference Room, 160 Aviation Drive North, Naples, Florida, 34104.

Bid proposals must be submitted on the forms provided by the Naples Airport Authority and must be accompanied by a Bid security in the form of a bid bond equal to 5% of the total bid made payable to the Naples Airport Authority. Contract security in the form of 100% Performance and Payment Bonds will be required. No bid may be withdrawn after closing time for the receipt of proposals for a period of ninety (90) days.

All questions concerning the bidding process and/or the contract documents must be emailed in Microsoft Word format to Gregory Helton, ghelton@hanson-inc.com by **5:00 P.M. Local Time, Friday, May 10, 2024**. Answers will be posted as an addendum at the web address listed above by **COB on Wednesday, May 15, 2024**. Bidders are encouraged to monitor the Naples Website for posting of Addenda up until the submittal deadline.

All Bidders must be licensed in accordance with Florida Laws. The Authority recognizes fair and open competition as a basic tenet of public procurement. Respondents doing business with the Authority are prohibited from discriminating based on race, color, creed, national origin, handicap, age, or sex. The NAA has a progressive Disadvantaged, Minority, and Women-Owned Business Enterprises Program in place and encourages Disadvantaged, Minority, and Women-Owned Business Enterprises to participate in its RFP process.

The Naples Airport Authority reserves the right to waive any formalities or irregularities in the bids received and to reject any or all bids or to award or refrain from awarding the contract for the work, whichever is deemed to be in the Owner's best interests.

The Naples Airport Authority adheres to the Americans with Disabilities Act and will make reasonable modifications for access to Airport services, programs, and activities. Please call (239) 643-0733 for further information. Requests must be made at least 48 hours in advance of the event in order to allow the NAA time to provide the requested services.

PROSPECTIVE RESPONDENTS SHALL NOT CONTACT ANY NAPLES AIRPORT AUTHORITY OFFICIALS OR STAFF REGARDING THIS INVITATION TO BID OTHER THAN THE SPECIFIED CONTACT PERSON LISTED IN THE ITB.

I. INTRODUCTION

The Naples Airport Authority (“Authority”) is soliciting Bids from qualified firms interested in providing professional Construction services at the Naples Airport for the 2024 Fuel Farm Improvements - Construction located at 2662 Fuel Farm Road, Naples, FL.

II. SCHEDULE

Invitation to Bid (ITB) Issue Date	Friday, April 12, 2024
(Non-Mandatory) Pre-Bid and Site Visit General Aviation Terminal, 160 Aviation Drive N., Naples, FL – 2 nd Floor Larson Conference Room	Tuesday, April 23, 2024, 9:00 a.m. Local time
Request for Information Deadline	Friday, May 10, 2024, by 5:00 p.m. Local time.
Addendum Issued	Wednesday, May 15, 2024, by 5:00 p.m. Local time.
ITB Submittal Deadline - Bids will be opened at the General Aviation Terminal, 160 Aviation Drive N., Naples, FL 2 nd Floor Larson Conference Room	Wednesday, May 29, 2024, 10:00 a.m. Local time.
Board Approval	Thursday, June 20, 2024
Contract Negotiations (If Applicable)	Friday, June 21, 2024
Contract Start	Upon Issuance of the Notice to Proceed

III. NAPLES AIRPORT AUTHORITY

The Authority was created under Chapter 69-1326 Laws of Florida, as amended, as an independent Authority responsible for the operation of the Naples Municipal Airport. It is governed by a five (5) member volunteer Board of Commissioners who are appointed by the Naples City Council. Under their direction, an Executive Director manages the airport and its programs.

The Authority financially supports itself directly from aviation fuel sales and airport user fees, and indirectly by airport user taxes. No local, state, or federal general taxes, such as property, utility, sales, intangible, or income taxes directly support the Authority. The Authority receives, for certain capital projects, state, and federal financial funds.

General information regarding the Authority can be obtained from our official website <http://www.flynaples.com/>.

IV. SCOPE OF SERVICES

This project will improve the capabilities of airport fueling operations to address the aging infrastructure and obsolescence, inefficient loading/unloading configuration, changes to code requirements, environmental wear and tear, and lack of resiliency in the system. These improvements include the replacement of all piping, much of the electrical infrastructure along with elevation above the base flood

plain, upgrades to safety shut-off valves and dispensers at improved loading positions, a new operator office, new meters, and controls, and an additional loading rack and tank for Sustainable Aviation Fuel (SAF). Additionally, all site work such as grading, containment, drainage features, and access road widening is included to complete this upgrade.

A Bid Proposal Form (Attachment B) and a Bid Schedule (Attachment C) are included. Both shall be filled out and included as part of the ITB response.

V. CONTENT OF RESPONSES

In order to be eligible for consideration, Respondents must be in good standing with the Authority at the time the bid is submitted and for the prior three (3) years. In making a determination of “good standing,” consideration shall include, but not be limited to, performance under recent agreements, monies owed to the Authority, defaults on any leases/contracts/agreements, and/or any other negative legal processes or adverse terminations. Bids from Respondents who have not previously entered into a prior lease/contract/agreement with the Authority shall be considered to be in good standing. Performance will be evaluated based on responses provided by reference checks. Bids from Respondents not in good standing shall not be evaluated. For purposes of this section, “Respondent” shall include all persons and entities having a beneficial and/or financial interest in the bid, as well as the corporate/company officers and/or owners.

It is the responsibility of the Respondent to thoroughly examine this ITB and ensure that the bid clearly and directly responds to each of the requirements, including, but not limited to its content and format. Any bid determined by the Authority to be non-responsive, and any modifications received after the bid deadline, will not be evaluated.

The following sections and contents are required:

- A. A one-page introduction letter prepared on the respondent’s company letterhead, with the firm name, including any alias, signed by an individual who is authorized to commit the firm to the services and requirements of the ITB. This letter shall include the name and contact information of the individual who will serve as the Authority’s main point of contact. Also, acceptance of, or explanation of any exceptions to the terms and provisions of the Services Agreement (Exhibit A) must be noted in the introduction letter. The Authority maintains the right to reject the respondent’s exceptions.
- B. Copies of all appropriate certificates and contractor’s licenses held, such as Best Management Practices (BMP), and any other required by Collier County and the City of Naples or any State and/or Federal licenses or registrations.
- C. Proposal Forms (Attachment B) and Bid Schedule (Attachment C)

The response to this ITB should be organized in the order set forth above. If subcontracting or joint bids are to be submitted, that fact, and the name of the proposed subcontracting firms, must be clearly identified in the bid. Following the award of the contract, no additional subcontracting will be allowed without the express prior written consent of the Authority.

VI. SUBMISSION INSTRUCTIONS

- A. Respondent shall carefully review and address all of the evaluation criteria outlined in this request. In order to be considered, the respondent shall demonstrate the firm's ability to provide the required services as listed in this ITB. Any data furnished by the Authority is for informational purposes only. The full response shall include the Bid Sheet, the forms from Attachment B, the Bid Schedule from Attachment C, and the Certificate of Insurance. Blank tabs used to delineate sections are not required. **An electronic version of your bid shall be included on a flash drive.**
- B. All responses to this ITB must be submitted **no later than Wednesday, May 29, 2024, at 10:00 a.m. Local Time to:**

Linda Jackson Best
Sr. Procurement and Contracts Manager
2nd Floor Administration Desk
160 Aviation Drive North
Naples, FL 34104

If mailed, it is recommended that Respondents confirm receipt of the bid by the Authority. Bid delivery to the Authority by the deadline is solely the responsibility of the Respondent. Late submittals will not be considered.

Upon receipt by the Authority, bids shall become public records, which are subject to the requirements of Chapter 119, Florida Statutes, commonly known as the "Public Records" or "Sunshine Law". Responding to this solicitation shall constitute a specific waiver of any claims against the Authority related to the disclosure of the Respondent's proposal or any information contained therein.

- C. **Submittals shall be sealed and clearly marked on the outside "2024 Fuel Farm Improvements - Construction". The delivery of the response to the Authority prior to the deadline is solely and strictly the responsibility of the responder. An electronic version of your bid shall be included on a flash drive.**
- D. Submissions via facsimile or email **will not** be accepted.
- E. Responding to this ITB shall in no way be construed as a commitment on the part of the Authority. The Authority reserves the right to reject any or all responses. The Authority may waive any irregularities in this ITB or the submitted responses and may cancel, re-advertise, postpone, or modify the ITB schedule at any time. The Authority is not responsible for any costs incurred by the responding parties prior to the issuance of an executed agreement.
- F. All submittals will become the property of the Authority. The Authority adheres to open records requirements of Florida State Statute Chapter 119, and as such, all materials submitted by the Respondent to the Authority are subject to public disclosure. The Respondent specifically waives any claims against the Authority related to the disclosure of any materials.
- G. Questions concerning this ITB shall be submitted **in writing via email** to Gregory Helton at ghelton@hanson-inc.com by **5:00 p.m. Local Time, on Friday, May 10, 2024**. Respondents are encouraged to verify receipt of questions emailed to the NAA. Questions will be answered and posted online as an addendum on: <https://flynaples.com/doing-business-with-the-authority/open-bids/> by **5:00 p.m. Local Time, on Wednesday, May 15, 2024**. Responders are strongly advised to monitor the Naples Airport Authority site for any additional information and/or addenda regarding this solicitation. Only emailed questions will be addressed and answered as an

addendum. The issuance of such posted responses is the only official method by which interpretation, clarification, or additional information will be given by the Authority. Only requests answered by formal written responses will be binding. Oral and other interpretations or clarifications will be without legal effect. All bidders are asked to monitor the Airport Website until the due date for the Addendum issued.

H. In order to protect the professional integrity of this procurement process by shielding it from undue influences prior to the recommendation of contract award, responders shall not contact any Naples Airport Authority Employees or Agents, City of Naples Elected Officials, City of Naples Employees, Naples Airport Authority Board Members or the Naples Airport Authority Noise Compatibility Committee Members regarding this ITB from advertisement date through Consultant Selection Committee Recommendation to the NAA Board, other than the designated contact person listed above.

I. The Authority reserves the right to request any supplementary information it deems necessary to evaluate the responder's experience, qualifications, or clarify or substantiate any information contained in the responder's response.

J. The Authority recognizes fair and open competition as a basic tenet of public procurement. Respondents doing business with the Authority are prohibited from discriminating on the basis of race, color, creed, national origin, handicap, age, or sex. The Authority has a progressive Disadvantaged, Minority, and Women-Owned Business Enterprises Program in place and encourages Disadvantaged, Minority, and Women-Owned Business Enterprises to participate in its ITB process. All responding parties are required to make all efforts reasonably necessary to ensure that Disadvantaged, Minority, and Women-Owned Business Enterprises have a full and fair opportunity to compete for this contract. Information pertaining to the DBE Certification requirements can be obtained by calling the Authority DBE Liaison Officer at 239-643-0733.

K. The Authority adheres to the Americans with Disabilities Act and will make reasonable accommodations for access to Airport services, programs, and activities. Please call (239) 643-0733 for further information. Requests must be made at least 48 hours in advance of the event in order to allow the Authority time to provide the requested services.

VII. SELECTION OF THE CONTRACTOR

The Lowest Bid may be accepted after verification of references. (Attachment B page 6)

VIII. ASSURANCES

By responding to this ITB, the firm assures the Authority that, if selected, it will:

- A. Not assign or transfer the Authority's account, or any portion of the Authority's business, without the Authority's prior written approval.
- B. Act in the Authority's best interest at all times.
- C. Sign the Authority's Professional Services Agreement for the agreed-upon work.

This preference shall not apply to any projects for which federal aid funds are available.

D. Examination of Locations:

Each Bidder shall make all investigations and examinations necessary to ascertain all conditions and requirements affecting the full performance of the Purchase Agreement prior to bidding.

E. Terms of Agreement

The Agreement will commence after approval by the Board and issuance of a Notice to Proceed.

F. Termination:

The NAA shall be the sole judge of non-performance. Should the Successful Bidder fail to perform services in a satisfactory manner, the City of Naples Airport Authority may terminate the Purchase Agreement immediately for cause. The NAA may terminate the Purchase Agreement for convenience with thirty (30) days written notice.

G. Ability to do Business:

The Successful Bidder is required to provide to the City of Naples Airport Authority a notarized Affidavit stating that it is authorized to do business in the State of Florida, along with a Certificate of Good Standing issued by the Secretary of State.

IX. FAA Required Provisions

General Civil Rights Provisions:

The Successful Bidder agrees to comply with pertinent statutes, Executive Orders, and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds the Successful Bidder and sub-tier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

Title Vi Solicitation Notice

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

Federal Fair Labor Standards Act (Federal Minimum Wage)

All contracts and subcontracts that result from this Invitation to Bid 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 Successful Bidder has full responsibility to monitor compliance to the referenced statute or regulation. The Successful Bidder must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

Occupational Safety and Health Act Of 1970

All contracts and subcontracts that result from this Invitation to Bid incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The Successful Bidder must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Successful Bidder retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). The Successful Bidder 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.

X. Florida State Procurement Law Required Provisions-

Anti-Collusion Statement

Under no circumstances shall any prospective proposer, or any person or persons acting for or on behalf of any said prospective bidder, seek to influence or gain the support of any member of the Authority favorable to the interest of any prospective bidder or seek to influence or gain the support of any member of the Authority against the interest of any prospective bidder. Any such activities shall result in the exclusion of the prospective proposer from consideration by the Authority.

Convicted Vendor List

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

Discriminatory Vendor List

An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

Invoice Compliance

All invoices, bills, fees, or other requests for compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

Travel Expenses

Bills for any travel expenses shall be submitted in accordance with Florida Stat. 112.061. A state agency may establish rates lower than the maximum provided in s. 112.061. **GSA-published rates are current and approved by the Authority to use.**

Public Records

The Authority may unilaterally cancel the Service Agreement if the Successful Bidder refuses to allow the public access to all documents, papers, letters, or other material made or received by the Successful Bidder in conjunction with the Service Agreement, unless the records are exempt from s. 24(a) of Art. 1 of the Florida State Constitution and s. 119.07(1).

No Contact

Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response.

XI. Florida Public Records Law Required Provisions

(a) IF THE SUCCESSFUL BIDDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUCCESSFUL BIDDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE SERVICE AGREEMENT OR THIS INVITATION TO BID, CONTACT THE AUTHORITY'S CUSTODIAN OF PUBLIC RECORDS AT (239) 643-0733, administration@flynaples.com and/or 160 Aviation Drive North, Naples, Florida 34104.

XII. ATTACHMENTS

ATTACHMENT A: Sample Service Agreement

ATTACHMENT B: Proposal Forms

ATTACHMENT C: Bid Schedule (.xlsx format)

ATTACHMENT D: Specs and Bid Set

SERVICES AGREEMENT
City of Naples Airport Authority

Contract #xxxxx
name

THIS SERVICES AGREEMENT (this “Agreement”) is made effective as of the _____ day of _____, 2023 (the “Effective Date”), by and between the CITY OF NAPLES AIRPORT AUTHORITY, a political subdivision of the State of Florida (the “Authority”), and Vendor, a _____ Company, a State of _____ corporation authorized to transact business in the State of Florida (“Contractor”) (the Authority and Contractor each individually a “Party” and collectively the “Parties”).

RECITALS

- A. Contractor has the capability and capacity to provide certain services described in Exhibit A attached hereto and made part of this Agreement (the “Services”); and
- B. The Authority wishes to engage Contractor, and Contractor desires to be engaged by the Authority, to perform and provide the Services pursuant to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the representations, warranties, covenants, and agreements set forth under this Agreement, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Authority and Contractor agree as follows:

TERMS

- 1. Services. This Agreement sets forth the general terms and conditions under which Contractor shall perform and provide the Services for the Authority as the Authority instructs from time to time. The Services to be performed by Contractor for the Authority, the term of this Agreement, the performance schedule or timetable for the Services, and the fee schedule are fully described and set forth in Exhibit A. Contractor shall provide the Services (a) in accordance with the terms and subject to the conditions set forth in this Agreement (including Exhibit A); (b) using personnel of required skill, experience and qualifications; (c) in a timely, workmanlike and professional manner; (d) in accordance with the highest professional standards in Contractor’s field and (e) to the satisfaction of the Authority.
- 2. Term and Deadline for Satisfactory Completion. The term of this Agreement and deadline for satisfactory completion of all of the Services by Contractor are described and set forth in Exhibit A. Notwithstanding anything in this Agreement to the contrary, the Authority shall have the exclusive right to terminate this Agreement, without charge or penalty, at any time and for any reason without charge or penalty, in its sole discretion, upon thirty (30) days written notice to Contractor. In the event of such termination by the Authority, (a) Contractor shall be entitled to a pro-rata amount of any compensation earned under this Agreement but not paid prior to the date of termination and (b) the Authority shall be entitled to a pro-rata refund of any unearned compensation subsequent to the date of termination paid in advance to Contractor hereunder.
- 3. Termination Event. Notwithstanding anything in this Agreement to the contrary, upon the occurrence of any of the following events (each individually a “Termination Event”), all of the rights and privileges of Contractor hereunder shall, at the Authority’s sole option, cease to exist and this Agreement shall automatically terminate:
 - a. Contractor fails to strictly comply with, fulfill, perform, keep, or observe any of Contractor’s obligations, covenants, or conditions under this Agreement within five (5) days after written demand from the Authority, time being of the essence;
 - b. Contractor makes any (i) intentional misrepresentation or (ii) unintentional yet material misrepresentation under this Agreement or other instrument or document delivered pursuant hereto;

- c. The loss of any of Contractor's licenses, registrations or permits necessary to perform the Services or other obligations under this Agreement;
- d. The appointment of a receiver to take possession, or the attachment, execution, or other judicial seizure, of all or any part of Contractor's assets or business;
- e. The Authority determines, in its reasonable discretion, that Contractor is or will be unable to pay its debts as they become due in the ordinary course of Contractor's business; or
- f. Any voluntary or involuntary petition, or similar pleading, under any bankruptcy act, filed by or against Contractor, or any other voluntary or involuntary proceeding in any court instituted to declare Contractor insolvent or unable to pay its debts. In the event that under applicable law the trustee in bankruptcy or Contractor has the right to affirm this Agreement and continue to perform the obligations of Contractor hereunder, such trustee or Contractor shall, in such time period as may be permitted by the applicable court having jurisdiction, cure all defaults of Contractor hereunder outstanding as of the date of the affirmance of this Agreement and provide to the Authority such adequate security and assurances as may be necessary to ensure the Authority the continued performance of Contractor's obligations under this Agreement. Further, the Authority shall receive all of the protections available to creditors under the United States Bankruptcy Code including, but not limited to, section 365 thereof, as amended from time to time.

No right, power or remedy conferred upon or reserved to the Authority under this Agreement is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute.

Notwithstanding anything in this Agreement to the contrary, upon a Termination Event, the Authority may retain all payments due to the Contractor at the date of termination until all of the Authority's damages have been established and deducted from payments due.

4. Duties of Contractor. Contractor shall perform and complete all of the Services on or before the expiration of the term of this Agreement or Deadline for Satisfactory Completion to the satisfaction of the Authority in a good and professional manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances. In addition, Contractor shall:
- a. Furnish all of the expertise, management, information, assistance, and other requirements necessary to perform the Services to the Authority's satisfaction;
 - b. Furnish such professional and support staff, equipment, and supplies, if any, as may be specifically required to perform the Services to the Authority's satisfaction;
 - c. Deliver to the Authority all memoranda, reports, notes, analyses, documents, and other instruments as may be reasonably requested from time to time by the Authority relating to the performance of the Services and Contractor's other obligations under this Agreement;
 - d. Provide the Authority with prompt notification of any anticipated delays or difficulties in the performance of the Services;
 - e. Designate one or more individuals to act on behalf of Contractor with respect to the Services and with whom the Authority may confer with respect to the Services; and
 - f. At all times conduct itself in a professional and cooperative manner in the discharge of its obligations under this Agreement.

Contractor covenants and agrees with the Authority that should Contractor at any time become aware of any act, occurrence or omission on the part of the Authority or the Authority's commissioners, officers, employees, insurers, attorneys, agents, lessees, licensees, invitees, successors and assigns which Contractor believes or has

reason to suspect may give rise to a claim by Contractor of bad faith, negligence, fraud or any other form of liability against the Authority, Contractor shall advise the Authority in writing of such claim or potential claim within a reasonable period of time not to exceed thirty (30) days of its discovery, or Contractor shall be deemed to have waived the claim and be forever barred from asserting that claim or a related claim against the Authority. The purpose of this provision is to promptly advise the Authority of any potential claim and to allow the Authority to immediately investigate, and, if necessary, remedy the allegation. Contractor agrees that its failure to notify the Authority of a claim or potential claim within a reasonable period of time of its discovery, not to exceed thirty (30) days, shall be a complete bar to the pursuit of such claim against the Authority and the Authority's past and present commissioners, officers, employees, insurers, attorneys, agents, lessees, licensees, invitees, successors and assigns, in their individual and representative capacities.

5. Work Made for Hire, Assignment. All work product, research, notes, drawings, blueprints, models, reports, analyses, documents, instruments, data, and other information prepared by Contractor in connection with the Services (collectively the "Work") shall be deemed work made for hire and made in the course of the Services rendered under this Agreement. To the extent that the Work may not be considered work made for hire, all right, title and interest in the Work is hereby irrevocably assigned to the Authority by Contractor. As such, the Work shall belong exclusively to the Authority.

6. Compensation and Written Invoices.

a. Subject to the terms and conditions of this Agreement, the Authority shall pay Contractor for the performance and completion of the Services at the rates and in the manner set forth in Exhibit A. Upon completion and acceptance of the Services in accordance with the terms and conditions of this Agreement to the satisfaction of the Authority, Contractor shall send the Authority a written invoice detailing the time and authorized charges for such Services. All such written invoices are payable within sixty (60) days of receipt by the Authority.

b. Notwithstanding anything in this Agreement to the contrary, should Contractor fail to commence, provide, perform or complete any of the Services in a timely and diligent manner, in addition to any other rights or remedies available to the Authority, including the rights specified under Paragraphs 2 and 3 herein, the Authority, in its sole discretion, may withhold any and all payments due and owing to Contractor until such time as Contractor resumes performance of its obligations in such a manner so as to satisfy the Authority.

c. After being paid by the Authority, Contractor shall immediately pay all subcontractors who have submitted invoices for work already performed. If applicable, Contractor shall strictly comply with the provisions of Florida Statute sections 255.071 through 255.078. Failure of Contractor to pay any subcontractors shall, at the Authority's option, be considered a material breach of this Agreement and, therefore, a Termination Event hereunder.

7. Licenses. Contractor represents and warrants to the Authority that it has the resources and expertise necessary to complete the Services in accordance with the terms and conditions of this Agreement. Contractor agrees to obtain and maintain throughout the entire term of this Agreement all authorizations, consents, licenses, registrations and permits as are required to transact business in the United States, State of Florida, Collier County, and the City of Naples and to carry out its obligations under this Agreement. The employees, personnel, subcontractors, and agents assigned by Contractor to perform the Services shall be qualified to perform the assigned duties and shall be individually licensed, registered and permitted to perform such duties if required by applicable law. Upon request of the Authority, Contractor shall provide the Authority with copies of all applicable licenses, registrations and permits of Contractor and Contractor's employees, personnel, subcontractors, and agents required under this Paragraph 7.

8. Insurance. Contractor shall maintain all of the insurance coverage set forth in this Paragraph 8 uninterrupted at all times while Contractor is providing Services under this Agreement. In the event Contractor becomes in default of any of the insurance requirements hereunder, the Authority reserves the right to take

whatever legal actions are deemed necessary to protect its interest. Contractor agrees that, to the fullest extent available, all insurance policies required hereunder shall provide that the Authority is an additional insured.

a. Workers' Compensation / Employer's Liability. Contractor shall maintain workers' compensation/employer's liability insurance, and the maximum limits of such insurance, inclusive of any amount provided by an umbrella or excess policy, shall be:

Part One:	"Statutory"
Part Two:	
Each Accident:	\$100,000
Disease – Policy Limit	\$100,000
Disease – Each Employee	\$100,000

b. Commercial General Liability. Contractor shall maintain commercial general liability insurance (or broad form property damage covering all Services and other work performed by Contractor pursuant to this Agreement), and the minimum limits of such insurance, inclusive of any amounts provided by an umbrella or excess policy, without exclusion for independent contractors, shall be:

General Aggregate	\$1,000,000
Each Occurrence	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Products and Completed Operations	\$1,000,000

The insurance required under this Paragraph 8(b) shall include coverage for liability resulting out of, or in connection with, ongoing operations performed by, or on behalf of, Contractor under this Agreement or the use or occupancy of the Authority premises by, or on behalf of, Contractor in connection with this Agreement.

c. Business Auto Liability. Contractor shall maintain business auto liability insurance (for all owned, hired, and non-owned vehicles), and the minimum limits of such insurance, inclusive of any amounts provided by an umbrella or excess policy, shall be:

Each Occurrence – Bodily Injury and Property Damage Combined	\$1,000,000
--	-------------

d. Professional Liability / Malpractice. Professional shall maintain professional liability / malpractice insurance, and the minimum limits of such insurance, inclusive of any amounts provided by an umbrella or excess policy, shall be:

Each Occurrence	\$1,000,000
Annual Aggregate	\$2,000,000

The insurance required under this Paragraph 8(d) shall (i) include coverage for all Services and other work of Professional, including, but not limited to, areas with possible environmental impact, without any exclusions unless approved in writing by the Authority's Executive Director, and (ii) notwithstanding anything herein to the contrary, be maintained and continued for a minimum uninterrupted period of four (4) years following the later of completion of all of the Services by Professional or termination of this Agreement.

e. General Requirements. Renewal certificates evidencing all of the insurance required under this Paragraph 8 shall be sent by Contractor to the Authority thirty (30) days prior to the expiration date of each applicable insurance policy. Each insurance policy required under this Paragraph 8 shall provide that the Authority shall receive at least thirty (30) days prior written notice in the event of any cancellation or modification of any insurance coverage. All insurance coverage of Contractor shall be in addition to, and shall in no way be construed or interpreted to be a limitation of, Contractor's indemnification and other obligations to the Authority under Paragraph 9 of this Agreement. It is expressly agreed that Contractor's

policies of insurance required under this Paragraph 8 shall be primary over any insurance which the Authority may maintain or carry, and that Contractor shall obtain from its insurers an endorsement waiving any other insurance clauses which may be in conflict with this provision, and evidence of such waiver shall be indicated on all insurance policies or certificates of insurance furnished to the Authority. Contractor shall be responsible and liable for ensuring that all of Contractor's employees, personnel, subcontractors, agents, licensees or invitees who perform any of the Services carry and comply with the same insurance coverage and requirements required of Contractor under this Paragraph 8. Upon the request of the Authority, Contractor shall deliver to the Authority copies of all insurance policies required hereunder.

9. Indemnification. To the fullest extent permitted by applicable law, Contractor shall indemnify and hold harmless the Authority and the Authority's past and present commissioners, officers and employees from liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of Contractor and persons employed or utilized by Contractor in the performance of this Agreement.

Nothing contained herein will be construed as a waiver of any immunity or limitation of liability the Authority may have under the doctrine of sovereign immunity under Florida Statute section 768.28 or otherwise. The Authority reserves the right, at its option, to participate in the defense of any suit, without relieving Contractor of any of its obligations hereunder. The obligations of this Paragraph 9 will (i) survive termination of this Agreement and (ii) not be limited in any way by the amount of any insurance required to be obtained or maintained under this Agreement or by Contractor's limit or lack of sufficient insurance protection. If the provisions of this Paragraph 9 are found to conflict in any way with Florida or other governing law, then this Paragraph 9 will be considered modified by such laws to the extent necessary to remedy the conflict.

10. Rules and Regulations. In performing the Services, Contractor shall comply with each of the following:

- a. Any and all of the Authority's (i) Rules and Regulations of the Naples Municipal Airport, Naples, Florida, as amended, (ii) regulatory and compliance regulations, as amended, and (iii) procedures, rules and other requirements on file in the offices of the Executive Director of the Authority or a hereafter promulgated, established or amended from time to time by the Authority in its sole discretion (collectively the "Airport Rules and Regulations"). The Airport Rules and regulations are incorporated herein by reference and made part of this Agreement. Upon request, Contractor shall have the right to review any of the Airport Rules and regulations during regular business hours at the offices of the Executive Director of the Authority; and
- b. Any and all applicable laws statutes, ordinances, codes, rules, regulations, orders, and governmental permits and requirements.

11. No Waiver. The failure of the Authority to enforce at any time, or for any period of time, any one or more of the provisions of this Agreement shall not be construed to be, and shall not be, a waiver of any such provision or provisions or of its right thereafter to enforce each and every such provision. The waiver by the Authority of a breach of any provision of this Agreement shall not be deemed a continuing waiver, or a waiver of any subsequent breach of the same or any other provision hereof.

12. Severability. The invalidity of any one or more of the provisions of this Agreement shall not affect the enforceability of any or all of the remaining provisions hereof, all of which are included conditionally upon being valid in law, and, in the event that any one or more of the provisions of this Agreement shall be declared invalid, this Agreement shall be construed as if such invalid provisions had not been included.

13. No Assignment. Contractor shall not voluntarily, involuntarily or by operation of law assign, transfer or otherwise encumber this Agreement, or any rights or privileges of Contractor hereunder, in whole or in part, without first obtaining in each and every instance the prior written consent of the Authority, which consent

may be granted or withheld in the Authority's sole discretion for any reason whatsoever. Any assignment, transfer or encumbrance contrary to the forgoing shall be a material default and, therefore, a Termination Event under this Agreement.

14. Independent Contractor. Neither Contractor nor Contractor's employees, personnel, subcontractors, agents, licensees, and invitees shall be deemed to be a servant, employee, partner, or joint venturer of the Authority. Contractor shall perform the Services and its obligations under this Agreement as an independent contractor. Neither Contractor nor Contractor's employees, personnel, subcontractors, agents, licensees, and invitees shall hold themselves out as having the power or authority to bind or create liability for the Authority. Contractor shall not be treated as an employee for purposes of FICA, FUTA, federal, state, or local income tax, and Contractor shall be responsible for its own employment, social security, and other tax payments, as well as any other statutorily required coverage, including insurance.

15. Notices. All notices and Communications under this Agreement shall be in writing and shall be delivered by hand, by nationally recognized overnight courier or by certified United States mail, return receipt requested, to the perspective Parties as follows:

As to the Authority: City of Naples Airport Authority
Attention: Christopher A. Rozansky, Executive Director
160 Aviation Drive North Naples, Florida 34104
Phone: (239) 643-0733
Facsimile: (239) 643-4084
Email: crozansky@flynaples.com

With Copy to the Authority's Attorney: William L. Owens
Bond, Schoeneck & King, PLLC
4001 Tamiami Trail North, Suite 105
Naples, Florida 34103
Phone: (239) 659-3800
Facsimile: (239) 659-3812
Email: owensw@bsk.com

If to Contractor: xxxxx

Notice shall be deemed conveyed upon personal delivery or receipt confirmation. Either Party may change its mailing address by giving written notice to the other Party in accordance with the requirements of this Paragraph 15.

16. Attorneys' Fees. In the event of any controversy, claim, dispute, or litigation relating to this Agreement, or the breach hereof, the prevailing Party shall be entitled to recover from the non-prevailing Party the prevailing Party's costs and expenses, including, without limitation, reasonable attorneys' fees (through all appeals).

17. Governing Law and Venue. This Agreement shall be interpreted under, and its performance governed by, the laws of the State of Florida (excluding any conflict of law rule or principle that would refer to the laws under jurisdiction). Each Party irrevocably submits to the jurisdiction of the Circuit Court of the State of Florida, Collier County, in any action or proceeding arising out of or relating to this Agreement, and each Party hereby irrevocably agrees that all claims with respect to any such action or proceeding must be brought and defended in such court; provided, however, that matters which are under the exclusive jurisdiction of the Federal courts shall be brought in the Federal District Court for the Middle District of Florida. Each Party consents to service of process by any means authorized by the applicable law of the forum in any action brought under or arising out of this Agreement, and each Party irrevocably waives, to the fullest extent each may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court. **CONTRACTOR AND THE AUTHORITY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE, TO THE FULLEST EXTENT IT MAY LEGALLY AND EFFECTIVELY DO SO, TRIAL BY JURY IN ANY SUIT, ACTION**

OR PROCEEDING ARISING UNDER THIS AGREEMENT.

18. Paragraph Headings. None of the Paragraph headings of this Agreement shall be construed as a limitation upon the provisions hereof. Paragraph headings having been inserted as a guide and partial index and not as a complete index of the contents of any Paragraph or other provision of this Agreement. Whenever the singular or plural number, or the masculine, feminine or neuter gender is used in this Agreement, it shall include the other.

19. Counterparts. This Agreement may be executed in counterparts by manual signature or authenticated by any electronic signature or other method effective under applicable law, each of which shall be deemed to be an original, and all of which together will constitute one and the same instrument.

20. No Modification. No modification or change to this Agreement shall be valid or binding upon the Parties unless in writing and executed by the Party or Parties intended to be bound by it.

21. Encumbrances. Contractor hereby covenants and agrees that all of Contractor's rights and privileges under this Agreement are subject and subordinate to any and all rights, liens, licenses, leases, tenancies, mortgages, uses, encumbrances, and other restrictions which may now or hereafter bind the Authority or encumber the Naples Municipal Airport, and to all renewals, modifications, and extensions thereof. In addition, this Agreement shall be subject and subordinate to all of the provisions and obligations of the Authority under any existing or future laws, regulations, grant assurances, requirements or agreements, by, from or with the United States Government or other governmental authority compliance with or the execution of which has been or will be required as a condition precedent to the operation (or granting of Federal or other governmental funds for the development) of the Authority or Naples Municipal Airport. Contractor shall, upon request of the Authority, execute any subordination documents which the Authority may deem necessary, but no such documents shall be required to effectuate the subordination by Contractor under this Paragraph 21.

22. Further Assurances. From and after the execution and delivery of this Agreement, Contractor shall cooperate with the Authority in taking such actions, executing such instruments, and granting such rights as may be reasonably necessary or requested by the Authority to effectuate the purposes of this Agreement or to evidence or perfect the rights and privileges granted, and the obligations assumed hereunder.

23. No Third-Party Beneficiary Intended. This Agreement is made solely for the benefit of Contractor and the Authority, and their respective successors and assigns permitted hereunder, and no other person or entity shall have or acquire any right by virtue of this Agreement.

24. Required Contract Provisions. Contractor hereby covenants and agrees to observe, comply with, and perform all of the terms, conditions, representations, warranties, requirements, promises and obligations set forth in Exhibit B attached hereto and made a part of this Agreement.

25. Entire Agreement. This Agreement, together with terms, conditions and requirements set forth under that **Request for Proposals and Qualifications (No. xxxx) for name, dated _____, 2023** (including all exhibits, specifications, bidsets and schedules contained therein, as well as any and all addenda to the BID issued thereafter), together with all documents prepared and submitted by Contractor in response to the BID, represents the entire Agreement between Professional and the Authority and supersedes all prior agreements, oral or written, and all other communications relating to the subject matter hereof. Each Party has had the opportunity to review with counsel the terms of this Agreement and to negotiate the same. Therefore, any ambiguity in this Agreement shall not be construed against either Party by virtue of having drafted this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CONTRACTOR:

Contractor

Approved as to form and legal sufficiency by:

Christopher J. Hoertz, Esq.
Counsel to the Authority

AUTHORITY:

CITY OF NAPLES AIRPORT AUTHORITY
a political subdivision of the State of Florida

Christopher A. Rozansky
Executive Director

SAMPLE

EXHIBIT A

SCOPE OF SERVICES

Description of Services: In addition to all of the obligations of Contractor hereunder, the Services to be performed and provided by Contractor pursuant to this Agreement are described in **Schedule 1** (“*Scope of Services and Deliverables*”), attached hereto and made a part of this Agreement.

Deadline For Satisfactory Completion: Except as otherwise provided in this Agreement, the deadline for satisfactory completion of all of the Services by Contractor will be determined by each task order assigned under the Agreement; provided, however, the deadline for satisfactory completion of all of the Services to be provided by Contractor under this Agreement shall be on or before the termination of this Agreement.

Contract Term: The term of this Agreement is for **(number of years)** years.

Rates and Manner of Compensation: Notwithstanding anything in this Agreement to the contrary, the rates and manner of compensation due to Contractor from the Authority for the performance and completion of all of the Services to the satisfaction of the Authority is based upon the positions and associated hourly rates set forth under **Schedule 2** (“*Position and Hourly Rate Schedule*”) attached hereto and made a part of this Agreement. Reimbursables for meals and mileage will be paid in accordance with the current U.S. General Services Administration (GSA) Per Diem Rates.

Other Provisions and Obligations of Contractor: In addition to the Contractor’s obligations set forth herein and all common law duties, Contractor shall:

EXHIBIT B

REQUIRED CONTRACT PROVISIONS

In addition to all obligations of the Professional, Contractor or Bidder/Offeror (hereinafter collectively referred to as “Contractor”) under this Agreement or Solicitation with the City of Naples Airport Authority (hereinafter referred to as the “Owner” or “Authority”), Contractor hereby covenants and agrees to observe, comply with and perform all of the following terms, conditions, representations, warranties, requirements, promises and obligations set forth below:

I. FEDERAL AVIATION ADMINISTRATION CONTRACT PROVISIONS

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.

2. 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.

3. 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.

4. COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS:

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

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

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

participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

Sanctions for Noncompliance: In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- i. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
- ii. Cancelling, terminating, or suspending a contract, in whole or in part.

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

5. TITLE VI SOLICITATION NOTICE:

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

6. 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.*).

7. 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.

8. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

A. *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.

B. 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.

C. 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.

D. 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.

9. 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.

10. DAVIS-BACON REQUIREMENTS

A. 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 A(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 A(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 A(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.

B. 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.

C. 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 C(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 C(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.

D. 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.

E. 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.

F. 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.

G. Contract Termination: Debarment. A breach of the contract clauses in paragraph A through J of this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR § 5.12.

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

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

J. Certification of Eligibility.

(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.

11. DEBARMENT AND SUSPENSION

a. Certification of Contractor Regarding Debarment

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

b. Certification of Lower Tier Contractors Regarding Debarment

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

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

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

12. DISADVANTAGED BUSINESS ENTERPRISE

A. 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:

- i. Withholding monthly progress payments;
- ii. Assessing sanctions;
- iii. Liquidated damages; and/or
- iv. Disqualifying the Contractor from future bidding as non-responsible.

B. 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 Authority. 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 Authority. This clause applies to both DBE and non-DBE subcontractors.

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

The prime contractor must not terminate a DBE subcontractor listed in its response to the Authority's solicitation (or an approved substitute DBE firm) without prior written consent of the Authority. 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 Authority. Unless the Authority's 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.

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

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

13. 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.

14. 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.

15. EQUAL EMPLOYMENT OPPORTUNITY

Equal Opportunity Clause

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

- A. 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.
- B. 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.
- C. 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.
- D. 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.
- E. 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.
- F. 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.

- G. 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.
- H. 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.

Standard Federal Equal Employment Opportunity Construction Contract Specifications

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

- E. 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.
- F. 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.
- G. 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:
 - (1) 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.
 - (2) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - (3) Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the 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.
 - (4) 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.
 - (5) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the 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.
 - (6) 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.

- (7) Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
 - (8) Disseminate the 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.
 - (9) Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the 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.
 - (10) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.
 - (11) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.
 - (12) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - (13) Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - (14) 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.
 - (15) 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.
 - (16) Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
- H. 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.

- I. 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).
- J. 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.
- K. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- L. 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.
- M. 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.
- N. 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.
- O. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

16. FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

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

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

17. TRADE RESTRICTION CERTIFICATION

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

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

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

- 1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the 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 Contractor 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 Contractor has knowledge that the certification is erroneous.

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

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

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

- (A) 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
- (B) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list; or
- (C) 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 Contractor 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 Contractor has knowledge that the certification is erroneous.

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

18. CERTIFICATION REGARDING LOBBYING

The Contractor certifies by signing and submitting its 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.

19. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. 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.

20. 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)].

21. 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.

22. TERMINATION OF CONTRACT

(A) *For Convenience*

The Owner may, by written notice to the Contractor, terminate this Agreement for its convenience and without cause or default on the part of Contractor. 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 Contractor 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 Contractor for satisfactory work completed up through the date the Contractor receives the termination notice. Compensation will not include anticipated profit on non-performed services.

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

(B) *For Cause*

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.

- i) Termination by Owner:** The Owner may terminate this Agreement for cause in whole or in part, for the failure of the Contractor to:
- a. Perform the services within the time specified in this contract or by Owner approved extension;
 - b. Make adequate progress so as to endanger satisfactory performance of the Project; or
 - c. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Contractor must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Contractor 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 Contractor for satisfactory work completed up through the date the Contractor receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Contractor 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 Contractor 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.

- (ii) Termination by Contractor:** The Contractor may terminate this Agreement for cause in whole or in part, if the Owner:
- a. Defaults on its obligations under this Agreement;
 - b. Fails to make payment to the Contractor in accordance with the terms of this Agreement;
 - c. Suspends the project for more than [180] days due to reasons beyond the control of the Contractor.

Upon receipt of a notice of termination from the Contractor, Owner agrees to cooperate with Contractor for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Contractor cannot reach mutual agreement on the termination settlement, the Contractor 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 Contractor 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 Contractor through the effective date of termination action. Owner agrees to hold Contractor harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

23. 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.

24. CERTIFICATION OF OFFEROR/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark [,] in the space following

the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

Certifications

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

Note

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

Term Definitions

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

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

FLORIDA'S PUBLIC RECORDS LAWS

- a. **IF PROFESSIONAL HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE AUTHORITY'S CUSTODIAN OF PUBLIC RECORDS AT (239) 643-0733, administration@flynaples.com and/or 160 Aviation Drive North, Naples, Florida 34104.**
- b. **Contractor acknowledges and agrees that Contractor shall be required to comply with Florida's Public Records Laws, Chapter 119, Florida Statutes. Specifically, Contractor hereby covenants and agrees that it shall:**
 - i. **keep and maintain public records required by the Authority to perform the services under this Agreement;**
 - ii. **upon request from the Authority's custodian of public records, provide the Authority with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;**

- iii. **ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if Contractor does not transfer the records to the Authority; and**
- iv. **upon completion of this Agreement, transfer, at nocost, to the Authority all public records in possession of Contractor or keep and maintain public records required by the Authority to perform the services under this Agreement. If Contractor transfers all public records to the Authority upon completion of this Agreement, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of this Agreement, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Authority, upon request from the Authority's custodian of public records, in a format that is compatible with their information technology systems of the Authority.**

III. FLORIDA PROCUREMENT PROVISIONS

1. **E-VERIFY.** Contractor shall utilize the U.S. Department of Homeland Security E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of this Agreement and shall expressly require any contractors or subcontractors performing work or providing services hereunder to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the contractor or subcontractor during the term of this Agreement.
2. **Convicted Vendor List.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity for a period of 36 months following the date of being placed on the convicted vendor list.
3. **Discriminatory Vendor List.** An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
4. **Public Records Access.** The Authority may unilaterally cancel this Agreement if Contractor refuses to allow public access to all documents, papers, letters, or other materials made or received by Contractor in conjunction with this Agreement, unless the records are exempt from s. 24(a) of Art. I of the Florida State Constitution and s. 119.07(1).
5. **Invoice Compliance.** All invoices, bills, fees, or other requests for compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and post audit thereof.

6. Travel Expenses. Bills for any travel expenses shall be submitted in accordance with Florida Stat. 112.061. A state agency may establish rates lower than the maximum provided in s. 112.061.
7. Duty to Cooperate with Inspector General. Contractor agrees to comply with s.20.055(5), Florida Statutes and to incorporate in all subcontracts the obligation to comply with s.20.055, Florida Statutes.
8. Prohibition Against Contingent Fees. Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this agreement and that Contractor has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Contractor any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this agreement. For the breach or violation of this provision, the Authority shall have the right to terminate the Agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.
9. No Boycott/Prohibited Business. Contractor hereby certifies that it has not been placed on the Iran Petroleum Energy Sector List, does not have business operations in Cuba or Syria, has not been placed on the Scrutinized Companies with Activities in Sudan List, has not been placed on the Scrutinized Companies that Boycott Israel List, and is not engaged in a boycott of Israel. The Authority may immediately terminate this Agreement without penalty or cost if any of the foregoing is not accurate.
10. Anti-Collusions Statement. Under no circumstances shall any prospective proposer, or any person or persons acting for or on behalf of any said prospective bidder, seek to influence or gain the support of any member of the Authority favorable to the interest of any prospective bidder or seek to influence or gain the support of any member of the Authority against the interest of any prospective bidder. Any such activities shall result in the exclusion of the prospective proposer from consideration by the Authority.

**ATTACHMENT B
PROPOSAL FORMS**

2024 Fuel Farm Improvements- Construction

Bidding Company Name: _____

Company Address: _____

City:_____ State: _____ Zip: _____

FL Contractor License No.: _____

Expiration Date: _____

FL Contractor License Classification: _____

Telephone: _____

Email: _____

The following Bid Form is in strict accordance with the Naples Airport Authority Request for Proposal for the Project. The Proposal will be for all work outlined in the Proposal Documents for the Project.

1. The undersigned declares that no person in the employ of Naples Airport Authority, Naples, Florida (herein referred to as Owner, NAA, or the Authority) is pecuniarily interested in this proposal, or in the contract or the work which he proposed to do; that he has carefully examined the contract and the specifications and has informed himself fully in regard to all conditions pertaining to the site where the work is to be done and carefully estimated on the work.
2. The undersigned understands that the Owner, its agents, and employees, are not to be in any manner held responsible for the accuracy of, or bound by, any estimates or plans of underground structures relating to the work, and that if any have been given or made, they are to be considered solely as a base for filling out and preparing proposals.
3. The undersigned proposes to furnish all labor, equipment and material required for the above-named Services at the airport known as Naples Airport, Naples, Florida, in accordance with the accompanying specifications and plans prepared for the Owner for the sums specified herein, subject to additions and deductions according to the specifications and in all respects to the terms thereof.
4. It is understood that all workmanship and materials under all items of work are guaranteed for one year from the date of final acceptance, unless otherwise specified.
5. The bidder's attention is called to the fact that the estimate of quantities of work to be done and materials to be furnished under these Specifications, as shown on the **Proposal-Scope of Services** form is approximate and is given only as a basis of calculation upon which the award of the contract is to be made. The Owner reserves the right to increase or diminish any or all the above-mentioned quantities of work or to omit any of them as it may deem necessary. The Contractor further agrees to accept the "Unit Bid" prices in compensation for any additions or deductions caused by variation in quantities due to more accurate measurement, or by any changes or alterations in the plans or specifications of the work. Payment will be made by Owner for actual quantities.
6. It is agreed that the description for each item, being stated, implies although it does not mention, all incidentals and that the prices stated are intended to cover all such work, materials, and incidentals and constitute bidders' obligations as described in the specifications, and any details not specifically

mentioned, but evidently included in the contract shall be compensated for in the item which most logically includes it.

7. The bidder agrees that this proposal will remain valid and in full force and effect for a minimum period of ninety (90) days following the official bid opening date.
8. The bidder agrees that within fifteen (15) days of receipt of written notice of any award of the contract that he will execute the Service Agreement contained in the Proposal, in accordance with the proposal as accepted, and will furnish the required performance bond, payment bond, and insurance affidavits with good and sufficient surety or sureties, as required by the agreement. The policies of insurance shall be primary and written on forms acceptable to the Authority and naming the Naples Airport Authority as additional insured.
9. The undersigned, as Proposer, does hereby declare that having familiarized himself with the local conditions affecting the cost of the work, contract documents, Technical Specifications, and the "Drawings", together with any Addenda to such documents as listed herein, hereby proposes to furnish all materials, equipment, tools, incidentals and other means of construction and perform all work required in strict accordance with the provisions of documents noted above for the consideration of prices quoted herein.
10. The undersigned affirms that in making such proposal, neither he nor any company that he may represent, nor anyone in behalf of him or his company, directly or indirectly, has entered into any combination, collusion, undertaking or agreement with any other proposer or proposers to maintain the prices of said work, or any compact to prevent any other proposer or bidders from bidding on said contract or work and further affirms that such proposal is made without regard or reference to any other proposer or proposal and without any agreement or understanding or combination either directly or indirectly with any other person or persons with reference to such bidding in any way or manner whatsoever.
11. The undersigned affirms that they have completed all the blank spaces in the **Proposal – Scope of Services** with an amount in words and numbers and agrees that where a discrepancy occurs between the prices quoted in words and in numbers, the written words shall take precedence and govern when determining final costs or award of contract.
12. The undersigned affirms that wages not less than the minimum rates or wages, as predetermined for this project by the U.S. Secretary of Labor, were used in the preparation of this proposal.
13. The undersigned acknowledges receipt of the following Addenda:

Addendum No.	Date
_____	_____
_____	_____
_____	_____
_____	_____

14. For all work required in accordance with the applicable plans, specifications, and other contract documents, including the cost of the required bonds and insurance, the undersigned submits a total breakdown as shown in the **Proposal – Scope of Services**.
15. Enclosed is security as required, consisting of bid bond payable in the amount of _____ . This amount equals five percent of the total amount bid.

16. Liquidated Damages: The schedule for completion of this project is time sensitive. To ensure the disruption to Fuel Farm operations is minimal and within the agreed upon schedule, it is understood that Liquidated Damages will be applied to the contract as identified in Section 80, section 80-08 as stated, \$3,756 per day over the 540 calendar days allotted for the project, and \$2,000 per hour for every hour fuel farm operations do not have undisruptive access to at least two fully operable fueling positions between the hours of 6:00 a.m. and 10:00 p.m. Bidders Initials: _____.

17. The legal status of the undersigned is:

(The bidder shall fill out the appropriate form (a., b., or c.) and strike out the other two)

a. A Corporation, duly organized and doing business under the laws of the State of Florida, for whom _____, bearing the official title of _____, whose signature is affixed to this bid, is duly authorized to execute contracts. If foreign corporation: date of qualification in Florida, _____ and _____ (date) name and address of processing agent: _____.

b. A partnership, all of the members of which with addresses are: (designate general partners as such): (if partners are non-residents of Florida, designate name and address of agent for service of process located in _____ (state).

c. An individual, whose signature is affixed to this proposal: (if non-resident of Florida, resident agent for the service of process must be designated)

Dated and signed at _____, this _____ day of _____, 2024.

Name of Contractor: _____

Authorized Signature: _____

Printed Name: _____

Title: _____

Email: _____

PROPOSAL AFFIDAVIT

The following affidavit must be executed in order that your Proposal may be considered.

STATE OF _____

COUNTY OF _____

_____ of lawful age, being first duly sworn, upon his oath deposes and says: That he executed the accompanying Proposal on behalf of the Contractor therein named, and that he had lawful authority so to do, and said Contractor has not directly or indirectly, entered into any agreement, expressed or implied, with any Contractor or Contractors, having for its object the controlling of the price or amount of such Proposal or any Proposals, the limiting of the Proposal or Contractors, the parceling or farming out to any Contractor or Contractors or to other persons of any part of the contract or any of the subject matter of the Proposals, or of the profits thereof, and that he has not and will not divulge the sealed Proposal to any person whomsoever, except those having a partnership or other financial interest with him in said Proposal or Proposals, until after the sealed Proposal or Proposals are opened.

Signed: _____

Subscribed and sworn to before me this _____ day of _____, 20__.

My Commission Expires: _____

Notary Public

BIDDERS QUALIFICATIONS

Each bidder shall furnish the following completed form with their proposal. Use additional pages as necessary.

1. Communications regarding questions about the proposal shall be addressed to:

2. Regarding General Contractor:

a. Company Name: _____

b. Business Address: _____

c. Telephone Number: _____

d. Date Organized: _____

e. Where Incorporated: _____

f. How many years have you been engaged in the general contracting business under the present firm name? ____

g. What is the type of work in which you are principally engaged?

h. Credit Available for this Contract: \$_____

i. Contracts now in hand, Gross Amount: \$_____

j. Have you ever refused to sign a contract at your original proposal? _____

k. Have you ever been declared in default on a contract? _____

l. What percentage of the work do you intend to subcontract? _____%

3. Enclose a copy of the General Contractor's latest financial statement. This should include a balance and income statement for your most recent fiscal year.

4. Provide information on up to three (3) contracts of this nature that you have completed in the last three (3) years, and give the name, address, and telephone number of a reference from each. Also give the completion date of the contract, if applicable.

5. List projects presently under construction by your firm, the dollar volume of the contract, and the percentage completion of the contract.

6. Provide a list the equipment and materials the General Contractor has available for this project.

7. Provide a list of sub-contracted firms that will be utilized to complete the work and the responsibilities of each. Clearly identify firms that are certified as or MBE through the FDOT Unified Certification Program.

8. Include a copy of the FDOT certification letter for any team member firms that are certified as a DBE or MBE through the FDOT Unified Certification Program.

NON-COLLUSION AFFIDAVIT

STATE OF _____

COUNTY OF _____

_____ Being first duly sworn, deposes and says that he is

_____ (Sole owner, a partner, president, secretary, etc.) of

The party making the foregoing Proposal or BID that such BID is genuine and not collusive or sham; that said BIDDER has not colluded, conspired, connived, or agreed, directly or indirectly, with any BIDDER or person, to put in a sham BID, or that such other person shall refrain from bidding, and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the Bid Price of affiant or any other BIDDER, or to fix any overhead, profit or cost element of said Bid Price, or of that of any other BIDDER, or to secure any advantage against OWNER any person interested in the proposed Contract; and that all statements in said Proposal or Bid are true; and further, that such BIDDER has not, directly or indirectly submitted this BID, or the contents thereof, or divulged information or data relative thereto to any association or to any member or agent thereof.

_____ (Bidder)

Sworn to and subscribed before me this _____ day of _____, 20____

Notary Public in and for

_____ County,

_____ (Notary)

My Commission Expires:

_____, 20____

**SWORN STATEMENT PURSUANT TO SECTION 287.133(3)(A)
FLORIDA STATUTES ON PUBLIC ENTITY CRIMES**

1. This sworn statement is submitted to _____
[print name of the public entity]

by _____
[print individual's name and title]

for _____
[print name or entity submitting sworn statement]

whose business address is _____

_____ and

(if applicable) its Federal Employer Identification Number (FEIN) is _____

(If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: _____.)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a Jury Verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
 - a. A predecessor or successor of a person convicted of a public entity crime; or
 - b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
5. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business

with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. [Indicate which statement applies.]

_____ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. [Attach a copy of the final order.]

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH I (ONE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

Signature

Sworn to and subscribed before me this _____ day of _____, 20____ .

Personally known _____

OR Produced identification _____
(type of identification)

Notary Public - State of _____ Signature of Notary Public

My Commission Expires _____ Printed name of notary public

CONFLICT OF INTEREST DISCLOSURE FORM

For purposes of determining any possible conflict of interest, all bidders/proposers, must disclose if any City of Naples commissioner, employee(s), elected officials(s), or if any of its agencies is also an owner, corporate officer, agency, employee, etc., of their business.

Indicate either “yes” (a city employee, elected official, or agency is also associated with your business), or “no.” If yes, give person(s) name(s) and position(s) with your business

YES _____ NO _____

NAME(S)

POSITION(S)

FIRM NAME: _____

BY (PRINTED): _____

BY (SIGNATURE): _____

TITLE: _____

ADDRESS: _____

PHONE NO: _____

DRUG-FREE WORKPLACE CERTIFICATION

The below signed bidder certifies that it has implemented a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection 1.
4. In the statement specified in subsection 1, notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, to any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign this statement, I certify that this firm complies fully with the above requirements.

DATE: _____

COMPANY: _____

SIGNATURE: _____

ADDRESS: _____

NAME: _____

(Typed or Printed)

TITLE: _____

PHONE #: _____

INDEMNIFICATION AND HOLD HARMLESS

To the fullest extent permitted by law, Contractor shall indemnify and hold harmless the NAA, its officers and employees from liabilities, damages, losses, and costs including but not limited to reasonable attorney fees, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the Contractor and other persons employed or utilized by the Contractor in the performance of this Agreement.

Bidder's Company Name

Authorized Signature - Manual

Physical Address

Authorized Signature - Typed

Mailing Address

Title

Phone Number

FAX Number

Cellular Number

After-Hours Number(s)

Date

INSURANCE COMPLIANCE

This form is to be completed and signed by the Bidder’s insurance agent/carrier certifying that the Bidder’s policy either meets the insurance requirements as specified in the bid documents for this project, or that the insurance company has reviewed the bid requirements and certifies that the Bidder was quoted any price increase due to required coverage.

CONTRACTOR

I certify that the insurance requirements have been reviewed.

Company Name _____

Address _____

Representative _____

Name Title _____

Phone Number _____

INSURANCE COMPANY

I certify that the insurance requirements have been reviewed with the above contractor.

Company Name _____

Address _____

Representative _____

Name _____

Title _____

Phone Number _____

CONTRACTOR'S CERTIFICATION OF ELIGIBILITY

The bidder certifies, by submission of this proposal or acceptance of this contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees by submitting this bid that it will include this clause without modification in all lower tier transactions, solicitations, bids, proposals, contracts, and subcontracts. Where the bidder/offer/contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this solicitation/proposal.

The information above is true and complete to the best of my knowledge.

Name and Title (please print)

Signature Date

Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

BID BOND

KNOW ALL PERSONS BY THESE PRESENTS, that we, the undersigned _____ as Principal, and _____ as Surety, are hereby held and firmly bound unto City of Naples Airport Authority (OWNER) in the penal sum of _____ for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns. Signed, this ____ day of _____, 20 ____.

The conditions of the above obligation is such that whereas the Principal has submitted to City of Naples Airport Authority certain BID, attached hereto and hereby made a part hereof to enter into a Contract in writing for the Construction of: **2024 FUEL FARM IMPROVEMENTS-CONSTRUCTION**

NOW THEREFORE,

- (a) If said Bid shall be rejected, or in the alternate,
- (b) If said Bid shall be accepted and the Principal shall execute and deliver a Contract in the Form of Agreement attached hereto (properly completed in accordance with said Bid) and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said BID, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that obligations of said Surety and its Bonds shall be in no way impaired or affected by any extension of the time within which the Owner may accept such BID; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

_____(L.S.)
Principal

Surety

By: _____

(SEAL)

- (1) Date of Bond must be same date as Bid.
- (2) Bond must be signed or countersigned by Surety's proper Florida Resident Agent. Date of Power-of-Attorney shall be same date as date of Bond.
- (3) If a Partnership, all partners shall execute Bond.

To be completed upon award.

Construction Performance Bond

Notes: (1) Provide supplemental execution by any additional parties, such as joint ventures. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place of Business):

OWNER (Name and Address):

*City of Naples Airport Authority
160 Aviation Drive North
Naples, FL 34104*

CONSTRUCTION CONTRACT

Effective Date of Agreement:

Amount:

Description (Name and Location): *2024 Fuel Farm Improvements-Construction
Naples Airport, Naples, FL*

BOND

Bond Number:

Date (Not earlier than Construction Contract Date):

Amount:

Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

_____(Seal)
Contractor's Name and Corporate Seal

_____(Seal)
Surety's Name and Corporate Seal

By: _____
Signature

By: _____
Signature (Attach Power of Attorney):

(Print Name)

(Print Name)

(Print Title)

(Print Title)

Attest: _____
Signature

Attest: _____
Signature

(Title)

(Title)

EJDC C-610 Performance Bond

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

(FOR INFORMATION ONLY – Name, Address and Telephone)

AGENT or BROKER:
Engineer or other party):

OWNER'S REPRESENTATIVE (Architect,

Hanson Professional Services Inc.
6230 University Parkway, Suite 202
Sarasota, FL 34240

To be completed after award

Construction Payment Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place of Business):

OWNER (Name and Address):

*City of Naples Airport Authority
160 Aviation Drive North
Naples, FL 34104*

CONSTRUCTION CONTRACT

Effective Date of Agreement:

Amount:

Description (Name and Location): **2024 Fuel Farm Improvements
Naples Airport, Naples, FL**

BOND

Bond Number:

Date (Not earlier than Construction Contract Date):

Amount:

Modifications to this Bond Form:

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

CONTRACTOR AS PRINCIPAL

SURETY

_____(Seal)

(Seal)

Contractor's Name and Corporate Seal

By: _____
Signature

(Print Name)

(Print Title)

Attest: _____
Signature

(Title)

Surety's Name and Corporate Seal

By: _____
Signature (Attach Power of Attorney):

(Print Name)

(Print Title)

Attest: _____
Signature

(Title)

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished by Claimants for use in the performance of the Contract, which is incorporated herein by reference.
2. With respect to Owner, this obligation shall be null and void if Contractor:
 - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2 Defends, indemnifies and holds harmless Owner from all claims, demands, liens or suits alleging non-payment by Contractor by any person or entity who furnished labor, materials or equipment for use in the performance of the Contract, provided Owner has promptly notified Contractor and Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to Contractor and Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if Contractor promptly makes payment, directly or indirectly, for all sums due.
4. Surety shall have no obligation to Claimants under this Bond until:
 - 4.1 Claimants who are employed by or have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
 - 4.2 Claimants who do not have a direct contract with the Contractor:
 1. Have furnished written notice to Contractor and sent a copy, or notice thereof, to Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the material or equipment were furnished or supplied, or for whom the labor was done or performed; and
 2. Have either received a rejection in whole or in part from Contractor, or not received within 30 days of furnishing the above notice any communication from Contractor by which Contractor had indicated the claim will be paid directly or indirectly; and
 3. Not having been paid within the above 30 days, have sent a written notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.
5. If a notice by a Claimant required by Paragraph 4 is provided by Owner to Contractor or to Surety, that is sufficient compliance.
6. When a Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at Surety's expense take the following actions:
 - 6.1 Send an answer to that Claimant, with a copy to Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
 - 6.2 Pay or arrange for payment of any undisputed amounts.
7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.
8. Amounts owed by Owner to Contractor under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any Performance Bond. By Contractor furnishing and Owner accepting this Bond, they agree that all funds earned by Contractor in the performance of the Contract are dedicated to satisfy obligations of Contractor and Surety under this Bond, subject to Owner's priority to use the funds for the completion of the Work.
9. Surety shall not be liable to Owner, Claimants, or others for obligations of Contractor that are unrelated to the Contract. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
10. Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders and other obligations.
11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or Paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
12. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
13. When this Bond has been furnished to comply with a statutory requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.
14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.
15. Definitions
 - 15.1 Claimant: An individual or entity having a direct contract with Contractor or with a first-tier subcontractor of Contractor, to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of Contractor and Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.
 - 15.2 Contract: The agreement between Owner and Contractor identified on the signature page, including all Contract Documents and changes thereto.
 - 15.3 Owner Default: Failure of Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Contract or to perform and complete or otherwise comply with the other terms thereof.

(FOR INFORMATION ONLY – Name, Address and Telephone)

AGENT or BROKER:
party):

OWNER'S REPRESENTATIVE (Architect, Engineer or other

Hanson Professional Services Inc.
6230 University Parkway, Suite 202
Sarasota, FL 34240
Phone (941) 342-6321

PROPOSAL

BID FORM

ATTACHMENT C

Project Name: Naples Airport – FUEL FARM IMPROVEMENTS PROJECT

Project Location: Naples Airport, Naples, Collier County, Florida 34104

Owner: City of Naples Airport Authority

BID – FUEL FARM IMPROVEMENTS PROJECT Bidder will complete the work in accordance with the plans, specifications and other contract documents, including all costs related to the work, and any required permits, taxes, bonds and insurance.

NOTE:

The bid prices below are to complete all work in accordance with the plans, specifications and other contract documents, including all costs related to the work, and any required engineering, permits, taxes, bonds and insurance. Any items not specifically listed below, but included in plans and specifications shall be incidental to appropriate line item pricing.

Bidder: _____

Item No.	Project Spec. Ref.	Description	Estimated Quantity	Unit	Unit Prices	Extended Total
----------	--------------------	-------------	--------------------	------	-------------	----------------

BASE BID

1	Plan 1	General Conditions, Overhead, Site Conditions, Mobilization and Demobilization, Surveying, GPR, Temporary Structures, Project Management, Crew Travel & Per Diem Costs, Site infrastructure & Equipment	1	L.S.	\$ -	\$ -
2	Plan 2	Site Civil, Structural, Concrete (demo, excavation, earthwork/grading, U/G utilities, paving, landscaping, concrete, canopy, fences/gates)	1	L.S.	\$ -	\$ -
3	Plan 3	New Building Addition to control building (hill build up, foundations, building, finishing & integration to existing)	1	L.S.	\$ -	\$ -
4	Plan 4	New Pumps, Filters, Fueling Equipment, Remote Inventory & Associated New Pipe Work (SS Piping)	1	L.S.	\$ -	\$ -
5	Plan 5	Replace all Existing Piping with SS new piping and valves	1	L.S.	\$ -	\$ -
6	Plan 6	Relocate OWS & Associated work	1	L.S.	\$ -	\$ -
7	Plan 7	Electrical for all Base Scope Items	1	L.S.	\$ -	\$ -

TOTAL BASE BID: \$ -

TOTAL BASE BID PRICE WRITTEN IN WORDS: _____

ADDITIVE BID NO. 1

A1	Plan 8	New 40,000-gallon Tank, Catwalks, Tank Trim & Appurtenances, Piping & Installation (includes electrical)	1	L.S.	\$ -	\$ -
----	--------	--	---	------	------	------

TOTAL ADDITIVE BID NO. 1: \$ -

TOTAL ADDITIVE BID NO. 1 PRICE WRITTEN IN WORDS: _____

ADDITIVE BID NO. 2

A2	Plan 9	Electrical Infrastructure Replacement	1	L.S.	\$ -	\$ -
----	--------	---------------------------------------	---	------	------	------

TOTAL ADDITIVE BID NO. 2: \$ -

TOTAL ADDITIVE BID NO. 2 PRICE WRITTEN IN WORDS: _____

TOTAL BID (BASE BID + ADDITIVE BID NO. 1 + ADDITIVE BID NO. 2): \$ -

PROPOSAL

BID FORM

Bidder: _____

Item No.	Project Spec. Ref.	Description	Estimated Quantity	Unit	Unit Prices	Extended Total
TOTAL BID PRICE (BASE BID + ADDITIVE BID NO. 1 + ADDITIVE BID NO. 2) WRITTEN IN WORDS:						