

**FACILITY REPAIR AND MAINTENANCE CONTRACT
CITY OF KANSAS CITY, MISSOURI - AVIATION DEPARTMENT**

CONTRACT NO: 62210536

DESCRIPTION: Facility repair and maintenance service of passenger jet bridges in the single terminal facility at Kansas City International Airport.

THIS CONTRACT is between KANSAS CITY, MISSOURI, a constitutionally chartered municipal corporation ("City"), and JBT AeroTech Corporation ("Contractor").
City and Contractor agree as follows:

**PART I
SPECIAL TERMS AND CONDITIONS**

Sec. 1. Work To Be Performed. The Specification/Scope of Work and any addenda are attached hereto and incorporated into this Contract.

Sec. 2. Term of Contract. This Contract shall begin upon substantial completion on or about February 15, 2023 and shall end no later than April 30, 2028. The Director is authorized to enter into an amendment to extend the term of this Contract and time of performance for this Contract.

Sec. 3. Compensation.

A. The maximum amount that City shall pay Contractor under this Contract shall not exceed eight million two ninety thousand eight hundred forty four dollars (\$8,090,844) as follows:

Year 1+.....	February 15, 2023 - February 28, 2023	\$58,680
	March 1, 2023 - February 29, 2024	\$1,529,865
Year 2.....	March 1, 2024 - February 28, 2025	\$1,501,846
Year 3.....	March 1, 2025 - February 28, 2026	\$1,539,392
Year 4.....	March 1, 2026 - February 28, 2027	\$1,577,877
Year 5+.....	March 1, 2027 - February 28, 2028	\$1,617,324
	March 1, 2028 - April 30, 2028	\$265,861

- B. Contractor shall provide all work at the prices contained in **Attachment A - Scope of Service**. Contractor will bill the City monthly in a form acceptable to the City.
- C. It shall be a condition precedent to payment of any invoice from Contractor that Contractor is in compliance with, and not in breach or default of, all terms, covenants and conditions of this Contract. If damages are sustained by City as a result of breach or default by Contractor, City may withhold payment(s) to Contractor for the purpose of set off until such time as the exact amount of damages due City from Contractor may be determined.
- D. No request for payment will be processed unless the request is in proper form, correctly computed, and is approved as payable under the terms of this Contract.

Sec. 4. Notices. All notices required by this agreement shall be in writing sent to the following:

If to the CITY:

City of Kansas City, Missouri
Aviation Department
Pat Klein, Director
601 Brasilia Avenue
Kansas City, MO 64153
816-243-3000
pat.klein@kcmo.org

If to the CONTRACTOR:

JBT AeroTech Corporation
Airport Services
Frank Moore, President/General Mgr
1805 West 2550 South
Ogden, UT 84401
801-629-3117
frank.moore@jbtco.com

All notices are effective a) when delivered in person, b) upon confirmation of receipt when transmitted by facsimile transmission or by electronic mail, c) upon receipt after dispatch by registered or certified mail, postage prepaid, d) on the next business day if transmitted by overnight courier (with confirmation of delivery), or e) three business days after the date of mailing, whichever is earlier.

Sec. 5. Merger. This Contract consists of Part I, Special Terms and Conditions and any Attachments and any documents incorporated by reference; Part II, Standard Terms and Conditions; and Part III, Supplemental Terms for All Airport Agreements. This Contract, including any Attachments and incorporated documents, constitutes the entire agreement between City and Contractor with respect to this subject matter.

Sec. 7. Conflict Between Contract Parts. In the event of any conflict or ambiguity between the Special Contract Terms and Conditions of Part I, the Standard Terms and Conditions of Part II, and the Supplemental Terms of Part III of this Contract, Part I will be controlling.

Sec. 8. Minority and Women's Business Enterprises. RESERVED.

Sec. 9. Workforce. If Contractor is required to pay prevailing wages for the work performed pursuant to this Contract, Contractor agrees to comply with all requirements of City's Construction Employment Program as enacted in City's Code, Sections 3-501 through 3-525 and as hereinafter amended. Contractor shall meet or exceed the construction employment goals unless the same shall have been waived in the manner provided by law. Contractor's compliance with this provision is a material part of this Contract. Contractor shall comply with City's Workforce Program Reporting System requirements. Contractor shall use City's Internet web based Workforce Program Reporting System provided by City and protocols included in that software during the term of this Contract. Contractor shall maintain user applications to City's provided system for all applicable personnel and shall require subcontractors to maintain applications.

Sec. 10. Bonds and Surety. Contractor shall furnish a Performance and Maintenance Payment Bond, to City on City furnished forms, executed by a Surety, in the amount of this Contract guaranteeing Contractor's faithful performance of each and every term of this Contract and all authorized changes thereto, guaranteeing the payment of all obligations as provided in Section 107.170 RSMo.; and guaranteeing the services and work against faulty workmanship and faulty materials.

A. All Bonds and insurance required by the Contract Documents to be purchased and maintained by Contractor shall be obtained from surety or insurance companies that are duly licensed in the State of Missouri and in the jurisdiction in which the Project is located, if not in Missouri, to issue

- Bonds or insurance policies for the limits and coverages so required. All surety and insurance companies shall hold an A.M. Best rating of A-, V, or better.
- B. These Bonds shall remain in effect at least one (1) year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents.
 - C. If the surety on any Bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirement of Paragraph 5.01 B, Contractor shall within twenty (20) days thereafter substitute another Bond and surety, both of which must be acceptable to City.

Sec. 11. Subcontracting.

- A. Contractor shall perform with its own organization services amounting to not less than seventy-five percent (75%) of the total Contract Price. "Its own organization" shall be construed to include only workers employed and paid by the Contractor and equipment owned or rented by the Contractor, with or without operators. Such term does not include employees or equipment of a subcontractor, assignee, or agent of the Contractor.
- B. Contractor shall not employ or retain any Subcontractor, Supplier or other person or organization, whether initially or as a substitute, against whom City has a reasonable objection, including but not limited to debarment by City or another governmental entity or decertification of the Subcontractor from the City's Minority and Women's Business Enterprise Program as a result of the Subcontractor's failure to comply with any of the requirements of the provisions of Chapter 3 of the City's Code as determined by the Director of the Human Relations Department. Contractor shall insert this provision in any subcontractor agreement associated with this Contract. Contractor shall not be required to employ any Subcontractor, Supplier or other person or organization to furnish or perform any of the Work against whom Contractor has reasonable objection.
- C. Contractor shall submit required information for all Subcontractors on Form 01290.09 - Subcontractors and Major Material Suppliers List, provided in these Contract Documents, prior to Subcontractor beginning Work at the Site.
- D. Contractor shall be fully responsible to City for all acts and omissions of the Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with Contractor just as Contractor is responsible for Contractor's own acts and omissions.
- E. Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with Contractor.

Sec. 12. Prevailing Wage. For any work which is a "major repair" to the City's property under applicable law, Contractor shall pay Prevailing Wage. A "major repair" is work that is done to restore a facility to such a condition that it may be effectively utilized for its designated purpose. A major repair is done by overhaul or replacement of major constituent parts that have deteriorated. If the size, type or extent of the existing facilities is changed or increased, the work performed shall constitute a "major change" or construction subject to Prevailing Wage requirements. This does not include the recurrent, day-to-day, periodic or scheduled work required to preserve or immediately restore a facility to such a condition that it can be effectively used for its designed purpose by repair but not replacement, and the size, type or extent of the existing facility is not changed.

If a "major repair" is authorized by City, at its sole discretion, the parties will amend this agreement by Change Order, Amendment or as may be otherwise appropriate to include applicable requirements including but not limited to Prevailing Wage and Payment Bonds.

Sec. 13. Attachments to Part I. The following documents are Attachments to Part I of this Contract and are attached hereto and incorporated herein by this reference:

Attachment A - Scope of Service

Attachment B – Bonds

00610 Performance and Maintenance Bond

00616 Performance Bond

Attachment C – Exemption Certificates

00560.00 Missouri Project Exemption Certificate

00560.01 Kansas City Missouri Tax Exempt Certificate

Attachment D – 00620 Insurance Certificate

Attachment E – 00630 Revenue Clearance Release Authorization

Attachment F – 00515.01 Employee Eligibility Verification Affidavit

Sec. 14. Missouri Sales Tax Exemption. Pursuant to Section 144.062, RSMo, City is a Missouri exempt entity and tangible personal property to be incorporated or consumed in the construction of this Project may be purchased without sales tax. City shall furnish Contractor a Missouri Project Exemption Certificate for Sales Tax at the time of issuance of the Notice to Proceed.

THIS CONTRACT CONTAINS AN INDEMNIFICATION PROVISION

Business Entity Type:

- Missouri Corporation
- Foreign Corporation
- Fictitious Name Registration
- Sole Proprietor
- Limited Liability Company
- Partnership
- Joint Adventure (Joint Venture)
- Other (Specify): _____ Corporation

CONTRACTOR

I hereby certify that I have authority to execute this document on behalf of Contractor


By: Frank Moore

Title: President & GM

Date: 12/7/2022

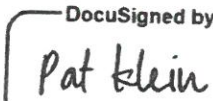
(Affix Corporate Seal)

Approved as to form:

DocuSigned by:

 Charlotte Ferns
 Assistant City Attorney

3/14/2023
 (date)

KANSAS CITY, MISSOURI

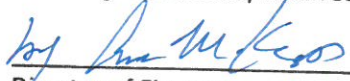
DocuSigned by:

 Pat Klein

By: 419A072FAE95460...

Pat Klein
Director of Aviation

Date: 2/15/2023

I hereby certify that there is a balance, otherwise unencumbered, to the credit of the appropriation to which the foregoing expenditure is to be charged, and a cash balance, otherwise unencumbered, in the Treasury, to the credit of the fund from which payment is to be made, each sufficient to meet the obligation hereby incurred.


 Dan McKee
 Director of Finance

3-23-23
 (date)

**PART II
STANDARD TERMS AND CONDITIONS**

Sec. 1. General Indemnification.

- A. For purposes of this Section 1 only, the following terms shall have the meanings listed:
 - 1. **Claims** means all claims, damages, liability, losses, costs and expenses, court costs and reasonable attorneys' fees, including attorneys' fees incurred by the City in the enforcement of this indemnity obligation.
 - 2. **Contractor's Agents** means Contractor's officers, employees, subconsultants, subcontractors, successors, assigns, invitees and other agents.
 - 3. **City** means City and its agents, officials, officers and employees.
- B. Contractor's obligations under this Section with respect to indemnification for acts or omissions, including negligence, of City, shall be limited to the coverage and limits of General Liability insurance that Contractor is required to procure and maintain under this Contract. Contractor affirms that it has had the opportunity to recover the costs of the liability insurance required in this Contract in its contract price.
- C. Contractor shall defend, indemnify and hold harmless City from and against all claims arising out of or resulting from all acts or omissions in connection with this Contract caused in whole or in part by Contractor or Contractor's Agents, regardless of whether or not caused in part by any act or omission, including negligence, of City. Contractor is not obligated under this Section to indemnify City for the sole negligence of City.
- D. In no event shall the language in this Section constitute or be construed as a waiver or limitation of the City's rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the federal and state constitutions or by law.

Sec. 2. Independent Contractor. Contractor is an independent contractor and is not City's agent. Contractor has no authority to take any action or execute any documents on behalf of City.

Sec. 3. Insurance. Contractor shall procure and maintain in effect throughout the duration of this Contract insurance coverage not less than the types and amounts specified in this section. In the event that additional insurance, not specified herein, is required during the term of this Contract, Contractor shall supply such insurance at City's cost. Policies containing a Self-Insured Retention are unacceptable to City unless City approves in writing the Contractor's Self-Insured Retention.

- A. Aviation Liability/Commercial Liability Insurance with limits of one hundred million dollars (\$100,000,000) per occurrence, bodily injury/property damage, written on an "occurrence" basis. The policy shall be written or endorsed to include the following provisions:
 - a. Severability of Interests Coverage applying to Additional Insureds
 - b. Contractual Liability
 - c. Per Project Aggregate Liability Limit
 - d. Additional Insured Endorsement, ISO form CG20 10 and CG20 37, current edition, or their equivalent.
- B. Workers' Compensation Insurance: this insurance shall protect Contractor against all claims under applicable state workers' compensation laws. The liability limits shall not be less than:

Workers' Compensation	Statutory
Employers' Liability	\$1,000,000 per accident
	\$1,000,000 disease-policy limit
	\$1,000,000 disease-each employee

- C. Commercial Automobile Liability Insurance: with a limit of five million dollars (\$5,000,000) combined single limit, covering owned, hired, and non-owned automobiles. Coverage provided shall be on an "any auto" basis and written on an "occurrence" basis. This insurance will be written on a Commercial Business Auto form, or acceptable equivalent, and shall protect against claims arising out of the operation of motor vehicles on the Airport, as to acts done in connection with the Contract, by Contractor. Applies to owned, non-owned and hired vehicles.
- D. If applicable, Professional Liability Insurance with limits per claim and annual aggregate of \$2,000,000.
- E. The Commercial General Liability Insurance specified above shall provide that City and its agencies, officials, officers, and employees, while acting within the scope of their authority, will be named as additional insureds, including completed operations, for the services performed under this Contract. Contractor shall provide to City at execution of this Contract a certificate of insurance showing all required coverage and additional insureds. The certificates of insurance will contain a provision stating that should any of the policies described in the certificate be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.
- F. All insurance coverage must be written by companies that have an A.M. Best's rating of "A-V" or better, and are licensed or authorized by the State of Missouri to do business in Missouri.
- G. Contractor's failure to maintain the required insurance coverage will not relieve Contractor of its contractual obligation to indemnify the City pursuant to Section 1. If the coverage afforded is cancelled or changed or its renewal is refused, Contractor shall give at least thirty (30) days prior written notice to City. In the event of Contractor's failure to maintain the required insurance in effect, City may order Contractor to immediately stop work, and upon ten (10) days notice and an opportunity to cure, may pursue its remedies for breach of this Contract as provided for herein and by law.
- H. In no event shall the language in this Section constitute or be construed as a waiver or limitation of the City's rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the federal and state constitutions or by law.
- I. Contractor shall obtain evidence that all Subcontractors have in force general, automobile, and employer's and workers' compensation liability insurance in the amounts required by these Contract Documents, and evidence that each is current on its unemployment insurance payments before Subcontractors begin Work at the Site. Contractor shall retain such evidence in its files and make available to City within ten (10) days after written request.

Sec. 4 Governing Law. This Contract shall be construed and governed in accordance with the laws of the State of Missouri without giving effect to Missouri's choice of law provisions. The City and Contractor: (1) submit to the jurisdiction of the state and federal courts located in Jackson County, Missouri; (2) waive any and all objections to jurisdiction and venue; and (3) will not raise forum non conveniens as an objection to the location of any litigation.

Sec. 5. Compliance with Laws. Contractor shall comply with all federal, state and local laws, ordinances and regulations applicable to the work and this contract.

Sec. 6. Termination for Convenience.

- A. City may, at any time upon ten (10) days notice to Contractor specifying the effective date of termination, terminate this Contract, in whole or in part. If this Contract is terminated by City, City shall be liable only for payment for services rendered before the effective date of termination. Contractor shall prepare an accounting of the services performed and money spent by Contractor up to the effective date of termination and shall return to City any remaining sums within thirty (30) days of such date.
- B. If this Contract is terminated prior to Contractor's completion of services, all work or materials prepared or obtained by Contractor pursuant to this contract shall become City's property.
- C. If this Contract is terminated prior to Contractor's completion of the services to be performed hereunder, Contractor shall return to City any sums paid in advance by City for services that would otherwise have had to be rendered between the effective date of termination and the original ending date of the Contract. Contractor shall prepare an accounting of the services performed and money spent by Contractor up to the effective date of termination and shall return to City any remaining sums within thirty (30) days of such date.

Sec. 7. Resolution of Claims

- A. For purposes of this Section 7 only, the following terms shall have the meanings listed:
 - 1. A Claim is a demand or assertion by the Contractor seeking, as a matter of right, the adjustment of Contract price and/or times with respect to the terms of the Contract.
 - 2. City's Representative--Person or agency designated to act for the Director.
- B. The Contractor must give written notice to the City's Representative within fourteen (14) calendar days after the occurrence of the event giving rise to the Claim or within fourteen (14) calendar days after the first recognition of the conditions giving rise to the Claim. After the fourteen (14) day period for filing claims has expired, the Claim shall be considered waived unless the Director grants an extension based on good cause shown by the Contractor that such additional time is warranted. The responsibility to substantiate Claims shall rest with the Contractor.
- C. If the claim cannot be resolved by direct negotiation between the City's Representative and the Contractor, the parties must submit the Claim to the Director within five (5) days after the parties agree that they cannot resolve the Claim.
- D. The submittal of the Claim position statements shall: 1) be in writing; 2) state the issues; 3) and state the respective positions of the parties.
- E. The Director shall review the written statements and reply in writing to both parties within ten (10) working days. The Director may extend this period if necessary by notifying the parties.
- F. Absent fraud, gross mistake or bad faith, the Director's decision shall be final and binding on City and Contractor within fourteen (14) calendar days after issuance.
- G. All administrative procedures set forth in this contract must first be exhausted before suit is filed.
- H. The time frame for the Director's decision may be tolled if the parties mutually agree to participate in mediation. Mediator selection and the procedures to be employed in the mediation shall be mutually acceptable to both parties. Cost of the mediation, including the mediator's fees, shall be shared equally among the parties.
- I. If the Claim is not resolved during mediation, the Contractor agrees that it will file no suit based on facts or evidentiary materials that were not presented for consideration to the City during the mediation process or of which the Contractor had knowledge and failed to present during the administrative procedures.

Sec. 8. Default and Remedies. If Contractor shall be in default or breach of any provision of this Contract, City may terminate this contract, suspend City's performance, withhold payment or invoke any other legal or equitable remedy after giving Contractor notice and opportunity to correct such default or breach.

Sec. 9. Waiver. Waiver by City of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any other term, covenant or condition. No term, covenant, or condition of this Contract can be waived except by written consent of City, and forbearance or indulgence by City in any regard whatsoever shall not constitute a waiver of same to be performed by Contractor to which the same may apply and, until complete performance by Contractor of the term, covenant or condition, City shall be entitled to invoke any remedy available to it under this Contract or by law despite any such forbearance or indulgence.

Sec. 10. Modification. Unless stated otherwise in this Contract, no provision of this Contract may be waived, modified or amended except in writing signed by City.

Sec. 11. Headings; Construction of Contract. The headings of each section of this Contract are for reference only. Unless the context of this Contract clearly requires otherwise, all terms and words used herein, regardless of the number and gender in which used, shall be construed to include any other number, singular or plural, or any other gender, masculine, feminine or neuter, the same as if such words had been fully and properly written in that number or gender.

Sec. 12. Severability of Provisions. Except as specifically provided in this Contract, all of the provisions of this Contract shall be severable. In the event that any provision of this Contract is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining provisions of this Contract shall be valid unless the court finds that the valid provisions of this Contract are so essentially and inseparably connected with and so dependent upon the invalid provision(s) that it cannot be presumed that the parties to this Contract could have included the valid provisions without the invalid provision(s); or unless the court finds that the valid provisions, standing alone, are incapable of being performed in accordance with the intentions of the parties.

Sec. 13. Records.

- A. For purposes of this section:
 - 1. "City" shall mean the City Auditor, the City's Internal Auditor, the City's Director of Civil Rights and Equal Opportunity Department, the City Manager, the City department administering this Contract and their delegates and agents.
 - 2. "Record" shall mean any document, book, paper, photograph, map, sound recordings or other material, regardless of physical form or characteristics, made or received in connection with this Contract and all Contract amendments and renewals.
- B. Contractor shall maintain and retain all Records for a term of five (5) years that shall begin after the expiration or termination of this Contract and all Contract amendments. City shall have a right to examine or audit all Records and Contractor shall provide access to City of all Records upon ten (10) days written notice from the City.

Sec. 14. Affirmative Action. If this Contract exceeds \$300,000.00 and Contractor employs fifty (50) or more people, Contractor shall comply with City's Affirmative Action requirements in accordance with the provisions of Chapter 3 of City's Code, the rules and regulations relating to those sections, and any additions or amendments thereto; in executing any Contract subject to said provisions, Contractor warrants that it has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the Contract. Contractor shall not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin or ancestry, disability, sexual orientation, gender identity or age in a manner prohibited by Chapter 3 of City's Code. Contractor shall:

- A. Execute and submit the City of Kansas City, Missouri CREO Affirmative Action Program Affidavit warranting that the Contractor has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the Contract.
- B. Submit, in print or electronic format, a copy of Contractor's current certificate of compliance to the City's Civil Rights and Equal Opportunity Department (CREO) prior to receiving the first payment under the Contract, unless a copy has already been submitted to CREO at any point within the previous two calendar years. If, and only if, Contractor does not possess a current certification of compliance, Contractor shall submit, in print or electronic format, a copy of its affirmative action program to CREO prior to receiving the first payment under the Contract, unless a copy has already been submitted to CREO at any point within the previous two calendar years.
- C. Require any Subcontractor awarded a subcontract exceeding \$300,000.00 to affirm that Subcontractor has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the subcontract.
- D. Obtain from any Subcontractor awarded a subcontract exceeding \$300,000.00 a copy of the Subcontractor's current certificate of compliance and tender a copy of the same, in print or electronic format, to CREO within thirty (30) days from the date the subcontract is executed. If, and only if, Subcontractor does not possess a current certificate of compliance, Contractor shall obtain a copy of the Subcontractor's affirmative action program and tender a copy of the same, in print or electronic format, to CREO within thirty (30) days from the date the subcontract is executed.

City has the right to take action as directed by City's Civil Rights and Equal Opportunity Department to enforce this provision. If Contractor fails, refuses or neglects to comply with the provisions of Chapter 3 of City's Code, then such failure shall be deemed a total breach of this Contract and this Contract may be terminated, canceled or suspended, in whole or in part, and Contractor may be declared ineligible for any further contracts funded by City for a period of one (1) year. This is a material term of this Contract.

Sec. 15. Tax Compliance. Contractor shall provide proof of compliance with the City's tax ordinances administered by the City's commissioner of revenue as a precondition to the City making the first payment under this contract or any contract renewal when the total contract amount exceeds \$150,000.00.

Sec. 16. Assignability or Subcontracting.

- A. **Assignability.** Contractor shall not assign or transfer any part or all of Contractor's obligation or interest in this Contract without prior written approval of City. If Contractor shall assign or transfer any of its obligations or interests under this Contract without the City's prior written approval, it shall constitute a material breach of this Contract. This provision shall not prohibit contractor from subcontracting as otherwise provided for herein.
- B. **Subcontracting.** Contractor shall not subcontract any part or all of Contractor's obligations or interests in this Contract unless the subcontractor has been identified in a format required by City.

If Contractor shall subcontract any part of Contractor's obligations or interests under this Contract without having identified the subcontractor, it shall constitute a material breach of this Contract. The utilization of subcontractors shall not relieve Contractor of any of its responsibilities under the Contract, and Contractor shall remain responsible to City for the negligent acts, errors, omissions or neglect of any subcontractor and of such subcontractor's officers, agents and employees. City shall have the right to reject, at any point during the term of this Contract, any subcontractor identified by Contractor, and to require that any subcontractor cease working under this Contract. City's right shall be exercisable in its sole and subjective discretion. City shall not be obligated to pay or be liable for payment of any monies which may be due to any subcontractor. Contractor shall include in any subcontract a requirement that the subcontractor comply with all requirements of this Contract in performing Contractor's services hereunder.

Sec. 17. Conflicts of Interest. Contractor certifies that no officer or employee of City has, or will have, a direct or indirect financial or personal interest in this Contract, and that no officer or employee of City, or member of such officer's or employee's immediate family, either has negotiated, or has or will have an arrangement, concerning employment to perform services on behalf of Contractor in this Contract.

Sec. 18. Rules of Construction. The judicial rule of construction requiring or allowing an instrument to be construed to the detriment of or against the interests of the maker thereof shall not apply to this Contract.

Sec. 19. Reports. Contractor shall provide City detailed reports of actual contract usage by category each quarter and annually at no cost.

Sec. 20. Employee Eligibility Verification. If this contract exceeds five thousand dollars (\$5,000.00), Contractor shall execute and submit an affidavit, in a form prescribed by the City, affirming that Contractor does not knowingly employ any person in connection with the contracted services who does not have the legal right or authorization under federal law to work in the United States as defined in 8 U.S.C. §1324a(h)(3). Contractor shall attach to the affidavit documentation sufficient to establish Contractor's enrollment and participation in an electronic verification of work program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration and Reform and Control Act of 1986. Contractor may obtain additional information about E-Verify and enroll at www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm. For those Contractors enrolled in E-Verify, the first and last pages of the E-Verify Memorandum of Understanding that Contractor will obtain upon successfully enrolling in the program shall constitute sufficient documentation for purposes of complying with this section. Contractor shall submit the affidavit and attachments to the City prior to execution of the contract, or at any point during the term of the contract if requested by the City.

Sec. 21. Buy American and Missouri Preference Policies. It is the policy of the City that any manufactured goods or commodities used or supplied in the performance of any City contract or any subcontract thereto shall be manufactured or produced in the United States whenever possible. Pursuant to Section 71.140 RSMo., preference shall be given to materials, products, supplies and all other articles produced, manufactured, made or grown within the State of Missouri.

Sec. 22. Missouri Sales Tax Exemption. Pursuant to Section 144.062, RSMo, City is a Missouri exempt entity and tangible personal property to be incorporated or consumed in the construction of this Project may be purchased without sales tax. City shall furnish Contractor a Missouri Project Exemption Certificate for Sales Tax at the time of issuance of the Notice to Proceed.

Sec. 6. Termination for Convenience.

- A. City may, at any time upon ten (10) days notice to Contractor specifying the effective date of termination, terminate this Contract, in whole or in part. If this Contract is terminated by City, City shall be liable only for payment for services rendered before the effective date of termination. Contractor shall prepare an accounting of the services performed and money spent by Contractor up to the effective date of termination and shall return to City any remaining sums within thirty (30) days of such date.
- B. If this Contract is terminated prior to Contractor's completion of services, all work or materials prepared or obtained by Contractor pursuant to this contract shall become City's property.
- C. If this Contract is terminated prior to Contractor's completion of the services to be performed hereunder, Contractor shall return to City any sums paid in advance by City for services that would otherwise have had to be rendered between the effective date of termination and the original ending date of the Contract. Contractor shall prepare an accounting of the services performed and money spent by Contractor up to the effective date of termination and shall return to City any remaining sums within thirty (30) days of such date.

Sec. 7. Resolution of Claims

- A. For purposes of this Section 7 only, the following terms shall have the meanings listed:
 - 1. A Claim is a demand or assertion by the Contractor seeking, as a matter of right, the adjustment of Contract price and/or times with respect to the terms of the Contract.
 - 2. City's Representative--Person or agency designated to act for the Director.
- B. The Contractor must give written notice to the City's Representative within fourteen (14) calendar days after the occurrence of the event giving rise to the Claim or within fourteen (14) calendar days after the first recognition of the conditions giving rise to the Claim. After the fourteen (14) day period for filing claims has expired, the Claim shall be considered waived unless the Director grants an extension based on good cause shown by the Contractor that such additional time is warranted. The responsibility to substantiate Claims shall rest with the Contractor.
- C. If the claim cannot be resolved by direct negotiation between the City's Representative and the Contractor, the parties must submit the Claim to the Director within five (5) days after the parties agree that they cannot resolve the Claim.
- D. The submittal of the Claim position statements shall: 1) be in writing; 2) state the issues; 3) and state the respective positions of the parties.
- E. The Director shall review the written statements and reply in writing to both parties within ten (10) working days. The Director may extend this period if necessary by notifying the parties.
- F. Absent fraud, gross mistake or bad faith, the Director's decision shall be final and binding on City and Contractor within fourteen (14) calendar days after issuance.
- G. All administrative procedures set forth in this contract must first be exhausted before suit is filed.
- H. The time frame for the Director's decision may be tolled if the parties mutually agree to participate in mediation. Mediator selection and the procedures to be employed in the mediation shall be mutually acceptable to both parties. Cost of the mediation, including the mediator's fees, shall be shared equally among the parties.
- I. If the Claim is not resolved during mediation, the Contractor agrees that it will file no suit based on facts or evidentiary materials that were not presented for consideration to the City during the mediation process or of which the Contractor had knowledge and failed to present during the administrative procedures.

Sec. 8. Default and Remedies. If Contractor shall be in default or breach of any provision of this Contract, City may terminate this contract, suspend City's performance, withhold payment or invoke any other legal or equitable remedy after giving Contractor notice and opportunity to correct such default or breach.

Sec. 9. Waiver. Waiver by City of any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or of any other term, covenant or condition. No term, covenant, or condition of this Contract can be waived except by written consent of City, and forbearance or indulgence by City in any regard whatsoever shall not constitute a waiver of same to be performed by Contractor to which the same may apply and, until complete performance by Contractor of the term, covenant or condition, City shall be entitled to invoke any remedy available to it under this Contract or by law despite any such forbearance or indulgence.

Sec. 10. Modification. Unless stated otherwise in this Contract, no provision of this Contract may be waived, modified or amended except in writing signed by City.

Sec. 11. Headings; Construction of Contract. The headings of each section of this Contract are for reference only. Unless the context of this Contract clearly requires otherwise, all terms and words used herein, regardless of the number and gender in which used, shall be construed to include any other number, singular or plural, or any other gender, masculine, feminine or neuter, the same as if such words had been fully and properly written in that number or gender.

Sec. 12. Severability of Provisions. Except as specifically provided in this Contract, all of the provisions of this Contract shall be severable. In the event that any provision of this Contract is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining provisions of this Contract shall be valid unless the court finds that the valid provisions of this Contract are so essentially and inseparably connected with and so dependent upon the invalid provision(s) that it cannot be presumed that the parties to this Contract could have included the valid provisions without the invalid provision(s); or unless the court finds that the valid provisions, standing alone, are incapable of being performed in accordance with the intentions of the parties.

Sec. 13. Records.

- A. For purposes of this section:
 - 1. "City" shall mean the City Auditor, the City's Internal Auditor, the City's Director of Civil Rights and Equal Opportunity Department, the City Manager, the City department administering this Contract and their delegates and agents.
 - 2. "Record" shall mean any document, book, paper, photograph, map, sound recordings or other material, regardless of physical form or characteristics, made or received in connection with this Contract and all Contract amendments and renewals.
- B. Contractor shall maintain and retain all Records for a term of five (5) years that shall begin after the expiration or termination of this Contract and all Contract amendments. City shall have a right to examine or audit all Records and Contractor shall provide access to City of all Records upon ten (10) days written notice from the City.

Sec. 14. Affirmative Action. If this Contract exceeds \$300,000.00 and Contractor employs fifty (50) or more people, Contractor shall comply with City's Affirmative Action requirements in accordance with the provisions of Chapter 3 of City's Code, the rules and regulations relating to those sections, and any additions or amendments thereto; in executing any Contract subject to said provisions, Contractor warrants that it has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the Contract. Contractor shall not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin or ancestry, disability, sexual orientation, gender identity or age in a manner prohibited by Chapter 3 of City's Code. Contractor shall:

- A. Execute and submit the City of Kansas City, Missouri CREO Affirmative Action Program Affidavit warranting that the Contractor has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the Contract.
- B. Submit, in print or electronic format, a copy of Contractor's current certificate of compliance to the City's Civil Rights and Equal Opportunity Department (CREO) prior to receiving the first payment under the Contract, unless a copy has already been submitted to CREO at any point within the previous two calendar years. If, and only if, Contractor does not possess a current certification of compliance, Contractor shall submit, in print or electronic format, a copy of its affirmative action program to CREO prior to receiving the first payment under the Contract, unless a copy has already been submitted to CREO at any point within the previous two calendar years.
- C. Require any Subcontractor awarded a subcontract exceeding \$300,000.00 to affirm that Subcontractor has an affirmative action program in place and will maintain the affirmative action program in place for the duration of the subcontract.
- D. Obtain from any Subcontractor awarded a subcontract exceeding \$300,000.00 a copy of the Subcontractor's current certificate of compliance and tender a copy of the same, in print or electronic format, to CREO within thirty (30) days from the date the subcontract is executed. If, and only if, Subcontractor does not possess a current certificate of compliance, Contractor shall obtain a copy of the Subcontractor's affirmative action program and tender a copy of the same, in print or electronic format, to CREO within thirty (30) days from the date the subcontract is executed.

City has the right to take action as directed by City's Civil Rights and Equal Opportunity Department to enforce this provision. If Contractor fails, refuses or neglects to comply with the provisions of Chapter 3 of City's Code, then such failure shall be deemed a total breach of this Contract and this Contract may be terminated, canceled or suspended, in whole or in part, and Contractor may be declared ineligible for any further contracts funded by City for a period of one (1) year. This is a material term of this Contract.

Sec. 15. Tax Compliance. Contractor shall provide proof of compliance with the City's tax ordinances administered by the City's commissioner of revenue as a precondition to the City making the first payment under this contract or any contract renewal when the total contract amount exceeds \$150,000.00.

Sec. 16. Assignability or Subcontracting.

- A. **Assignability.** Contractor shall not assign or transfer any part or all of Contractor's obligation or interest in this Contract without prior written approval of City. If Contractor shall assign or transfer any of its obligations or interests under this Contract without the City's prior written approval, it shall constitute a material breach of this Contract. This provision shall not prohibit contractor from subcontracting as otherwise provided for herein.
- B. **Subcontracting.** Contractor shall not subcontract any part or all of Contractor's obligations or interests in this Contract unless the subcontractor has been identified in a format required by City.

If Contractor shall subcontract any part of Contractor's obligations or interests under this Contract without having identified the subcontractor, it shall constitute a material breach of this Contract. The utilization of subcontractors shall not relieve Contractor of any of its responsibilities under the Contract, and Contractor shall remain responsible to City for the negligent acts, errors, omissions or neglect of any subcontractor and of such subcontractor's officers, agents and employees. City shall have the right to reject, at any point during the term of this Contract, any subcontractor identified by Contractor, and to require that any subcontractor cease working under this Contract. City's right shall be exercisable in its sole and subjective discretion. City shall not be obligated to pay or be liable for payment of any monies which may be due to any subcontractor. Contractor shall include in any subcontract a requirement that the subcontractor comply with all requirements of this Contract in performing Contractor's services hereunder.

Sec. 17. Conflicts of Interest. Contractor certifies that no officer or employee of City has, or will have, a direct or indirect financial or personal interest in this Contract, and that no officer or employee of City, or member of such officer's or employee's immediate family, either has negotiated, or has or will have an arrangement, concerning employment to perform services on behalf of Contractor in this Contract.

Sec. 18. Rules of Construction. The judicial rule of construction requiring or allowing an instrument to be construed to the detriment of or against the interests of the maker thereof shall not apply to this Contract.

Sec. 19. Reports. Contractor shall provide City detailed reports of actual contract usage by category each quarter and annually at no cost.

Sec. 20. Employee Eligibility Verification. If this contract exceeds five thousand dollars (\$5,000.00), Contractor shall execute and submit an affidavit, in a form prescribed by the City, affirming that Contractor does not knowingly employ any person in connection with the contracted services who does not have the legal right or authorization under federal law to work in the United States as defined in 8 U.S.C. §1324a(h)(3). Contractor shall attach to the affidavit documentation sufficient to establish Contractor's enrollment and participation in an electronic verification of work program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration and Reform and Control Act of 1986. Contractor may obtain additional information about E-Verify and enroll at www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm. For those Contractors enrolled in E-Verify, the first and last pages of the E-Verify Memorandum of Understanding that Contractor will obtain upon successfully enrolling in the program shall constitute sufficient documentation for purposes of complying with this section. Contractor shall submit the affidavit and attachments to the City prior to execution of the contract, or at any point during the term of the contract if requested by the City.

Sec. 21. Buy American and Missouri Preference Policies. It is the policy of the City that any manufactured goods or commodities used or supplied in the performance of any City contract or any subcontract thereto shall be manufactured or produced in the United States whenever possible. Pursuant to Section 71.140 RSMo., preference shall be given to materials, products, supplies and all other articles produced, manufactured, made or grown within the State of Missouri.

Sec. 22. Missouri Sales Tax Exemption. Pursuant to Section 144.062, RSMo, City is a Missouri exempt entity and tangible personal property to be incorporated or consumed in the construction of this Project may be purchased without sales tax. City shall furnish Contractor a Missouri Project Exemption Certificate for Sales Tax at the time of issuance of the Notice to Proceed.

Sec. 23. Quality Services Assurance Act. If this Contract exceeds \$160,000.00, by executing this Contract, Contractor certifies Contractor will pay all employees who will work on this Contract in the city limits of Kansas City, Missouri at least \$15.00 per hour in compliance with the CITY's Quality Services Assurance Act, Section 3-66, Code of Ordinances or City has granted Contractor an exemption.

Sec. 24. Anti-Discrimination Against Israel. If this Contract exceeds \$100,000.00 and Contractor employs at least ten employees, pursuant to Section 34.600, RSMo., by executing this Contract, Contractor certifies it is not currently engaged in and shall not, for the duration of this contract, engage in a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel.

Sec. 25. Excusable Delays. Contractor shall not be liable for delays due directly or indirectly to causes beyond Contractor's reasonable control, including but not limited to; (1) acts of God, (2) act (including failure to act) of any governmental authority (*de jure* or *de facto*) (including mandated quarantines), wars (declared or undeclared), governmental priorities, riots, revolutions, strikes, fires, floods, sabotage, nuclear incidents, earthquakes, storms, epidemics, virus pandemics; or (3) inability due to causes beyond Contractor's reasonable control to timely obtain either necessary and proper materials, components, energy, fuel or transportation.

PART III
SUPPLEMENTAL TERMS AND CONDITIONS TO ALL AIRPORT AGREEMENTS

APPLICATION OF REFERENCES

"Owner" and **"Sponsor"** means the City of Kansas City, Missouri Aviation Department.

"Contractor" means any party to this agreement other than the Owner, including without limitation the prime contractor. **"Subcontractor"** means all subcontractors under contract with the Contractor.

"Consultant" means architectural, engineering or other entity providing professional services to the Owner pursuant to an agreement.

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

PROVISIONS APPLICABLE TO ALL CONTRACTS

A. ACCESS TO RECORDS AND REPORTS.

Reference: 2 CFR § 200.333, 2 CFR § 200.336, and FAA Order 5100.38

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.

B. BUY AMERICAN PREFERENCE.

Reference: 49 USC § 50101

The Contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration (FAA) has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list. A Bidder or Offeror must complete and submit the Buy America certification included herein with their bid or offer. The Owner will reject as nonresponsive any bid or offer that does not include a completed Certificate of Buy American Compliance.

C. CIVIL RIGHTS - GENERAL.

Reference: 49 USC § 47123

The Contractor agrees that it will 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 Contractor and subcontractors 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.

D. CIVIL RIGHTS - TITLE VI ASSURANCES.

1. Title VI Solicitation Notice. The Sponsor, 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 or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full

- and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.
2. **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:
- a. **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.
 - b. **Non-discrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the 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.
 - c. **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.
 - d. **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.
 - e. **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:
 - (1) Withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - (2) Cancelling, terminating, or suspending a contract, in whole or in part.
 - f. **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.

3. 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 U.S.C. § 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 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
 - Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
 - The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
 - Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
 - The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
 - Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 - 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
 - The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
 - Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
 - Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
 - Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

E. DISADVANTAGED BUSINESS ENTERPRISE.

Reference: 49 CFR Part 26

1. Solicitation Language (Project Goal)

Information Submitted as a matter of bidder responsiveness: The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the goodfaith effort requirements of 49 CFR §26.53. As a condition of bid responsiveness, the Bidder or Offeror must submit the following information with their proposal on the forms provided herein:

- a. The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- b. A description of the work that each DBE firm will perform;
- c. The dollar amount of the participation of each DBE firm listed under (1)
- d. Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal;
- e. If Bidder or Offeror cannot meet the advertised project DBE goal; evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR Part 26.

Information submitted as a matter of bidder responsibility: The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the goodfaith effort requirements of 49 CFR §26.53. The successful Bidder or Offeror must provide written confirmation of participation from each of the DBE firms the Bidder or Offeror lists in its commitment within five (5) days after bid opening.

- a. The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
 - b. A description of the work that each DBE firm will perform;
 - c. The dollar amount of the participation of each DBE firm listed under (1)
 - d. Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal; and
 - e. If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26.
2. Race/Gender Neutral. The requirements of 49 CFR Part 26 apply to this contract. It is the policy of the Owner to practice nondiscrimination based on race, color, sex or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership
 3. Contract Assurance (§ 26.13). The Contractor 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 U.S. Department of Transportation-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 Owner deems appropriate, which may include, but is not limited to:
 - a. Withholding monthly progress payments;
 - b. Assessing sanctions;
 - c. Liquidated damages; and/or
 - d. Disqualifying the Contractor from future bidding as non-responsible.
 4. Prompt Payment (§26.29). The Prime Contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) calendar days from the receipt of each payment the Prime Contractor receives from the Owner. The Prime Contractor agrees further to return retainage payments to each subcontractor within thirty (30) calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Owner. This clause applies to both DBE and non-DBE subcontractors.

F. ENERGY CONSERVATION REQUIREMENTS.

Reference: 2 CFR § 200 Appendix II(H).

Contractor and Subcontractor(s) agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq).

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

Reference: 29 USC § 201, et seq.

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

H. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970.

Reference: 20 CFR Part 1910

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 (20 CFR Part 1910). The employee 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.

I. RIGHT TO INVENTIONS.

Reference: 2 CFR § 200 Appendix II(F) and 37 CFR § 401

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

J. SEISMIC SAFETY.

Reference: 49 CFR Part 41

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

K. TAX DELINQUENCY AND FELONY CONVICTIONS.

Reference: Sections 415 and 416 of Title IV, Division L of the Consolidated Appropriations Act, 2014 (Pub. L. 113-76) and DOT Order 4200.6

The Contractor certifies:

1. It 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. 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.

2. It is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months. A felony conviction is 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 U.S.C. § 3559. The Contractor agrees to incorporate the above certification in all lower tier subcontracts.

L. TRADE RESTRICTION CERTIFICATION.

Reference: 49 USC § 50104 and 49 CFR Part 30

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

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

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001. The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances. Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

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

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a Contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings. The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by U.S.T.R., unless the Offeror

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

M. VETERAN'S PREFERENCE.

Reference: 49 USC § 47112(c)

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 U.S.C. 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$2,000

COPELAND "ANTI-KICKBACK" ACT

Reference: 2 CFR § 200 Appendix II(D) and 29 CFR Parts 3 and 5

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

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.

DAVIS-BACON REQUIREMENTS

Reference: 2 CFR § 200 Appendix II(D) and 29 CFR Part 5

I. Minimum Wages.

1. All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination

(including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

1. (1.) thru (4.)
 - (1) 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:
 - (2) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (3) The classification is utilized in the area by the construction industry; and
 - (4) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
 - (2) 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, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within thirty (30) days of receipt and so advise the contracting officer or will notify the contracting officer within the thirty (30)-day period that additional time is necessary.
 - (1) 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 thirty (30) days of receipt and so advise the contracting officer or will notify the contracting officer within the thirty (30)-day period that additional time is necessary.
 - (2) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
3. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the 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.
4. 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.

II. 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 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.

III. Payrolls and basic records.

1. 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 that 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.
2. (a) thru (d)
 - (a) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/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) 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) 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) Each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.
- (d) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.
3. The Contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying or transcription by authorized representatives of the Sponsor, the Federal Aviation Administration, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

IV. Apprentices and Trainees.

1. Apprentices.

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first

ninety (90) days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the 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 Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, 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.

2. Trainees.

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

Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination 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.

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

V. 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.

VI. Subcontracts.

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

VII. Contract Termination: Debarment.

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

VIII. 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.

IX. 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.

X. Certification of Eligibility.

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

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$3,500

DISTRACTED DRIVING

Reference: Executive Order 13513 and DOT Order 3902.10

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

enforces safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant. In support of this initiative, the 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 \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$10,000

AFFIRMATIVE ACTION REQUIREMENTS

Reference: 41 CFR Part 60-4 and Executive Order 11246

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

Goals for minority participation for each trade: 0.00%

Goals for female participation in each trade: 6.90%

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

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

4. Compliance with the goals will be measured against the total work hours performed.
3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within ten (10) working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.
4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is:
State of Missouri; County of Platte; City of Kansas City

EQUAL EMPLOYMENT OPPORTUNITY (EEO)

Reference: 2 CFR 200, Appendix II(C), 41 CFR § 60-1.4, 41 CFR § 60-4.3, and Executive Order 11246

- I. Equal Opportunity Clause. During the performance of this contract, the Contractor agrees as follows:
 1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identify or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
 3. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 4. 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.
 5. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
 6. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
 7. The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) 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 the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

- II. Standard Federal Equal Employment Opportunity Construction Contract Specifications
1. As used in these specifications:
 - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
 - b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
 - d. "Minority" includes:
 - (1) Black (all) persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);
 - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliation through membership and participation or community identification).
 2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
 3. If the Contractor is participating (pursuant to 41 CFR 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. Contractor shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
 4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7.a through 7.p 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 area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers.

- The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the Contractor has a collective bargaining agreement to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
 6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the Contractor during the training period and the Contractor shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.
 7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore along with whatever additional actions the Contractor may have taken.
 - d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or female sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
 - e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
 - f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor

- in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with on-site supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
 - h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.
 - i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
 - j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.
 - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
 - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female Contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisor's adherence to and performance

- under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7.a through 7.p). The efforts of a Contractor association, joint Contractor union, Contractor community, or other similar groups of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7.a through 7.p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
 9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally), the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized.
 10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
 11. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
 12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
 13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41CFR 60-4.8.
 14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the

degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

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

PROCUREMENT OF RECOVERED MATERIALS

Reference: 2 CFR § 200.322, 40 CFR Part 247, and Solid Waste Disposal Act

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

1. The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or,
2. The Contractor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year. The list of EPA-designated items is available at: <https://www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products>
Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the Contractor can demonstrate the item is:
 - (1) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
 - (2) Fails to meet reasonable contract performance requirements; or
 - (3) Is only available at an unreasonable price.

PROHIBITION OF SEGREGATED FACILITIES

Reference: 41 CFR § 60

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

TERMINATION OF CONTRACT

Reference: 2 CFR § 200 Appendix II(B) and FAA Advisory Circular 150/5370-10, Section 80-09

- I. Termination for Convenience (Construction & Equipment Contracts). The Owner may terminate this contract in whole or in part at any time by providing written notice to the Contractor. Such action may be without cause and without prejudice to any other right or remedy of Owner. Upon receipt of a written notice of termination, except as explicitly directed by the Owner, the Contractor shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:
1. Contractor must immediately discontinue work as specified in the written notice.
 2. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
 3. Discontinue orders for materials and services except as directed by the written notice.
 4. Deliver to the Owner all fabricated and partially fabricated parts, completed and partially completed work, supplies, equipment and materials acquired prior to termination of the work and as directed in the written notice.
 5. Complete performance of the work not terminated by the notice.
 6. Take action as directed by the Owner to protect and preserve property and work related to this contract that Owner will take possession.
- Owner agrees to pay Contractor for:
- a. completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
 - b. documented expenses sustained prior to the effective date of termination in performing work and furnishing labor, materials, or equipment as required by the contract documents in connection with uncompleted work;
 - c. reasonable and substantiated claims, costs and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
 - d. reasonable and substantiated expenses to the Contractor directly attributable to Owner's termination action
- Owner will not pay Contractor for loss of anticipated profits or revenue or other economic loss arising out of or resulting from the Owner's termination action.
- The rights and remedies this clause provides are in addition to any other rights and remedies provided by law or under this contract.
- II. Termination for Default (Construction). Section 80-09 of FAA Advisory Circular 150/5370-10 establishes conditions, rights and remedies associated with Owner termination of this contract due to default of the Contractor.
- III. Termination for Default (Equipment). The Owner may, by written notice of default to the Contractor, terminate all or part of this Contract if the Contractor:
1. Fails to commence the Work under the Contract within the time specified in the Notice-to-Proceed;
 2. Fails to make adequate progress as to endanger performance of this Contract in accordance with its terms;
 3. Fails to make delivery of the equipment within the time specified in the Contract, including any Owner approved extensions;
 4. Fails to comply with material provisions of the Contract;
 5. Submits certifications made under the Contract and as part of their proposal that include false or fraudulent statements; or
 6. Becomes insolvent or declares bankruptcy;
- If one or more of the stated events occur, the Owner will give notice in writing to the Contractor and Surety of its intent to terminate the contract for cause. At the Owner's discretion, the notice may allow the Contractor and Surety an opportunity to cure the breach or default.

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

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

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

If, after termination of the Contractor's right to proceed, the Owner determines that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the Owner issued the termination for the convenience of the Owner. The rights and remedies of the Owner in this clause are in addition to any other rights and remedies provided by law or under this contract.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$25,000

DEBARMENT AND SUSPENSION

Reference: 2 CFR Part 180 (Subpart C), 2 CFR Part 1200, DOT Order 4200.5

1. **Certification of Bidder/Offeree Regarding Debarment**

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

2. **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 verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful Bidder will accomplish this by:

- a. Checking the System for Award Management at website: <https://www.sam.gov>.
- b. Collecting a certification statement similar to the Certificate Regarding Debarment and Suspension (Bidder or Offeror), above.
- c. Inserting a clause or condition in the covered transaction with the lower tier contract. If the Federal Aviation Administration (FAA) later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$100,000

CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

Reference: 2 CFR § 200 Appendix II (E)

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

- times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
2. Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.
 3. Withholding for Unpaid Wages and Liquidated Damages. The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same Prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same Prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this clause.
 4. Subcontractors. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

Reference: 31 U.S.C. § 1352 – Byrd Anti-Lobbying Amendment, 2 CFR part 200, Appendix II(J), and 49 CFR part 20, Appendix A

CERTIFICATION REGARDING LOBBYING. The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

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

certify and disclose accordingly.

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

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$150,000

BREACH OF CONTRACT TERMS

Reference: 2 CFR § 200 Appendix II(A)

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 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.

CLEAN AIR AND WATER POLLUTION CONTROL

References: 2 CFR § 200 Appendix II(G)

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). The 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.

The Contractor agrees to incorporate the above certification in all lower tier subcontracts that exceed \$150,000.

**ATTACHMENTS TO PART I
ATTACHMENT A - SCOPE OF SERVICE**

JBT provides for fourteen (14) full time employees to include one (1) Site Manager, nine (9) Technicians, and four (4) Custodians. Staffing schedule will cover two (2) shifts with Technicians working 10-hour shifts to provide 20-hours of coverage from 0400 to 2400 with one-hour response time off-hours.

Position	Sun	Mon	Tue	Wed	Thu	Fri	Sat
Manager	Off	0600-1500	0600-1500	0600-1500	0600-1500	0600-1500	Off
Tech Day	0400-1400	0400-1400	0400-1400	0400-1400	Off	Off	Off
Tech Day	Off	Off	Off	0400-1400	0400-1400	0400-1400	0400-1400
Tech Day	0400-1400	0400-1400	0400-1400	Off	Off	Off	0400-1400
Tech Day	Off	0400-1400	0400-1400	0400-1400	0400-1400	Off	Off
Tech Day	0400-1400	Off	Off	Off	0400-1400	0400-1400	0400-1400
Tech Night	1400-2400	1400-2400	1400-2400	1400-2400	Off	Off	Off
Tech Night	Off	Off	Off	1400-2400	1400-2400	1400-2400	1400-2400
Tech Night	1400-2400	1400-2400	1400-2400	Off	Off	Off	1400-2400
Tech Night	1400-2400	Off	Off	Off	1400-2400	1400-2400	1400-2400
Custodian	Full-time, 40 hours per week, schedule to be determined						
Custodian	Full-time, 40 hours per week, schedule to be determined						
Custodian	Full-time, 40 hours per week, schedule to be determined						
Custodian	Full-time, 40 hours per week, schedule to be determined						

Updated pricing includes the following:

- Five-year Fixed Price Contract
- 20-Hour Daily Coverage from 0400 to 2400 with 1-Hour Response time during off-hours
- 1st Shift (0400-1400) will provide three (3) Technicians per shift and 2nd Shift (1400-2400 will provide two (2) Technicians per shift.
- Custodian position(s) is full-time 40-hour work week (final schedule to be determined)
- The proposal will meet the M/WBE Participation Goal at 13% MBE & 8% WBE
- Wage determination is based on updated data from the Economic Research Institute (ERI) and other location information for the Kansas City Market including discussions with local subcontractors for the Kansas City Market and our experience at Midwest airports near KCI.

Pricing Proposal:

- Year One \$1,588,545 (includes one-time start-up costs)
 - Year Two \$1,501,846
 - Year Three \$1,539,392
 - Year Four \$1,577,877
 - Year Five \$1,617,324
- } (includes YOY escalation 2.5%)

TOTAL - FIVE YEARS.....\$7,766,303*

** does not include the additional dates of February 15, 2023 - February 28, 2023 at \$58,680 or March 1, 2028 - April 30, 2028 at \$265,861*

GRAND TOTAL\$8,090,844

Since the PBB maintenance work performed by JBT on City-owned property may require payment of prevailing wages, JBT hereby reserves the right to revise the prices proposed herein. Furthermore, since JBT relies on Airport to make prevailing wage determinations under applicable provisions of the Federal, State, and local laws related to labor, Airport shall indemnify and pay and/or reimburse JBT for any damages, penalties or fines (including, but not limited to, attorney's fees and costs of litigation) that Contractor incurs, or pays, as a result of Airport's noncompliance determination with applicable prevailing wage laws.

JBT will interface with Kansas City Aviation Department's Maximo system for all work orders.

**ATTACHMENTS TO PART I
ATTACHMENT B – BONDS**

00610 Performance and Maintenance Bond
00616 Performance Bond

ATTACHMENTS TO PART I
ATTACHMENT C – EXEMPTION CERTIFICATES

00560 Missouri Project Exemption Certificate
00560.01 Kansas City Missouri Tax Exempt Certificate

**ATTACHMENTS TO PART I
ATTACHMENT D - 00620 INSURANCE CERTIFICATE**

ATTACHMENTS TO PART I
ATTACHMENT E – 00630 REVENUE CLEARANCE RELEASE AUTHORIZATION

ATTACHMENTS TO PART I
ATTACHMENT F – 00515.01 EMPLOYEE ELIGIBILITY VERIFICATION AFFIDAVIT



Kansas City

414 E. 12th Street
Kansas City, MO
64106

Legislation Text

File #: 221012

ORDINANCE NO. 221012

Appropriating \$1,976,086.00 from the Unappropriated Fund Balance of the Aviation Fund; and authorizing an \$8,212,525.00 contract with JBT AeroTech Corporation for repair and maintenance service of passenger jet bridges in the single terminal facility at Kansas City International Airport.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That the Director of the Aviation Department is authorized to execute Contract No. 62210536 in the amount of \$8,212,525.00 with JBT AeroTech Corporation for repair and maintenance service of passenger jet bridges in the single terminal facility at Kansas City International Airport and to expend up to \$1,976,086.00 for the first year of the agreement. The expenditure of funds for the second through fifth years of the agreement are subject to the appropriation of funds.

Section 2. That the amount of \$1,976,086.00 is appropriated from the Unappropriated Fund Balance of the Aviation Fund to the following account:

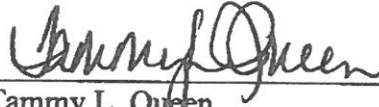
23-8300-622354-616022	KCI Facilities-Structural	\$1,976,086.00
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Section 3. That the Director of the Aviation Department is authorized to expend an amount not to exceed \$8,202,525.00 to satisfy the costs of the contract without further Council approval, subject to the appropriation of funds.

I hereby certify that there is a balance, otherwise unencumbered, to the credit of the appropriation to which the foregoing expenditure is to be charged, and a cash balance, otherwise

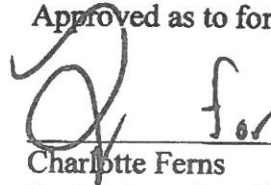
File #: 221012

unencumbered, in the treasury, to the credit of the fund from which payment is to be made, each sufficient to meet the obligation hereby incurred.



Tammy L. Queen
Director of Finance

Approved as to form:



Charlotte Ferns
Senior Associate City Attorney



Authenticated as Passed



Quinton Lucas, Mayor



Marilyn Sanders, City Clerk

DEC 08 2022

Date Passed



KANSAS CITY
MISSOURI

Revenue Division

414 E 12th St. 1st Floor
Kansas City, MO 64106-2786

Phone: (816) 513-1120
Fax: (816) 513-1264
Email: revenue@kcmo.org
Website: kcmo.gov/tax

JBT AEROTECH CORPORATION
7300 PRESIDENTS DR
ORLANDO FL 32809-5620

Letter Id: L0352436992
Date: 14-Feb-2023
Taxpayer Id: **-***3708



TAX CLEARANCE STATUS: APPROVED

As of this date, this notice is to inform you that JBT AEROTECH CORPORATION is current with all taxes and license fees with the City of Kansas City, Mo., Finance Department/ Revenue Division.

Please note this could change if we perform a full review of your accounts in the future. We will let you know if we need to review your accounts. You will need to pay any amounts that are found due at that time.

Mari Ruck
Commissioner of Revenue

Visit kcmo.gov/quicktax to view the status of your account and for online filing.



STATE OF MISSOURI



John R. Ashcroft
Secretary of State

CORPORATION DIVISION
CERTIFICATE OF GOOD STANDING

I, JOHN R. ASHCROFT, Secretary of State of the STATE OF MISSOURI, do hereby certify that the records in my office and in my care and custody reveal that

JBT AeroTech Corporation

using in Missouri the name

JBT AeroTech Corporation
F001332420

a DELAWARE entity was created under the laws of this State on the 24th day of June, 2019, and is Good Standing, having fully complied with all requirements of this office.

IN TESTIMONY WHEREOF, I hereunto set my hand and cause to be affixed the GREAT SEAL of the State of Missouri. Done at the City of Jefferson, this 17th day of January, 2023.


Secretary of State



Certification Number: CERT-01172023-0139

EMPLOYEE ELIGIBILITY VERIFICATION AFFIDAVIT

(Required for any contract with the City of Kansas City, Missouri in excess of \$5,000.00)

STATE OF Utah)
) ss
COUNTY OF Weber)

On this 29 day of November, 2022, before me appeared Frank Moore, personally known by me or otherwise proven to be the person whose name is subscribed on this affidavit and who, being duly sworn, stated as follows:

I am of sound mind, capable of making this affidavit, and personally swear or affirm that the statements made herein are truthful to the best of my knowledge. I am the President/General Manager – Airport Services (title) of JBT AeroTech Corporation (business entity) and I am duly authorized, directed or empowered to act with full authority on behalf of the business entity in making this affidavit.

I hereby swear or affirm that the business entity does not knowingly employ any person in connection with the contracted services who does not have the legal right or authorization under federal law to work in the United States as defined in 8 U.S.C. § 1324a(h)(3).

I hereby additionally swear or affirm that the business entity is enrolled in an electronic verification of work program operated by the United States Department of Homeland Security (E-Verify) or an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, under the Immigration Reform and Control Act of 1986, and that the business entity will participate in said program with respect to any person hired by the business entity to perform any work in connection with the contracted services. I have attached hereto documentation sufficient to establish the business entity’s enrollment and participation in the required electronic verification of work program.

I am aware and recognize that unless certain contractual requirements are satisfied and affidavits obtained as provided in Section 285.530, RSMo, the business entity may face liability for violations committed by its subcontractors, notwithstanding the fact that the business entity may itself be compliant.

I acknowledge that I am signing this affidavit as the free act and deed of the business entity and that I am not doing so under duress.

Frank Moore

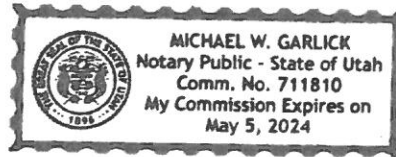
Affiant's signature

Subscribed and sworn to before me this 29 day of November, 2022.

M. Garlick

Notary Public

My Commission expires:





JBT AeroTech Corporation
70 West Madison Street
Suite 4400
Chicago, Illinois 60602

DELEGATION OF SIGNATURE AUTHORITY

By resolution of the Board of Directors of JBT AeroTech Corporation (the "Corporation"), I was vested with authority, in my capacity as President, to execute, and to delegate to any person authority to execute, all written instruments whatsoever pertaining to matters that are in the ordinary course of business of the Corporation.

Pursuant to this authority, I hereby authorize Frank Moore, President/General Manager of Airport Services, a business unit of the Corporation, to execute and to deliver all written instruments whatsoever which are in the ordinary course of business of the Corporation that pertain to Airport Services.

The authority conveyed by this delegation of signature authority may not be further delegated.

This delegation shall become effective on 13 January 2022 and shall continue in effect through 31 December 2022, unless revoked earlier in writing.

Dated: January 13, 2022.

JBT AeroTech Corporation

By: 
Name: David C. Burdakin
Title: President