

CONTRACT BID DOCUMENTS, BID PROPOSAL, AND
TECHNICAL SPECIFICATIONS

For

HVN ARFF ONE-BAY EXPANSION

Prepared for:

TWEED-NEW HAVEN REGIONAL AIRPORT
New Haven, Connecticut



May 27, 2025

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DIVISION A – BIDDING REQUIREMENTS AND PROPOSAL

INVITATION TO BID**HVN ARFF ONE-BAY EXPANSION**

The City of New Haven and Tweed-New Haven Airport Authority invites **electronic bids** for the above referenced project for Tweed-New Haven Regional Airport, New Haven, Connecticut. The **electronic bids** are to be prepared and submitted ONLY via the electronic bid service through <https://www.questcdn.com>.

Bids will be accepted until **4:00 p.m. ET on Wednesday, June 11, 2025, ONLY** at <https://www.questcdn.com> at which time all bids opened online. Electronic Bids received after this bid opening time will not be accepted. Anyone interested in witnessing the public bid opening over the phone or internet shall contact Avports for a link to a bid opening conference call. Please contact **Scott Johnson, sjohnson@avports.com, (720) 891-5555** for the link and meeting information at least five (5) days prior to the scheduled bid opening. The 5-day lead time is required in case the bid opening time changes. The time of receiving and opening bids may be changed, or postponed, at the sole discretion of the Owner.

Please note: **NO HARD COPY BIDS WILL BE ACCEPTED.** Any bid received at the Airport will be returned, unopened to the Bidder and **NOT ACCEPTED.**

TYPE OF CONSTRUCTION: The Base Bid for this project will construct a single bay expansion to the existing ARFF station to accommodate a new 1,500-gallon capacity ARFF vehicle, crew and vehicle maintenance and washing areas. The size of the structure is approximately 45 feet long by 22 feet wide. The proposed expansion bay is a prefabricated steel structure with a concrete block and brick finish. Widening of the existing driveway from the new bay to the taxiway. The driveway widening requires modifications to existing stormwater drainage structures and also filling within the floodplain. Installation of new vehicle exhaust collection systems in the existing bay and the new bay.

CONTRACT TIME: The contract time for the Base Bid includes a pre-construction coordination and procurement period beginning in June 2025 and ending July 2025. The construction contract time for the Base Bid is nine (9) months from August 2025 through April 2026.

PROPOSAL SURETY: All bids must be accompanied by a Proposal Surety (cash, certified check, treasurer's or cashier's check, Bid Bond, or other instrument as described in the Instructions to Bidders).

Proposal Surety of the three (3) lowest responsible Bidders that have submitted proposals that comply with all the provisions required to render them formal will be retained until the Contract and Bonds have been signed by all parties. Proposal Surety of all other bidders will be returned or released as soon as it is practical.

PLANS, SPECIFICATIONS, AND PROPOSALS MAY BE OBTAINED FROM:

Complete digital Bidding Documents may be viewed and initially obtained on or after **May 27, 2025** at the HVN website <https://flytweed.com/about-airport/doing-business-with-tweed/> and selecting the referenced project.

However, to be able to submit a bid for the project, the Bidder is required to set up a membership account with QuestCDN, www.questcdn.com and pay a download fee of \$50.00 before downloading the Bidding Documents. To be able to perform the download, the Bidder must JOIN the bidding service by going to QuestCDN, www.questcdn.com and input this project's ebid Doc number [to be provided in future addendum]. If assistance is needed for setting up a membership registration, downloading, or working with the digital project information, please contact QuestCDN directly at (952) 233-1632 or info@questcdn.com.

Addenda and other additional, or revised, Contract Documents will be available on the **QuestCDN bidding service website**. It is the Bidder's sole responsibility to check this website for additions or revisions, even up to 24 hours prior to the above listed Bid Opening date for Proposals. Addendums and other additional, or revised Contract Documents, will not be transmitted directly to Bidders or Plan Holders.

To bid on this project and to be considered a plan holder, **THE BIDDER MUST DOWNLOAD ALL DIGITAL PROJECT BIDDING DOCUMENTS FROM QUESTCDN AND PAY THE DOWNLOAD DELIVERY FEE**. Neither the Owner, or the Designer, will be responsible for providing full or partial sets of Bidding Documents, including Addenda, if any, obtained from sources other than the digital bidding service, QuestCDN.

Bidder shall ONLY submit a bid via the online electronic bid service through [QuestCDN, www.questcdn.com](http://QuestCDN.com) (see Instructions to Bidders for additional requirements).

PRE-BID CONFERENCE: A pre-bid conference will be held on **Tuesday, June 3, 2025 at 2:00 p.m.** at Tweed-New Haven Regional Airport, 155 Burr Street, 2nd Floor Administration Building, New Haven, CT 06512. This will be the only time for prospective Bidders or subcontractors to view the site. Bidders must advise **Scott Johnson, sjohnson@avports.com, (720) 891-5555** at least 24 hours prior to the Pre-Bid Conference, if they are to attend. All interested bidders are requested to attend in order to prepare acceptable bid submissions.

QUESTIONS AND CONTACT WITH THE OWNER: From the time of advertising until the actual bid opening for this Contract, all prospective Bidders, Contractors, Subcontractors, and Suppliers shall direct all inquiries related to this project (in writing) solely to **Scott Johnson, sjohnson@avports.com, (720) 891-5555**. The deadline for submitting inquiries related to this project is **Friday, June 6 at 5:00 p.m ET**.

BIDDING PROCEDURES: The Electronic Bidding Procedures outlined in the Instructions to Bidders.

CONTRACT BONDS: A successful Bidder entering into a contract for any portion of the work included in a proposal shall provide the Owner sufficient surety in the form of 100% Performance and Payment Bonds as outlined in Division 2 – Supplemental General/Special Provisions.

FEDERAL CONTRACT PROVISIONS: In this bid process and the resulting Contract, if executed, all Bidders and Contractors must fully comply with the Federal Contract Provisions entitled, *Contact Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects*, contained within the Contract Documents in Division 1 – Project Specifications.

NONDISCRIMINATION IN CONTRACTS: The Owner will not discriminate against any bidder because of race, color, religion, sex, or national origin.

GENERAL CIVIL RIGHTS: In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

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

GENERAL CIVIL RIGHTS – TITLE VI ASSURANCES: The **City of New Haven and Tweed-New Haven Airport Authority**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, select businesses or

disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION to ENSURE EQUAL EMPLOYMENT OPPORTUNITY:

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
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:

Timetables

Goals for minority participation for each trade: 9.0%

Goals for female participation in each trade: 6.9%

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 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 **an SMSA County: New Haven, Connecticut, New Haven County.**

BUY AMERICAN CERTIFICATION: The Contractor certifies that its bid/offer is in compliance with 49 USC § 50101, BABA and other related Made in America Laws, U.S. statutes, guidance, and FAA policies, which provide that Federal funds may not be obligated unless all iron, steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration 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.

The bidder or offeror must complete and submit the certification of compliance with FAA's Buy American Preference, BABA and Made in America laws included herein with their bid or offer. The Airport Sponsor/Owner will reject as nonresponsive any bid or offer that does not include a completed certification of compliance with FAA's Buy American Preference and BABA.

The bidder or offeror certifies that all construction materials, defined to mean an article, material, or supply other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall used in the project are manufactured in the U.S.

MINIMUM LABOR RATES (DAVIS-BACON & CONNECTICUT PREVAILING WAGE): All work under this project must comply with Davis-Bacon Act regulations as described in the Contract Documents. Federal Wage Rates are included in the Contract Documents. Work under this project must also comply with the State of Connecticut Prevailing Wage Rates as included in the Contract Documents. In all cases of conflict, the higher wage rate shall apply.

CERTIFICATE REGARDING DEBARMENT AND SUSPENSION: By submitting a proposal under this solicitation, the bidder certifies that at the time the bidder submits its proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction. A bidder must submit the appropriate Certificate Regarding Debarment and Suspension (Form MJ-202) contained in the Proposal with the bid for this project. Bids or offers that are not accompanied by a completed Certificate Regarding Debarment and Suspension will be rejected as nonresponsive.

DISADVANTAGED BUSINESS ENTERPRISE (DBE): The requirements of 49 CFR part 26 apply to this contract. It is the policy of the Tweed-New Haven Airport Authority at the Tweed-New Haven Regional Airport 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.

Tweed-New Haven Airport Authority at Tweed-New Haven Regional Airport has elected to utilize a **DBE Race-Conscious Goal** for this project. The project specific **DBE goal is 14.7%**. The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR § 26.53.

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

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1);
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal
- 5) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; and
- 6) 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. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

TRADE RESTRICTION CLAUSE: The Contractor or Subcontractor, by submission of an offer and/or execution of a contract, must certify compliance with the Foreign Trade Restriction Clause. Unless waived by the Secretary of Transportation, sponsors may not use AIP funds on a product or service from a foreign country included in the current list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR).

LOBBYING AND INFLUENCING FEDERAL EMPLOYEES: Contractors that bid on this project must certify that they will not and have not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or another award covered by 31 USC 1352. Each Contractor and Subcontractor must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

PROHIBITION OF SEGREGATED FACILITIES: By submitting a proposal under this solicitation, the bidder certifies that at the time the bidder submits its proposal that does not and will not 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.

PROCUREMENT OF RECOVERED MATERIALS: Contractors and subcontractors that bid on this project 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 as defined in the Contract Documents.

QUANTITIES: Bids shall be on a unit price basis, as indicated in the Bid Proposal. The estimated quantities in the Bid Proposal are not guaranteed, but are given as a basis for the comparison of bids.

BID VALID PERIOD: No bids may be withdrawn by the Bidder for 180 calendar days post bid opening.

PROPOSAL FORMS: The proposal section includes a Proposal Checklist. If all the forms and documents listed in the Proposal Checklist for inclusion in the Proposal are not included with your Proposal and correctly executed, the Proposal may be considered non-responsive.

The right is reserved to reject any or all bids, to waive any formality and any and all technicalities in bids and to accept such bids as may be deemed in the best interest of the awarding agency.

AWARDING AUTHORITY
Tweed-New Haven Airport Authority

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INSTRUCTIONS TO BIDDERS**1. GENERAL:**

This project is to be financed in part by a grant from the United States under the Federal Aviation Administration (FAA) Airport Improvement Program (AIP). Award of Contract is subject to the availability of funds through approvals from the FAA, and **Tweed-New Haven Airport Authority**.

PROJECT NAME: HVN ARFF One-Bay Expansion

2. GOVERNING STATUTE REFERENCE:

Wherever in the Contract Documents reference is made to the Connecticut General Statutes, (CGS), it shall be construed to include all amendments thereto effective as of the date of issue of INVITATION TO BID on the proposed work.

Bids are subject to the provisions of the Tweed-New Haven Airport Authority procurement regulations and the Connecticut General Statutes, (CGS) (refer to Division 1 for additional information regarding the applicable CGS provisions for the procurement and contract).

3. ELECTRONIC BIDDING INSTRUCTIONS:

THIS PROJECT IS BEING ELECTRONICALLY BID AND HARD COPY BIDS WILL NOT BE ACCEPTED.

A. BID FORMS

Bids shall be submitted electronically on the "**Bid Worksheet Bid Form**" through the QuestCDN website. The forms enclosed in the Project Manual shall not be extracted, completed or executed by the Bidder and are included as part of the Contract Documents package as a convenience of bidders and are to be used for reference purposes only.

All entries for the "**Bid Worksheet Bid Form**" shall be made online. Any documents that are attached to the bid must be in a PDF format.

B. BID PREPARATION AND SUBMISSION

Each bid must be prepared in accordance with the requirements in Division 1 - FAA General Provisions Section 20 of these specifications, except when the section refers to delivery of paper copies of proposals. Substitute all mention of original document submittals with online document submittals. See other paragraphs within this Information for Bidders section for further exceptions.

Bids for this project will ONLY be accepted via the online electronic bid service through QuestCDN, www.questcdn.com. The Bidder must set up a membership with the QuestCDN bidding service and pay a download fee of \$50.00 before being allowed to download the Bidding Documents. After the Bidder has JOINED this bidding service, the Bidder will input ebid Doc number ##### **(to be provided in future addendum)**. If the Bidder needs assistance setting up the membership registration, downloading, or working with the digital project information, please contact QuestCDN directly at 1-952-233-1632 or info@questcdn.com.

To bid on this project and be considered a plan holder, the Bidder MUST download the digital project bidding documents from the HVN website <https://flytweed.com/about-airport/doing-business-with-tweed/>.

The information required, shall be furnished on the forms provided (as listed on the Bid Proposal Certification Checklist) on the bid website <https://www.questcdn.com>, and shall be subject to all requirements of the General Conditions, Special Conditions, the Specifications and Drawings.

The bidder is specifically advised that any person, firm, or other party to whom it is proposed to award a subcontract under this Contract must submit a certification regarding Equal Employment opportunity, similar to that submitted by the Bidder. Approval of the subcontractor award cannot be given by the Owner, unless and until the proposed subcontractor has submitted the certification and/or other evidence that it has fully complied with any reporting requirements to which it is or was subject.

Although the bidder is not required to attach such certification by proposed subcontractors to the Bid, the Bidder is herein advised of this requirement so that appropriate action can be taken to prevent subsequent delay in subcontract awards.

The **Tweed-New Haven Airport Authority** may consider any bid to be informal that is not prepared and submitted in accordance with the provisions hereof, and may at its option waive any informalities, or accept or reject any and all bids. Any bid received after the time, date and place specified shall not be opened or considered.

C. UNIT PRICES

The unit prices for each of the several items in the Proposal of each bidder shall include its pro rata share of overhead, so that the sum of the products obtained by multiplying the quantity shown for each item by the unit price represents the total bid for that item. Any bid not conforming to this requirement may be rejected as informal. The special attention of all bidders is called to this provision, for should conditions make it necessary to revise the quantities, increase or decrease thereof may be made without limit and adjustment and compensation shall be made on the basis of the unit prices for such items.

D. ALTERNATIVE BIDS

No alternative bids will be considered, unless alternative bids are specifically requested.

E. TAX EXEMPTION

Bids should not include federal excise or state sales taxes, as the Tweed-New Haven Airport Authority is exempt from payment of any such taxes. The Authority is also exempt from transportation taxes when goods are consigned to the Authority. The Authority will furnish tax exemption certificates upon satisfactory proof of delivery to the Authority. Shipments should be consigned to the Tweed-New Haven Airport Authority in care of the Contractor.

F. WITHDRAWAL OF BIDS

Bids may be withdrawn by the Bidder from the bidding service, <https://www.questcdn.com>, at any time prior to the time fixed for opening bids.

G. BID VALID PERIOD:

No bids may be withdrawn by the Bidder for **180 calendar days** post bid opening.

4. GENERAL PROPOSAL SURETY REQUIREMENT(S):

The Proposal Surety shall be as specified in the Invitation to Bid and as further described in the Division 2 - Supplemental General Provisions, Section SGP, Item 18 and as follows:

The bid security shall be **five percent (5%)** minimum of the total bid, including alternates of greatest value (if applicable). The bid security shall be an cash, certified bank check or treasurer's/cashiers checks, or acceptable bid bond issued by a surety company of good standing and licensed to do business in the State of Connecticut and listed on the latest issue of the United State Treasury Circular 570. The security shall be made payable to the **Tweed-New Haven Airport Authority (Awarding Authority)**. The "bid bond" is to be scanned and uploaded to the electronic bid as a PDF file.

IMPORTANT NOTICE: If the bidder elects to make a bid deposit in the form of “cash”, “certified bank check or treasurer’s/cashiers check”, the bidder must have the cash or check physically delivered to the Awarding Authority at the address below prior to the date and time of the bid opening.

Tweed-New Haven Airport
Attention: Tom Rafter, Executive Director
155 Burr Street
New Haven, CT 06512

Please place the security in an inner envelope and write on the outside of the envelope “ADDITIONAL BID INFORMATION” along with the bidders name, address and project title.

5. INSURANCE REQUIREMENTS:

Insurance Requirements shall be as specified in Division 1, TNHAA General Conditions Section, Item 111 Insurance.

6. EXAMINATION OF CONDITIONS AFFECTING WORK:

- A. Prior to submitting a Proposal, each bidder shall examine and thoroughly familiarize themselves with all existing conditions, including all applicable laws, codes, ordinances, rules, and regulations that will affect his work. Bidders shall visit the site, examine the grounds and all existing buildings, utilities, and roads, and shall ascertain all conditions that will in any manner affect work. The Bidder should also thoroughly examine and familiarize themselves self with the Drawings, Technical Specifications and all other Contract Documents. The Contractor by the execution of the Contract shall in no way be relieved of any obligation under it due to his failure to receive or examine any form or legal instrument or to visit the site and acquaint themselves with the conditions there existing and the **Tweed New Haven Airport Authority** will reject any claim based on the facts regarding which he should have been on notice.
- B. Bidders shall ask the Engineer, in writing, for any additional information deemed necessary for them to be fully informed as to exactly what is to be expected prior to submitting a Proposal as part of the Interpretations/Clarifications questions to be answered as an Addendum.
- C. When boring data and/or subsurface utility data is/are provided in the Contract Documents, neither its accuracy nor its completeness is guaranteed; the Contractor shall assume the responsibility for any conclusions they may draw from such data. They may employ their own consultants to obtain information and analyze available information and shall be responsible for any conclusions drawn from that information.

7. INTERPRETATIONS & ADDENDUM:

Each Bidder shall carefully examine the plans and the Contract Documents and all Addenda or other revisions and thoroughly familiarize themselves with the detailed requirements prior to submitting a Proposal. Should a Bidder find discrepancies or ambiguities in, or omission from, the Contract Documents, or should they be in doubt as to their meaning, they shall at once notify the Engineer for an interpretation/clarification.

No oral interpretation will be made to any bidder as to the meaning of the Contract Documents or any part thereof. Every request for such interpretation should be submitted in writing by email to **Scott Johnson** sjohnson@avports.com, and to be given consideration before the date fixed for the opening of bids noted in the Invitation to Bid.

Every interpretation or modification made to the Contract Documents for the bidders will be in the form of an Addendum to the Contract Documents. Any and all such interpretations and any supplemental instructions which, if issued, will be made available on the QuestCDN website to all

parties and this addendum will be recorded by the Bidder as having received the Bid Document Addendum prior to the date fixed for the opening of bids.

It is the intent to have the QuestCDN website notify plan holders with an email that an Addendum has been uploaded. However, it is the bidder's sole responsibility to periodically check and verify that all Addenda have been downloaded and acknowledge all posted addenda prior to submitting their bid. Bid submissions will not be accepted, unless all Addenda have been downloaded. Failure of any bidder to receive any such addenda or interpretation shall not relieve such bidder from any obligation under the bid as submitted. All addenda will be posted no later than 24 hours prior to the time of bid opening. All addenda issued shall become part of the Contract Documents.

8. SUBSTITUTIONS:

- A. The materials, products, and equipment described in the Contract Documents establish a standard of required function, dimension, appearance, and quality to be met by any proposed substitutions.
- B. No substitutions will be considered prior to submission of Proposal, unless written request for approval has been submitted in the proper format not less than seven (7) days prior to the submission of Proposal to be approved by the Engineer. The burden of proof of the merit of the proposed substitution is upon the Bidder. The Engineer's final decision of Approval or Disapproval of a proposed substitution is final.
- C. In making requests for substitutions, the Bidder shall list the particular system, product, or material they wish to substitute, and the justification for such a request. Requests submitted shall include any and all adjustments of that and any other work affected thereby.
- D. If the Engineer approves any proposed substitution prior to the submission of Proposal, such approval will be set forth in an Addenda. Bidders shall not rely on approvals made in any other manner.
- E. No substitutions will be considered after the submission of Proposal, except as specifically provided for in the Contract Documents.

9. ESTIMATED QUANTITIES AND BID FORM:

Estimated quantities for unit price items are approximate only, being given as a basis for the uniform comparison of Bids. The Owner does not expressly nor by implication agree that the actual amount of work will correspond therewith.

The Owner reserves the right, as a condition for awarding the Contract, to increase or diminish the amount of any classes or portion of the work or to omit construction in certain locations, as may be determined by the Owner.

The Bid Form consists of items of work for which Bid unit prices are requested and/or items of work for which Bid lump sum prices are requested. Each Bid shall state a unit price for each unit price item and a lump sum price for each lump sum item (if applicable). Each unit price shall be multiplied by the quantity of the item and the result stated as the total amount for the item. All such total amounts shall be added together with the sum of all lump sum prices and the grand total of the Bid when correctly calculated will be used in the comparison of Bids received.

10. BIDDER'S QUALIFICATIONS:

Each bidder shall, as noted in the Form of Bid, submit (and upload to Quest CDN with the bid) on the form furnished for that purpose (refer to the Bidding Certification Forms), a statement of the bidder's qualifications, their experience record in constructing the type of improvements embraced in the Contract, and their organization and equipment available for the work contemplated; and, when specifically requested by the **Tweed-New Haven Airport Authority** shall also submit a

detailed financial statement. The **Tweed-New Haven Airport Authority** shall have the right to take such steps as it deems necessary to determine the ability of the bidder to perform his obligations under the contract and the bidder shall furnish the **Tweed-New Haven Airport Authority** all such information and data for this purpose as it may request. The right is reserved to reject any bid as non-responsive where an investigation of the available evidence or information does not satisfy the **Tweed-New Haven Airport Authority** that the bidder is qualified to carry out properly the terms of the Contract.

The Owner reserves the right to investigate and determine the responsibility and qualifications of the Bidders before and after bid Proposals are received. The Owner shall not award Contract to any Bidder determined by Owner to be non-responsive. Among the criteria which Owner may use in making such determination are the following:

- A. Failure to comply with any qualification requirements of the Owner, including failure to supply such accurate information as the Owner may require in evaluating the qualifications of Bidders or failure to supply the Owner with such documents or information as the Owner may request to assist the Owner in evaluating the responsibility and qualifications of prospective Bidders.
- B. Past performance of the Bidder, one or more of the listed Subcontractors, or any affiliated or related entity.
- C. Failure of Bidders or any affiliated or related entity to pay or satisfactorily settle all bills for labor and materials on any former contract with the Owner.
- D. The outstanding obligations of the Bidder, whether previously assumed or to be assumed in the future.
- E. Unsatisfactory, defective, or non-conforming work on any previous contract with the Owner by the Bidder, one or more of the listed subcontractors, or any affiliated or related entity.
- F. The present relationship between the Owner and the Bidder (or any affiliated or related entity), including the existence of any unresolved disputes arising out of past projects.
- G. The financial condition of the Bidder.
- H. Experience of the Bidder and/or his listed Subcontractors in performing work of this nature.

11. OPENING OF BIDS

At the time fixed for the opening of bids, the Tweed New Haven Airport Authority will open virtually via MS Teams on the <https://www.questcdn.com> website and bids will be publicly read aloud for every bid received within the time set for receiving bids, irrespective of any irregularities therein. Bidders and other persons properly interested may be present virtually. Electronic Bids received after the fixed bid opening time will not be accepted.

Anyone interested in witnessing the public bid opening over the phone or internet shall contact Designer's Name for a link to a bid opening conference call. Please contact **Scott Johnson** sjohnson@avports.com (720) 891-5555 for the link and meeting information at least five (5) days prior to the scheduled bid opening. The 5-day lead time is required in case the bid opening time changes. The time of receiving and opening bids may be changed, or postponed, at the sole discretion of the Owner.

12. ACCEPTANCE OF PROPOSAL FORMS:

The contract will be awarded to the RESPONSIBLE BIDDER submitting the lowest qualified bid.

The Owner reserves the right to refuse to accept a Bid Package and Proposal Form from a prospective Bidder, should such Bidder be determined by the Owner to be NON-RESPONSIBLE. Among the criteria which the Owner may use in making such determination are the following:

- A. If pre-qualification procedures are utilized, failure to comply with any pre-qualification requirements of the Owner, including failure to supply such information as the Owner may require in evaluating the qualifications of the Bidders or failure to supply the Owner with such documents or information as the Owner may request to assist the Owner in evaluating the responsibility and qualifications of prospective Bidders.
- B. Past performance of the Bidder or any affiliated or related entity.
- C. Failure of the Bidder or any affiliated or related entity to pay or satisfactorily settle all bills for labor and material on any former contract with the Owner.
- D. The outstanding obligations of the Bidder, whether previously assumed or to be assumed in the future.
- E. Unsatisfactory, defective, or non-conforming work on any previous contract with the Owner by the Bidder or any affiliated or related entity.
- F. The present relationship between the Owner and the Bidder (or any affiliated or related entity) including the existence of any unresolved disputes arising out of past projects.

The Bidder acknowledges that the Authority may:

- (a) reduce the quantities under any bid item; or
- (b) delete work items altogether if such action is necessary to bring the contract price within funds available to finance the project.

Such reduction of quantities or deletion of work shall not constitute a basis for withdrawal of the Proposal or for adjustment of the unit lump sum prices bid. By submitting a Bid hereunder, the Bidder agrees to and accepts the Authority's right to make necessary adjustments to award a contract consistent with the funds available.

The Bidder to whom the award is made will be notified at the earliest possible date dependent upon funding availability. The Tweed-New Haven Airport Authority, however, reserves the right to reject any and all bids or to waive any informality in submitted bid documents whenever, rejection or waiver is in its interest. The Bidder shall prepare their bid to account for the full bid hold period.

The ability of any bidder to obtain a performance bond will not be regarded as the sole test of such bidder's competency or responsibility.

The acceptance of a Bid Package and Proposal Form from a particular Bidder shall not prevent or preclude the Owner from determining at a later date that a particular Bidder or entity is non-responsible or otherwise not qualified. The Owner at all times reserves the right to refrain from accepting a Bid Package or awarding this Contract to a non-responsible entity or to any affiliated or related entity, or such Owner, as well as any successor, assignee, transferee, or majority interest holder of any non-responsible entity.

The Tweed New-Haven Airport Authority will not award the Contract to any contractor who is, at the time of the award, ineligible for such contract under the provisions of any applicable regulations issued by the Secretary of Labor, United States Department of Labor, or is not qualified under applicable State and Local laws and regulations.

13. REJECTION OF PROPOSALS:

- A. Proposals containing any omission, alteration of form, additions or conditions not called for, conditional or alternate bids unless called for, incomplete bids, or Proposals otherwise regular

which are not accompanied by the appropriate Proposal Surety will be considered irregular and may be rejected.

The Owner reserves the right to reject any or all bid Proposals, to waive any formalities, technicalities, or irregularities therein, to award or refrain from awarding a contract for work, and to readvertise for bid Proposals.

B. Proposals may be considered irregular for the following reasons:

- (1) If the Proposal is on a form other than that furnished by the Owner or provided by the online bidding website, or if the Owner's form is altered, or if any part of the Proposal Form is detached.
- (2) If there are unauthorized additions, conditional or alternative pay items, or irregularities of any kind which made the Proposal incomplete, indefinite, or otherwise ambiguous.
- (3) If the Proposal does not contain a unit price for each pay item listed in the Proposal, except in the case of authorized alternate pay items, for which the Bidder is not required to furnish a unit price.
- (4) If the Proposal contains unit prices that are obviously unbalanced.
- (5) If the Proposal is not accompanied by the Proposal Surety, as specified by the Owner.

If Bidder's qualifications are not submitted as required.

14. NOTICE OF AWARD

It is the intent to have the Notice of Award as soon as practicable after the availability of the funding notification and execution.

15. EXECUTION OF AGREEMENT, PERFORMANCE AND LABOR & MATERIAL BOND

Subsequent to the Notice of Award and within ten (10) days after the prescribed forms are presented for signature, to the Responsible Bidder submitting the lowest qualified bid (successful Bidder). The RESPONSIBLE BIDDER shall execute and deliver to the **Tweed-New Haven Airport Authority** the Agreement in the form included in the Contract Documents, in such number of copies as the **Tweed-New Haven Airport Authority** shall require.

Having satisfied all conditions of award as set forth elsewhere in these documents, the successful Bidder shall, within the period specified in paragraph above, furnish a surety bond in a penal sum not less than the amount of the Contract as awarded, as security for the faithful performance of the Contract, and a labor and material bond for payment of all persons, firms or corporations to whom the Contractor may become legally indebted for labor, materials, tools, equipment, or services of any nature including utility and transportation services, employed or used by him in performing the work.

Such bonds shall be in the same form as those included in the Contract Documents and shall bear the same date, or a date subsequent to that of the Agreement. These bonds shall be signed and issued by a guaranty or surety company satisfactory to the **Tweed-New Haven Airport Authority**, authorized and qualified to do business in the State of Connecticut, and listed in the latest issue of the U.S. Treasury Circular 570, and the penal sum of any such bond shall be within the maximum specified for such company in said Circular 570. The current power of attorney for the person who signs for any surety company shall be attached to such bonds.

The failure of the successful bidder to execute such Agreement and to supply the required bonds or submit the insurance policies required in the INSURANCE section of the SUPPLEMENTAL GENERAL CONDITIONS within ten (10) days after the prescribed forms are presented for signature, or within such extended period as the **Tweed-New Haven Airport Authority** grant based upon reasons determined sufficient by the **Tweed-New Haven Airport Authority**, shall constitute a

default and the Bidder's bid bond or guaranty shall be forfeited to the **Tweed-New Haven Airport Authority** as liquidated damages. The **Tweed-New Haven Airport Authority** may either award the Contract to the next lowest responsible bidder or re-advertise for bids, and may charge against the defaulting bidder the difference between the amount of the bid and the amount for which a contract for the work is subsequently executed. Irrespective of whether the favorable Bid is received by re-advertising, the defaulting bidder shall have no claim against the **Tweed-New Haven Airport Authority** for a refund.

16. NOTICE TO PROCEED

It is the intent to have an initial administrative Notice to Proceed to start shop drawings, project scheduling, material ordering, and other administrative work items issued by the **Tweed-New Haven Airport Authority** after the execution of the Contract by the Authority, or the deposition of the required bonds and insurance policies (whichever is last), prior to the actual Construction Notice to Proceed. The Construction Notice to Proceed date will be negotiable based upon the required lead time for critical path items.

17. REGISTERED TO DO BUSINESS IN THE STATE OF CONNECTICUT:

All Bidders shall be registered to do business within the State of Connecticut. Registration can be obtained through the State of Connecticut, Department of Revenue Services office (860) 297-5962 or <https://portal.ct.gov/drs/drs-forms/registration/register-your-business>.

The three (3) lowest Bidders shall provide proof of registration within 72 hours of the Bid Opening.

18. COMPLIANCE WITH LAW:

Bidders must comply with all rules, laws and regulations as described in Division 1 of these Specifications for the Required Federal Contract Provisions (RFCP) for AIP Obligated Sponsors and State of Connecticut Contract Provisions.

The Contractor covenants and agrees that they and their agents and employees will comply with all municipal, state and federal laws, applicable national and local codes, City of New Haven, and Tweed-New Haven Airport Authority rules and regulations applicable to the work to be conducted under this Agreement.

19. COLLUSIVE AGREEMENT

Each bidder submitting a bid to the **Tweed-New Haven Airport Authority** for any portion of the work contemplated by the documents on which bidding is based, shall execute and attach thereto an affidavit substantially in the form herein provided, to the effect that he has not colluded with any other person, firm or corporation in regard to any bid submitted.

Before executing any subcontract, the successful bidder shall submit the name of any proposed subcontractor for prior approval and an affidavit substantially in the form herein provided in the section SUBCONTRACTS under General Conditions.

20. EQUAL EMPLOYMENT OPPORTUNITY (EEO) AND AFFIRMATIVE ACTION:

Bidders and Contractors must comply with the provisions of the Equal Opportunity Clause, Specifications, and regulations and Affirmative Action regulations as described in Division 1 - General Provisions (GP), Division 1 - Required Federal Contract Provisions (RFCP) and Division 2 - Special Provision/Supplemental General Provisions (SGP) of these Contract Documents.

The Affirmative Action and EEO goals for minorities and women are listed in the Invitation to Bid.

21. BUY AMERICAN PREFERENCES:

Title 49 United States Code Chapter 501 provides that preference be given to steel and manufactured products produced in the United States when funds are expended pursuant to a grant issued under the

Airport Improvement Program (AIP). This is called the Buy American Program or Buy American Preferences. The Bidder is referenced to review the GP, RFCP, and SGP for Buy American Program guidance. For additional references, the FAA Buy American Preference Requirements are further defined at the following link: https://www.faa.gov/airports/aip/buy_american. In addition, the *Airport Improvement Program Handbook*, Appendix X Tables which can be access at: https://www.faa.gov/airports/aip/aip_handbook#TablesX. These references provide extensive guidance on the Buy American Program and Preferences.

In accepting AIP funding, grant recipients are certifying that they will not acquire (or permit any Contractor or Subcontractor) to use any steel or manufactured products produced outside the United States on any portion of the project for which funds are provided, unless otherwise approved by the FAA. Therefore, for the AIP funded portion of a project, grant recipients must either:

1. Certify, in writing, all products are wholly produced in the US of US materials, or
2. Certify that all equipment that is being used on the project is on the Nationwide Buy American conformance list, or
3. Request a waiver to use non-US produced products (It shall be the sole right of the Owner to determine whether or not to request a waiver on a particular piece of equipment).

The AIP funded portion of a project includes the grant recipient's local share.

In Division 1 of the Contract Documents, the Federal Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Project Programs, provides additional documentation on Buy American requirements. The Division 1 Referenced Documents also provided additional guidance. All Bidders shall read and understand the Buy American requirements prior to submitting their Bid.

The successful Bidder, their Subcontractors and all the Subcontractors below them will be required to deliver only steel and manufactured products wholly produced in the US of US materials, or products for which the Owner receives a Buy American waiver from the FAA, or products listed on the current Nationwide Buy American conformance list (Available electronically at:

https://www.faa.gov/airports/aip/buy_american/media/nationwide-buy-american-waivers-issued.pdf

Bidders or manufacturers may request Buy American Waivers, but these waivers take months to process and are frequently denied. Bidders should not assume a waiver not listed on the FAA's current Nationwide Buy American Waiver list will be issued when preparing their bid.

22. DAVIS-BACON ACT & CONNECTICUT PREVAILING WAGE:

Attention of the bidders is particularly directed to the requirements concerning the payment of not less than the prevailing wage and salary rates specified in the Contract Documents, and the classification of employees.

The rate of pay set forth in the Contract Documents are the minimal to be paid during the life of the contract. It is therefore, the responsibility of the bidders to inform themselves as to local labor conditions, such as the length of work day and the work week, overtime compensation, health and welfare contributions, labor supply and prospective changes and adjustments of rates.

Bidders and Contractors must comply with the provisions of the Davis-Bacon Act and regulations as described in Division 1 – GP and RFCP and Division 2 – SGP of the Contract Documents. The project is also required to comply with the Connecticut Prevailing Wage Act and regulations.

By submitting a Bid for this project, the Bidder certifies that the Bid is based on the payment of federal Davis-Bacon and State of Connecticut prevailing wages. In the event of a conflict between Davis-Bacon Wage Rates and the State of Connecticut Prevailing Wage Rates, the higher of the two rates shall govern.

23. DEBARMENT AND SUSPENSION:

Bidders and Contractors must comply with the provisions of the Debarment and Suspension regulations as described in Division 1 – GP and RFCP and Division 2 - SGP of the Contract Documents.

24. DISADVANTAGE BUSINESS ENTERPRISE AND SMALL BUSINESS PARTICIPATION:

The contractor's attention is called to the contract definitions and requirements as described in Division 1 – GP and RFCP and Division 2 - SGP of the Contract Documents.

The Tweed-New Haven Airport has a DBE Race-Conscious Contract Goal for this project. The DBE goal for the Tweed-New Haven Airport Authority is defined in the Invitation to Bid.

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

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

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1);
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal
- 5) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; and
- 6) 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. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

The Contractor must comply with the Federal DBE, Small Business, Equal Employment Opportunity (EEO), and Affirmative Action Requirements contained within the Contract Documents.

25. OSHA:

Bidder certifies that all material, equipment, etc., contained in their bid Proposal meets all OSHA requirements. Refer to Division RFCP section for additional OSHA information.

26. FOREIGN TRADE RESTRICTIONS:

Bidders and Contractors must comply with the provisions of the Trade Restriction regulations as described in Division 1 – GP and RFCP and Division 2 - SGP of the Contract Documents.

27. NON-DISCRIMINATION AND SEGREGATED FACILITIES:

Bidders must comply with the President's Executive Order No. 11246, which prohibits discrimination in employment regarding race, creed, color, sex, or national origin. Bidders shall comply with the Prohibition of Segregated Facilities requirements contained in Division 1 – GP and RFCP and Division 2 - SGP of the Contract Documents.

Each Bidder shall complete, sign, and include in their bid Proposal a Certificate of Prohibition of Segregated Facilities. When a determination has been made to award a Contract to a specific contractor, such contractor shall, prior to award, furnish such other pertinent information regarding his own employment policies and practices, as well as those of his proposed subcontractors as the

FAA, the Sponsor, or the Secretary of Labor may require. All such information required of a subcontractor shall be furnished by the Contractor.

The Equal Employment Opportunity Report Statement, Certification of Prohibition of Segregated Facilities, and all other EEO Requirements shall be included in all non-exempt subcontracts entered into by the Contractor. Subcontracts entered into by Contractor shall also include all other applicable labor provisions. No subcontract shall be awarded to a non-complying subcontractor.

In addition, the Contractor will also insert in each of his subcontracts a clause requiring the subcontractor to include these provisions in any lower tier subcontracts which they may enter into, together with the clause requiring this insertion in any further subcontracts that may in turn be made.

END OF SECTION IB

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NOTE:
THIS PROJECT IS BEING BID ELECTRONICAL USING QUESTCDN.
BID FORMS TO BE SUBMITTED ON-LINE
REFER TO INSTRUCTIONS TO BIDDERS.

**BID PROPOSAL DOCUMENTS
PROPOSAL ACKNOWLEDGEMENT DOCUMENTS
AND
SAMPLE BID FORMS (USE ON-LINE VERSION)**

for

HVN ARFF ONE-BAY EXPANSION

**TWEED-NEW HAVEN AIRPORT
NEW HAVEN, CONNECTICUT**

PREPARED FOR:



**Tweed-New Haven Airport Authority
New Haven, Connecticut**

PREPARED BY:

**LANGAN ARCHITECTS
555 Long Wharf Drive, 9th Floor
New Haven, CT 06511-6107**

May, 2025

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PROPOSAL ACKNOWLEDGEMENT DOCUMENTS**HVN ARFF ONE-BAY EXPANSION****TWEED-NEW HAVEN AIRPORT
NEW HAVEN, CONNECTICUT**

Date: _____

To: Tweed-New Haven Airport Authority

The undersigned (hereinafter called the Contractor) proposes to furnish all labor, equipment and materials required for **HVN ARFF ONE-BAY EXPANSION** in accordance with the accompanying Contract Documents as defined in the Supplemental General Provisions and prepared by **LANGAN**, for the amounts listed below, subject to additions and deductions in accordance with the terms of the Specifications. It being understood that the Owner will be the sole judge as to acceptance of Bids and award of the Contract.

Bidder agrees to complete the work under this Contract within the time specified in the Invitation to Bid.

B. This Bid includes addenda:

<u>Number</u>	<u>Date</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

C. Bidders agree to perform all of the work described in the Contract Documents and tabulated below for the following unit and lump sum prices.

It is understood that the quantities given in this Bid Form are approximate only and are given as a basis for comparison of Bids. The Owner does not expressly or by implication agree that the actual amount of work will even approximately correspond herewith, but reserves the right to increase or decrease the amount of any item of the work listed, and the unit prices quoted in the Bid shall apply without change to such variation in the quantity of each of the items, except as further clarified herein. The Owner further reserves the right to delete any item of work in whole or in part, in order to meet the available funding.

PROPOSAL BID SUMMARY**BASE BID ONLY**
(FROM BID FORMS)**BASE BID TOTAL:** _____
(Words)

_____ dollars and

_____ cents (\$ _____).
(Figures)**(if applicable)**
BASE BID**BASE BID SUBTOTAL** \$ _____
(FROM ON-LINE BID FORMS)**ADDITIVE ALTERNATE NO. 1 SUBTOTAL** \$ _____
(FROM ON-LINE BID FORMS)**BASE BID + ADDITIVE ALTERNATE NO. 1 TOTAL:**_____
(Words)

_____ dollars and

_____ cents (\$ _____).
(Figures)

The Owner reserves the right to award the project based on the Base Bid alone OR the Base Bid + Additive Alternate No. 1 in order to meet the available funding. In addition, the Owner reserves the right to delete any item of work in whole or in part, in order to meet the available funding. Such reduction, or deletion, of work shall not constitute a basis for withdrawal of this proposal or for adjustment of the unit or lump sum prices bid.

Amounts are to be shown in both words and figures. In case of Discrepancy, the amount shown in words will govern.

The above unit prices shall include all labor, materials, overhead, profit, insurance, etc., to cover the finished work of the several kinds called for.

Bidder understands that the Owner reserves the right to reject any or all Bids and to waive any informalities in the Bidding. The Bidder agrees that this Bid shall be good and may not be withdrawn for the period as specified in the Invitation to Bid.

Bidder understands that award of any or all of the work described in these documents is subject to FAA funding availability and grant approval.

The undersigned further certifies under the penalties of perjury that this Bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this subsection the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity.

The undersigned agrees that if they are selected as the Contractor they will, within five (5) calendar days, after presentation thereof by the Owner, unless otherwise directed in writing by the Owner, execute a Contract in accordance with the terms of this General Bid and furnish a Performance Bond for 100% of the Contract Price and Payment Bond for 100% of the Contract Price, each of a Surety company meeting the requirements contained in the Contract Documents and satisfactory to the Owner, the premiums of which are to be paid by the Contractor and are included in the Contract amount.

Bidder proposes to provide all labor and materials to complete the work, as specified in the Contract Documents, and as is reasonably expected due to the existing conditions and required construction.

The undersigned hereby certifies that they are able to furnish labor that can work in harmony with all other elements of labor employed, or to be employed on the work, and that they will comply fully with all laws and regulations applicable to award of this contract.

The undersigned agrees to guarantee all of the work performed under this Contract to be done in accordance with the Contract Documents in a good and workmanlike manner and to renew or repair any work which may be rejected, due to defective materials or workmanship, prior to final completion and acceptance of the work.

The Bid Security attached in the sum of \$_____ is to become the property of the Owner, in the event the Contract and Bond are not executed within the time above set forth, as liquidated damages for the delay and additional expense to the Owner causes thereby.

Company Name

Address

Name of Authorized Signature

Signature

Title

Date

(SEAL - if Bid is by a corporation)

**CERTIFICATE AS TO CORPORATE PRINCIPAL
FOR PROPOSAL****(IF A CORPORATION)**

State of _____)

County of _____)

On this _____ day of _____, 20____

before me personally came _____

to me known, who being by me duly sworn, did depose and say as follows:

That they reside at _____

and are the _____

of _____

the corporation described in, and which executed the foregoing instrument; that they know

the corporate seal of said corporation; that the seal affixed to the foregoing instrument is such corporate seal

and it was so affixed by order to the Board of Directors of said corporation; and that by the like order they

signed thereto their name and official designation.

Notary Public (Seal)

My Commission expires: _____

**PARTNERSHIP CERTIFICATE
FOR PROPOSAL**

(IF A PARTNERSHIP)

State of _____)

County of _____)

On this _____ day of _____, 20____

before me personally appeared _____

known to me and known by me to be the person who executed the above instrument, who, being by me first duly sworn, did depose and say that they are a general partner in the firm of

_____;

and that said firm consists of themselves and _____

_____, and that they executed the foregoing instrument on behalf of said firm for the uses and purposes stated herein.

Notary Public (Seal)

My commission expires:

**INDIVIDUAL CERTIFICATE
FOR PROPOSAL**

(IF AN INDIVIDUAL)

State of _____)

County of _____)

On this _____ day of _____, 20____

before me personally appeared _____

known to me and known by me to be the person who executed the above instrument, who, being by me first
duly sworn, did depose and say that they are the owner of the

firm _____;

and that they executed the foregoing instrument on behalf of said firm for the uses and purposes stated herein.

Notary Public (Seal)

My commission expires:

BASE BID FORM (FOR INFORMATION PURPOSES ONLY)

ITEM NO.	ESTIMATED QUANTITY	ITEM DESCRIPTION WITH UNIT BID PRICE WRITTEN IN WORDS	UNIT PRICE		AMOUNT	
			Dollars	Cents	Dollars	Cents
C-105-1	$\frac{1}{\text{LS}}$	<u>MOBILIZATION</u> for the Lump Sum price of: _____ dollars and _____ cents.				
M-xxx-1	$\frac{1}{\text{LS}}$	<u>MAINTENANCE AND PROTECTION OF TRAFFIC</u> for the Lump Sum price of: _____ dollars and _____ cents.				
M-xxx-1	$\frac{1}{\text{LS}}$	<u>SPCD PREPARATION AND CSPP COMPLIANCE</u> for the Lump Sum price of: _____ dollars and _____ cents.				
X-xxx-x	$\frac{1}{\text{LS}}$	<u>ITEM NAME</u> for the price per LUMP SUM of: _____ dollars and _____ cents.				
X-xxx-x	$\frac{\text{XX}}{\text{EACH}}$	<u>ITEM NAME</u> for the price per EACH of: _____ dollars and _____ cents.				

ITEM NO.	ESTIMATED QUANTITY	ITEM DESCRIPTION WITH UNIT BID PRICE WRITTEN IN WORDS	UNIT PRICE		AMOUNT	
			Dollars	Cents	Dollars	Cents
X-xxx-x	<u>XX</u> LF	<u>ITEM NAME</u> for the price per LINEAR FOOT of: _____ dollars and _____ cents.				
X-xxx-x	<u>XX</u> SF	<u>ITEM NAME</u> for the price per SQUARE FOOT of: _____ dollars and _____ cents.				
X-xxx-x	<u>XX</u> KSF	<u>ITEM NAME</u> for the price per 1000 SQUARE FOOT of: _____ dollars and _____ cents.				
X-xxx-x	<u>XX</u> SY	<u>ITEM NAME</u> for the price per SQUARE YARD of: _____ dollars and _____ cents.				
X-xxx-x	<u>XX</u> ACRE	<u>ITEM NAME</u> for the price per ACRE of: _____ dollars and _____ cents.				

ITEM NO.	ESTIMATED QUANTITY	ITEM DESCRIPTION WITH UNIT BID PRICE WRITTEN IN WORDS	UNIT PRICE		AMOUNT	
			Dollars	Cents	Dollars	Cents
X-xxx-x	<u>XX</u> CY	<u>ITEM NAME</u> for the price per CUBIC YARD of: _____ dollars and _____ cents.				
X-xxx-x	<u>XX</u> TON	<u>ITEM NAME</u> for the price per TON of: _____ dollars and _____ cents.				
X-xxx-x	<u>XX</u> <UNIT>	<u>ITEM NAME</u> for the price per UNIT of: _____ dollars and _____ cents.				
X-xxx-x	<u>XX</u> <UNIT>	<u>ITEM NAME</u> for the price per UNIT of: _____ dollars and _____ cents.				

BASE BID

BASE BID: _____
(Words)

_____ dollars and

_____ cents (\$ _____).
(Figures)

This Base Bid Amount to match the amount on the Proposal Acknowledgement Bid Summary.

(If applicable)

ADDITIVE ALTERNATE No. 1 (FOR INFORMATION PURPOSES ONLY)

ITEM NO.	ESTIMATED Quantity	ITEM DESCRIPTION WITH UNIT BID PRICE WRITTEN IN WORDS	UNIT PRICE		AMOUNT	
			Dollars	Cents	Dollars	Cents
X-xxx-x	<u>XX</u> <UNIT>	<u>ITEM NAME</u> for the price per UNIT of: <hr/> dollars and <hr/> cents.				
X-xxx-x	<u>XX</u> <UNIT>	<u>ITEM NAME</u> for the price per UNIT of: <hr/> dollars and <hr/> cents.				
X-xxx-x	<u>XX</u> <UNIT>	<u>ITEM NAME</u> for the price per UNIT of: <hr/> dollars and <hr/> cents.				
X-xxx-x	<u>XX</u> <UNIT>	<u>ITEM NAME</u> for the price per UNIT of: <hr/> dollars and <hr/> cents.				
X-xxx-x	<u>XX</u> <UNIT>	<u>ITEM NAME</u> for the price per UNIT of: <hr/> dollars and <hr/> cents.				
X-xxx-x	<u>XX</u> <UNIT>	<u>ITEM NAME</u> for the price per UNIT of: <hr/> dollars and <hr/> cents.				

ITEM NO.	ESTIMATED Quantity	ITEM DESCRIPTION WITH UNIT BID PRICE WRITTEN IN WORDS	UNIT PRICE		AMOUNT	
			Dollars	Cents	Dollars	Cents
X-xxx-x	<u>XX</u> <UNIT>	<u>ITEM NAME</u> for the price per UNIT of: <hr/> <hr/> dollars and <hr/> cents.				
X-xxx-x	<u>XX</u> <UNIT>	<u>ITEM NAME</u> for the price per UNIT of: <hr/> <hr/> dollars and <hr/> cents.				
X-xxx-x	<u>XX</u> <UNIT>	<u>ITEM NAME</u> for the price per UNIT of: <hr/> <hr/> dollars and <hr/> cents.				
X-xxx-x	<u>XX</u> <UNIT>	<u>ITEM NAME</u> for the price per UNIT of: <hr/> <hr/> dollars and <hr/> cents.				

ADDITIVE ALTERNATE NO. 1

ADDITIVE ALTERNATE NO. 1: _____
(Words)

_____ dollars and

_____ cents (\$ _____).
(Figures)

Note: Additive Alternates to match the Proposal Acknowledgement Bid Summary.

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BID BOND

(Not to be filled in if a Cashier's Check is submitted)

KNOW ALL MEN BY THESE PRESENTS That the undersigned Bidder, _____
_____, as Principal, and _____
_____, as Surety, are held and firmly bound unto the **Tweed-New Haven Airport Authority** in the sum of _____ dollars (\$_____) for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

THE CONDITION OF THIS OBLIGATION is such that if Principal:

1. Does not withdraw the attached Proposal of _____ dollars (\$_____) for the project for **"HVN ARFF ONE-BAY EXPANSION"**; and
2. Enters into the written Contract and furnishes the required Certificates of Insurance, Payment and Performance Bonds, with Surety or Sureties acceptable to the **Tweed-New Haven Airport Authority**, within **Five (5)** days after Notice that the said Proposal is accepted, then this obligation shall be void; otherwise, the same shall be in full force and the full amount of this Proposal.

Bond shall be paid to the **Tweed-New Haven Airport Authority** as stipulated herein as liquidated damages.

Signed this _____ day of _____, 20____.

(PRINCIPAL MUST INDICATE
WHETHER CORPORATION, PARTNERSHIP
COMPANY, OR INDIVIDUAL)

Principal

THE PERSON SIGNING FOR THE
PRINCIPAL SHALL, IN THEIR OWN
HANDWRITING, SIGN THE PRINCIPAL'S
NAME, THEIR OWN NAME, AND THEIR
TITLE. WHERE THE PERSON SIGNING FOR
CORPORATION IS OTHER THAN THE
PRESIDENT OR VICE PRESIDENT, THEY
MUST FURNISH A CORPORATE RESOLUTION
SHOWING THEIR AUTHORITY TO BIND THE
CORPORATION.

(Affix Surety's Corporate Seal)

Surety

SURETY'S BOND AFFIDAVIT

STATE OF _____)

SS

COUNTY OF _____)

BEFORE ME, THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED _____
_____ WHO, BEING DULY SWORN, DEPOSES AND SAYS THAT
THE UNDERSIGNED IS A DULY AUTHORIZED (RESIDENT) (NON-RESIDENT) INSURANCE
AGENT, PROPERLY LICENSED UNDER THE LAWS OF THE STATE OF _____
_____, OF _____, A COMPANY AUTHORIZED TO MAKE
CORPORATE SURETY BONDS UNDER THE LAWS OF THE **STATE OF CONNECTICUT**.

SAID _____ FURTHER CERTIFIES THAT AS
ATTORNEY-IN-FACT FOR THE SAID _____, THEY HAVE
SIGNED THE ATTACHED BOND IN THE SUM OF _____ DOLLARS
(U.S. \$ _____) ON BEHALF OF _____

FOR:

TWEED-NEW HAVEN AIRPORT AUTHORITY

COVERING PROJECT – “HVN ARFF ONE-BAY EXPANSION”

COUNTERSIGNED:

CONNECTICUT RESIDENT AGENT_____
AGENT AND ATTORNEY-IN-FACTACKNOWLEDGEMENT FOR ATTORNEY-IN-FACT

SWORN TO AND SUBSCRIBED BEFORE ME THIS
_____ DAY OF _____, 20____.

NOTARY PUBLIC,
MY COMMISSION EXPIRES: _____

FORM OF SURETY GUARANTY

KNOW ALL MEN BY THESE PRESENTS, that for and in consideration of the sum of one dollar and no cents (\$1.00), lawful money of the United States, the receipt whereof is hereby acknowledged, paid the undersigned corporation, and for other valuable consideration, the

_____ (Name of Surety Company)

a corporation organized and existing under the laws of the State of _____

and licensed to do business in the State of Connecticut, certifies and agrees, that if the Contract for:

HVN ARFF ONE-BAY EXPANSION

is awarded to _____ (Name of Bidder),

the undersigned Corporation will execute the bond or bonds as required by the Contract Documents and will become Surety in the full amount of the Contract Price for the faithful performance of the Contract and for payment of all persons supplying labor or furnishing materials in connection therewith.

Surety _____

(To be accompanied by the usual proof of authority of officers of surety company to execute the same).

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This signature page is included in this Proposal Documents to provide assistance to all Bidders in the form of a checklist and is **REQUIRED TO BE SUBMITTED AS PART OF THE BID SUBMISSION**. This checklist is to stipulate that if any of the items mentioned below, but not limited to, are incomplete or otherwise incorrect, the Owner may reject the bid.

I. BID PROPOSAL FORMOn-Line Form

II. BID CERTIFICATION CHECKLIST

- A. Bid Certification Checklist Form with SignatureBC1 section

III. PROPOSAL ACKNOWLEDGEMENT FORM AND BID BOND/SURETY GUARANTY

- A. Proposal Acknowledgement Documents w/ Addenda & Notes and SignaturePA section
B. Bid Bond (or other acceptable surety as stated in Information to Bidders)BB section
C. Surety GuarantySG section

NOTE: Original hard copy of Bid Bond shall be submitted within 72 hours of bid to:
Tweed-New Haven Airport Authority, 155 Burr Street, New Haven, CT 06512

IV. REQUIRED FORMS AND SIGNATURE

- A. Bidders Qualifications and Current Work ForceBC2 section
B. List of Subcontractors and SuppliersBC3 section
C. Affirmative Action Certification.....Form 100
D. Certificate of Buy American Compliance for Building/Equipment *-OR-*.....Form 101B
Certificate of Buy American Compliance for Construction ProductsForm 101C
E. Certificate of Offeror/Bidder Regarding Debarment.....Form 102
F. FAA Proposed DBE and SB Utilization – Race Conscious Projects.....Form 103
G. Subcontractor/Supplier DBE and SB Letter of Intent with Good Faith Effort.....Form 104
H. Prime Contractor – DBE/SB Reporting Information FormForm 105
I. Subcontractor/Supplier – DBE/SB Reporting Information Form.....Form 106
J. Certification Regarding LobbyingForm 107
K. Prohibition of Segregated Facilities.....Form 108
L. Certificate of Offeror/Bidder Regarding Tax Delinquency & Felony ConvictionForm 109
M. Trade Restriction CertificationForm 110
N. Non-Collusion Affidavit (Bidder/Offeror).....Form 111
O. Connecticut Non-Arrearage Certification.....Form 120
P. CT Consulting Agreement RepresentationForm 121

Separate copies of the forms identified in Items A through P are attached in the Bidding Documents for the Bidder's use.

V. PROPOSAL SECTION NOTES

Unit Price Bids will be considered to be incomplete if any of the following conditions exist:

- A. Unit Price in figures is omitted
B. A zero, N/A, or blank is to be used as a bid price in the Bid Form.

VI. MISCELLANEOUS NOTES

- A. All Forms shall be in **BLUE or BLACK INK or TYPED**
B. All documents provided with the proposal form are considered a part thereof and must not be altered when the proposal is submitted.

VII. CERTIFICATION SUMMARY

I hereby certify that I have read all of the above requirements and understand that it affects the acceptability of my bid.

Bidder Signature

Date

NOTE:

In addition to the Bid Certification Documents noted above, the two (2) lowest Bidders shall provide proof of registration with the State of Connecticut Department of Revenue to perform work within the time specified in the Instruction for Bidders.

**BIDDERS'S QUALIFICATIONS AND CERTIFICATION
AND CURRENT WORK FORCE SUMMARY**

NOTE: **This section is to be notarized.**

The undersigned submits answers to the following questions to enable the Owner to judge his or her experience and ability in, and facilities for, the work proposed to be done.

1. The work, if awarded to you, will have the resident personal supervision of whom? State their special qualifications.

2. Describe equipment you propose to use. State whether you own or rent it.

(Attach additional sheets as necessary.)

3. How many years has your organization been in business as a Contractor under the name in which you propose to execute this Contract?

Name and address of Owner for Whom Work Was Done:	Work done as Contractor or Subcontractor: and Dates Work Completed:	Description of Work, including Approximate Amount of Contract

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

Page 2 of 6

5. Has your present organization ever failed to complete any work awarded to it? If so, state when, where and why.

6. Bidder's Tax Identification Number: _____

7. Give below, the name of one or more banks which have information that would enable them to advise regarding the financial ability of your company.

Name of Bank: Address: Telephone No.

Will the Bidder, upon request, fill out a detailed financial statement (to be kept confidential) and furnish any other information that may be required by the Tweed-New Haven Airport Authority?
_____ YES _____ NO If not, provide explanation _____

8. The names and residences of all persons and parties interested in this proposal as principals are as follows:

NOTE: In case of a corporation, give names of officers and directors; in case of a partnership, give names of all partners.



TWEED
NEW HAVEN
AIRPORT

155 Burr Street
New Haven, CT 06512
Phone (203) 466-8833, FAX (203) 466-1199

CURRENT CONTRACTOR WORK FORCE SUMMARY FORM

BIDDER: _____

DATE: _____

ADDRESS: _____

CITY/STATE/ZIP: _____

	MALE						FEMALE					
JOB CATEGORIES	W	AA	HA	H	O		W	AA	HA	H	O	TOTAL
Full-time												
Officials & Managers												
Professionals												
Technicians												
Sales Workers												
Officials & Clerical												
Craftsmen (Skilled)												
Operatives (Semi-Skilled)												
Laborers (Unskilled)												
Service Workers												
Part-time(less than 20 hr./wk.)												
Officials & Managers												
Professionals												
Technicians												
Sales Workers												
Officials & Clerical												
Craftsmen (Skilled)												
Operatives (Semi-Skilled)												
Laborers (Unskilled)												
Service Workers												
TOTAL												

Are you a disadvantaged business enterprise?

Yes: _____

No: _____

Are you a woman's business enterprise?

Yes: _____

No: _____

Does your company have an affirmative action plan?

Yes: _____

No: _____

KEY

W White (Caucasian)

AA African American

HA Hispanic American

H Handicapped

O Other

Dated at _____ this
day of _____, 20____.

Name of Bidder: _____

By: _____

Title: _____

State of _____ ss.

County of _____

Being duly sworn, deposes and says that he/she is

(Title)

of _____ and that the answers to the
(name of organization)

foregoing questions and statements contained therein are true and correct.

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

My commission expires: _____

Notary Public

ATTACH ADDITIONAL PAGES IF NECESSARY TO DEMONSTRATE QUALIFICATIONS.

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BIDDER'S PROPOSED LIST OF SUBCONTRACTORS & SUPPLIERS

The Bidder advises herein that the following Subcontractors and Suppliers are proposed for the item of work listed. Subcontractors are subject to review per the requirements of the Contract Documents and the technical requirements specified. List only subcontracting firms that will supply labor at the site AND significantly large, or Disadvantaged Business Enterprise, equipment/material suppliers.

Failure to provide this information may result in the bid being considered non-responsive.

<u>SUBCONTRACTOR OR SUPPLIER NAME</u>	<u>DBE (Y/N)</u>	<u>TRADE</u>	<u>CONTRACT WORK ITEM TO BE PERFORMED</u>	<u>VALUE (\$)</u>
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
7. _____				
8. _____				
9. _____				
10. _____				
11. _____				
12. _____				
13. _____				
14. _____				
15. _____				

RESPECTFULLY SUBMITTED:

(Bidder)

By: _____

Title: _____

Date: _____

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**AFFIRMATIVE ACTION CERTIFICATION
EQUAL EMPLOYMENT OPPORTUNITY REPORT STATEMENT
as required by 41 CFR 60-1.7(b)**

(see "Required Federal Contract Provisions for AIP and Obligated Sponsors")

The Bidder (Proposer) shall complete the following statement by checking the appropriate boxes. Failure to complete these blanks may be grounds for rejection of the bid Proposal.

1. The Bidder (Proposer) has ☐ has not ☐ developed and has on file at each establishment Affirmative Action Programs pursuant to 41 CFR 60-1.4 and 41 CFR 60-2.
2. The Bidder (Proposer) has ☐ has not ☐ participated in any previous Contract or Subcontract subject to the Equal Opportunity Clause prescribed by Executive Order 11246, as amended.
3. The Bidder (Proposer) has ☐ has not ☐ filed with the Joint Reporting Committee the Annual Compliance Report on Standard Form 100 (EEO-1 Report).
4. The Bidder (Proposer) does ☐ does not ☐ employ fifty (50) or more employees.

(Name of Bidder)

By: _____
Signature *

Title: _____

Date: _____

*Must be same signature on bid Proposal.

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Certificate of Buy American Compliance – Equipment/Building Projects

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with its proposal. The bidder or offeror must indicate how it intends to comply with 49 USC § 50101, BABA and other related Made in America Laws, U.S. statutes, guidance, and FAA policies, by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e., not both) by inserting a checkmark (✓) or the letter “X”.

☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101, BABA and other related U.S. statutes, guidance, and policies of the FAA by:

- a) Only installing steel and manufactured products produced in the United States;
- b) Only installing construction materials defined as: an article, material, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
- c) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
- d) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- a) To provide to the Airport Sponsor or FAA evidence that documents the source and origin of the steel and manufactured product.
- b) To faithfully comply with providing U.S. domestic product.
- c) To furnish U.S. domestic product for any waiver request that the FAA rejects.
- d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

☐ The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for a Type 3 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

- a) To submit to the Airport Sponsor or FAA within 15 calendar days of being selected as the responsive bidder, a formal waiver request and required documentation that supports the type of waiver being requested.
- b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.
- c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
- d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 2 Waiver (Nonavailability) – The iron, steel, manufactured goods or construction materials or manufactured goods are not available in sufficient quantity or quality in the United States. The required documentation for the Nonavailability waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire
- b) Record of thorough market research, consideration where appropriate of qualifying alternate items, products, or materials including;
- c) A description of the market research activities and methods used to identify domestically manufactured items capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of sources.

Type 3 Waiver – The cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components and subcomponents of the “item”. The required documentation for a Type 3 waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire including;
- b) Listing of all product components and subcomponents that are not comprised of 100 percent U.S. domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108 (products of unknown origin must be considered as non-domestic products in their entirety).
- c) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- d) Percentage of non-domestic component and subcomponent cost as compared to total “item” component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

Type 4 Waiver (Unreasonable Costs) – Applying this provision for iron, steel, manufactured goods or construction materials would increase the cost of the overall project by more than 25 percent. The required documentation for this waiver is:

- a) A completed Content Percentage Worksheet and Final Assembly Questionnaire from
- b) At minimum two comparable equal bidders and/or offerors;
- c) Receipt or record that demonstrates that supplier scouting called for in Executive Order 14005, indicates that no domestic source exists for the project and/or component;
- d) Completed waiver applications for each comparable bid and/or offer.

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date

Signature

Company Name

Title

Certificate of Buy American Compliance – Construction Projects

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with its proposal. The bidder or offeror must indicate how it intends to comply with 49 USC § 50101, BABA and other related Made in America Laws, U.S. statutes, guidance, and FAA policies, by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e., not both) by inserting a checkmark (✓) or the letter “X”.

☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101, BABA and other related U.S. statutes, guidance, and policies of the FAA by:

- a) Only installing iron, steel and manufactured products produced in the United States;
- b) Only installing construction materials defined as: an article, material, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
- c) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
- d) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- a) To provide to the Airport Sponsor or the FAA evidence that documents the source and origin of the iron, steel, and/or manufactured product.
- b) To faithfully comply with providing U.S. domestic products.
- c) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- d) Certify that all construction materials used in the project are manufactured in the U.S.

☐ The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

- a) To submit to the Airport Sponsor or FAA within 15 calendar days of being selected as the responsive bidder, a formal waiver request and required documentation that supports the type of waiver being requested.
- b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.
- c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
- d) To furnish U.S. domestic product for any waiver request that the FAA rejects.
- e) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 2 Waiver (Nonavailability) - The iron, steel, manufactured goods or construction materials or manufactured goods are not available in sufficient quantity or quality in the United States. The required documentation for the Nonavailability waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire
- b) Record of thorough market research, consideration where appropriate of qualifying alternate items, products, or materials including;
- c) A description of the market research activities and methods used to identify domestically manufactured items capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of sources.

Type 3 Waiver – The cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components and subcomponents of the “facility/project.” The required documentation for a Type 3 waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire including;
- b) Listing of all manufactured products that are not comprised of 100 percent U.S. domestic content (excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety).
- c) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- d) Percentage of non-domestic component and subcomponent cost as compared to total “facility” component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

Type 4 Waiver (Unreasonable Costs) - Applying this provision for iron, steel, manufactured goods or construction materials would increase the cost of the overall project by more than 25 percent. The required documentation for this waiver is:

- a) A completed Content Percentage Worksheet and Final Assembly Questionnaire from
- b) At minimum two comparable equal bids and/or offers;
- c) Receipt or record that demonstrates that supplier scouting called for in Executive Order 14005, indicates that no domestic source exists for the project and/or component;
- d) Completed waiver applications for each comparable bid and/or offer.

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date

Signature

Company Name

Title

CERTIFICATION OF OFFEROR/BIDDER REGARDING DEBARMENT

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

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:

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

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

Name and Title (Please Print or Type)

Signature

Date

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FEDERAL AVIATION ADMINISTRATION**PROPOSED DISADVANTAGED BUSINESS ENTERPRISE (DBE)
AND SMALL BUSINESS UTILIZATION
PROJECTS WITH A RACE CONSCIOUS GOAL****HVN ARFF ONE-BAY EXPANSION
TWEED-NEW HAVEN AIRPORT
NEW HAVEN, CONNECTICUT**

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

_____ The bidder/offeror is committed to meeting or exceeding the minimum of **14.7%** DBE goal utilization on this contract.

_____ The bidder/offeror is unable to meet the DBE goal of **14.7%** for this project. The bidder/offeror is committed to a minimum of _____ % DBE utilization on this contract and submits documentation demonstrating Good Faith Efforts.

In addition:

- The Bidder/Offeror is committed to a minimum of _____ % **Small Business** utilization on this Contract (Include Small Businesses that are also DBE's in this percentage as well as Small Businesses that are not DBE's).

NOTE: Provide a copy of the Good Faith Effort documentation attached to this form.

Name of Bidder/Offeror's firm: _____

By: _____
Signature Title

DBE / Small Business Subcontractor / Supplier

Name of Firm: _____

DBE Small Business (Check One or Both)

Proposed Work: _____
(Be brief, i.e. electrical or excavation)

Dollar Amount of Work: _____

Letter of Intent attached

Firm is a Supplier.

(Attach additional sheets as needed for additional firms)

FEDERAL AVIATION ADMINISTRATION
PROPOSED DISADVANTAGED BUSINESS ENTERPRISE (DBE)
AND SMALL BUSINESS UTILIZATION
PROJECTS WITH A RACE CONSCIOUS GOAL

DBE / Small Business Subcontractor / Supplier

Name of Firm: _____

DBE Small Business (Check One)

Proposed Work: _____
(Be brief, i.e. electrical or excavation)

Dollar Amount of Work: _____

Letter of Intent attached

Firm is a Supplier.

DBE / Small Business Subcontractor / Supplier

Name of Firm: _____

DBE Small Business (Check One)

Proposed Work: _____
(Be brief, i.e. electrical or excavation)

Dollar Amount of Work: _____

Letter of Intent attached

Firm is a Supplier.

DBE / Small Business Subcontractor / Supplier

Name of Firm: _____

DBE Small Business (Check One)

Proposed Work: _____
(Be brief, i.e. electrical or excavation)

Dollar Amount of Work: _____

Letter of Intent attached

Firm is a Supplier.

(Attach additional sheets as needed for additional firms)

**SUBCONTRACTOR / SUPPLIER
DISADVANTAGED BUSINESS ENTERPRISE (DBE)
AND SMALL BUSINESS
LETTER OF INTENT**

(To be filled out by the Contractor and the Subcontractor / Supplier
and submitted with the Bid)

Project Name:

HVN ARFF ONE-BAY EXPANSION

Airport: **Tweed-New Haven Airport**AIP Number: **3-09-0013-XXX-2025**

Prime Contractor

Company Name: _____

Subcontractor / Supplier Contractor

Company Name: _____

DBE Status:	Non-DBE	Certified DBE (Check one)
Small Business Status:	Non-Small Business	Small Business (Check one)

(Check Here) **Form 105 or Form 06 is attached (required)**

1. The undersigned DBE or Small Business firm intends to perform work in connection with the above referenced project as:

(Check One)

an individual

a partnership

a corporation

a joint venture with _____

other _____

attach other sheets if necessary

2. If a DBE, the undersigned affirms that they are a duly authorized official representing the proposed Disadvantaged Business Enterprise and affirms that its certification has not expired nor been revoked (Attach a copy of certification letter)
3. If the bidder is awarded the Contract, the undersigned intend to enter into a Subcontract to perform the work described on the following sheet for the prices indicated.

LETTER OF INTENT/SCHEDULE OF PARTICIPATION

(Attach Additional Sheets if Needed)

Contract Item No.	Description of Work To Be Performed by DBE / Small Business Contractor / Subcontractor / Supplier	Estimated Quantity	Unit Price	Item Subtotal
Total Amount Credited to DBE / Small Business:				
Total Project Bid Amount:				
Percent of DBE / Small Business:				

The undersigned certifies that they will enter into a formal agreement upon execution of the Contract for the above referenced project pursuant to all conditions noted in the attached Contract Documents, swearing and affirming under the pains and penalties of perjury, that the foregoing information and appropriate attachments are true to the best of their knowledge.

NAME OF SUBCONTRACTOR / SUPPLIER:

AUTHORIZED SIGNATURE:

PRINTED NAME AND TITLE:

DATE:

NAME OF PRIME CONTRACTOR:

AUTHORIZED SIGNATURE:

PRINTED NAME AND TITLE:

DATE:

Note: If the Prime Contractor is a DBE or Small Business, the Prime Contractor should fill out and submit a copy of this form listing themselves as the Prime Contractor and the Subcontractor / Supplier. If the bidder/offeror does not receive award of the prime contract, any and all representations in this letter of Intent and Affirmation shall be null and void. (Submit this form for each DBE subcontractor.)

**PRIME CONTRACTOR
DBE / SMALL BUSINESS REPORTING INFORMATION FORM**

(To be filled out by the bidder and submitted with their bid package)

Project Name: **HVN ARFF ONE-BAY EXPANSION**

Airport: **Tweed-New Haven Airport**

AIP Number:

Prime Contractor Information

Company Name:

Contact Person:

Address 1:

Address 2:

Address 3:

City / Town:

State:

Zip Code:

Phone:

Fax:

E-Mail:

NAICS Code:

DBE Status:	Non-DBE	Certified DBE (Check one)
Small Business Status:	Non-Small Business	Small Business (Check one)

If Prime Contractor is a DBE or a Small Business, complete the following section:

States you are DBE Certified in:	(If not a DBE leave blank)
Age of Firm:	_____ Years
Annual Gross Receipts (Avg. over last 3 years per SBA regs.):	less than \$500,000 (Check one) \$500,000 to \$999,999 \$1,000,000 to \$1,999,999 \$2,000,000 to \$4,999,999 \$5,000,000 to \$9,999,999 \$10,000,000 to \$14,999,999 \$15,000,000 to \$19,999,999 \$20,000,000 to \$23,980,000 more than \$23,980,000

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**SUBCONTRACTOR / SUPPLIER
DBE / SMALL BUSINESS REPORTING INFORMATION FORM**

**(To be filled out by the Subcontractor / Supplier and submitted with the bid package
and the Request for Consent to Sublet package)**

Project Name: **HVN ARFF ONE-BAY EXPANSION**

Airport: **Tweed-New Haven Airport**

AIP Number:

Subcontractor / Supplier Information

Company Name:

Contact Person:

Address 1:

Address 2:

Address 3:

City / Town:

State:

Zip Code:

Phone:

Fax:

E-Mail:

NAICS Code:

DBE Status:	Non-DBE	Certified DBE (Check one)
Small Business Status:	Non-Small Business	Small Business (Check one)
Project Role:	Subcontractor	Supplier Other _____ (Check one)

If Subcontractor / Supplier is a DBE or a Small Business, complete the following section:

States you are DBE Certified in:	(If not a DBE leave blank)
Age of Firm:	_____ Years
Annual Gross Receipts (Avg. over last 3 years per SBA regs.):	less than \$500,000 (Check one) \$500,000 to \$999,999 \$1,000,000 to \$1,999,999 \$2,000,000 to \$4,999,999 \$5,000,000 to \$9,999,999 \$10,000,000 to \$14,999,999 \$15,000,000 to \$19,999,999 \$20,000,000 to \$23,980,000 more than \$23,980,000

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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 (see attached).
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

Name and Title (Please Print or Type)

Signature

Date

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DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

1. Type of Federal Action: a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action a. bid/offer/application b. initial award c. post-award	3. Report Type a. initial filing b. material change For Material Change Only: Year _____ Quarter _____ Date of last report _____
4. Name and Address of Reporting Entity:		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and address of Prime:
6. Federal Department Agency:	7. Federal Program Name/Description:	
8. Federal Action Number, if known:	9. Award Amount, if known: \$	
10a. Name and Address of Lobbying Entity, (if individual, last name, first name, MI)	10b. Individuals performing Services (including address if different from No. 10a.), (if individual, last name, first name, MI)	
11. Amount of Payment (check all that apply): \$ _____ actual planned	13. Type of Payment (check all that apply) a. retainer b. one-time fee c. commission d. contingent fee e. deferred f. other specify _____	
12. Form of Payment (check all that apply): a. cash b. In-kind; specify; nature _____ value _____		
14. Brief Description of services performed or performed and date(s) of Service, including officer(s), employer(s), or member(s) contacted for payment indicated in Item 11.		
15. Continuation Sheet(s) SF-LLL-A attached: Yes No		
16. Information requested through this form is authorized by Title 31 U.S.C. Section 1362. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure	Signature: _____ Print Name: _____ Title: _____ Telephone No. _____ Date: _____	
<i>Federal Use Only</i>		Authorized for Local Reproduction Standard Form - LLL

**DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEET**

Reporting Entity: _____ Page _____ of _____

Authorized for Local Reproduction Standard Form - LLL

PROHIBITION OF SEGREGATED FACILITIES

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

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

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

Signed and submitted on this date: _____

By this (circle one): Contractor, Subcontractor, or Supplier

Business Name: _____

Address: _____

Telephone Number: _____

Fax Number: _____

E-mail Address: _____

Name and Title (Printed): _____

Owner or Authorized Signature: _____

Note to Subcontractors and Suppliers: This form shall be returned to the Prime Contractor who will forward it to the Engineer.

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**CERTIFICATION OF OFFEROR/BIDDER REGARDING TAX DELINQUENCY
AND FELONY CONVICTIONS****Federal Certification**

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

Certifications

- 1) The applicant represents that it is () is not () (CHECK ONE) 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.
- 1) The applicant represents that it is () is not () (CHECK ONE) is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

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

Term Definitions

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

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

State Certification:

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

Certifications

- 2) The applicant represents that it is () is not () (CHECK ONE) a corporation that has any unpaid State 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.
- 3) The applicant represents that it is () is not () (CHECK ONE) is not a corporation that was convicted of a criminal violation under any State law within the preceding 24 months.

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

Term Definitions

Felony conviction: Felony conviction means a conviction within the preceding twenty-four (24) months of a felony criminal violation under any Federal or State law and includes conviction of an offense defined in a section of the Commonwealth of Massachusetts code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony.

Tax Delinquency: A tax delinquency is any unpaid Federal or State 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.

NAME OF APPLICANT'S FIRM _____
FEDERAL I.D. NO. _____
SIGNATURE: _____
BY (PRINTED NAME): _____
TITLE: _____
DATED: _____

TRADE RESTRICTION CERTIFICATION

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

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

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC 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 USTR or
- 2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
- 3) who incorporates in the public works project any product of a foreign country on such USTR list.

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

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

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

Date

Signature

Company Name

Title

NON-COLLUSION AFFIDAVIT (BIDDER OR OFFEROR)

I, (enter full legal name) _____,

representing (name of person, firm, association, or corporation) _____

_____ of (Town or City and State) _____

certify under penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this paragraph, the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity.

Name of Individual, Partnership, or Corporation (Please Print or Type)_____
Signature of Official Authorized to Sign Contracts and Agreements_____
Name of Individual Signing Affidavit_____
Title of Individual Signing Affidavit

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

(Notary Public)

My Commission Expires _____

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TWEED-NEW HAVEN AIRPORT AUTHORITY
CONNECTICUT NON-ARREARAGE CERTIFICATION

STATE OF CONNECTICUT)
)
COUNTY OF)

_____ being duly sworn deposes and says

- 1) S/he is the (owner, partner, officer, representative, or agent) of the Bidder that has submitted the attached Bid.
- 2) Neither the Bidder, nor its subcontractors, are in arrears to the State of Connecticut Second Injury Fund.

(signed)

Name

Title

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

Notary Public or Commissioner of the Superior Court

My Commission Expires _____

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CONSULTING AGREEMENTS REPRESENTATION

Pursuant to section 4a-81 of the Connecticut General Statutes, the Contractor represents that it has not entered into any consulting agreements in connection with this Contract, except for the agreements listed below. "Consulting agreement" means any written or oral agreement to retain the services, for a fee, of a consultant for the purposes of communications concerning business of a state or quasi-public agency, whether or not direct contact with a state agency, state or public official or state employee was expected or made, specifically:

- (A) providing counsel to a contractor, vendor, consultant or other entity seeking to conduct, or conducting, business with the State,
- (B) contacting, whether in writing or orally, any executive, judicial, or administrative office of the State, including any department, institution, bureau, board, commission, authority, official or employee for the purpose of solicitation, dispute resolution, introduction, requests for information, or
- (C) any other similar activity related to such contracts.

"Consulting agreement" does not include any agreements entered into with a consultant who is registered under the provisions of Chapter 10 of the Connecticut General Statutes as of the date such contract is executed in accordance with the provisions of section 4a-81 of the Connecticut General Statutes. Contractor makes this representation to the best knowledge and belief of the person signing the contract, and the representation is subject to the penalty of false statement as provided in section 53a-157b of the Connecticut General Statutes.

Consultant's Name and Title

Name of Firm (if Applicable)

Start Date

End Date

Cost

The basic terms of the consulting agreement are:

Description of Services Provided:

Is the consultant a former State employee or former public official?

☐ YES☐ NO

If YES:

Name of Former State Agency

Termination Date of Employment

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DIVISION B – CONTRACT AND CONTRACT FORMS

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AWARD OF CONTRACT AND EXECUTION OF CONTRACT BONDS**1. Consideration of Proposals and Award of Contract**

The award of the Contract, if it is awarded, will be to the lowest responsive and responsible Bidder whose qualifications indicate the award will be in the best interest of the Owner and whose Proposal complies with all the prescribed requirements. No award will be made until the Owner has concluded such investigations as it deems necessary to establish the responsibility, qualifications, and financial ability of the Bidders to do the work in accordance with the Contract Documents to the satisfaction of the Owner within the time prescribed. The Owner reserves the right to reject the bid Proposal of any Bidder who does not pass such investigation to the Owner's satisfaction. If the Contract is awarded, the Owner will give the successful Bidder written notice of the award by the Bid Valid Period date specified in the Invitation to Bid. Until the final award of the Contract, the Owner reserves the right to reject any or all Proposals, or to proceed to do the work otherwise when the best interests of the Owner will be promoted thereby.

2. Return of Proposal Surety

As soon as the Proposals have been compared, the Owner may, at its discretion, return the Proposal Surety accompanying those Proposals which, in its judgment, would not be considered in making the award. When award is made, the successful Bidder's Proposal Surety and that of the next low Bidder will be retained until the Contract has been executed and acceptable Contract Surety received, after which it will be returned to the Bidders. Should the award be delayed beyond the Bid Valid Period date specified in the Invitation to Bid, all Bidder's Proposal Surety will be returned, unless such delay is from causes beyond the control of the Owner. See Division 2 – Special Provision/Supplemental General Provisions, Part A Item 18 for additional information on Proposal and Contract Surety.

3. Requirements of Contract Surety

Contract Surety shall include a good and sufficient Performance Bond and labor and material Payment Bond, each in the sum of one-hundred percent (100%) of the awarded Contract amount, along with appropriate Power of Attorney. Contract Surety shall be delivered to the within fifteen (15) calendar days from the date of Notice of Award, simultaneously with Contractor's execution of the Contract. See Division 2 – Special Provision/Supplemental General Provisions, Part A Item 18 for additional information on Proposal and Contract Surety.

4. Execution of Contract

The successful Bidder shall sign (execute) the Contract and associated documents and return them to the Owner, along with the fully executed Contract Surety and required insurance certificates, if applicable, within 15 calendar days from the date on the Notice of Award by the Owner. If the Contract is mailed, special handling is recommended.

5. Approval of Contract

Upon receipt of acceptable insurance certificates, Contract, Contract Surety, and associated documentation that have been executed by the successful Bidder, the Owner shall complete the execution of the Contract in accordance with local laws or ordinances and return the fully executed Contract documents to the Contractor. The Contract is not binding upon the Owner until it has been executed by the Owner and delivered to the Contractor.

6. Failure to Execute Contract

Failure of the successful Bidder to execute the Contract and furnish acceptable insurance certificates, Contract Surety and other required Contract documents within the fifteen (15) calendar day period after receiving Notice of Award shall be just cause for cancellation of the award and forfeiture of the Proposal Surety, not as

a penalty, but as liquidation of damages to the Owner. Award may then be made to the next best qualified Bidder, or the work re-advertised, or handled as the Owner may elect.

=

END OF AWARD OF CONTRACT AND EXECUTION OF CONTRACT BONDS

AGREEMENT
FOR FEDERALLY ASSISTED WORK

THIS AGREEMENT made this ___ day of _____, 20___ by and between <Contractor Name and Address>, (hereinafter called the "CONTRACTOR"), and The New HVN LLC, a Delaware limited liability company (hereinafter called the "AUTHORITY").

WITNESSETH, that the CONTRACTOR and the AUTHORITY for <Contract Amount in Words> Dollars and <Words> Cents (\$x,xxx,xxx.xx), and considerations stated herein for the services specified in Schedules A of Attachment 1 hereto mutually agree as follows:

ARTICLE 1. Statement of Work. The CONTRACTOR shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment and service, including utility and transportation service, and perform and complete in an efficient and workmanlike manner all work required for:

HVN ARFF ONE-BAY EXPANSION

at TWEED-NEW HAVEN AIRPORT in strict accordance with the CONTRACT DOCUMENTS herein defined, including all Addenda thereto.

The CONTRACTOR will commence the work required by the CONTRACT DOCUMENTS on a date to be specified in the NOTICE TO PROCEED and will complete the work within the <# of days in words> (xxx) calendar days from the effective date of the NOTICE TO PROCEED unless the period for completion is extended otherwise by the CONTRACT DOCUMENTS.

The CONTRACTOR agrees to commence work on a date to be specified in the written Notice to Proceed from the AUTHORITY and to fully complete the project within <# of days in words> (xxx) calendar days. A separate Notice to Proceed can be issued for the procurement of materials that will not be assessed toward the project calendar days. Coordination with the Engineer and AUTHORITY for a separate Notice to Proceed shall occur after the contract has been awarded.

ARTICLE 2. Liquidated Damages. The CONTRACTOR shall pay the AUTHORITY as liquidated damages and not as a penalty the sum of <Amount in Words> dollars (\$x,xxx.00) for each and every calendar day that the work remains incomplete beyond the specified time allowed for each phase, as provided in the CONTRACT DOCUMENTS.

<Add Additional Pavement Surface LDs as necessary>

The CONTRACTOR further agrees to pay the AUTHORITY as liquidated damages and not as a penalty the sum of <Amount in Words> dollars (\$x,xxx.00) for each and every hour that an overnight phase or subphase is not completed in time to re-open <identify pavement surface> to aircraft beyond 5:00 AM. Liquidated Damages shall be measured in 15-minute increments and pro-rated but have a maximum of <Amount in Words> dollars (\$x,xxx.00) per day.

ARTICLE 3. The Contract Price. Payment to the CONTRACTOR by the AUTHORITY shall be made at the unit prices and lump sums specified for the various items in the Proposal Section submitted by the CONTRACTOR, as provided in the Specifications and attached hereto as Attachment 1, upon presentation of the proper certificates to the AUTHORITY, and upon terms set forth in the CONTRACT DOCUMENTS, but in any event subject to the retainage specified in the CONTRACT DOCUMENTS provided, however, that no more than half of the retainage will be due until final completion of all of the work. It is understood that the amount to be paid to the CONTRACTOR shall be totally based on the said unit prices and lump sums contained in said Proposal and made a part of this AGREEMENT for the work actually done rather than the

estimated sum hereinabove specified which is based upon estimated quantities. The amount to be paid shall subject to additions and deductions as provided for in Section 139 - CHANGES IN THE WORK under LOCAL GENERAL CONDITIONS.

ARTICLE 4. CONTRACT DOCUMENTS. The CONTRACT DOCUMENTS shall consist of the bidding documents and specifications entitled *HVN ARFF ONE-BAY EXPANSION, Tweed-New Haven Airport, New Haven, Connecticut, Prepared by LANGAN for Tweed-New Haven Airport Authority, MAY 2025* which shall include the following:

This AGREEMENT, including all attachments (as referenced) hereto:

- a. Addenda
- b. Invitation to Bid
- c. Bidding Requirements, including Instructions to Bidders
- d. Signed Copy of Bid Proposal with all bid forms submitted online
- e. *Tweed DBE Participation Letter (as applicable)*
- f. Notice of Award
- g. Executed Contract Documents, including Agreement with Certifications
- h. Construction Safety and Phasing Plan
- i. Safety Plan Compliance Document
- j. FAA General Provisions
- k. State of Connecticut General Contract Provisions
- l. Local General Conditions – September 27, 2024 Revision
- m. Special/Supplemental General Provisions
- n. FAA Required Contract Provisions for AIP Projects with Reference Documents
- o. Wage Rates (Davis-Bacon and State Prevailing with Attachments)
- p. FAA Standard Technical Specifications for Construction of Airports
- q. Non-FAA Technical Specifications
- r. As-Bid Drawings
- s. *Permits (as applicable)*

ARTICLE 5. The AUTHORITY. For the purposes of this AGREEMENT and the CONTRACT DOCUMENTS, all references to the AUTHORITY or the Tweed-New Haven Airport Authority shall refer to The New HVN LLC. The AUTHORITY has entered into agreements with the Tweed-New Haven Airport Authority for the operation and maintenance of portions of the Tweed-New Haven Airport, which includes the project location. Based on those agreements, the AUTHORITY will be the contracting entity for this AGREEMENT on behalf of the Tweed-New Haven Airport Authority.

ARTICLE 6. Civil Rights. In all its activities within the scope of its airport program, the CONTRACTOR agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

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

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

ARTICLE 7. Title VI Nondiscrimination. Compliance with Nondiscrimination Requirements:

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

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

Nondiscrimination: The CONTRACTOR, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONTRACTOR will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

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

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

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

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

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

ARTICLE 8. Minority and Disadvantaged Business Enterprises. The AUTHORITY has determined that following the general requirements of 49 CFR part 26 and the Tweed-New Haven Airport Authority DBE Goal Calculations are in the best interest of the Authority. As such, the CONTRACTOR, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONTRACTOR shall carry out applicable requirements of 49 CFR part 26 in the award and administration of this AGREEMENT and all subcontracts and purchase orders associated with this AGREEMENT. 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 AUTHORITY deems appropriate, which may include, but is not limited to:

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

ARTICLE 9. Prompt Payment. The CONTRACTOR agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the AUTHORITY. The CONTRACTOR agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of the AUTHORITY. This clause applies to both DBE and non-DBE subcontractors.

ARTICLE 10. Prevailing Wage Law. Labor under this AGREEMENT shall be paid the greater of the Wage and Fringe Benefit amounts specified by the FAA Davis-Bacon Wage Rate, Connecticut Department of Labor Prevailing Wage Law or the City of New Haven Connecticut Code of Ordinances, Article XV, Section 1.

FAA Davis-Bacon Wage Rate requirements will apply to the work under this AGREEMENT and as outlined in the Division 1.

The Connecticut Department of Labor Prevailing Wage Law, shall be as listed in CT General Statutes Section 31-53 and as outlined in the Division 1.

The City of New Haven Connecticut Code of Ordinances, Article XV, Section 1 states, *Wage Provisions required in Public Works Contracts . Except in those contracts below an amount which may be established from time to time by the Board of Alders by Ordinance, in all contracts for the construction, repairing or remodeling of public buildings or public works of any kind by the City of New Haven or any of its divisions there shall be incorporated a provision that wages paid any mechanic, laborer or workman employed under such contract shall be at the rate of wage based upon the customary or prevailing rate of wages for the same type of work in the same trade or occupation prevailing in the City of New Haven, and based upon the wage schedule and rates therein set by the United States Department of Labor for the New Haven area or as otherwise provided by Law.*

ARTICLE 11. Surety Bonds. It is mutually agreed between the parties hereto that if, any time after the execution of this AGREEMENT, (including the various guarantee periods thereunder) and the Surety Bonds hereto attached, the AUTHORITY shall deem the Surety or Sureties upon such Bond or Bonds to be unsatisfactory, or if, for any reason, such Bond or Bonds cease to be adequate to cover the performance of the work or the prompt payment for said labor, materials, supplies, and services, the CONTRACTOR shall, at their own expense within five (5) days from the date of written notice from the AUTHORITY to do so, furnish additional Bond or Bonds in such form and amount, and with such Surety or Sureties, as shall be satisfactory to the AUTHORITY. In such event, no further payment to the CONTRACTOR shall be deemed due under

this Agreement until such new or additional Bond or Bonds are furnished in a manner and form satisfactory to the AUTHORITY.

ARTICLE 12. No Damages for Delays. Notwithstanding any other provision contained in this Agreement, the CONTRACTOR agrees to make no monetary claim for delays, interferences, or hindrances of any kind in the performance of this Contract occasioned by any act or omission to act of the AUTHORITY or any of its Representatives or Agents and agrees that any such claim shall be fully compensated for by an extension of time to complete performance of the work.

THIS AGREEMENT, together with other documents enumerated in this ARTICLE 3, which said other documents are as fully a part of the Contract as if thereto attached or herein repeated, form the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3, shall govern, except as otherwise specifically stated.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in four (4) original copies on the day and year first above written.

Attest: **CONTRACTOR**

By _____
(Name)

(Title)

Attest: **THE NEW HVN LLC**

By _____
(Name)

(Title)

Certification of Corporate Contractor

I, _____, certify that I am
_____ of the corporation named as Contractor herein,
that _____ who signed this Agreement on behalf of the Contractor, was then
_____ of said corporation; that said Agreement was duly signed for and
on behalf of said corporation by authority of its governing body, and is within the scope of its corporate
powers.

Corporate

Seal

(Signature)_____
(Corporation)

TWEED-NEW HAVEN AIRPORT AUTHORITY
CERTIFICATE OF CONNECTICUT NON-ARREARAGE

STATE OF CONNECTICUT)
)
COUNTY OF)

_____ being duly sworn deposes and says

- 1) S/he is the (owner, partner, officer, representative, or agent) of the Bidder that has submitted the attached Bid.
- 2) Neither the Bidder, nor its subcontractors are in arrears to the State of Connecticut Second Injury Fund.

(signed)

Title

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

Notary Public or Commissioner of the Superior Court

My Commission Expires _____

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TWEED-NEW HAVEN AIRPORT AUTHORITY
CONNECTICUT DEPARTMENT OF LABOR
WAGE AND WORKPLACE STANDARDS DIVISION
CONTRACTORS WAGE CERTIFICATION FORM

I, _____ of _____
Officer, Owner, Authorized rep. Company name

Do hereby certify that the _____
Company Name

Street

City

and all of its subcontractors will pay all workers on the:

Project Name and Number

Street, City

the wages as listed in the schedule of prevailing rates required for such project (a copy of which is attached hereto).

Signed

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

Notary Public

RETURN TO: Connecticut Department of Labor
Wage & Workplace Standards Division
200 Folly Brook Blvd.
Wethersfield, CT 06109

Date Issued: _____, 20____

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TWEED-NEW HAVEN AIRPORT AUTHORITY**NOTICE OF REQUIREMENT AFFIRMATIVE ACTION
TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY
(EXECUTIVE ORDER 11246)**Section I

Project Name:	Project Number: (Arch/Engr.)
Developer Name:	Contract #:
Const. Mgr. Name:	Contract #:
General Contractor Name:	Contract #:
Subcontractor Name:	Contract #:
Tier-Contractor Name:	Contract #:

Section II

I, _____ Officer of _____
(Name and Title – Print) (Name of Company – Print)

here by certifies that I am the _____ to
(Dev / CM / GC Sub / T-C)

Circle One (City / Dev / CM / GC / Sub / T-C)

I have read the following Executive Order 11246 as witnessed by my signature:

1. The Offeror's or Bidders attention is called to the "Equal Opportunity Clause" (Federal Affirmative Action Agreement) and the "Standard Contract Specifications" set forth as Attachments B and C hereto.
2. a. Except as set forth in Paragraph 2(b) below; the goals and timetables for minority and female participation expressed in percentage terms for the Bidders work force in each trade on all construction work in the covered area (as defined in Paragraph 4 hereof) are as follows:

Female: 6.9%, and

Minority: (i) 25%* *pursuant to a Commission on Equal Opportunity action taken 4/21/82 under City of New Haven ordinances § 125-19 through § 125-33.*
(ii) 9% Elsewhere within New Haven County and in Waterbury and in Meriden.

* Within the City of New Haven.

b. Bidders who are working on any Federal or Federally assisted contracts or subcontracts covered by the pre-November 3, 1990 Attachment "A" must continue to meet those requirements until such prior contracts or subcontracts are completed. Once those contracts or subcontracts are completed the Bidder must comply with the minority goal set forth above in Paragraph (a).

For Bidders covered by this section only, the goals and timetables for minority and female participation expressed in percentage terms for the Bidder's work force in each trade on all construction work in the covered area are as follows:

Female: 6.9%

Minority: (See Chart Below)

Ranges of Minority Manpower Utilization Expressed in Percentage Terms From

<u>Trade</u>	<u>(Until further notice)</u>
Bricklayers	31.3% - 36.3%
Carpenters	28.8% - 33.8%
Elevator Constructors	20.8% - 25.6%
Glaziers	26.9% - 32.1%
Operator Engineers	31.7% - 36.6%
Painters	24.0% - 29.0%
Roofers	31.6% - 36.7%
Tile and Marble Layers	22.0% - 26.6%

The ranges for all trades utilized on the project, but not included in the above listing shall be 20.0% - 25.0%.

c. These goals are applicable to all Bidder's construction work (whether or not Federal or Federally assisted) performed in the covered areas if the Bidder performs construction work in a general 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 Bidder also is subject to the goals for both its Federally involved and non-Federally involved construction.

The Contractor's compliance with Executive Order 11246 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 6043(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. 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 program within ten (10) working days of award of any other 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, estimated dollar amount of the subcontract estimated starting and completion dates of the subcontract and the geographical area in which the contract is to be performed.

4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is as follows:

Female: 6.9% Nationwide Rate.

Minorities: (i) City of New Haven (25% work force per trade).
(ii) New Haven County, Waterbury and Meriden (9% work force per trade).

Section III

I am in total agreement with and shall adhere fully to all of the foregoing.

Signature of Officer

Date

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION
TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY
(EXECUTIVE ORDER 11246)**

(Provisions, Purpose and Instruction)

Federal Provision: Department of Labor (Mandatory)

Employment Standards Administration, Office of Federal Contract Compliance Programs 41 CFR Parts 60-1, 60-60 (RIN 1215-AA01) Government Contractors, Affirmative Requirements, Executive order 11246
Agency: Office of Federal Contract Compliance Programs (OFCCP), ESA, Labor.

City Ordinance Provisions:

In accordance with Section 12 ½ – 23 (a) “Equal Opportunity Clause”.

Purpose:

Prohibits employment discrimination and establishes affirmative action.

Instructions:

Please contact the Office of Contract Compliance with any questions:

SECTION I

- 1) Provide Project Name and Project Number contained in Bid Documents.
- 2) Provide YOUR Company name (what applicable) and YOUR Contract Number (if known). Do not include the information about any other company. *Example: If you are the Subcontractor, supply your information only – not that if the General Contractor who hired you.*

SECTION II

- 1) Print YOUR name and print the name of YOUR Company
- 2) Print YOUR Company designation (Developer / CM / GC / Sub)) and print the name of the company that issued the contract to you, circle their designation (Developer CM / GC / Sub)

SECTION III

- 1) Signature of Officer is required – NO SUBSTITUTES
- 2) Affix Date

TWEED-NEW HAVEN AIRPORT AUTHORITY**Attachment B to “Notice of Requirement”
EQUAL EMPLOYMENT OPPORTUNITY STATEMENT**Section I

Project Name:	Project Number: (Arch/Engr.)
Developer Name:	Contract #:
Const. Mgr. Name:	Contract #:
General Contractor Name:	Contract #:
Subcontractor Name:	Contract #:
Tier-Contractor Name:	Contract #:

Section II

Project Number: Contract #: Contract #: Contract #: Contract #: Contract #:

I, _____ Officer of _____
 (Name and Title - Print) (Name of Company - Print)

here by certifies that I am the _____ to
 (Dev / CM / GC Sub / T-C)

Circle One (City / Dev / CM / GC / Sub / T-C)

I have read the following Federal Affirmative Action Agreement as witnessed by my signature.

“During the performance of this contract, the contractor agrees:

(a) To comply with all provisions of Executive Order 11246, Executive Order 11375, and Executive Order 12138 Connecticut Fair Employment Practices Act, and the contract compliance ordinance of the City of New Haven, including all standards and regulations which are promulgated by the government authorities who established such acts and requirements; and all standards and regulations are incorporated herein by reference;

(b) Not to discriminate against any employee or applicant for employment because of race, color, religion, age, sex, physical disability 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 race, color, religion, sex, age or national origin and physical handicap. 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;

(c) To post, in conspicuous places available to employees and applicants for employment notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause;

(d) To state, in all solicitations or advertisements for employees placed by or on behalf of the contractor, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, physical disability, or national origin;

(e) To send to each union or representative of workers with whom he has a collective bargaining agreement, or other contract or understanding a notice advising the labor union or worker's representative of the contractor's commitments under the equal opportunity clause of the City of New Haven, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor shall register all workers in the skilled trades, who are below the journeyman level, with the Apprentice Training Division of the Connecticut State Labor Department.

(f) To utilize labor department and city sponsored manpower programs as a source of recruitment to notify the contract compliance unit and such programs of all job vacancies;

(g) To take affirmative action to negotiate with qualified minority and women contractors for any work which may be proposed for subletting or for any additional services, supplies, or work which may be required as a result of this contract;

(h) To cooperate with city departments in implementing required contract obligations for increasing the utilization of minority and women business enterprises;

(i) To furnish all information and reports required by the contract compliance director pursuant to section 12 1/2-19 through section 12 1/2-40 and to permit access to his/her books, records and accounts by the contracting agency, the contract compliance officer, and the secretary of labor for purposes of investigation to ascertain compliance with the program;

(j) If such contractor employs three or more employees to refrain from paying employees' membership dues and related expenses for clubs that restrict membership or use of their facilities on the basis of race, color, sex, religion, national origin or ancestry.

(k) To take such action, with respect to any subcontractor, as the city may direct as a means of enforcing the provisions of subparagraphs (a) through (m) herein, including penalties and sanctions for noncompliance, provided however that, in the event the factor becomes involved in or is threatened with litigation as a result of such direction by the city, the city will intervene in such litigation to the extent necessary to protect the interest of the city and to effectuate the city's equal employment opportunity program. In the case of contracts funded directly or indirectly, in whole or in part, under one or more federal assistance programs, the contractor or the city may ask the United States to enter into such litigation to protect the interest of the United States;

(l) To file, along with his subcontractors, if any, compliance reports with the city in the form and to the extent prescribed in the contract by the contract compliance director of the City of New Haven. Compliance reports filed at such times as directed shall contain information as to the employment practices, policies, programs and statistics of the contractor and his subcontractors, if any;

(m) To include the provisions of subparagraphs (a) through (n) of this equal opportunity clause in every subcontract or purchase order so that said provisions will be binding upon each such subcontractor or vendor,

(n) That a finding, as hereinafter provided of a refusal by the contractor, or subcontractor, to comply with any portion of this program as herein stated and described, may subject the offending party to any or all of the penalties:

- (1) Withholding of all future payments under the involved public contract to the contractor in violation until it is determined that the contractor, or subcontractor is in compliance with the provisions of the contract;

- (2) Refusal of all future bids for any public contract with the Tweed- New Haven Airport Authority, or any of its departments or divisions, until such time as the contractor, or subcontractor, is in compliance with the provisions of the contract;
- (3) Cancellation of the public contract;
- (4) Recovery of specified monetary penalties;
- (5) In case of substantial or material violation, or the threat of substantial or material violation, of the compliance procedure or as may be provided for by contract, appropriate equitable or legal proceedings may be brought to enforce these provisions against contractors; subcontractors, or other organizations, individuals or groups who directly or indirectly are not in compliance with the policy as herein outlined. (Ordinance of 12-5-77; Ordinance of 6-6-83; Ordinance of 618-90, § 1 (f))

IN WITNESS WHEREOF ON THE _____ DAY OF _____, 20____,
the Contractor has caused four (4) counterparts of this agreement to be executed and delivered.

Section III

I am in total agreement with and shall adhere fully to all of the foregoing.

Signature of Officer

Date

Witness #1

Date

Witness #2

Date

**Attachment B to “Notice of Requirement”
(Provision, Purpose and Instruction)**

Federal Provision: Department of Labor (Mandatory)

Employment Standards Administration, Office of Federal Contract Compliance Programs 41 CFR Parts 60-1, 60-60 (RN 1215-AA01) Government Contractors, Affirmative Requirements, Executive Order 11245
Agency: Office of Feral Contract Compliance Programs (OFCCP), ESA, Labor.

City Ordinance Provision: City and City Related Projects (Mandatory)

Equal opportunity Ordinance Section 12 1/2-23. “All public contracts hereinafter entered onto by the City of New Haven shall incorporate as equal employment opportunity clause which shall read as follows:”

Purpose:

Prohibits employment discrimination and establishes affirmative action.

Instructions:

Please contact the Office of Contract Compliance with any questions.

SECTION I

- 1) Provide Project Name and Project Number contained in Bid Documents.
- 2) Provide YOUR Company name (where applicable) and YOUR Contract Number (if known). Do not include the information about any other company. *Example: If you are the Subcontractor, supply your information only - not that if the General Contractor who hired you.*

SECTION II

- 1) Print YOUR name and print the name of YOUR Company.
- 2) Print YOUR Company designation (Developer / CM / GC / Sub) and print the name of tilt company that issued tile contract to you, circle their designation (Developer / CM GC / Sub).

SECTION III

- 1) Signature of Officer is required - NO SUBSTITUTES
- 2) Affix Date
- 3) Witness #1 is required
- 4) Affix Date
- 5) Witness #2 is required
- 6) Affix Date

TWEED-NEW HAVEN AIRPORT AUTHORITY**Attachment C to "Notice of Requirement"
STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY
CONSTRUCTION SPECIFICATIONS
(EXECUTIVE ORDER 11246)**Section I

Project Name:	Project Number: (Arch/Engr.)
Developer Name:	Contract #:
Coast Mgr. Name:	Contract #:
General Contractor Name:	Contract #:
Subcontractor Name:	Contract #:
Tier-Contractor Name:	Contract #:

Section II

I, _____ Officer of _____
(Name and Title - Print) (Name of Company - Print)

here by certifies that I am the _____ to
(Dev / CM / GC Sub / T-C)

Circle One (City / Dev / CM / GC / Sub / T-C)

I have read the following Standard Federal Equal Employment Opportunity Construction Specifications Executive Order 11246 as witness by my signature.

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, United States 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 Employers Quarterly Federal Tax Return, U. S. Treasury Department Form 941.
- d. "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin); (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race); (iii) Asian and Pacific Islanders (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and (iv) American Indian or Alaska Native (all persons having origins in any of the original peoples of North America and Maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, or shall physically include in each subcontract in excess of \$10,000 the

provisions of these specifications and the Notice which contains true applicable goals for minority and female participation and which is set forth in the solicitations from which the 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). Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EXO 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 Contractor or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractors or Subcontractors failure to make good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from the Office of Federal Contract Compliance Program office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress toward 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 must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U. S. Department of Labor.

7. The Contractor shall make specific affirmative action 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, superintendent and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, which includes 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 organization's responses.

- c. Maintain a current file of the names, addresses, and telephone numbers of any minority and female off-the-street applicants and minority or female referrals from a union, a recruitment source or community organizations and of which 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, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
- d. Develop on-the-job training opportunity and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprentices 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 complied under 7b above.
- e. 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 work is performed.
- f. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employers having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these terms with on-site supervisor, personnel such as Superintendents, General Foreman, 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.
- g. 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 anticipated doing business with.
- h. 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 servicing 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 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.
- i. 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 working on the site and in other areas of a Contractor's workforce.
- j. Validate all tests and other selection requirements where there is an obligation to do so under 41 CPU Part 60-3.

- k. 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.
 - l. 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 Contractors obligations under these specifications are being carried out.
 - m. 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 sexes.
 - n. Document and maintain a record of all solicitations of offers for subcontracts from minority and female constructions contractors and suppliers including circulation of solicitations to minority and female contractor associations.
 - o. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through o). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar groups of which the contractor is a member and a participant, may be asserted as fulfilling any one or more of its obligations under 7a through 0 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 Contractors 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 Contractors, and failure of such a group to fulfill an obligation shall not be a defense for the Contractors noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, 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 affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the director shall proceed in accordance with 41 CFR 60-40.3.

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 shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation, if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanic, apprentice, trainee, helper, or laborer), date 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 form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate record.

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 Block Grant Program).

Section III

I am in total agreement with and shall adhere fully to all of the foregoing.

Signature of Officer

Date

**Attachment C to “Notice of Requirement”
(Statute, Purpose and Instruction)**

Federal Provision: Department of Labor (Mandatory)

Employment Standards Administration, Office of Federal Contract Compliance Programs 41 CFR Parts 60-1, 60-60 (RIN 1215-AA01) Government Contractors, Affirmative Requirements Executive Order 11246
Agency: Office of Federal Contracts Compliance Programs (OFCCP), ESA, Labor.

Purpose:

Prohibits employment discrimination and establishes affirmative action.

Instructions:

Please contact the Office of Contract Compliance with any *questions*.

SECTION I

- 1) Provide Project Name and Project Number contained in Bid Documents.
- 2) Provide **YOUR** Company name (where applicable) and **YOUR** Contract Number (if known). Do not include the information about any other company. Example: *If you are the Subcontractor, supply your information only - not that of the General Contractor who hired you.*

SECTION II

- 1) Print **YOUR** name and print the name of **YOUR** Company
- 2) Print **YOUR** Company designation (Developer / CM / GC / Sub) and print the name of the company that issued the contract to you, circle their designation (Developer / CM GC / Sub)

SECTION III

- 1) Signature of Officer is required - **NO SUBSTITUTES**
- 2) Affix Date

TWEED-NEW HAVEN AIRPORT AUTHORITY
FEDERAL AFFIRMATIVE ACTION AGREEMENT

Section I

Project Name:	Project Number: (Arch/Engr.)
Developer Name:	Contract #:
Const. Mgr. Name:	Contract #:
General Contractor Name:	Contract #:
Subcontractor Name:	Contract #:
Tier-Contractor Name:	Contract #:

Section II

I, _____ Officer of _____
(Name and Title - Print) (Name of Company - Print)

here by certifies that I am the _____ to
(Dev / CM / GC Sub / T-C)

Circle one (City / Dev / CM / GC / sub / T-C) I have read the following Federal Affirmative Action Agreement as witnessed by my signature. This 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, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex 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 Contractors' 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 agent and the Secretary of Labor for purposes to ascertain compliance with such rules, regulations, and orders.

6. In the event of the Contractors noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be cancelled, 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 the Contractor becomes involved in, or is threatened with litigation, by 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.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided that if the applicant so participating is a State or local government the above equal clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractor with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibilities for securing compliance.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibilities for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for Government contracts and federally assisted construction contracts pursuant to the Executive order and will carryout such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part 11, Subpart D of the Executive order in addition, the applicant agrees that if it fails or refuses to comply with these undertakings the administering agency may take any or all of the following actions: Cancel, terminate or suspend in whole or in part this grant (contract loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

Section III

I am in total agreement with and shall adhere fully to all of the foregoing.

Signature of Officer:

Date:

**FEDERAL AFFIRMATIVE ACTION AGREEMENT
EXECUTIVE ORDER 11246****(Provisions, Purpose and Instruction)**

Federal Provision: Department of Labor (Mandatory)

Employment Standards Administration, Office of Federal Contract Compliance programs 41 CFR Parts 60-1, 60-60 (RIN 1215-AAO 1) Government Contractors, Affirmative Requirements, Executive Order 11246 Agency: Office of Federal Contract Compliance Programs (OFCCP), ESA, Labor.

City Ordinance Provisions:

In accordance with Section 12 1/2 - 23 (a) "Equal Opportunity Clause".

Purpose:

Prohibits employment discrimination and establishes affirmative action.

Instructions:

Please contact the Office of Contract Compliance with any *questions*:

SECTION I

- 1) Provide Project Name and Project Number contained in Bid Documents.
- 2) Provide YOUR Company name (where applicable) and YOUR Contract Number (if known). Do not include the information about any other company. Example: *If you are the Subcontractor, supply your information only - not that if the General Contractor who hired you.*

SECTION II

- 1) Print YOUR name and print the name of YOUR Company
- 2) Print YOUR Company designation (Developer / CM / GC / Sub) and print the name of the company that issued the contract to you, circle their designation (Developer / CM GC / Sub)

SECTION III

- 1) Signature of Officer is required - NO SUBSTITUTES
- 2) Affix Date

TWEED-NEW HAVEN AIRPORT AUTHORITY**SAFETY RESPONSIBILITY COVENANT**

It is hereby understood and agreed that the CONTRACTOR is responsible for health and safety on this project including, but not limited to, compliance with all applicable federal, state, and local regulations, codes, rules, orders, laws and ordinances regarding health and safety and shall, at all times, exercise and enforce reasonable precautions for the safety and welfare of all persons and property associated with or affected by this project. The CONTRACTOR's responsibility shall include providing adequate equipment and facilities necessary (including, if required, removal to a hospital) to furnish first aid to any person or persons who may be injured on the project site.

The CONTRACTOR further agrees to defend, indemnify and hold harmless the OWNER and the ENGINEER from any expense, cost or loss including but not limited to fines, demands, suits, legal fees, or penalties, including costs of corrective measures, that the CONTRACTOR, OWNER or ENGINEER may sustain by reason of the CONTRACTOR's failure to provide a safe workplace or to comply with all health and safety laws, rules and regulations in connection with the performance of this Contract.

To achieve the safety goals for this project, the CONTRACTOR shall designate a SAFETY OFFICER whose duty shall be to monitor the project on a daily basis in order to insure that all required safety measures are strictly adhered to and site safety is insured. The SAFETY OFFICER shall act for the CONTRACTOR on safety issues and shall have the right to shut down work on the site until safety deficiencies have been corrected. The project SAFETY OFFICER is designated as:

Safety Officer's Name

Contractor

By:

Signature

Name

Date

Title

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PERFORMANCE BOND**PROJECT: HVN ARFF ONE-BAY EXPANSION****TWEED-NEW HAVEN AIRPORT
NEW HAVEN, CONNECTICUT**

KNOW ALL MEN BY THESE PRESENTS:

THAT WE, _____,
organized under the Laws of the State of _____,
and having a usual place of business in _____,
as Principal and _____,
organized under the Laws of the State of _____,
and having a usual place of business at _____,

as surety, are holden and stand firmly bound and obligated unto the **OWNER**, as obligee, and
Federal Aviation Administration as a co-obligee, in the sum of

(\$ _____), lawful money of the United States of America, to and for the true
payment, whereof, we hereby bind ourselves, and each of us, our heirs, executors, administrators,
successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the said Principal has, by means of a written Agreement dated _____
entered into a Contract with the same obligee, a copy of which Agreement is attached hereto and by
reference made a part hereof.

NOW, the condition of this obligation is such

THAT, if the said principal, their heirs, administrators, successors, or assigns, shall well and
truly keep and perform all the agreements, terms and conditions of said agreement on their part to
be kept and performed, including the guarantee in the General Conditions, then this obligation shall
be void - otherwise, it shall remain in full force and virtue.

AND, the said surety, for value received, hereby stipulates and agrees that no change in, or extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder, or to the specifications accompanying the same shall in any way affect their obligations on this bond and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to the specifications. IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, in the year _____.

PRINCIPAL -

(Seal)

By: _____

SURETY -

(Seal)

By: _____

IMPORTANT - Attach herewith proof of Authority of Officers or agents to sign bonds.

**PERFORMANCE BOND
CERTIFICATE AS TO CORPORATE PRINCIPAL
(IF A CORPORATION)**

State of _____)
County of _____) SS

On this _____ day of _____, 20____

before me personally came _____

to me known, who being by me duly sworn, did depose and say as follows:

That they reside at _____

and is the _____

of _____

the corporation described in, and which executed the foregoing instrument; that they know the corporate seal of said corporation; that the seal affixed to the foregoing instrument is such corporate seal and it was so affixed by order to the Board of Directors of said corporation; and that by the like order they signed thereto their name and official designation.

Notary Public (Seal)

My Commission expires: _____

**PERFORMANCE BOND
PARTNERSHIP CERTIFICATE****(IF A PARTNERSHIP)**

State of _____)

SS

County of _____)

On this _____ day of _____, 20____

before me personally appeared _____ known to me

and known by me to be the person who executed the above instrument, who, being by me first duly

sworn, did depose and say that they is a general partner in the firm of _____

_____; and that said firm consists of themselves and

_____, and that they executed the

foregoing instrument on behalf of said firm for the uses and purposes stated herein.

Notary Public (Seal)

My Commission expires: _____

**PERFORMANCE BOND
INDIVIDUAL CERTIFICATE****(IF AN INDIVIDUAL)**

State of _____)

SS

County of _____)

On this _____ day of _____, 20____

before me personally appeared _____ known to me

and known by me to be the person who executed the above instrument, who, being by me first duly

sworn, did depose and say that they are the owner of the firm

_____; and that they

executed the foregoing instrument on behalf of said firm for the uses and purposes stated herein.

Notary Public (Seal)

My Commission expires: _____

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PAYMENT BOND**PROJECT: HVN ARFF ONE-BAY EXPANSION**TWEED-NEW HAVEN AIRPORT
NEW HAVEN, CONNECTICUT
AIP No. 3-09-0013-xxx-2025

KNOW ALL MEN BY THESE PRESENTS:

THAT WE, _____,
organized under the Laws of the State of _____,
and having a usual place of business in _____,
as Principal and _____,
organized under the Laws of the State of _____,
and having a usual place of business at _____,

as surety, are holden and stand firmly bound and obligated unto **OWNER** as obligee, and Federal Aviation Administration as a co-obligee, in the sum of

(\$ _____) Dollars, lawful money of the United States of America, to and for the true payment, whereof, we hereby bind ourselves, and each of us, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the said Principal has, by means of a written Agreement dated _____ entered into a Contract with the same obligee, a copy of which Agreement is attached hereto and by reference made a part hereof.

NOW, the condition of this obligation is such

THAT, if the said principal, their heirs, administrators, successors, or assigns, shall pay for all labor performed or furnished, all materials, including materials so employed which is not incorporated in the construction or repair work and is not wholly or necessarily consumed or made so worthless as to lose its identity but only to the extent of its purchase price less its fair salvage

value, and for the retail or hire of vehicles, power shovels, rollers, concrete mixers, tools and other appliances and equipment employed in the work, all persons who contract with the Principal for labor and materials, all insurance premiums on said work, and the use of all patent rights, used or employed in the carrying out of said Agreement, then this obligation shall be void - otherwise it shall remain in full force and virtue. The obligation shall be in accordance with the Maine State Law.

AND, the said surety, for value received, hereby stipulates and agrees that no change in, or extension of time, alteration or addition to the terms of the Contract or to the work to be performed thereunder, or to the specifications accompanying the same shall in any way affect their obligations on this bond and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the work or to be specifications.

AND that no final settlement between the **OWNER** and the principal shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of _____, in the year _____.

PRINCIPAL -

(Seal)

By: _____

SURETY -

(Seal)

By: _____

IMPORTANT - Attach herewith proof of Authority of Officers or agents to sign bonds.

**PAYMENT BOND
CERTIFICATE AS TO CORPORATE PRINCIPAL
(IF A CORPORATION)**

State of _____)
County of _____) SS

On this _____ day of _____, 20____

before me personally came _____

to me known, who being by me duly sworn, did depose and say as follows:

That they resides at _____

and is the _____

of _____

the corporation described in and which executed the foregoing instrument; that they know the corporate seal of said corporation; that the seal affixed to the foregoing instrument is such corporate seal and it was so affixed by order to the Board of Directors of said corporation; and that by the like order they signed thereto their name and official designation.

Notary Public (Seal)

My Commission expires: _____

**PAYMENT BOND
PARTNERSHIP CERTIFICATE
(IF A PARTNERSHIP)**

State of _____)

SS

County of _____)

On this _____ day of _____, 20____

before me personally appeared _____ known to me

and known by me to be the person who executed the above instrument, who, being by me first duly

sworn, did depose and say that they is a general partner in the firm of _____

_____; and that said firm consists of themselves and

_____, and that they executed the

foregoing instrument on behalf of said firm for the uses and purposes stated herein.

Notary Public (Seal)

My Commission expires: _____

**PAYMENT BOND
INDIVIDUAL CERTIFICATE
(IF AN INDIVIDUAL)**

State of _____)

SS

County of _____)

On this _____ day of _____, 20____

before me personally appeared _____ known to me

and known by me to be the person who executed the above instrument, who, being by me first duly sworn, did depose and say that they are the owner of the firm

_____ ; and that

they executed the foregoing instrument on behalf of said firm for the uses and purposes stated

herein.

Notary Public (Seal)

My Commission expires: _____

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NOTICE OF AWARD
HVN ARFF ONE-BAY EXPANSION
TWEED-NEW HAVEN AIRPORT
NEW HAVEN, CONNECTICUT

Issued to: **Company Name** _____
 Company Address _____
 Company City/State/Zip _____

Project Title _____

Advertisement Date _____ **Bid Opening Date** _____

OWNER has considered your bid submitted for the above entitled project, or a portion thereof as detailed on any attachment to this notice. You are required to execute the Agreement and furnish any required Performance BOND, Payment BOND, and certificate of insurance within fifteen (15) calendar days from the date of this Notice. If you fail to execute said Agreement and to furnish said BONDS within fifteen (15) calendar days from the date of this Notice, **OWNER** will be entitled to consider all your rights arising out of the acceptance of your BID as abandoned and as a forfeiture of your BID BOND. The **OWNER** will be entitled to such other rights as may be granted by law or described herein. **You are required to return an acknowledged copy of this NOTICE OF AWARD within five (5) calendar days to:**

Owner: _____ Tweed-New Haven Airport Authority _____

155 Burr Street	New Haven	Connecticut	06512
Street Address	City	State	Zip Code

(203) 466-8833	hvnadministration@avports.com
Telephone	Email

By: _____
 Print Name/Title: Tom Rafter, Director

DATED the _____ day of _____, 20____.

ACCEPTANCE OF NOTICE OF AWARD

HVN ARFF ONE-BAY EXPANSION

**TWEED-NEW HAVEN AIRPORT
NEW HAVEN, CONNECTICUT**

NOTICE OF AWARD is hereby acknowledged and accepted.

By: _____
Authorized Signature Printed Name/Title

For: _____
Organization

DATED the _____ day of _____, 20____.

NOTICE TO PROCEED
HVN ARFF ONE-BAY EXPANSION
TWEED-NEW HAVEN AIRPORT
NEW HAVEN, CONNECTICUT

Issued to: **Company Name** _____
 Company Address _____
 Company City/State/Zip _____

Project Title HVN ARFF ONE-BAY EXPANSION
Advertisement Date _____ **Bid Opening Date** _____

PLEASE BE ADVISED that work may begin on the above Contract on _____, 20____
and the Substantial Completion of all work shall be completed within number of calendar days noted on
the CONTRACT from this Notice To Proceed date.
Therefore, the completion date is: _____, 20_____.

Owner's Representative: _____
Telephone: _____ **Email:** _____

**You are required to return an acknowledged copy of this NOTICE TO PROCEED within five (5)
calendar days of the date of this Notice to:**

Owner: Tweed-New Haven Airport Authority

<u>155 Burr Street</u>	<u>New Haven</u>	<u>Connecticut</u>	<u>06512</u>
Street Address	City	State	Zip Code

<u>(203) 466-8833</u>	<u>hvnadministration@ avports.com</u>
Telephone	Email

By: _____
 Print Name/Title:

DATED the _____ day of _____, 20_____.

ACCEPTANCE OF NOTICE TO PROCEED

NOTICE TO PROCEED

HVN ARFF ONE-BAY EXPANSION

**TWEED-NEW HAVEN AIRPORT
NEW HAVEN, CONNECTICUT**

NOTICE TO PROCEED is hereby acknowledged and accepted.

By: _____
Authorized Signature Printed Name/Title

For: _____
Organization

DATED the _____ day of _____, 20____.

CONTRACTOR'S GUARANTY

WHEREAS _____
(Contractor)

of _____
(Address)

hereinafter called **CONTRACTOR** has completed construction of the following project:

Owner: Tweed-New Haven Airport Authority, 155 Burr Street, New Haven, CT 06512

Telephone: (203) 466-8833 **Owner's Representative:**
Email:

hereinafter called the **OWNER**.

Title of Project: **HVN ARFF ONE-BAY EXPANSION**
 Tweed New-Haven Airport
 New Haven, Connecticut

Project Number(s): **AIP No. 3-09-0013-xxx-2025**

Location: **Tweed-New Haven Airport, New Haven, Connecticut**

Date of Completion: _____

Date Guarantee Expires: _____

WHEREAS, at the inception of such work the **CONTRACTOR** agreed to guarantee the construction against faulty materials or workmanship for a limited period and subject to the conditions set forth:

NOW, THEREFORE, the **CONTRACTOR** hereby guarantees, subject to the conditions herein set forth, that during a period of one (1) year from the date of completion of said construction (four (4) years for LED light fixtures), they will, at their own cost and expense, following receipt of written notice, make or cause to be made such repairs to said construction resulting solely from faulty construction or defects in materials or workmanship applied by or through the **CONTRACTOR** as may be necessary to maintain the construction in defect-free condition.

This **CONTRACTOR GUARANTY** is made subject to the following conditions:

1. Specifically excluded from this guarantee is any and all damage caused by the following: lightning, windstorm greater than 110 mph, hailstorm or other acts of God; or fire. If the construction is damaged by reason of any of the foregoing, this guarantee shall thereupon become null and void for the balance of the guarantee period unless such damage is repaired by the **CONTRACTOR** at the expense of the party requesting such repairs.

2. This CONTRACTOR GUARANTY shall not be or become effective unless and until the **CONTRACTOR** has been paid in full for all their work.
3. This CONTRACTOR GUARANTY runs in favor of **OWNER** only and is not transferable.
4. Additional Conditions: This CONTRACTOR GUARANTY is in addition to all other legal and specified Warranties and Guaranties required on the Project's Contract Documents for materials, systems, and performance of the manufacturer or supplier.

In Witness Whereof, this instrument has been duly executed this

_____ day of _____, 20__.

(Company Name)

By: _____
(Authorized Signature)

(Seal)

Title: _____

NOTE: Form shall bear seal if Contractor is a Corporation.

SAFETY PLAN COMPLIANCE DOCUMENT (SPCD) CERTIFICATIONPROJECT: **ARFF ONE-BAY EXPANSION**LOCATION: **Tweed-New Haven Airport, New Haven, Connecticut**

- I. I hereby certify that I have reviewed the safety plans and fully understand the requirements set forth in the Construction Safety Phasing Plan (CSPP) as contained within the Contract Documents.
- II. I agree that prior to the issuance of the Notice to Proceed (NTP), I will provide as part of the Safety Plan Compliance Document (SPCD), a detailed plan as to how the CSPP will be complied with. The detail plan will included but not be limited to: specific equipment that will be utilized on site; construction equipment heights; contractor's points of contacts; work area plan (including a work sequencing plan); verification of material stock pile areas and heights; understanding of haul route restrictions; safety procedures; and other information as needed.
- III. I agree that I will follow the CSPP and approved SPCD and will not deviate from the plan without prior authorization from the Owner. I further acknowledge that requested revisions to the CSPP may require approval from the Federal Aviation Administration (FAA) and the review process requires at least 45 to 60 days. I further agree to reimburse the Owner for any and all costs resulting from a requested change or revision to the CSPP.
- IV. ☐ Check box if SPCD document is attached.

Date: _____

Signature of Authorized
Representative of Contractor_____
Printed Name of Authorized Rep.

Corporate Seal

Signature of Witness***NOTE: (Form to be executed and submitted with the Contract.)***

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**ANNUAL CONTRACTOR ASSURANCES
AIP FUNDED CONTRACTS**

(All participants of FAA Airport Improvement Program (AIP) funded contracts are required to submit this form annually)

_____(Contractor), hereinafter referred to as the “PARTICIPANT,” Hereby agrees that as a condition of receiving payment in connection with work performed on any FAA Airport Improvement Program (AIP) assisted contract it will comply with the FAA Contract Provision Guidelines of Obligated Sponsors and Airport Improvement Projects and the provisions therein referenced, and all requirements imposed by the FAA, the State Department of Transportation, or the Owner pursuant to the implementing regulations, applicable U.S. Department laws, and other pertinent directives, to that end the PARTICIPANT HEREBY GIVES THE FOLLOWING SPECIFIC ASSURANCES with respect to its participation in the FAA Airport Improvement Program:

Initial Next to Each

1. ____ That the PARTICIPANT shall submit weekly certified payrolls, showing that each employee has been properly classified and paid for the time worked in each classification according to the minimum hourly wage(s) stipulated by the Wage Decision applicable to each of its contracts. The PARTICIPANT shall also be responsible for ensuring compliance of the same for any subcontractor or lower-tier subcontractor with which it holds an agreement under a Federal-aid contract.
2. ____ That the PARTICIPANT shall review the Wage Decision in each of its contracts and submit an Additional Work Classification Request for each classification that does not appear in the applicable Wage Decision; this shall be accomplished before the start of work for each project, regardless of any prior approval for another project in the same county.
3. ____ That the PARTICIPANT shall not sublet, assign or otherwise dispose of any portion of the contract without approval from the Owner and acknowledge that any work performed by an unapproved subcontractor or lower-tier subcontractor shall not be paid for by the Owner.
4. ____ That the PARTICIPANT is in full compliance with the Immigration Reform and Control Act of 1986 and has fulfilled all Form I-9 requirements by verifying identification and authorization to work for each employee reported on the payroll.
5. ____ That the PARTICIPANT acknowledges that any work performed or services provided under an FAA Airport Improvement Program contract shall be considered *satisfactorily completed* and payable only after the PARTICIPANT has fulfilled the contract requirements of the Owner and funding agencies, including the submission of all documentation required by the specifications and the subcontract. Satisfactory Completion is when the Engineer finds the work completed in accordance with the contract, plans and specifications. The determination of whether work meets the standards of satisfactory completion is the responsibility of the Engineer and not the prime contractor. The PARTICIPANT shall not disperse payment for an item of work under the contract without first obtaining certified payrolls from its subcontractors or lower-tier subcontractors, verifying the payment of wages according to paragraph “1.” above.

6. _____ The PARTICIPANT acknowledges that if found to be in violation of the FAA requirements it shall be required to take corrective action before participating in future projects funded by the FAA. Corrective action shall include, but is not limited to, the submission of certified payrolls or other records and reports necessary to verify compliance with the Provisions.
7. _____ Not used.
8. _____ That the PARTICIPANT, in order to participate in any public project, shall register its business name with the *State of Connecticut, Department of Revenue* and shall remain in *good standing* throughout the period of participation.
9. _____ That the PARTICIPANT shall maintain detailed pay records and other records documenting its compliance, and all efforts to comply, with the nondiscrimination and payroll requirements of the FAA requirements, and shall make these records available for inspection by authorized representatives of the Owner, the state, The U.S. Department of Labor, and the FAA at reasonable times and places for a period of 3 years following the completion of the contract work.
10. _____ That the PARTICIPANT is fully aware that it may seek compliance assistance and training for itself, its subcontractors, or lower-tier subcontractors by contacting the Owner.
11. _____ That the PARTICIPANT acknowledges that a breach of any of the stipulations contained in the FAA requirements shall be sufficient grounds for termination of its contract with the Owner. Where the violator is a subcontractor or lower-tier subcontractor, the prime contractor shall be required to terminate its contract and any related contract.

THESE ASSURANCES are given in consideration of and for the purpose of obtaining any and all contracts funded through the Owner under the FAA Airport Improvement Program. The person whose signature appears below is an executive officer or owner of

Name of Firm

Printed Name & Title

Date: _____

Signature

**EEO OFFICER NOTIFICATION AND
PROGRAM COMPLIANCE CERTIFICATION**

(This form is required **annually** by companies that perform federally funded contract work in the amount of **\$10,000 or more annually**)

FROM (Name of Company): _____ Date _____

TO (Name of Airport Owner): **Tweed-New Haven Airport Authority, New Haven, Connecticut**

In accordance with the FAA Required Federal Contract Provisions for Obligated Sponsors and Airport Improvement Program Projects contained in the Division 1 of the Contract Documents, the following information is furnished:

Initial Next to Each

THIS IS TO CERTIFY:

_____ This company has accepted the following statement as our operating policy: "It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, sexual orientation, gender identity, age or disability. Such action shall include: 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, pre-apprenticeship, and/or on-the-job training."

_____ Periodic meetings with supervisory and personnel office employees were conducted before the start of work and will be accomplished once every six (6) months.

_____ All new supervisory or personnel office employees were given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within 30 days following their employment start date.

_____ All personnel who are engaged in direct recruitment for the project were instructed by the EEO Officer in the contractor's procedures for locating and hiring minority group employees.

_____ This company's EEO policy was reviewed and reaffirmed within the last 12 months and was brought to the attention of all our employees by the following means (check as applicable):

☐ Meetings/Briefings ☐ Employee Handbook ☐ Other: _____

_____ A written record was made of the above meetings/briefings, person's attending, and the subject matter that was discussed. Signed acknowledgements of attendance at EEO meetings/training are on file.

_____ I have **attached** a copy of this company's **EEO Appointment Letter and Policy Statement**.

***SIGNED CERTIFICATION AND NAME OF CORPORATE EEO OFFICER:**

Signed & Printed Name

Title or Position in Firm

Address (Include Zip Code)

Telephone (Include Area Code)

Email Address: _____

* Named individual must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so.

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**CONTRACTOR ACKNOWLEDGEMENT CERTIFICATION
(SUBCONTRACT and/or MATERIAL SUPPLIER)**

From: _____ (Name of Firm) Date: _____

To: _____ (Name of Firm)

☐ Subcontractor☐ Lower-tier Subcontractor☐ Material SupplierRe: **HVN ARFF ONE-BAY EXPANSION
Tweed-New Haven Airport, New Haven, Connecticut**

New Haven

Project Name, Location and Project Number

County

ITEMS 1 – 4 BELOW APPLY, UNLESS OTHERWISE INDICATED**PRIME CONTRACTOR CERTIFICATION:** I hereby certify the below documentation (as checked) was included in, and made part of, the subcontractor agreement entered into with the firm named above.

- ☐ 1. Contact Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects with AIP Handbook Buy American Requirements (Refer to Division 1 & Referenced Documents)
- ☐ 2. 41 CFR 60-4.2-3 (Solicitations and Equal Opportunity Clauses)* (Refer to Division 1 – Reference Documents)
- ☐ 3. Disadvantaged Business Enterprise (DBE) Policy and DBE Program Requirements (Refer to Division 1)
- ☐ 4. Davis-Bacon Wage Rates (Refer to Division 1)**

*Applicable only to contracts or subcontracts in excess of \$10,000

**Does not apply to Material Suppliers, unless performing work on-site

Printed Name (Prime): _____ Signature: _____

SUBCONTRACTOR CERTIFICATION: As an authorized official of this company, I certify that the documents selected above were made part of our agreement/contract and give assurance that this company will comply with the *Contact Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects*, and will properly obtain approval, before the start of work, for any portion of work sublet to a lower-tier Subcontractor or Material Supplier. I further certify that:

1. This company is in full compliance with applicable Federal and State Laws: (Not required of Material Suppliers)
☐ This company is properly registered and is in *good standing* with the applicable State's Office.
2. ☐ This company has attached a Form MJ-201, "Annual Contractor Assurances – AIP Funded Contracts," unless submitted in the past 12 months, in which case a copy of the previously submitted form is attached.
3. This company [check one] ☐ does, ☐ does not, anticipate performing work on this contract in the amount of \$10,000 or more annually. **Companies that perform \$10,000 or more of contract work must file a Form MJ-201 annually.**
4. This company [check one] ☐ has, ☐ has no, outstanding compliance matters from a previous Federally Funded project contract.

Firm: _____

Address: _____

Telephone No.: _____

Federal ID No.: _____

Estimated Start Date.: _____

Estimated Completion Date: _____

Printed Name and Title

Signature

Date

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TRANSMITTAL REQUEST FOR CONSENT TO SUBLET:

- ☐ SUBCONTRACTOR
- ☐ LOWER TIER SUBCONTRACTOR
- ☐ MATERIAL SUPPLIER (MS)

REQUEST TO:

<Engineer>

<Address 1>

<Town, ST xxxxx>

Telephone: (xxx) xxx-xxx

** ☐ THIS COMPANY IS A DISADVANTAGE BUSINESS ENTERPRISE (DBE)**Prime Contractor: _____
(Name and Address)Subcontractor/MS: _____
(Name and Address)Lower-tier Subcontractor/MS: _____
(Name and Address)Project Name and AIP No: **HVN ARFF ONE-BAY EXPANSION**

All contract items sublet are to be shown in the following tabulation. Estimated or agreed dollar amounts must be shown individually in the appropriate **PARTIAL** or **COMPLETE** column.

ITEM NUMBER	DESCRIPTION OF ACTUAL WORK TO BE PERFORMED (Use a separate spreadsheet if needed and list total below)	PARTIAL WORK ON ITEM	COMPLETE ITEM

TOTAL SUBCONTRACT AMOUNT: \$

By: _____
Signature and Title of Prime Contractors Agent Date

Signatory agrees and understands that subcontracts will contain, by inclusion or reference, all the pertinent provisions of the Prime Contract. It is further agreed and understood that consent to sublet shall not under any circumstance relieve the Prime Contractor or surety of any of their obligations under the Contract or bonds as specified in the Project Specifications.

FOR ENGINEER / OWNER OFFICE USE ONLY

Effective Date:	Recommended by Engineer: (Sign Here)
Total Sublet to Date:	
Percent Sublet to Date:	
DBE Commitment % to Date:	Approved by Owner: (Sign Here)
Consent Number:	
Company Code:	

Copy to (check): ☐ RESIDENT ENGINEER ☐ HIGHER TIER SUB / MS ☐ OTHER: _____

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Submittal Number: _____

Revision Number: _____

CONTRACTOR / SUBCONTRACTOR / SUPPLIER
BUY AMERICAN CERTIFICATION
(Attach to all Shop Drawing Submittals)

Job Name: HVN ARFF ONE-BAY EXPANSIONAirport: Tweed-New Haven AirportAIP No. 3-09-0013-xxx-2025 Project No. _____

Contractor / Subcontractor / Supplier: _____

Address: _____

Contractor's Contact: _____ Phone Number: _____

Reviewed By: _____ Date Submitted: _____

Item No. : _____

Specification Section and Paragraph: _____

Description: _____

The undersigned certifies that (check the item that applies):

- ☐ 1. The above referenced products or materials are wholly produced in the United States of America (US) of US produced materials.
- ☐ 2. A waiver for the use of non-US produced products or production outside of the US has been granted by the FAA for this product or material and a copy of the waiver is attached.
- ☐ 3. All the above referenced products or materials being used on the project are on the Nationwide Buy American conformance list located at (attach copy of list):
http://www.faa.gov/airports/aip/buy_american/
- ☐ 4. A waiver for the use of non-US produced products or production outside of the US is being requested as part of this submission (see FAA AIP Handbook Appendix Y in Division 1 – Reference Documents for guidance on waiver types and requirements).

CONTRACTOR / SUBCONTRACTOR / SUPPLIER
BUY AMERICAN CERTIFICATION

Dated at _____ this _____ day of _____, _____.
(Location Signed) (Day) (Month) (Year)

Contractor Name: _____ (print name)

By: _____ (signature)

Title: _____ (print title)

Submittal Number: _____

Revision Number: _____

**PRIME CONTRACTOR SUBMITTAL FORM
(CONTRACTOR)**Job Name: HVN ARFF ONE-BAY EXPANSIONAirport: Tweed-New Haven Airport

AIP No. _____ Project No. _____

Contractor: _____

Address: _____

Contractor's Contact: _____ Phone Number: _____

Reviewed By: _____ Date Submitted: _____

☐ Check here if submittal is from a Subcontractor

Item No.: _____

Specification Section and Paragraph: _____

CERTIFICATION

I HEREBY CERTIFY that the attached submittal has been reviewed under the terms of the Contract Documents and is in conformity with the requirements of the Plans and Specifications unless specifically noted otherwise. It is understood that the Contractor is responsible for dimensions and quantities to be confirmed and correlated at the site, for information that pertains solely to the fabrication process or to the means, methods, techniques, sequences and procedures of construction, and for coordination of the Work of all trades.

- ☐ 1- Submitted as specified
- ☐ 2 - Submitted "AS EQUAL" to the product specified
- ☐ 3 - Submitted "IN SUBSTITUTION" to the product specified
- ☐ 4 - Subcontractor submittal form included
- ☐ 5 - Other

Description of Submittal Components: _____

Submittal will not be approved without an acceptable**Form 205 "Contractor / Subcontractor / Supplier Buy American Certification."****(For additional comments attach and number additional pages)**

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Submittal Number: _____

Revision Number: _____

SUBCONTRACTOR SUBMITTAL FORMJob Name: HVN ARFF ONE-BAY EXPANSIONAirport: Tweed-New Haven AirportAIP No. 3-09-0013-xxx-2025 Project No. _____

Subcontractor: _____

Address: _____

Subcontractor's Contact: _____ Phone Number: _____

Reviewed By: _____ Date Submitted: _____

☐ Check here if submittal is from a Subcontractor.

Item No.: _____

Specification Section and Paragraph: _____

CERTIFICATION

I HEREBY CERTIFY that the attached submittal has been reviewed under the terms of the Contract Documents and is in conformity with the requirements of the Plans and Specifications unless specifically noted otherwise. It is understood that the Contractor is responsible for dimensions and quantities to be confirmed and correlated at the site, for information that pertains solely to the fabrication process or to the means, methods, techniques, sequences and procedures of construction, and for coordination of the Work of all trades.

- ☐ 1- Submitted as specified
- ☐ 2 - Submitted "AS EQUAL" to the product specified
- ☐ 3 - Submitted "IN SUBSTITUTION" to the product specified
- ☐ 4 - Subcontractor submittal form included
- ☐ 5 - Other

Description of Submittal Components: _____

Submittal will not be approved without an acceptable**Form 205 "Contractor / Subcontractor / Supplier Buy American Certification."****(For additional comments attach and number additional pages)**

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Periodic Cost Estimate No.: _____

**SUBCONTRACTOR / SUPPLIER
DISADVANTAGED BUSINESS ENTERPRISE (DBE) AND SMALL BUSINESS
PROJECT EXPENDITURE REPORT**

*(To be filled out by the Contractor and the EVERY Subcontractor / Supplier
and submitted with each Periodic Cost Estimate)*

Project Name: HVN ARFF ONE-BAY EXPANSIONAirport: Tweed-New Haven Airport

AIP Number: _____

Prime Contractor

Company Name: _____

Subcontractor / Supplier Contractor

Company Name: _____

DBE Status:	Non-DBE	Certified DBE (Check one)
Small Business Status:	Non-Small Business	Small Business (Check one)

Contract Item No.	Description of Work Performed by Subcontractor / Supplier	Estimated Quantity	Unit Price	Item Amount
Total amount requested by Subcontractor / Supplier this Invoice:				
Total amount previously requested by Subcontractor / Supplier:				
Total amount requested by Subcontractor / Supplier to date:				

(Attach additional sheets if needed)

Periodic Cost Estimate No.: _____

SUBCONTRACTOR / SUPPLIER
DISADVANTAGED BUSINESS ENTERPRISE (DBE) AND SMALL BUSINESS
PROJECT EXPENDITURE REPORT

The undersigned certifies that the Subcontractor / Supplier has successfully completed the above referenced work associated with this project and further assures that the Subcontractor / Supplier will be paid in full for the amount indicated above for said services in accordance with the Contract Documents.

NAME OF SUBCONTRACTOR /
SUPPLIER: _____

AUTHORIZED SIGNATURE: _____

PRINTED NAME AND TITLE: _____

DATE: _____

NAME OF PRIME CONTRACTOR: _____

AUTHORIZED SIGNATURE: _____

PRINTED NAME AND TITLE: _____

DATE: _____

Note: If the Prime Contractor is a DBE or Small Business, the Prime Contractor should fill out and submit a copy of this form listing themselves as the Prime Contractor and the Subcontractor / Supplier.

Periodic Cost Estimate No.: _____

WAIVER AND RELEASE OF MECHANIC'S LIENS AND CLAIMSProject Name: HVN ARFF ONE-BAY EXPANSIONProject No.: AIP 3-09-0013-xxx-2025Project Address: Tweed-New Haven Airport155 Burr Street, New Haven, CT 06512Owner Representative: Tweed-New Haven Airport Authority

Through period Ending: _____

General Contractor: _____ Total Payments: _____

WHEREAS, the UNDERSIGNED has provided labor and/or materials and/or rental and/or services on the Project; and WHEREAS the UNDERSIGNED acknowledges receipt from OWNER of the amount set forth above as payments received to date and hereby remises, releases and forever discharges and by these presents does for itself and its successors, remise, release and forever discharge **Tweed-New Haven Airport Authority** and **Tweed-New Haven Airport**, its successor, heirs, executors and administrators, of and from all, and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money accounts, reckoning, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgements, extents, executions, claims and demands whatsoever, in law, in admiralty, or in equity which against the said **Tweed-New Haven Airport Authority** and **Tweed-New Haven Airport**, UNDERSIGNED ever had now has or which it or its successors, hereafter can, shall or may have for, upon or by reason of any matter, cause thing whatsoever from the beginning of the world to the date above, and especially in connection with any and all claims of any nature whatsoever arising out of the Project.

The UNDERSIGNED warrants that the amount of the payments received for the period indicated above represents the total value earned by the UNDERSIGNED for materials, labor rentals, equipment and services supplied to the project for the period, warrants that it has not and will not assign any claims for payment or right to perfect a lien against such land and improvements and appurtenances and warrants that it has the right to execute this waive and release.

The UNDERSIGNED, does hereby warrant and certify that it has made full payment of any amounts due or claimed to be due through the period ending stated above to any person or entity who has supplied materials or labor or rentals or services to it, pursuant to contract or otherwise, for the purpose of construction, raising, removing, repairing or otherwise improving the Project described above.

The UNDERSIGNED. does hereby, through the above date, forever waive, relinquish and release any mechanic's, materialmen's or like liens, and all claims or liens it now has may have or may obtain in the future upon a piece of land all the buildings thereon standing known as **Tweed-New Haven Airport** situated at **155 Burr Street, New Haven, CT 06512**.

This release and waiver may not be changed orally.

Periodic Cost Estimate No.: _____

The UNDERSIGNED, agrees that the owner of the Project, any lender, any title insurer, and any surety may rely upon this waiver and release. WITNESS the signature and seal of the undersigned as of this _____ day of _____, 20____

STATE OF _____

Company Name: _____

COUNTY OF _____

Authorized Agent: _____

Signature: _____

Title: _____

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

Notary Public

CHANGE REQUEST OF DBE SUBCONTRACTORS/SUPPLIERS**SUBCONTRACTOR / SUPPLIER INFORMATION:**

Name of Prime Contractor: _____

The above-named firm requests approval of the following addition(s) and/or deletion(s) of the Subcontractor/Supplier firm(s) to the approved Disadvantaged Business Enterprise (DBE) Utilization (Form 103) and Letter of Intent (Form 104) as originally submitted as part of Bidder Certifications for the above referenced contract.

NOTE: No additional and/or substitute subcontractor/supplier shall begin work on the project until contractor receives written approval by the Airport.

Please list the following information on Firm(s) that you wish to discontinue using:

Name of Firm	Is Firm a Subcontractor, Supplier, or Joint-Venture Partner	Description of Work to be Performed by Firm	Is Firm DBE State Certified? (Yes or No)	Total Dollar Amount to be Performed by Firm

Reason(s) for removing each firm listed above: _____

Please list the following information on Firm(s) that you wish to add or substitute:

Name of Firm	Is Firm a Subcontractor, Supplier, or Joint-Venture Partner	Description of Work to be Performed by Firm	Is Firm DBE State Certified? (Yes or No)	Total Dollar Amount to be Performed by Firm

Please include a copy of a Letter of Intent (Form 104) for each firm added.

NOTE: No additional and/or substitute subcontractor/supplier shall begin work at the Airport until Contractor receives written approval by the Airport.

1. If a DBE Subcontractor/Supplier/Partner was deleted/terminated/replaced, was it replaced with another DBE Firm? Yes ____ No ____ If not, why not:

2. If another DBE Firm did not replace the DBE Firm, please submit for our review the good faith efforts used to find another DBE to perform at least the same amount of work under the contract as the DBE that was deleted/terminated/replaced.

3. If a Subcontractor/Supplier is added at any time during this project, Contractor shall submit for Owner review and approval the good faith efforts used to find a DBE to perform such work.

AFFIRMATION

THE ABOVE INFORMATION IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF, I FURTHER UNDERSTAND AND AGREE, THAT THIS DOCUMENT SHALL BE ATTACHED THERETO AND BECOME A BINDING PART OF THE CONTRACT.

Name & Title of Authorized Official: _____

Signature: _____

Approved: _____ Denied _____

DIVISION 1

PROJECT CONTRACT SPECIFICATIONS

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DIVISION 1 – PROJECT CONTRACT SPECIFICATIONS

FAA GENERAL PROVISIONS
(Advisory Circular 150-5370-10H dated 12/21/2018)

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DIVISION 1 - FAA GENERAL CONTRACT PROVISIONS

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DIVISION 1 - FAA GENERAL CONTRACT PROVISIONS

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DIVISION 1 - FAA GENERAL CONTRACT PROVISIONS

Section 10 Definition of Terms

When the following terms are used in these specifications, in the contract, or in any documents or other instruments pertaining to construction where these specifications govern, the intent and meaning shall be defined as follows:

Paragraph Number	Term	Definition
10-01	AASHTO	The American Association of State Highway and Transportation Officials.
10-02	Access Road	The right-of-way, the roadway and all improvements constructed thereon connecting the airport to a public roadway.
10-03	Advertisement	A public announcement, as required by local law, inviting bids for work to be performed and materials to be furnished.
10-04	Airport	Airport means an area of land or water which is used or intended to be used for the landing and takeoff of aircraft; an appurtenant area used or intended to be used for airport buildings or other airport facilities or rights of way; airport buildings and facilities located in any of these areas, and a heliport.
10-05	Airport Improvement Program (AIP)	A grant-in-aid program, administered by the Federal Aviation Administration (FAA).
10-06	Air Operations Area (AOA)	The term air operations area (AOA) shall mean any area of the airport used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft. An air operation area shall include such paved or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft in addition to its associated runway, taxiway, or apron.
10-07	Apron	Area where aircraft are parked, unloaded or loaded, fueled and/or serviced.
10-08	ASTM International (ASTM)	Formerly known as the American Society for Testing and Materials (ASTM).
10-09	Award	The Owner's notice to the successful bidder of the acceptance of the submitted bid.
10-10	Bidder	Any individual, partnership, firm, or corporation, acting directly or through a duly authorized representative, who submits a proposal for the work contemplated.
10-11	Building Area	An area on the airport to be used, considered, or intended to be used for airport buildings or other airport facilities or rights-of-way together with all airport buildings and facilities located thereon.
10-12	Calendar Day	Every day shown on the calendar.
10-13	Certificate of Analysis (COA)	The COA is the manufacturer's Certificate of Compliance (COC) including all applicable test results required by the specifications.

DIVISION 1 - FAA GENERAL CONTRACT PROVISIONS

Paragraph Number	Term	Definition
10-14	Certificate of Compliance (COC)	The manufacturer's certification stating that materials or assemblies furnished fully comply with the requirements of the contract. The certificate shall be signed by the manufacturer's authorized representative.
10-15	Change Order	A written order to the Contractor covering changes in the plans, specifications, or proposal quantities and establishing the basis of payment and contract time adjustment, if any, for work within the scope of the contract and necessary to complete the project.
10-16	Contract	A written agreement between the Owner and the Contractor that establishes the obligations of the parties including but not limited to performance of work, furnishing of labor, equipment and materials and the basis of payment. The awarded contract includes but may not be limited to: Advertisement, Contract form, Proposal, Performance bond, payment bond, General provisions, certifications and representations, Technical Specifications, Plans, Supplemental Provisions, standards incorporated by reference and issued addenda.
10-17	Contract Item (Pay Item)	A specific unit of work for which a price is provided in the contract.
10-18	Contract Time	The number of calendar days or working days, stated in the proposal, allowed for completion of the contract, including authorized time extensions. If a calendar date of completion is stated in the proposal, in lieu of a number of calendar or working days, the contract shall be completed by that date.
10-19	Contractor	The individual, partnership, firm, or corporation primarily liable for the acceptable performance of the work contracted and for the payment of all legal debts pertaining to the work who acts directly or through lawful agents or employees to complete the contract work.
10-20	Contractors Quality Control (QC) Facilities	The Contractor's QC facilities in accordance with the Contractor Quality Control Program (CQCP).
10-21	Contractor Quality Control Program (CQCP)	Details the methods and procedures that will be taken to assure that all materials and completed construction required by the contract conform to contract plans, technical specifications and other requirements, whether manufactured by the Contractor, or procured from subcontractors or vendors.
10-22	Control Strip	A demonstration by the Contractor that the materials, equipment, and construction processes results in a product meeting the requirements of the specification.

DIVISION 1 - FAA GENERAL CONTRACT PROVISIONS

Paragraph Number	Term	Definition
10-23	Construction Safety and Phasing Plan (CSPP)	The overall plan for safety and phasing of a construction project developed by the airport operator, or developed by the airport operator's consultant and approved by the airport operator. It is included in the invitation for bids and becomes part of the project specifications.
10-24	Drainage System	The system of pipes, ditches, and structures by which surface or subsurface waters are collected and conducted from the airport area.
10-25	Engineer	The individual, partnership, firm, or corporation duly authorized by the Owner to be responsible for engineering, inspection, and/or observation of the contract work and acting directly or through an authorized representative.
10-26	Equipment	All machinery, together with the necessary supplies for upkeep and maintenance; and all tools and apparatus necessary for the proper construction and acceptable completion of the work.
10-27	Extra Work	An item of work not provided for in the awarded contract as previously modified by change order or supplemental agreement, but which is found by the Owner's Engineer or Resident Project Representative (RPR) to be necessary to complete the work within the intended scope of the contract as previously modified.
10-28	FAA	The Federal Aviation Administration. When used to designate a person, FAA shall mean the Administrator or their duly authorized representative.
10-29	Federal Specifications	The federal specifications and standards, commercial item descriptions, and supplements, amendments, and indices prepared and issued by the General Services Administration.
10-30	Force Account	<p>a. Contract Force Account - A method of payment that addresses extra work performed by the Contractor on a time and material basis.</p> <p>b. Owner Force Account - Work performed for the project by the Owner's employees.</p>
10-31	Intention of Terms	<p>Whenever, in these specifications or on the plans, the words "directed," "required," "permitted," "ordered," "designated," "prescribed," or words of like import are used, it shall be understood that the direction, requirement, permission, order, designation, or prescription of the Engineer and/or Resident Project Representative (RPR) is intended; and similarly, the words "approved," "acceptable," "satisfactory," or words of like import, shall mean approved by, or acceptable to, or satisfactory to the Engineer and/or RPR, subject in each case to the final determination of the Owner.</p> <p>Any reference to a specific requirement of a numbered paragraph of the contract specifications or a cited standard</p>

DIVISION 1 - FAA GENERAL CONTRACT PROVISIONS

Paragraph Number	Term	Definition
		shall be interpreted to include all general requirements of the entire section, specification item, or cited standard that may be pertinent to such specific reference.
10-32	Lighting	A system of fixtures providing or controlling the light sources used on or near the airport or within the airport buildings. The field lighting includes all luminous signals, markers, floodlights, and illuminating devices used on or near the airport or to aid in the operation of aircraft landing at, taking off from, or taxiing on the airport surface.
10-33	Major and Minor Contract Items	A major contract item shall be any item that is listed in the proposal, the total cost of which is equal to or greater than 20% of the total amount of the award contract. All other items shall be considered minor contract items.
10-34	Materials	Any substance specified for use in the construction of the contract work.
10-35	Modification of Standards (MOS)	Any deviation from standard specifications applicable to material and construction methods in accordance with FAA Order 5300.1.
10-36	Notice to Proceed (NTP)	A written notice to the Contractor to begin the actual contract work on a previously agreed to date. If applicable, the Notice to Proceed shall state the date on which the contract time begins.
10-37	Owner	The term "Owner" shall mean the party of the first part or the contracting agency signatory to the contract. Where the term "Owner" is capitalized in this document, it shall mean airport Sponsor only. The Owner for this project is: Defined in the Invitation to Bid.
10-38	Passenger Facility Charge (PFC)	Per 14 Code of Federal Regulations (CFR) Part 158 and 49 United States Code (USC) § 40117, a PFC is a charge imposed by a public agency on passengers enplaned at a commercial service airport it controls.
10-39	Pavement Structure	The combined surface course, base course(s), and subbase course(s), if any, considered as a single unit.
10-40	Payment bond	The approved form of security furnished by the Contractor and their own surety as a guaranty that the Contractor will pay in full all bills and accounts for materials and labor used in the construction of the work.
10-41	Performance bond	The approved form of security furnished by the Contractor and their own surety as a guaranty that the Contractor will complete the work in accordance with the terms of the contract.
10-42	Plans	The official drawings or exact reproductions which show the location, character, dimensions and details of the airport and the work to be done and which are to be considered as a part of the contract, supplementary to the specifications. Plans may also be referred to as 'contract drawings.'

DIVISION 1 - FAA GENERAL CONTRACT PROVISIONS

Paragraph Number	Term	Definition
10-43	Project	The agreed scope of work for accomplishing specific airport development with respect to a particular airport.
10-44	Proposal	The written offer of the bidder (when submitted on the approved proposal form) to perform the contemplated work and furnish the necessary materials in accordance with the provisions of the plans and specifications.
10-45	Proposal guaranty	The security furnished with a proposal to guarantee that the bidder will enter into a contract if their own proposal is accepted by the Owner.
10-46	Quality Assurance (QA)	Owner's responsibility to assure that construction work completed complies with specifications for payment.
10-47	Quality Control (QC)	Contractor's responsibility to control material(s) and construction processes to complete construction in accordance with project specifications.
10-48	Quality Assurance (QA) Inspector	An authorized representative of the Engineer and/or Resident Project Representative (RPR) assigned to make all necessary inspections, observations, tests, and/or observation of tests of the work performed or being performed, or of the materials furnished or being furnished by the Contractor.
10-49	Quality Assurance (QA) Laboratory	The official quality assurance testing laboratories of the Owner or such other laboratories as may be designated by the Engineer or RPR. May also be referred to as Engineer's, Owner's, or QA Laboratory.
10-50	Resident Project Representative (RPR)	The individual, partnership, firm, or corporation duly authorized by the Owner to be responsible for all necessary inspections, observations, tests, and/or observations of tests of the contract work performed or being performed, or of the materials furnished or being furnished by the Contractor, and acting directly or through an authorized representative.
10-51	Runway	The area on the airport prepared for the landing and takeoff of aircraft.
10-52	Runway Safety Area (RSA)	A defined surface surrounding the runway prepared or suitable for reducing the risk of damage to aircraft. See the construction safety and phasing plan (CSPP) for limits of the RSA.
10-53	Safety Plan Compliance Document (SPCD)	Details how the Contractor will comply with the CSPP.
10-54	Specifications	A part of the contract containing the written directions and requirements for completing the contract work. Standards for specifying materials or testing which are cited in the contract specifications by reference shall have the same force and effect as if included in the contract physically.
10-55	Sponsor	A Sponsor is defined in 49 USC § 47102(24) as a public agency that submits to the FAA for an AIP grant; or a private Owner of a public-use airport that submits to the FAA an application for an AIP grant for the airport.

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Paragraph Number	Term	Definition
10-56	Structures	Airport facilities such as bridges; culverts; catch basins, inlets, retaining walls, cribbing; storm and sanitary sewer lines; water lines; underdrains; electrical ducts, manholes, handholes, lighting fixtures and bases; transformers; navigational aids; buildings; vaults; and, other manmade features of the airport that may be encountered in the work and not otherwise classified herein.
10-57	Subgrade	The soil that forms the pavement foundation.
10-58	Superintendent	The Contractor's executive representative who is present on the work during progress, authorized to receive and fulfill instructions from the RPR, and who shall supervise and direct the construction.
10-59	Supplemental Agreement	A written agreement between the Contractor and the Owner that establishes the basis of payment and contract time adjustment, if any, for the work affected by the supplemental agreement. A supplemental agreement is required if: (1) in scope work would increase or decrease the total amount of the awarded contract by more than 25%; (2) in scope work would increase or decrease the total of any major contract item by more than 25%; (3) work that is not within the scope of the originally awarded contract; or (4) adding or deleting of a major contract item.
10-60	Surety	The corporation, partnership, or individual, other than the Contractor, executing payment or performance bonds that are furnished to the Owner by the Contractor.
10-61	Taxilane	A taxiway designed for low speed movement of aircraft between aircraft parking areas and terminal areas.
10-62	Taxiway	The portion of the air operations area of an airport that has been designated by competent airport authority for movement of aircraft to and from the airport's runways, aircraft parking areas, and terminal areas.
10-63	Taxiway/Taxilane Safety Area (TSA)	A defined surface alongside the taxiway prepared or suitable for reducing the risk of damage to an aircraft. See the construction safety and phasing plan (CSPP) for limits of the TSA.
10-64	Work	The furnishing of all labor, materials, tools, equipment, and incidentals necessary or convenient to the Contractor's performance of all duties and obligations imposed by the contract, plans, and specifications.
10-65	Working day	A working day shall be any day other than a legal holiday, Saturday, or Sunday on which the normal working forces of the Contractor may proceed with regular work for at least six (6) hours toward completion of the contract. When work is suspended for causes beyond the Contractor's control, it will not be counted as a working day. Saturdays, Sundays and holidays on which the Contractor's forces engage in regular work will be considered as working days.

END OF SECTION 10

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Section 20 Proposal Requirements and Conditions

20-01 Advertisement (Notice to Bidders). See Advertisement for Bids and Instruction to Bidders of these specifications.

20-02 Qualification of bidders. Each bidder shall submit evidence of competency and evidence of financial responsibility to perform the work to the Owner at the time of bid opening.

Evidence of competency, unless otherwise specified, shall consist of statements covering the bidder's past experience on similar work, and a list of equipment and a list of key personnel that would be available for the work.

Each bidder shall furnish the Owner satisfactory evidence of their financial responsibility. Evidence of financial responsibility, unless otherwise specified, shall consist of a confidential statement or report of the bidder's financial resources and liabilities as of the last calendar year or the bidder's last fiscal year. Such statements or reports shall be certified by a public accountant. At the time of submitting such financial statements or reports, the bidder shall further certify whether their financial responsibility is approximately the same as stated or reported by the public accountant. If the bidder's financial responsibility has changed, the bidder shall qualify the public accountant's statement or report to reflect the bidder's true financial condition at the time such qualified statement or report is submitted to the Owner.

Unless otherwise specified, a bidder may submit evidence that they are prequalified with the State Highway Division and are on the current "bidder's list" of the state in which the proposed work is located. Evidence of State Highway Division prequalification may be submitted as evidence of financial responsibility in lieu of the certified statements or reports specified above.

Each bidder shall submit "evidence of competency" and "evidence of financial responsibility" to the Owner at the time of bid opening.

20-03 Contents of proposal forms. The Owner's proposal forms state the location and description of the proposed construction; the place, date, and time of opening of the proposals; and the estimated quantities of the various items of work to be performed and materials to be furnished for which unit bid prices are asked. The proposal form states the time in which the work must be completed, and the amount of the proposal guaranty that must accompany the proposal. The Owner will accept only those Proposals properly executed on physical forms or electronic forms provided by the Owner. Bidder actions that may cause the Owner to deem a proposal irregular are given in paragraph 20-09 *Irregular proposals*.

A prebid conference is required on this project to discuss as a minimum, the following items: material requirements; submittals; Quality Control/Quality Assurance requirements; the construction safety and phasing plan including airport access and staging areas; and unique airfield paving construction requirements. Refer to the Advertisement of Bids for the time, date, and place of the meeting.

20-04 Issuance of proposal forms. The Owner reserves the right to refuse to issue a proposal form to a prospective bidder if the bidder is in default for any of the following reasons:

- a. Failure to comply with any prequalification regulations of the Owner, if such regulations are cited, or otherwise included, in the proposal as a requirement for bidding.
- b. Failure to pay, or satisfactorily settle, all bills due for labor and materials on former contracts in force with the Owner at the time the Owner issues the proposal to a prospective bidder.
- c. Documented record of Contractor default under previous contracts with the Owner.

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- d. Documented record of unsatisfactory work on previous contracts with the Owner.

20-05 Interpretation of estimated proposal quantities. An estimate of quantities of work to be done and materials to be furnished under these specifications is given in the proposal. It is the result of careful calculations and is believed to be correct. It is given only as a basis for comparison of proposals and the award of the contract. The Owner does not expressly, or by implication, agree that the actual quantities involved will correspond exactly therewith; nor shall the bidder plead misunderstanding or deception because of such estimates of quantities, or of the character, location, or other conditions pertaining to the work. Payment to the Contractor will be made only for the actual quantities of work performed or materials furnished in accordance with the plans and specifications. It is understood that the quantities may be increased or decreased as provided in the Section 40, paragraph 40-02, Alteration of Work and Quantities, without in any way invalidating the unit bid prices.

20-06 Examination of plans, specifications, and site. The bidder is expected to carefully examine the site of the proposed work, the proposal, plans, specifications, and contract forms. Bidders shall satisfy themselves to the character, quality, and quantities of work to be performed, materials to be furnished, and to the requirements of the proposed contract. The submission of a proposal shall be prima facie evidence that the bidder has made such examination and is satisfied to the conditions to be encountered in performing the work and the requirements of the proposed contract, plans, and specifications.

20-07 Preparation of proposal. The bidder shall submit their proposal on the forms furnished by the Owner. All blank spaces in the proposal forms, unless explicitly stated otherwise, must be correctly filled in where indicated for each and every item for which a quantity is given. The bidder shall state the price (written in ink or typed) both in words and numerals which they propose for each pay item furnished in the proposal. In case of conflict between words and numerals, the words, unless obviously incorrect, shall govern.

The bidder shall correctly sign the proposal in ink. If the proposal is made by an individual, their name and post office address must be shown. If made by a partnership, the name and post office address of each member of the partnership must be shown. If made by a corporation, the person signing the proposal shall give the name of the state where the corporation was chartered and the name, titles, and business address of the president, secretary, and the treasurer. Anyone signing a proposal as an agent shall file evidence of their authority to do so and that the signature is binding upon the firm or corporation.

20-08 Responsive and responsible bidder. A responsive bid conforms to all significant terms and conditions contained in the Owner's invitation for bid. It is the Owner's responsibility to decide if the exceptions taken by a bidder to the solicitation are material or not and the extent of deviation it is willing to accept.

A responsible bidder has the ability to perform successfully under the terms and conditions of a proposed procurement, as defined in 2 CFR § 200.318(h). This includes such matters as Contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

20-09 Irregular proposals. Proposals shall be considered irregular for the following reasons:

- a. If the proposal is on a form other than that furnished by the Owner, or if the Owner's form is altered, or if any part of the proposal form is detached.
- b. If there are unauthorized additions, conditional or alternate pay items, or irregularities of any kind that make the proposal incomplete, indefinite, or otherwise ambiguous.
- c. If the proposal does not contain a unit price for each pay item listed in the proposal, except in the case of authorized alternate pay items, for which the bidder is not required to furnish a unit price.

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- d. If the proposal contains unit prices that are obviously unbalanced.
- e. If the proposal is not accompanied by the proposal guaranty specified by the Owner.
- f. If the applicable Disadvantaged Business Enterprise information is incomplete.

The Owner reserves the right to reject any irregular proposal and the right to waive technicalities if such waiver is in the best interest of the Owner and conforms to local laws and ordinances pertaining to the letting of construction contracts.

20-10 Bid guarantee. Each separate proposal shall be accompanied by a bid bond, certified check, or other specified acceptable collateral, in the amount specified in the proposal form. Such bond, check, or collateral, shall be made payable to the Owner.

20-11 Delivery of proposal. Each proposal submitted shall be placed in a sealed envelope plainly marked with the project number, location of airport, and name and business address of the bidder on the outside. When sent by mail, preferably registered, the sealed proposal, marked as indicated above, should be enclosed in an additional envelope. No proposal will be considered unless received at the place specified in the advertisement or as modified by Addendum before the time specified for opening all bids. Proposals received after the bid opening time shall be returned to the bidder unopened.

20-12 Withdrawal or revision of proposals. A bidder may withdraw or revise (by withdrawal of one proposal and submission of another) a proposal provided that the bidder's request for withdrawal is received by the Owner in writing or by email before the time specified for opening bids. Revised proposals must be received at the place specified in the advertisement before the time specified for opening all bids.

20-13 Public opening of proposals. Proposals shall be opened, and read, publicly at the time and place specified in the advertisement. Bidders, their authorized agents, and other interested persons are invited to attend. Proposals that have been withdrawn (by written or telegraphic request) or received after the time specified for opening bids shall be returned to the bidder unopened.

20-14 Disqualification of bidders. A bidder shall be considered disqualified for any of the following reasons:

- a. Submitting more than one proposal from the same partnership, firm, or corporation under the same or different name.
- b. Evidence of collusion among bidders. Bidders participating in such collusion shall be disqualified as bidders for any future work of the Owner until any such participating bidder has been reinstated by the Owner as a qualified bidder.
- c. If the bidder is considered to be in "default" for any reason specified in paragraph 20-04, *Issuance of Proposal Forms*, of this section.

20-15 Discrepancies and Omissions. A Bidder who discovers discrepancies or omissions with the project bid documents shall immediately notify the Owner's Engineer of the matter. A bidder that has doubt as to the true meaning of a project requirement may submit to the Owner's Engineer a written request for interpretation no later than the number of days outlined in the Advertisement of Bids prior to bid opening.

Any interpretation of the project bid documents by the Owner's Engineer will be by written addendum issued by the Owner. The Owner will not consider any instructions, clarifications or interpretations of the bidding documents in any manner other than written addendum.

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END OF SECTION 20

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Section 30 Award and Execution of Contract

30-01 Consideration of proposals. After the proposals are publicly opened and read, they will be compared on the basis of the summation of the products obtained by multiplying the estimated quantities shown in the proposal by the unit bid prices. If a bidder's proposal contains a discrepancy between unit bid prices written in words and unit bid prices written in numbers, the unit bid price written in words shall govern. Until the award of a contract is made, the Owner reserves the right to reject a bidder's proposal for any of the following reasons:

a. If the proposal is irregular as specified in Section 20, paragraph 20-09, *Irregular Proposals*.

b. If the bidder is disqualified for any of the reasons specified Section 20, paragraph 20-14, *Disqualification of Bidders*.

In addition, until the award of a contract is made, the Owner reserves the right to reject any or all proposals, waive technicalities, if such waiver is in the best interest of the Owner and is in conformance with applicable state and local laws or regulations pertaining to the letting of construction contracts; advertise for new proposals; or proceed with the work otherwise. All such actions shall promote the Owner's best interests.

30-02 Award of contract. The award of a contract, if it is to be awarded, shall be made within **One Hundred Eighty (180) calendar days** of the date specified for publicly opening proposals, unless otherwise specified herein.

If the Owner elects to proceed with an award of contract, the Owner will make award to the responsible bidder whose bid, conforming with all the material terms and conditions of the bid documents, is the lowest in price.

30-03 Cancellation of award. The Owner reserves the right to cancel the award without liability to the bidder, except return of proposal guaranty, at any time before a contract has been fully executed by all parties and is approved by the Owner in accordance with paragraph 30-07 *Approval of Contract*.

30-04 Return of proposal guaranty. All proposal guaranties, except those of the two lowest bidders, will be returned immediately after the Owner has made a comparison of bids as specified in the paragraph 30-01, *Consideration of Proposals*. Proposal guaranties of the two lowest bidders will be retained by the Owner until such time as an award is made, at which time, the unsuccessful bidder's proposal guaranty will be returned. The successful bidder's proposal guaranty will be returned as soon as the Owner receives the contract bonds as specified in paragraph 30-05, *Requirements of Contract Bonds*.

30-05 Requirements of contract bonds. At the time of the execution of the contract, the successful bidder shall furnish the Owner a surety bond or bonds that have been fully executed by the bidder and the surety guaranteeing the performance of the work and the payment of all legal debts that may be incurred by reason of the Contractor's performance of the work. The surety and the form of the bond or bonds shall be acceptable to the Owner. Unless otherwise specified in this subsection, the surety bond or bonds shall be in a sum equal to the full amount of the contract.

30-06 Execution of contract. The successful bidder shall sign (execute) the necessary agreements for entering into the contract and return the signed contract to the Owner, along with the fully executed surety bond or bonds specified in paragraph 30-05, *Requirements of Contract Bonds*, of this section, within **fifteen (15) calendar days** from the date mailed or otherwise delivered to the successful bidder.

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30-07 Approval of contract. Upon receipt of the contract and contract bond or bonds that have been executed by the successful bidder, the Owner shall complete the execution of the contract in accordance with local laws or ordinances, and return the fully executed contract to the Contractor. Delivery of the fully executed contract to the Contractor shall constitute the Owner's approval to be bound by the successful bidder's proposal and the terms of the contract.

30-08 Failure to execute contract. Failure of the successful bidder to execute the contract and furnish an acceptable surety bond or bonds within the period specified in paragraph 30-06, *Execution of Contract*, of this section shall be just cause for cancellation of the award and forfeiture of the proposal guaranty, not as a penalty, but as liquidated damages to the Owner.

END OF SECTION 30

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Section 40 Scope of Work

40-01 Intent of contract. The intent of the contract is to provide for construction and completion, in every detail, of the work described. It is further intended that the Contractor shall furnish all labor, materials, equipment, tools, transportation, and supplies required to complete the work in accordance with the plans, specifications, and terms of the contract.

40-02 Alteration of work and quantities. The Owner reserves the right to make such changes in quantities and work as may be necessary or desirable to complete, in a satisfactory manner, the original intended work. Unless otherwise specified in the Contract, the Owner's Engineer or RPR shall be and is hereby authorized to make, in writing, such in-scope alterations in the work and variation of quantities as may be necessary to complete the work, provided such action does not represent a significant change in the character of the work.

For purpose of this section, a significant change in character of work means: any change that is outside the current contract scope of work; any change (increase or decrease) in the total contract cost by more than 25%; or any change in the total cost of a major contract item by more than 25%.

Work alterations and quantity variances that do not meet the definition of significant change in character of work shall not invalidate the contract nor release the surety. Contractor agrees to accept payment for such work alterations and quantity variances in accordance with Section 90, paragraph 90-03, *Compensation for Altered Quantities*.

Should the value of altered work or quantity variance meet the criteria for significant change in character of work, such altered work and quantity variance shall be covered by a supplemental agreement. Supplemental agreements shall also require consent of the Contractor's surety and separate performance and payment bonds. If the Owner and the Contractor are unable to agree on a unit adjustment for any contract item that requires a supplemental agreement, the Owner reserves the right to terminate the contract with respect to the item and make other arrangements for its completion.

Supplemental agreements shall be approved by the FAA and shall include all applicable Federal contract provisions for procurement and contracting required under AIP. Supplemental agreements shall also require consent of the Contractor's surety and separate performance and payment bonds.

40-03 Omitted items. The Owner, the Owner's Engineer or the RPR may provide written notice to the Contractor to omit from the work any contract item that does not meet the definition of major contract item. Major contract items may be omitted by a supplemental agreement. Such omission of contract items shall not invalidate any other contract provision or requirement.

Should a contract item be omitted or otherwise ordered to be non-performed, the Contractor shall be paid for all work performed toward completion of such item prior to the date of the order to omit such item. Payment for work performed shall be in accordance with Section 90, paragraph 90-04, *Payment for Omitted Items*.

40-04 Extra work. Should acceptable completion of the contract require the Contractor to perform an item of work not provided for in the awarded contract as previously modified by change order or supplemental agreement, Owner may issue a Change Order to cover the necessary extra work. Change orders for extra work shall contain agreed unit prices for performing the change order work in accordance with the requirements specified in the order, and shall contain any adjustment to the contract time that, in the RPR's opinion, is necessary for completion of the extra work.

When determined by the RPR to be in the Owner's best interest, the RPR may order the Contractor to proceed with extra work as provided in Section 90, paragraph 90-05, *Payment for Extra Work*. Extra work

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that is necessary for acceptable completion of the project, but is not within the general scope of the work covered by the original contract shall be covered by a supplemental agreement as defined in Section 10, paragraph 10-59, *Supplemental Agreement*.

If extra work is essential to maintaining the project critical path, RPR may order the Contractor to commence the extra work under a Time and Material contract method. Once sufficient detail is available to establish the level of effort necessary for the extra work, the Owner shall initiate a change order or supplemental agreement to cover the extra work.

Any claim for payment of extra work that is not covered by written agreement (change order or supplemental agreement) shall be rejected by the Owner.

All change orders, supplemental agreements, and contract modifications must be reviewed by the FAA.

40-05 Maintenance of traffic. It is the explicit intention of the contract that the safety of aircraft, as well as the Contractor's equipment and personnel, is the most important consideration. The Contractor shall maintain traffic in the manner detailed in the Construction Safety and Phasing Plan (CSPP).

a. It is understood and agreed that the Contractor shall provide for the free and unobstructed movement of aircraft in the air operations areas (AOAs) of the airport with respect to their own operations and the operations of all subcontractors as specified in Section 80, paragraph 80-04, *Limitation of Operations*. It is further understood and agreed that the Contractor shall provide for the uninterrupted operation of visual and electronic signals (including power supplies thereto) used in the guidance of aircraft while operating to, from, and upon the airport as specified in Section 70, paragraph 70-15, *Contractor's Responsibility for Utility Service and Facilities of Others*.

b. With respect to their own operations and the operations of all subcontractors, the Contractor shall provide marking, lighting, and other acceptable means of identifying personnel, equipment, vehicles, storage areas, and any work area or condition that may be hazardous to the operation of aircraft, fire-rescue equipment, or maintenance vehicles at the airport in accordance with the construction safety and phasing plan (CSPP) and the safety plan compliance document (SPCD). The Contractor shall also refer to AC 150/5210-5 (latest revision), *Painting, Marking and Lighting of Vehicles Used on an Airport* and AC 150/5370-2 (latest revision), *Operational Safety on Airports During Construction* for applicable standards.

c. When the contract requires the maintenance of an existing road, street, or highway during the Contractor's performance of work that is otherwise provided for in the contract, plans, and specifications, the Contractor shall keep the road, street, or highway open to all traffic and shall provide maintenance as may be required to accommodate traffic. The Contractor, at their expense, shall be responsible for the repair to equal or better than preconstruction conditions of any damage caused by the Contractor's equipment and personnel. The Contractor shall furnish, erect, and maintain barricades, warning signs, flag person, and other traffic control devices in reasonable conformity with the Manual on Uniform Traffic Control Devices (MUTCD) (<http://mutcd.fhwa.dot.gov/>), unless otherwise specified. The Contractor shall also construct and maintain in a safe condition any temporary connections necessary for ingress to and egress from abutting property or intersecting roads, streets or highways. Unless otherwise specified herein, the Contractor will not be required to furnish snow removal for such existing road, street, or highway.

40-06 Removal of existing structures. All existing structures encountered within the established lines, grades, or grading sections shall be removed by the Contractor, unless such existing structures are otherwise specified to be relocated, adjusted up or down, salvaged, abandoned in place, reused in the work or to remain in place. The cost of removing such existing structures shall not be measured or paid for directly, but shall be included in the various contract items.

Should the Contractor encounter an existing structure (above or below ground) in the work for which the disposition is not indicated on the plans, the Resident Project Representative (RPR) shall be notified prior

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to disturbing such structure. The disposition of existing structures so encountered shall be immediately determined by the RPR in accordance with the provisions of the contract.

Except as provided in Section 40, paragraph 40-07, *Rights in and Use of Materials Found in the Work*, it is intended that all existing materials or structures that may be encountered (within the lines, grades, or grading sections established for completion of the work) shall be used in the work as otherwise provided for in the contract and shall remain the property of the Owner when so used in the work.

40-07 Rights in and use of materials found in the work. Should the Contractor encounter any material such as (but not restricted to) sand, stone, gravel, slag, or concrete slabs within the established lines, grades, or grading sections, the use of which is intended by the terms of the contract to be embankment, the Contractor may at their own option either:

- a. Use such material in another contract item, providing such use is approved by the RPR and is in conformance with the contract specifications applicable to such use; or,
- b. Remove such material from the site, upon written approval of the RPR; or
- c. Use such material for the Contractor's own temporary construction on site; or,
- d. Use such material as intended by the terms of the contract.

Should the Contractor wish to exercise option a., b., or c., the Contractor shall request the RPR's approval in advance of such use.

Should the RPR approve the Contractor's request to exercise option a., b., or c., the Contractor shall be paid for the excavation or removal of such material at the applicable contract price. The Contractor shall replace, at their expense, such removed or excavated material with an agreed equal volume of material that is acceptable for use in constructing embankment, backfills, or otherwise to the extent that such replacement material is needed to complete the contract work. The Contractor shall not be charged for use of such material used in the work or removed from the site.

Should the RPR approve the Contractor's exercise of option a., the Contractor shall be paid, at the applicable contract price, for furnishing and installing such material in accordance with requirements of the contract item in which the material is used.

It is understood and agreed that the Contractor shall make no claim for delays by reason of their own exercise of option a., b., or c.

The Contractor shall not excavate, remove, or otherwise disturb any material, structure, or part of a structure which is located outside the lines, grades, or grading sections established for the work, except where such excavation or removal is provided for in the contract, plans, or specifications.

40-08 Final cleanup. Upon completion of the work and before acceptance and final payment will be made, the Contractor shall remove from the site all machinery, equipment, surplus and discarded materials, rubbish, temporary structures, and stumps or portions of trees. The Contractor shall cut all brush and woods within the limits indicated and shall leave the site in a neat and presentable condition. Material cleared from the site and deposited on adjacent property will not be considered as having been disposed of satisfactorily, unless the Contractor has obtained the written permission of the property Owner.

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Section 50 Control of Work

50-01 Authority of the Resident Project Representative (RPR). The RPR has final authority regarding the interpretation of project specification requirements. The RPR shall determine acceptability of the quality of materials furnished, method of performance of work performed, and the manner and rate of performance of the work. The RPR does not have the authority to accept work that does not conform to specification requirements.

50-02 Conformity with plans and specifications. All work and all materials furnished shall be in reasonably close conformity with the lines, grades, grading sections, cross-sections, dimensions, material requirements, and testing requirements that are specified (including specified tolerances) in the contract, plans, or specifications.

If the RPR finds the materials furnished, work performed, or the finished product not within reasonably close conformity with the plans and specifications, but that the portion of the work affected will, in their opinion, result in a finished product having a level of safety, economy, durability, and workmanship acceptable to the Owner, the RPR will advise the Owner of their determination that the affected work be accepted and remain in place. The RPR will document the determination and recommend to the Owner a basis of acceptance that will provide for an adjustment in the contract price for the affected portion of the work. Changes in the contract price must be covered by contract change order or supplemental agreement as applicable.

If the RPR finds the materials furnished, work performed, or the finished product are not in reasonably close conformity with the plans and specifications and have resulted in an unacceptable finished product, the affected work or materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor in accordance with the RPR's written orders.

The term "reasonably close conformity" shall not be construed as waiving the Contractor's responsibility to complete the work in accordance with the contract, plans, and specifications. The term shall not be construed as waiving the RPR's responsibility to insist on strict compliance with the requirements of the contract, plans, and specifications during the Contractor's execution of the work, when, in the RPR's opinion, such compliance is essential to provide an acceptable finished portion of the work.

The term "reasonably close conformity" is also intended to provide the RPR with the authority, after consultation with the Sponsor and FAA, to use sound engineering judgment in their determinations to accept work that is not in strict conformity, but will provide a finished product equal to or better than that required by the requirements of the contract, plans and specifications.

The RPR will not be responsible for the Contractor's means, methods, techniques, sequences, or procedures of construction or the safety precautions incident thereto.

50-03 Coordination of contract, plans, and specifications. The contract, plans, specifications, and all referenced standards cited are essential parts of the contract requirements. If electronic files are provided and used on the project and there is a conflict between the electronic files and hard copy plans, the hard copy plans shall govern. A requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work. In case of discrepancy, calculated dimensions will govern over scaled dimensions; contract technical specifications shall govern over contract general provisions, plans, cited standards for materials or testing, and cited advisory circulars (ACs); contract general provisions shall govern over plans, cited standards for materials or testing, and cited ACs; plans shall govern over cited standards for materials or testing and cited ACs. If any paragraphs

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contained in the Special Provisions conflict with General Provisions or Technical Specifications, the Special Provisions shall govern.

From time to time, discrepancies within cited testing standards occur due to the timing of the change, edits, and/or replacement of the standards. If the Contractor discovers any apparent discrepancy within standard test methods, the Contractor shall immediately ask the RPR for an interpretation and decision, and such decision shall be final.

The Contractor shall not take advantage of any apparent error or omission on the plans or specifications. In the event the Contractor discovers any apparent error or discrepancy, Contractor shall immediately notify the Owner or the designated representative in writing requesting their written interpretation and decision.

50-04 List of Special Provisions. Special Provisions (as applicable) are included in the Supplemental General Conditions and Special Provision Section of the Contract Documents.

50-05 Cooperation of Contractor. The Contractor shall be supplied with **five (5)** hard copies or an electronic PDF of the plans and specifications. The Contractor shall have available on the construction site at all times one hardcopy each of the plans and specifications. Additional hard copies of plans and specifications may be obtained by the Contractor for the cost of reproduction.

The Contractor shall give constant attention to the work to facilitate the progress thereof, and shall cooperate with the RPR and their inspectors and with other Contractors in every way possible. The Contractor shall have a competent superintendent on the work at all times who is fully authorized as their agent on the work. The superintendent shall be capable of reading and thoroughly understanding the plans and specifications and shall receive and fulfill instructions from the RPR or their authorized representative.

50-06 Cooperation between Contractors. The Owner reserves the right to contract for and perform other or additional work on or near the work covered by this contract.

When separate contracts are let within the limits of any one project, each Contractor shall conduct the work not to interfere with or hinder the progress of completion of the work being performed by other Contractors. Contractors working on the same project shall cooperate with each other as directed.

Each Contractor involved shall assume all liability, financial or otherwise, in connection with their own contract and shall protect and hold harmless the Owner from any and all damages or claims that may arise because of inconvenience, delays, or loss experienced because of the presence and operations of other Contractors working within the limits of the same project.

The Contractor shall arrange their work and shall place and dispose of the materials being used to not interfere with the operations of the other Contractors within the limits of the same project. The Contractor shall join their work with that of the others in an acceptable manner and shall perform it in proper sequence to that of the others.

50-07 Construction layout and stakes. The Engineer/RPR shall establish necessary horizontal and vertical control. The establishment of Survey Control and/or reestablishment of survey control shall be by a State Licensed Land Surveyor. Contractor is responsible for preserving integrity of horizontal and vertical controls established by Engineer/RPR. In case of negligence on the part of the Contractor or their employees, resulting in the destruction of any horizontal and vertical control, the resulting costs will be deducted as a liquidated damage against the Contractor.

Prior to the start of construction, the Contractor will check all control points for horizontal and vertical accuracy and certify in writing to the RPR that the Contractor concurs with survey control established for the project. All lines, grades and measurements from control points necessary for the proper execution and

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control of the work on this project will be provided to the RPR. The Contractor is responsible to establish all layout required for the construction of the project.

Copies of survey notes will be provided to the RPR for each area of construction and for each placement of material as specified to allow the RPR to make periodic checks for conformance with plan grades, alignments and grade tolerances required by the applicable material specifications. Surveys will be provided to the RPR prior to commencing work items that cover or disturb the survey staking. Survey(s) and notes shall be provided in the following format(s): **AutoCAD, Microsoft Excel and PDF Format.**

Laser, GPS, String line, or other automatic control shall be checked with temporary control as necessary. In the case of error, on the part of the Contractor, their surveyor, employees or subcontractors, resulting in established grades, alignment or grade tolerances that do not concur with those specified or shown on the plans, the Contractor is solely responsible for correction, removal, replacement and all associated costs at no additional cost to the Owner.

No direct payment will be made, unless otherwise specified in contract documents, for this labor, materials, or other expenses. The cost shall be included in the price of the bid for the various items of the Contract.

50-08 Authority and duties of Quality Assurance (QA) inspectors. QA inspectors shall be authorized to inspect all work done and all material furnished. Such QA inspection may extend to all or any part of the work and to the preparation, fabrication, or manufacture of the materials to be used. QA inspectors are not authorized to revoke, alter, or waive any provision of the contract. QA inspectors are not authorized to issue instructions contrary to the plans and specifications or to act as foreman for the Contractor.

QA Inspectors are authorized to notify the Contractor or their representatives of any failure of the work or materials to conform to the requirements of the contract, plans, or specifications and to reject such nonconforming materials in question until such issues can be referred to the RPR for a decision.

50-09 Inspection of the work. All materials and each part or detail of the work shall be subject to inspection. The RPR shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed inspection.

If the RPR requests it, the Contractor, at any time before acceptance of the work, shall remove or uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standard required by the specifications. Should the work thus exposed or examined prove acceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be paid for as extra work; but should the work so exposed or examined prove unacceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be at the Contractor's expense.

Provide advance written notice to the RPR of work the Contractor plans to perform each week and each day. Any work done or materials used without written notice and allowing opportunity for inspection by the RPR may be ordered removed and replaced at the Contractor's expense.

Should the contract work include relocation, adjustment, or any other modification to existing facilities, not the property of the (contract) Owner, authorized representatives of the Owners of such facilities shall have the right to inspect such work. Such inspection shall in no sense make any facility owner a party to the contract, and shall in no way interfere with the rights of the parties to this contract.

50-10 Removal of unacceptable and unauthorized work. All work that does not conform to the requirements of the contract, plans, and specifications will be considered unacceptable, unless otherwise determined acceptable by the RPR as provided in paragraph 50-02, *Conformity with Plans and Specifications*.

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Unacceptable work, whether the result of poor workmanship, use of defective materials, damage through carelessness, or any other cause found to exist prior to the final acceptance of the work, shall be removed immediately and replaced in an acceptable manner in accordance with the provisions of Section 70, paragraph 70-14, *Contractor's Responsibility for Work*.

No removal work made under provision of this paragraph shall be done without lines and grades having been established by the RPR. Work done contrary to the instructions of the RPR, work done beyond the lines shown on the plans or as established by the RPR, except as herein specified, or any extra work done without authority, will be considered as unauthorized and will not be paid for under the provisions of the contract. Work so done may be ordered removed or replaced at the Contractor's expense.

Upon failure on the part of the Contractor to comply with any order of the RPR made under the provisions of this subsection, the RPR will have authority to cause unacceptable work to be remedied or removed and replaced; and unauthorized work to be removed and recover the resulting costs as a liquidated damage against the Contractor.

50-11 Load restrictions. The Contractor shall comply with all legal load restrictions in the hauling of materials on public roads beyond the limits of the work. A special permit will not relieve the Contractor of liability for damage that may result from the moving of material or equipment.

The operation of equipment of such weight or so loaded as to cause damage to structures or to any other type of construction will not be permitted. Hauling of materials over the base course or surface course under construction shall be limited as directed. No loads will be permitted on a concrete pavement, base, or structure before the expiration of the curing period. The Contractor, at their own expense, shall be responsible for the repair to equal or better than preconstruction conditions of any damage caused by the Contractor's equipment and personnel.

50-12 Maintenance during construction. The Contractor shall maintain the work during construction and until the work is accepted. Maintenance shall constitute continuous and effective work prosecuted day by day, with adequate equipment and forces so that the work is maintained in satisfactory condition at all times.

In the case of a contract for the placing of a course upon a course or subgrade previously constructed, the Contractor shall maintain the previous course or subgrade during all construction operations.

All costs of maintenance work during construction and before the project is accepted shall be included in the unit prices bid on the various contract items, and the Contractor will not be paid an additional amount for such work.

50-13 Failure to maintain the work. Should the Contractor at any time fail to maintain the work as provided in paragraph 50-12, *Maintenance during Construction*, the RPR shall immediately notify the Contractor of such noncompliance. Such notification shall specify a reasonable time within which the Contractor shall be required to remedy such unsatisfactory maintenance condition. The time specified will give due consideration to the exigency that exists.

Should the Contractor fail to respond to the RPR's notification, the Owner may suspend any work necessary for the Owner to correct such unsatisfactory maintenance condition, depending on the exigency that exists. Any maintenance cost incurred by the Owner, shall be recovered as a liquidated damage against the Contractor.

50-14 Partial acceptance. If at any time during the execution of the project the Contractor substantially completes a usable unit or portion of the work, the occupancy of which will benefit the Owner, the Contractor may request the RPR to make final inspection of that unit. If the RPR finds upon inspection that the unit has been satisfactorily completed in compliance with the contract, the RPR may accept it as being

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complete, and the Contractor may be relieved of further responsibility for that unit. Such partial acceptance and beneficial occupancy by the Owner shall not void or alter any provision of the contract.

50-15 Final acceptance. Upon due notice from the Contractor of presumptive completion of the entire project, the RPR and Owner will make an inspection. If all construction provided for and contemplated by the contract is found to be complete in accordance with the contract, plans, and specifications, such inspection shall constitute the final inspection. The RPR shall notify the Contractor in writing of final acceptance as of the date of the final inspection.

If, however, the inspection discloses any work, in whole or in part, as being unsatisfactory, the RPR will notify the Contractor and the Contractor shall correct the unsatisfactory work. Upon correction of the work, another inspection will be made which shall constitute the final inspection, provided the work has been satisfactorily completed. In such event, the RPR will make the final acceptance and notify the Contractor in writing of this acceptance as of the date of final inspection.

50-16 Claims for adjustment and disputes. If for any reason the Contractor deems that additional compensation is due for work or materials not clearly provided for in the contract, plans, or specifications or previously authorized as extra work, the Contractor shall notify the RPR in writing of their intention to claim such additional compensation before the Contractor begins the work on which the Contractor bases the claim. If such notification is not given or the RPR is not afforded proper opportunity by the Contractor for keeping strict account of actual cost as required, then the Contractor hereby agrees to waive any claim for such additional compensation. Such notice by the Contractor and the fact that the RPR has kept account of the cost of the work shall not in any way be construed as proving or substantiating the validity of the claim. When the work on which the claim for additional compensation is based has been completed, the Contractor shall, within ten (10) calendar days, submit a written claim to the RPR who will present it to the Owner for consideration in accordance with local laws or ordinances.

Nothing in this subsection shall be construed as a waiver of the Contractor's right to dispute final payment based on differences in measurements or computations.

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END OF SECTION 50

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Section 60 Control of Materials

60-01 Source of supply and quality requirements. The materials used in the work shall conform to the requirements of the contract, plans, and specifications. Unless otherwise specified, such materials that are manufactured or processed shall be new (as compared to used or reprocessed).

In order to expedite the inspection and testing of materials, the Contractor shall furnish documentation to the RPR as to the origin, composition, and manufacture of all materials to be used in the work. Documentation shall be furnished promptly after execution of the contract but, in all cases, prior to delivery of such materials.

At the RPR's option, materials may be approved at the source of supply before delivery. If it is found after trial that sources of supply for previously approved materials do not produce specified products, the Contractor shall furnish materials from other sources.

The Contractor shall furnish airport lighting equipment that meets the requirements of the specifications; and is listed in AC 150/5345-53, *Airport Lighting Equipment Certification Program and Addendum*, that is in effect on the date of advertisement.

60-02 Samples, tests, and cited specifications. All materials used in the work shall be inspected, tested, and approved by the RPR before incorporation in the work unless otherwise designated. Any work in which untested materials are used without approval or written permission of the RPR shall be performed at the Contractor's risk. Materials found to be unacceptable and unauthorized will not be paid for and, if directed by the RPR, shall be removed at the Contractor's expense.

Unless otherwise designated, quality assurance tests will be made by and at the expense of the Owner in accordance with the cited standard methods of ASTM, American Association of State Highway and Transportation Officials (AASHTO), federal specifications, Commercial Item Descriptions, and all other cited methods, which are current on the date of advertisement for bids.

The testing organizations performing on-site quality assurance field tests shall have copies of all referenced standards on the construction site for use by all technicians and other personnel. Unless otherwise designated, samples for quality assurance will be taken by a qualified representative of the RPR. All materials being used are subject to inspection, test, or rejection at any time prior to or during incorporation into the work. Copies of all tests will be furnished to the Contractor's representative at their request after review and approval of the RPR.

A copy of all Contractor QC test data shall be provided to the RPR daily, along with printed reports, in an approved format, on a weekly basis. After completion of the project, and prior to final payment, the Contractor shall submit a final report to the RPR showing all test data reports, plus an analysis of all results showing ranges, averages, and corrective action taken on all failing tests.

All Contractor QC test data may be provided to the RPR in electronic PDF format, in lieu of hard copies.

The Contractor shall employ a Quality Control (QC) testing organization to perform all Contractor required QC tests in accordance with Item C-100 Contractor Quality Control Program (CQCP), as applicable.

60-03 Certification of compliance/analysis (COC/COA). The RPR may permit the use, prior to sampling and testing, of certain materials or assemblies when accompanied by manufacturer's COC stating that such materials or assemblies fully comply with the requirements of the contract. The certificate shall be signed by the manufacturer. Each lot of such materials or assemblies delivered to the work must be accompanied by a certificate of compliance in which the lot is clearly identified. The COA is the manufacturer's COC and includes all applicable test results.

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Materials or assemblies used on the basis of certificates of compliance may be sampled and tested at any time and if found not to be in conformity with contract requirements will be subject to rejection whether in place or not.

The form and distribution of certificates of compliance shall be as approved by the RPR.

When a material or assembly is specified by “brand name or equal” and the Contractor elects to furnish the specified “or equal,” the Contractor shall be required to furnish the manufacturer’s certificate of compliance for each lot of such material or assembly delivered to the work. Such certificate of compliance shall clearly identify each lot delivered and shall certify as to:

- a. Conformance to the specified performance, testing, quality or dimensional requirements; and,
- b. Suitability of the material or assembly for the use intended in the contract work.

The RPR shall be the sole judge as to whether the proposed “or equal” is suitable for use in the work.

The RPR reserves the right to refuse permission for use of materials or assemblies on the basis of certificates of compliance.

60-04 Plant inspection. The RPR or their authorized representative may inspect, at its source, any specified material or assembly to be used in the work. Manufacturing plants may be inspected from time to time for the purpose of determining compliance with specified manufacturing methods or materials to be used in the work and to obtain samples required for acceptance of the material or assembly.

Should the RPR conduct plant inspections, the following conditions shall exist:

- a. The RPR shall have the cooperation and assistance of the Contractor and the producer with whom the Contractor has contracted for materials.
- b. The RPR shall have full entry at all reasonable times to such parts of the plant that concern the manufacture or production of the materials being furnished.
- c. If required by the RPR, the Contractor shall arrange for adequate office or working space that may be reasonably needed for conducting plant inspections. Place office or working space in a convenient location with respect to the plant.

It is understood and agreed that the Owner shall have the right to retest any material that has been tested and approved at the source of supply after it has been delivered to the site. The RPR shall have the right to reject only material which, when retested, does not meet the requirements of the contract, plans, or specifications.

60-05 Engineer/ Resident Project Representative (RPR) field office. The Contractor shall provide dedicated space for the use of the engineer, RPR, and inspectors, as a field office for the duration of the project. This space shall be located conveniently near the construction and shall be separate from any space used by the Contractor. The Contractor shall furnish water, sanitary facilities, heat, air conditioning, and electricity.

60-06 Storage of materials. Materials shall be stored to assure the preservation of their quality and fitness for the work. Stored materials, even though approved before storage, may again be inspected prior to their use in the work. Stored materials shall be located to facilitate their prompt inspection. The Contractor shall coordinate the storage of all materials with the RPR. Materials to be stored on airport property shall not create an obstruction to air navigation nor shall they interfere with the free and unobstructed movement of aircraft. Unless otherwise shown on the plans and/or CSPP, the storage of materials and the location of the Contractor’s plant and parked equipment or vehicles shall be as directed by the RPR. Private property shall not be used for storage purposes without written permission of the Owner or lessee of such property. The Contractor shall make all arrangements and bear all expenses for the storage of materials on private property. Upon request, the Contractor shall furnish the RPR a copy of the property Owner’s permission.

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All storage sites on private or airport property shall be restored to their original condition by the Contractor at their expense, except as otherwise agreed to (in writing) by the Owner or lessee of the property.

60-07 Unacceptable materials. Any material or assembly that does not conform to the requirements of the contract, plans, or specifications shall be considered unacceptable and shall be rejected. The Contractor shall remove any rejected material or assembly from the site of the work, unless otherwise instructed by the RPR.

Rejected material or assembly, the defects of which have been corrected by the Contractor, shall not be returned to the site of the work until such time as the RPR has approved its use in the work.

60-08 Owner furnished materials. The Contractor shall furnish all materials required to complete the work, except those specified, if any, to be furnished by the Owner. Owner-furnished materials shall be made available to the Contractor at the location specified.

All costs of handling, transportation from the specified location to the site of work, storage, and installing Owner-furnished materials shall be included in the unit price bid for the contract item in which such Owner-furnished material is used.

After any Owner-furnished material has been delivered to the location specified, the Contractor shall be responsible for any demurrage, damage, loss, or other deficiencies that may occur during the Contractor's handling, storage, or use of such Owner-furnished material. The Owner will deduct from any monies due or to become due the Contractor any cost incurred by the Owner in making good such loss due to the Contractor's handling, storage, or use of Owner-furnished materials.

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Section 70 Legal Regulations and Responsibility to Public

70-01 Laws to be observed. The Contractor shall keep fully informed of all federal and state laws, all local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on the work, or which in any way affect the conduct of the work. The Contractor shall at all times observe and comply with all such laws, ordinances, regulations, orders, and decrees; and shall protect and indemnify the Owner and all their officers, agents, or servants against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by the Contractor or the Contractor's employees.

70-02 Permits, licenses, and taxes. The Contractor shall procure all permits and licenses, pay all charges, fees, and taxes, and give all notices necessary and incidental to the due and lawful execution of the work.

70-03 Patented devices, materials, and processes. If the Contractor is required or desires to use any design, device, material, or process covered by letters of patent or copyright, the Contractor shall provide for such use by suitable legal agreement with the Patentee or Owner. The Contractor and the surety shall indemnify and hold harmless the Owner, any third party, or political subdivision from any and all claims for infringement by reason of the use of any such patented design, device, material or process, or any trademark or copyright, and shall indemnify the Owner for any costs, expenses, and damages which it may be obliged to pay by reason of an infringement, at any time during the execution or after the completion of the work.

70-04 Restoration of surfaces disturbed by others. The Owner reserves the right to authorize the construction, reconstruction, or maintenance of any public or private utility service, FAA or National Oceanic and Atmospheric Administration (NOAA) facility, or a utility service of another government agency at any time during the progress of the work. To the extent that such construction, reconstruction, or maintenance has been coordinated with the Owner, such authorized work (by others) must be shown on the plans and is indicated as follows:

<List all other concurrent projects at the Airport>

<OR USE>

No other major work anticipated within or adjacent to the project location during construction.

Except as listed above, the Contractor shall not permit any individual, firm, or corporation to excavate or otherwise disturb such utility services or facilities located within the limits of the work without the written permission of the RPR.

Should the Owner of public or private utility service, FAA, or NOAA facility, or a utility service of another government agency be authorized to construct, reconstruct, or maintain such utility service or facility during the progress of the work, the Contractor shall cooperate with such Owners by arranging and performing the work in this contract to facilitate such construction, reconstruction or maintenance by others whether or not such work by others is listed above. When ordered as extra work by the RPR, the Contractor shall make all necessary repairs to the work which are due to such authorized work by others, unless otherwise provided for in the contract, plans, or specifications. It is understood and agreed that the Contractor shall not be entitled to make any claim for damages due to such authorized work by others or for any delay to the work resulting from such authorized work.

70-05 Federal Participation. The United States Government has agreed to reimburse the Owner for some portion of the contract costs. The contract work is subject to the inspection and approval of duly authorized representatives of the FAA Administrator. No requirement of this contract shall be construed as making the United States a party to the contract nor will any such requirement interfere, in any way, with the rights

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of either party to the contract.

70-06 Sanitary, health, and safety provisions. The Contractor's worksite and facilities shall comply with applicable federal, state, and local requirements for health, safety and sanitary provisions.

70-07 Public convenience and safety. The Contractor shall control their operations and those of their subcontractors and all suppliers, to assure the least inconvenience to the traveling public. Under all circumstances, safety shall be the most important consideration.

The Contractor shall maintain the free and unobstructed movement of aircraft and vehicular traffic with respect to their own operations and those of their own subcontractors and all suppliers in accordance with Section 40, paragraph 40-05, *Maintenance of Traffic*, and shall limit such operations for the convenience and safety of the traveling public as specified in Section 80, paragraph 80-04, *Limitation of Operations*.

The Contractor shall remove or control debris and rubbish resulting from its work operations at frequent intervals, and upon the order of the RPR. If the RPR determines the existence of Contractor debris in the work site represents a hazard to airport operations and the Contractor is unable to respond in a prompt and reasonable manner, the RPR reserves the right to assign the task of debris removal to a third party and recover the resulting costs as a liquidated damage against the Contractor.

70-08 Construction Safety and Phasing Plan (CSPP). The Contractor shall complete the work in accordance with the approved Construction Safety and Phasing Plan (CSPP) developed in accordance with AC 150/5370-2, Operational Safety on Airports During Construction. The CSPP is on the CS sheet(s) of the project plans and in the narrative located within the specifications.

70-09 Use of explosives. The use of explosives is not permitted on this project.

70-10 Protection and restoration of property and landscape. The Contractor shall be responsible for the preservation of all public and private property, and shall protect carefully from disturbance or damage all land monuments and property markers until the Engineer/RPR has witnessed or otherwise referenced their location and shall not move them until directed.

The Contractor shall be responsible for all damage or injury to property of any character, during the execution of the work, resulting from any act, omission, neglect, or misconduct in manner or method of executing the work, or at any time due to defective work or materials, and said responsibility shall not be released until the project has been completed and accepted.

When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the work, or in consequence of the non-execution thereof by the Contractor, the Contractor shall restore, at their expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, or otherwise restoring as may be directed, or the Contractor shall make good such damage or injury in an acceptable manner.

70-11 Responsibility for damage claims. The Contractor shall indemnify and hold harmless the Engineer/RPR and the Owner and their officers, agents, and employees from all suits, actions, or claims, of any character, brought because of any injuries or damage received or sustained by any person, persons, or property on account of the operations of the Contractor; or on account of or in consequence of any neglect in safeguarding the work; or through use of unacceptable materials in constructing the work; or because of any act or omission, neglect, or misconduct of said Contractor; or because of any claims or amounts recovered from any infringements of patent, trademark, or copyright; or from any claims or amounts arising or recovered under the "Workmen's Compensation Act," or any other law, ordinance, order, or decree. Money due the Contractor under and by virtue of their own contract considered necessary by the Owner for

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such purpose may be retained for the use of the Owner or, in case no money is due, their own surety may be held until such suits, actions, or claims for injuries or damages shall have been settled and suitable evidence to that effect furnished to the Owner, except that money due the Contractor will not be withheld when the Contractor produces satisfactory evidence that he or she is adequately protected by public liability and property damage insurance.

70-12 Third party beneficiary clause. It is specifically agreed between the parties executing the contract that it is not intended by any of the provisions of any part of the contract to create for the public or any member thereof, a third-party beneficiary or to authorize anyone not a party to the contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of the contract.

70-13 Opening sections of the work to traffic. If it is necessary for the Contractor to complete portions of the contract work for the beneficial occupancy of the Owner prior to completion of the entire contract, such “phasing” of the work must be specified below and indicated on the approved Construction Safety and Phasing Plan (CSPP) and the project plans. When so specified, the Contractor shall complete such portions of the work on or before the date specified or as otherwise specified.

REFER TO THE CONSTRUCTION SAFETY AND PHASING PLANS (CSPP) FOR THE SCHEDULE OF WORK FOR ALL PROJECT PHASING AND ALLOWED TIME FOR EACH PHASE.

Upon completion of any portion of work listed above, such portion shall be accepted by the Owner in accordance with Section 50, paragraph 50-14, *Partial Acceptance*.

No portion of the work may be opened by the Contractor until directed by the Owner in writing. Should it become necessary to open a portion of the work to traffic on a temporary or intermittent basis, such openings shall be made when, in the opinion of the RPR, such portion of the work is in an acceptable condition to support the intended traffic. Temporary or intermittent openings are considered to be inherent in the work and shall not constitute either acceptance of the portion of the work so opened or a waiver of any provision of the contract. Any damage to the portion of the work so opened that is not attributable to traffic which is permitted by the Owner shall be repaired by the Contractor at their expense.

The Contractor shall make their own estimate of the inherent difficulties involved in completing the work under the conditions herein described and shall not claim any added compensation by reason of delay or increased cost due to opening a portion of the contract work.

The Contractor must conform to safety standards contained AC 150/5370-2 and the approved CSPP.

Contractor shall refer to the plans, specifications, and the approved CSPP to identify barricade requirements, temporary and/or permanent markings, airfield lighting, guidance signs and other safety requirements prior to opening up sections of work to traffic.

70-14 Contractor’s responsibility for work. Until the RPR’s final written acceptance of the entire completed work, excepting only those portions of the work accepted in accordance with Section 50, paragraph 50-14, *Partial Acceptance*, the Contractor shall have the charge and care thereof and shall take every precaution against injury or damage to any part due to the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expense thereof except damage to the work due to unforeseeable causes beyond the control of and without the fault or negligence of the Contractor, including but not restricted to acts of God such as earthquake, tidal wave, tornado, hurricane or other cataclysmic phenomenon of nature, or acts of the public enemy or of government authorities.

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If the work is suspended for any cause whatever, the Contractor shall be responsible for the work and shall take such precautions necessary to prevent damage to the work. The Contractor shall provide for normal drainage and shall erect necessary temporary structures, signs, or other facilities at their own expense. During such period of suspension of work, the Contractor shall properly and continuously maintain in an acceptable growing condition all living material in newly established planting, seeding, and sodding furnished under the contract, and shall take adequate precautions to protect new tree growth and other important vegetative growth against injury.

70-15 Contractor's responsibility for utility service and facilities of others. As provided in paragraph 70-04, *Restoration of Surfaces Disturbed by Others*, the Contractor shall cooperate with the owner of any public or private utility service, FAA or NOAA, or a utility service of another government agency that may be authorized by the Owner to construct, reconstruct or maintain such utility services or facilities during the progress of the work. In addition, the Contractor shall control their operations to prevent the unscheduled interruption of such utility services and facilities.

To the extent that such public or private utility services, FAA, or NOAA facilities, or utility services of another governmental agency are known to exist within the limits of the contract work, the approximate locations have been indicated on the plans and/or in the contract documents.

REFER TO THE PROJECT PLANS FOR ANY KNOWN UTILITY SERVICE LOCATIONS WITHIN THE PROJECT LIMITS AND ASSOCIATED CONTACT INFORMATION.

It is understood and agreed that the Owner does not guarantee the accuracy or the completeness of the location information relating to existing utility services, facilities, or structures that may be shown on the plans or encountered in the work. Any inaccuracy or omission in such information shall not relieve the Contractor of the responsibility to protect such existing features from damage or unscheduled interruption of service.

It is further understood and agreed that the Contractor shall, upon execution of the contract, notify the Owners of all utility services or other facilities of their plan of operations. Such notification shall be in writing addressed to "The Person to Contact" as provided in this paragraph and paragraph 70-04, *Restoration of Surfaces Disturbed By Others*. A copy of each notification shall be given to the RPR.

In addition to the general written notification provided, it shall be the responsibility of the Contractor to keep such individual Owners advised of changes in their plan of operations that would affect such Owners.

Prior to beginning the work in the general vicinity of an existing utility service or facility, the Contractor shall again notify each such Owner of their plan of operation. If, in the Contractor's opinion, the Owner's assistance is needed to locate the utility service or facility or the presence of a representative of the Owner is desirable to observe the work, such advice should be included in the notification. Such notification shall be given by the most expeditious means to reach the utility owner's "Person to Contact" no later than two normal business days prior to the Contractor's commencement of operations in such general vicinity. The Contractor shall furnish a written summary of the notification to the RPR.

The Contractor's failure to give the two days' notice shall be cause for the Owner to suspend the Contractor's operations in the general vicinity of a utility service or facility.

Where the outside limits of an underground utility service have been located and staked on the ground, the Contractor shall be required to use hand excavation methods within 3 feet (1 m) of such outside limits at such points as may be required to ensure protection from damage due to the Contractor's operations.

Should the Contractor damage or interrupt the operation of a utility service or facility by accident or otherwise, the Contractor shall immediately notify the proper authority and the RPR and shall take all reasonable measures to prevent further damage or interruption of service. The Contractor, in such events, shall cooperate with the utility service or facility owner and the RPR continuously until such damage has

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been repaired and service restored to the satisfaction of the utility or facility owner.

The Contractor shall bear all costs of damage and restoration of service to any utility service or facility due to their operations whether due to negligence or accident. The Owner reserves the right to deduct such costs from any monies due or which may become due the Contractor, or their own surety.

70-15.1 FAA facilities and cable runs. The Contractor is hereby advised that the construction limits of the project include existing facilities and buried cable runs that are owned, operated and maintained by the FAA. The Contractor, during the execution of the project work, shall comply with the following:

a. The Contractor shall permit FAA maintenance personnel the right of access to the project work site for purposes of inspecting and maintaining all existing FAA owned facilities.

b. The Contractor shall provide notice to the FAA Air Traffic Organization (ATO)/Technical Operations/System Support Center (SSC) Point-of-Contact through the airport Owner a minimum of seven (7) calendar days prior to commencement of construction activities in order to permit sufficient time to locate and mark existing buried cables and to schedule any required facility outages.

c. If execution of the project work requires a facility outage, the Contractor shall contact the FAA Point-of-Contact a minimum of 72 hours prior to the time of the required outage.

d. Any damage to FAA cables, access roads, or FAA facilities during construction caused by the Contractor's equipment or personnel whether by negligence or accident will require the Contractor to repair or replace the damaged cables, access road, or FAA facilities to FAA requirements. The Contractor shall not bear the cost to repair damage to underground facilities or utilities improperly located by the FAA.

e. If the project work requires the cutting or splicing of FAA owned cables, the FAA Point-of-Contact shall be contacted a minimum of 72 hours prior to the time the cable work commences. The FAA reserves the right to have a FAA representative on site to observe the splicing of the cables as a condition of acceptance. All cable splices are to be accomplished in accordance with FAA specifications and require approval by the FAA Point-of-Contact as a condition of acceptance by the Owner. The Contractor is hereby advised that FAA restricts the location of where splices may be installed. If a cable splice is required in a location that is not permitted by FAA, the Contractor shall furnish and install a sufficient length of new cable that eliminates the need for any splice.

70-16 Furnishing rights-of-way. The Owner will be responsible for furnishing all rights-of-way upon which the work is to be constructed in advance of the Contractor's operations.

70-17 Personal liability of public officials. In carrying out any of the contract provisions or in exercising any power or authority granted by this contract, there shall be no liability upon the Engineer, RPR, their authorized representatives, or any officials of the Owner either personally or as an official of the Owner. It is understood that in such matters they act solely as agents and representatives of the Owner.

70-18 No waiver of legal rights. Upon completion of the work, the Owner will expeditiously make final inspection and notify the Contractor of final acceptance. Such final acceptance, however, shall not preclude or stop the Owner from correcting any measurement, estimate, or certificate made before or after completion of the work, nor shall the Owner be precluded or stopped from recovering from the Contractor or their surety, or both, such overpayment as may be sustained, or by failure on the part of the Contractor to fulfill their obligations under the contract. A waiver on the part of the Owner of any breach of any part of the contract shall not be held to be a waiver of any other or subsequent breach.

The Contractor, without prejudice to the terms of the contract, shall be liable to the Owner for latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the Owner's rights under any warranty or guaranty.

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70-19 Environmental protection. The Contractor shall comply with all federal, state, and local laws and regulations controlling pollution of the environment. The Contractor shall take necessary precautions to prevent pollution of streams, lakes, ponds, and reservoirs with fuels, oils, asphalts, chemicals, or other harmful materials and to prevent pollution of the atmosphere from particulate and gaseous matter.

70-20 Archaeological and historical findings. Unless otherwise specified in this subsection, the Contractor is advised that the site of the work is not within any property, district, or site, and does not contain any building, structure, or object listed in the current National Register of Historic Places published by the United States Department of Interior.

Should the Contractor encounter, during their operations, any building, part of a building, structure, or object that is incongruous with its surroundings, the Contractor shall immediately cease operations in that location and notify the RPR. The RPR will immediately investigate the Contractor's finding and the Owner will direct the Contractor to either resume operations or to suspend operations as directed.

Should the Owner order suspension of the Contractor's operations in order to protect an archaeological or historical finding, or order the Contractor to perform extra work, such shall be covered by an appropriate contract change order or supplemental agreement as provided in Section 40, paragraph 40-04, *Extra Work*, and Section 90, paragraph 90-05, *Payment for Extra Work*. If appropriate, the contract change order or supplemental agreement shall include an extension of contract time in accordance with Section 80, paragraph 80-07, *Determination and Extension of Contract Time*.

70-21 Insurance Requirements. Refer to the Project Contract Agreement for the insurance requirements.

END OF SECTION 70

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Section 80 Execution and Progress

80-01 Subletting of contract. The Owner will not recognize any subcontractor on the work. The Contractor shall at all times when work is in progress be represented either in person, by a qualified superintendent, or by other designated, qualified representative who is duly authorized to receive and execute orders of the Resident Project Representative (RPR).

The Contractor shall perform, with his organization, an amount of work equal to at least **twenty-five percent (25%)** of the total contract cost.

Should the Contractor elect to assign their contract, said assignment shall be concurred in by the surety, shall be presented for the consideration and approval of the Owner, and shall be consummated only on the written approval of the Owner.

The Contractor shall provide copies of all subcontracts to the RPR fourteen (14) days prior to being utilized on the project. As a minimum, the information shall include the following:

- Subcontractor's legal company name.
- Subcontractor's legal company address, including County name.
- Principal contact person's name, telephone and fax number.
- Complete narrative description, and dollar value of the work to be performed by the subcontractor.
- Copies of required insurance certificates in accordance with the specifications.
- Minority/ non-minority status.

80-02 Notice to proceed (NTP). The Owners notice to proceed will state the date on which contract time commences. The Contractor is expected to commence project operations within **ten (10) days** of the NTP date. The Contractor shall notify the RPR at least **twenty-four (24) hours** in advance of the time contract operations begins. The Contractor shall not commence any actual operations prior to the date on which the notice to proceed is issued by the Owner.

80-03 Execution and progress. Unless otherwise specified, the Contractor shall submit their coordinated construction schedule showing all work activities for the RPR's review and acceptance at least **ten (10) days** prior to the start of work. The Contractor's progress schedule, once accepted by the RPR, will represent the Contractor's baseline plan to accomplish the project in accordance with the terms and conditions of the Contract. The RPR will compare actual Contractor progress against the baseline schedule to determine that status of the Contractor's performance. The Contractor shall provide sufficient materials, equipment, and labor to guarantee the completion of the project in accordance with the plans and specifications within the time set forth in the proposal.

If the Contractor falls significantly behind the submitted schedule, the Contractor shall, upon the RPR's request, submit a revised schedule for completion of the work within the contract time and modify their operations to provide such additional materials, equipment, and labor necessary to meet the revised schedule. Should the execution of the work be discontinued for any reason, the Contractor shall notify the RPR at least **twenty-four (24) hours** in advance of resuming operations.

The Contractor shall not commence any actual construction prior to the date on which the NTP is issued by the Owner.

The project schedule shall be prepared as a network diagram in Critical Path Method (CPM), Program Evaluation and Review Technique (PERT), or other format, or as otherwise specified. It shall include information on the sequence of work activities, milestone dates, and activity duration. The schedule shall

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show all work items identified in the project proposal for each work area and shall include the project start date and end date.

The Contractor shall maintain the work schedule and provide an update and analysis of the progress schedule on a **twice** monthly basis, or as otherwise specified in the contract. Submission of the work schedule shall not relieve the Contractor of overall responsibility for scheduling, sequencing, and coordinating all work to comply with the requirements of the contract.

80-04 Limitation of operations. The Contractor shall control their operations and the operations of their subcontractors and all suppliers to provide for the free and unobstructed movement of aircraft in the air operations areas (AOA) of the airport.

When the work requires the Contractor to conduct their operations within an AOA of the airport, the work shall be coordinated with airport operations (through the RPR) at least **forty-eight (48) hours** prior to commencement of such work. The Contractor shall not close an AOA until so authorized by the RPR and until the necessary temporary marking, signage and associated lighting is in place as provided in Section 70, paragraph 70-08, *Construction Safety and Phasing Plan (CSPP)*.

When the contract work requires the Contractor to work within an AOA of the airport on an intermittent basis (intermittent opening and closing of the AOA), the Contractor shall maintain constant communications as specified; immediately obey all instructions to vacate the AOA; and immediately obey all instructions to resume work in such AOA. Failure to maintain the specified communications or to obey instructions shall be cause for suspension of the Contractor's operations in the AOA until satisfactory conditions are provided. The areas of the AOA identified in the Construction Safety Phasing Plan (CSPP) and as listed below, cannot be closed to operating aircraft to permit the Contractor's operations on a continuous basis and will therefore be closed to aircraft operations intermittently as follows:

REFER TO THE PROJECT PLANS FOR THE CSPP AND THE OPERATIONS IMPACTS.

The Contractor shall be required to conform to safety standards contained in AC 150/5370-2, Operational Safety on Airports During Construction and the approved CSPP.

80-04.1 Operational safety on airport during construction. All Contractors' operations shall be conducted in accordance with the approved project Construction Safety and Phasing Plan (CSPP) and the Safety Plan Compliance Document (SPCD) and the provisions set forth within the current version of AC 150/5370-2, Operational Safety on Airports During Construction. The CSPP included within the contract documents conveys minimum requirements for operational safety on the airport during construction activities. The Contractor shall prepare and submit a SPCD that details how it proposes to comply with the requirements presented within the CSPP.

The Contractor shall implement all necessary safety plan measures prior to commencement of any work activity. The Contractor shall conduct routine checks to assure compliance with the safety plan measures.

The Contractor is responsible to the Owner for the conduct of all subcontractors it employs on the project. The Contractor shall assure that all subcontractors are made aware of the requirements of the CSPP and SPCD and that they implement and maintain all necessary measures.

No deviation or modifications may be made to the approved CSPP and SPCD unless approved in writing by the Owner. The necessary coordination actions to review Contractor proposed modifications to an approved CSPP or approved SPCD can require a significant amount of time. The Owner shall coordinate any changes with the FAA.

80-05 Character of workers, methods, and equipment. The Contractor shall, at all times, employ sufficient labor and equipment for prosecuting the work to full completion in the manner and time required by the contract, plans, and specifications.

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All workers shall have sufficient skill and experience to perform properly the work assigned to them. Workers engaged in special work or skilled work shall have sufficient experience in such work and in the operation of the equipment required to perform the work satisfactorily.

Any person employed by the Contractor or by any subcontractor who violates any operational regulations or operational safety requirements and, in the opinion of the RPR, does not perform his work in a proper and skillful manner or is intemperate or disorderly shall, at the written request of the RPR, be removed immediately by the Contractor or subcontractor employing such person, and shall not be employed again in any portion of the work without approval of the RPR.

Should the Contractor fail to remove such person or persons, or fail to furnish suitable and sufficient personnel for the proper execution of the work, the RPR may suspend the work by written notice until compliance with such orders.

All equipment that is proposed to be used on the work shall be of sufficient size and in such mechanical condition as to meet requirements of the work and to produce a satisfactory quality of work. Equipment used on any portion of the work shall not cause injury to previously completed work, adjacent property, or existing airport facilities due to its use.

When the methods and equipment to be used by the Contractor in accomplishing the work are not prescribed in the contract, the Contractor is free to use any methods or equipment that will accomplish the work in conformity with the requirements of the contract, plans, and specifications.

When the contract specifies the use of certain methods and equipment, such methods and equipment shall be used unless otherwise authorized by the RPR. If the Contractor desires to use a method or type of equipment other than specified in the contract, the Contractor may request authority from the RPR to do so. The request shall be in writing and shall include a full description of the methods and equipment proposed and of the reasons for desiring to make the change. If approval is given, it will be on the condition that the Contractor will be fully responsible for producing work in conformity with contract requirements. If, after trial use of the substituted methods or equipment, the RPR determines that the work produced does not meet contract requirements, the Contractor shall discontinue the use of the substitute method or equipment and shall complete the remaining work with the specified methods and equipment. The Contractor shall remove any deficient work and replace it with work of specified quality, or take such other corrective action as the RPR may direct. No change will be made in basis of payment for the contract items involved nor in contract time as a result of authorizing a change in methods or equipment under this paragraph.

80-06 Temporary suspension of the work. The Owner shall have the authority to suspend the work wholly, or in part, for such period or periods the Owner may deem necessary, due to unsuitable weather, or other conditions considered unfavorable for the execution of the work, or for such time necessary due to the failure on the part of the Contractor to carry out orders given or perform any or all provisions of the contract.

In the event that the Contractor is ordered by the Owner, in writing, to suspend work for some unforeseen cause not otherwise provided for in the contract and over which the Contractor has no control, the Contractor may be reimbursed for actual money expended on the work during the period of shutdown. No allowance will be made for anticipated profits. The period of shutdown shall be computed from the effective date of the written order to suspend work to the effective date of the written order to resume the work. Claims for such compensation shall be filed with the RPR within the time period stated in the RPR's order to resume work. The Contractor shall submit with their own claim information substantiating the amount shown on the claim. The RPR will forward the Contractor's claim to the Owner for consideration in accordance with local laws or ordinances. No provision of this article shall be construed as entitling the Contractor to compensation for delays due to inclement weather or for any other delay provided for in the contract, plans, or specifications.

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If it becomes necessary to suspend work for an indefinite period, the Contractor shall store all materials in such manner that they will not become an obstruction nor become damaged in any way. The Contractor shall take every precaution to prevent damage or deterioration of the work performed and provide for normal drainage of the work. The Contractor shall erect temporary structures where necessary to provide for traffic on, to, or from the airport.

80-07 Determination and extension of contract time. The **number of calendar days** shall be stated in the proposal and contract and shall be known as the Contract Time.

If the contract time requires extension for reasons beyond the Contractor's control, it shall be adjusted as follows:

80-07.1 Contract time based on calendar days. Contract Time based on calendar days shall consist of the number of calendar days stated in the contract counting from the effective date of the Notice to Proceed and including all Saturdays, Sundays, holidays, and non-work days. All calendar days elapsing between the effective dates of the Owner's orders to suspend and resume all work, due to causes not the fault of the Contractor, shall be excluded.

At the time of final payment, the contract time shall be increased in the same proportion as the cost of the actually completed quantities bears to the cost of the originally estimated quantities in the proposal. Such increase in the contract time shall not consider either cost of work or the extension of contract time that has been covered by a change order or supplemental agreement. Charges against the contract time will cease as of the date of final acceptance.

80-08 Failure to complete on time. For each calendar day or working day, as specified in the contract, that any work remains uncompleted after the contract time (including all extensions and adjustments as provided in paragraph 80-07, *Determination and Extension of Contract Time*) the sum specified in the contract and proposal as liquidated damages (LD) will be deducted from any money due or to become due the Contractor or their own surety. Such deducted sums shall not be deducted as a penalty but shall be considered as liquidation of a reasonable portion of damages including but not limited to additional engineering services that will be incurred by the Owner should the Contractor fail to complete the work in the time provided in their contract.

REFER TO THE INFORMATION TO BIDDERS AND CONTRACT AGREEMENT DOCUMENTS FOR THE ALLOWED CONSTRUCTION TIME AND LIQUIDATED DAMAGES.

The maximum construction time allowed for the Project will be the sum of the time allowed for individual phase schedules as outlined in the CSPP but not more than the overall calendar days allowed. Permitting the Contractor to continue and finish the work or any part of it after the time fixed for its completion, or after the date to which the time for completion may have been extended, will in no way operate as a waiver on the part of the Owner of any of its rights under the contract.

80-09 Default and termination of contract. The Contractor shall be considered in default of their contract and such default will be considered as cause for the Owner to terminate the contract for any of the following reasons, if the Contractor:

- a. Fails to begin the work under the contract within the time specified in the Notice to Proceed, or
- b. Fails to perform the work or fails to provide sufficient workers, equipment and/or materials to assure completion of work in accordance with the terms of the contract, or
- c. Performs the work unsuitably or neglects or refuses to remove materials or to perform anew such work as may be rejected as unacceptable and unsuitable, or

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- d. Discontinues the execution of the work, or
- e. Fails to resume work which has been discontinued within a reasonable time after notice to do so, or
- f. Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency, or
- g. Allows any final judgment to stand against the Contractor unsatisfied for a period of ten (10) days, or
- h. Makes an assignment for the benefit of creditors, or
- i. For any other cause whatsoever, fails to carry on the work in an acceptable manner.

Should the Owner consider the Contractor in default of the contract for any reason above, the Owner shall immediately give written notice to the Contractor and the Contractor's surety as to the reasons for considering the Contractor in default and the Owner's intentions to terminate the contract.

If the Contractor or surety, within a period of ten (10) days after such notice, does not proceed in accordance therewith, then the Owner will, upon written notification from the RPR of the facts of such delay, neglect, or default and the Contractor's failure to comply with such notice, have full power and authority without violating the contract, to take the execution of the work out of the hands of the Contractor. The Owner may appropriate or use any or all materials and equipment that have been mobilized for use in the work and are acceptable and may enter into an agreement for the completion of said contract according to the terms and provisions thereof, or use such other methods as in the opinion of the RPR will be required for the completion of said contract in an acceptable manner.

All costs and charges incurred by the Owner, together with the cost of completing the work under contract, will be deducted from any monies due or which may become due the Contractor. If such expense exceeds the sum which would have been payable under the contract, then the Contractor and the surety shall be liable and shall pay to the Owner the amount of such excess.

80-10 Termination for national emergencies. The Owner shall terminate the contract or portion thereof by written notice when the Contractor is prevented from proceeding with the construction contract as a direct result of an Executive Order of the President with respect to the execution of war or in the interest of national defense.

When the contract, or any portion thereof, is terminated before completion of all items of work in the contract, payment will be made for the actual number of units or items of work completed at the contract price or as mutually agreed for items of work partially completed or not started. No claims or loss of anticipated profits shall be considered.

Reimbursement for organization of the work, and other overhead expenses, (when not otherwise included in the contract) and moving equipment and materials to and from the job will be considered, the intent being that an equitable settlement will be made with the Contractor.

Acceptable materials, obtained or ordered by the Contractor for the work and that are not incorporated in the work shall, at the option of the Contractor, be purchased from the Contractor at actual cost as shown by receipted bills and actual cost records at such points of delivery as may be designated by the RPR.

Termination of the contract or a portion thereof shall neither relieve the Contractor of their responsibilities for the completed work nor shall it relieve their surety of its obligation for and concerning any just claim arising out of the work performed.

80-11 Work area, storage area and sequence of operations. The Contractor shall obtain approval from the RPR prior to beginning any work in all areas of the airport. No operating runway, taxiway, or air operations area (AOA) shall be crossed, entered, or obstructed while it is operational. The Contractor shall plan and coordinate work in accordance with the approved CSPP and SPCD.

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Section 90 Measurement and Payment

90-01 Measurement of quantities. All work completed under the contract will be measured by the RPR, or their authorized representatives, using United States Customary Units of Measurement.

The method of measurement and computations to be used in determination of quantities of material furnished and of work performed under the contract will be those methods generally recognized as conforming to good engineering practice.

Unless otherwise specified, longitudinal measurements for area computations will be made horizontally, and no deductions will be made for individual fixtures (or leave-outs) having an area of 9 square feet (0.8 square meters) or less. Unless otherwise specified, transverse measurements for area computations will be the neat dimensions shown on the plans or ordered in writing by the RPR.

Unless otherwise specified, all contract items which are measured by the linear foot such as electrical ducts, conduits, pipe culverts, underdrains, and similar items shall be measured parallel to the base or foundation upon which such items are placed.

The term "lump sum" when used as an item of payment will mean complete payment for the work described in the contract. When a complete structure or structural unit (in effect, "lump sum" work) is specified as the unit of measurement, the unit will be construed to include all necessary fittings and accessories.

When requested by the Contractor and approved by the RPR in writing, material specified to be measured by the cubic yard (cubic meter) may be weighed, and such weights will be converted to cubic yards (cubic meters) for payment purposes. Factors for conversion from weight measurement to volume measurement will be determined by the RPR and shall be agreed to by the Contractor before such method of measurement of pay quantities is used.

Measurement and Payment Terms

Term	Description
Excavation and Embankment Volume	In computing volumes of excavation, the average end area method will be used unless otherwise specified.
Measurement and Proportion by Weight	The term "ton" will mean the short ton consisting of 2,000 pounds (907 kg) avoirdupois. All materials that are measured or proportioned by weights shall be weighed on accurate, independently certified scales by competent, qualified personnel at locations designated by the RPR. If material is shipped by rail, the car weight may be accepted provided that only the actual weight of material is paid for. However, car weights will not be acceptable for material to be passed through mixing plants. Trucks used to haul material being paid for by weight shall be weighed empty daily at such times as the RPR directs, and each truck shall bear a plainly legible identification mark.
Measurement by Volume	Materials to be measured by volume in the hauling vehicle shall be hauled in approved vehicles and measured therein at the point of delivery. Vehicles for this purpose may be of any size or type acceptable for the materials hauled, provided that the body is of such shape that the actual contents may be readily and accurately determined. All vehicles shall be loaded to at least their water level capacity, and all loads shall be leveled when the vehicles arrive at the point of delivery.
Asphalt Material	Asphalt materials will be measured by the gallon (liter) or ton (kg). When measured by volume, such volumes will be measured at 60°F (16°C) or will be

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Term	Description
	corrected to the volume at 60°F (16°C) using ASTM D1250 for asphalts. Net certified scale weights or weights based on certified volumes in the case of rail shipments will be used as a basis of measurement, subject to correction when asphalt material has been lost from the car or the distributor, wasted, or otherwise not incorporated in the work. When asphalt materials are shipped by truck or transport, net certified weights by volume, subject to correction for loss or foaming, will be used for computing quantities.
Cement	Cement will be measured by the ton (kg) or hundredweight (km).
Structure	Structures will be measured according to neat lines shown on the plans or as altered to fit field conditions.
Timber	Timber will be measured by the thousand feet board measure (MFBM) actually incorporated in the structure. Measurement will be based on nominal widths and thicknesses and the extreme length of each piece.
Plates and Sheets	The thickness of plates and galvanized sheet used in the manufacture of corrugated metal pipe, metal plate pipe culverts and arches, and metal cribbing will be specified and measured in decimal fraction of inch.
Miscellaneous Items	When standard manufactured items are specified such as fence, wire, plates, rolled shapes, pipe conduit, etc., and these items are identified by gauge, unit weight, section dimensions, etc., such identification will be considered to be nominal weights or dimensions. Unless more stringently controlled by tolerances in cited specifications, manufacturing tolerances established by the industries involved will be accepted.
Scales	<p>Scales must be tested for accuracy and serviced before use. Scales for weighing materials which are required to be proportioned or measured and paid for by weight shall be furnished, erected, and maintained by the Contractor, or be certified permanently installed commercial scales. Platform scales shall be installed and maintained with the platform level and rigid bulkheads at each end. Scales shall be accurate within 0.5% of the correct weight throughout the range of use. The Contractor shall have the scales checked under the observation of the RPR before beginning work and at such other times as requested. The intervals shall be uniform in spacing throughout the graduated or marked length of the beam or dial and shall not exceed 0.1% of the nominal rated capacity of the scale, but not less than one pound (454 grams). The use of spring balances will not be permitted.</p> <p>In the event inspection reveals the scales have been “overweighing” (indicating more than correct weight) they will be immediately adjusted. All materials received subsequent to the last previous correct weighting-accuracy test will be reduced by the percentage of error in excess of 0.5%.</p> <p>In the event inspection reveals the scales have been under-weighing (indicating less than correct weight), they shall be immediately adjusted. No additional payment to the Contractor will be allowed for materials previously weighed and recorded.</p> <p>Beams, dials, platforms, and other scale equipment shall be so arranged that the operator and the RPR can safely and conveniently view them.</p> <p>Scale installations shall have available ten standard 50-pound (2.3 km) weights for testing the weighing equipment or suitable weights and devices for other approved equipment.</p> <p>All costs in connection with furnishing, installing, certifying, testing, and maintaining scales; for furnishing check weights and scale house; and for all other</p>

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Term	Description
	items specified in this subsection, for the weighing of materials for proportioning or payment, shall be included in the unit contract prices for the various items of the project.
Rental Equipment	Rental of equipment will be measured by time in hours of actual working time and necessary traveling time of the equipment within the limits of the work. Special equipment ordered in connection with extra work will be measured as agreed in the change order or supplemental agreement authorizing such work as provided in paragraph 90-05 <i>Payment for Extra Work</i> .
Pay Quantities	When the estimated quantities for a specific portion of the work are designated as the pay quantities in the contract, they shall be the final quantities for which payment for such specific portion of the work will be made, unless the dimensions of said portions of the work shown on the plans are revised by the RPR. If revised dimensions result in an increase or decrease in the quantities of such work, the final quantities for payment will be revised in the amount represented by the authorized changes in the dimensions.

90-02 Scope of payment. The Contractor shall receive and accept compensation provided for in the contract as full payment for furnishing all materials, for performing all work under the contract in a complete and acceptable manner, and for all risk, loss, damage, or expense of whatever character arising out of the nature of the work or the execution thereof, subject to the provisions of Section 70, paragraph 70-18, *No Waiver of Legal Rights*.

When the “basis of payment” subsection of a technical specification requires that the contract price (price bid) include compensation for certain work or material essential to the item, this same work or material will not also be measured for payment under any other contract item which may appear elsewhere in the contract, plans, or specifications.

90-03 Compensation for altered quantities. When the accepted quantities of work vary from the quantities in the proposal, the Contractor shall accept as payment in full, so far as contract items are concerned, payment at the original contract price for the accepted quantities of work actually completed and accepted. No allowance, except as provided for in Section 40, paragraph 40-02, *Alteration of Work and Quantities*, will be made for any increased expense, loss of expected reimbursement, or loss of anticipated profits suffered or claimed by the Contractor which results directly from such alterations or indirectly from their own unbalanced allocation of overhead and profit among the contract items, or from any other cause.

90-04 Payment for omitted items. As specified in Section 40, paragraph 40-03, *Omitted Items*, the RPR shall have the right to omit from the work (order nonperformance) any contract item, except major contract items, in the best interest of the Owner.

Should the RPR omit or order nonperformance of a contract item or portion of such item from the work, the Contractor shall accept payment in full at the contract prices for any work actually completed and acceptable prior to the RPR’s order to omit or non-perform such contract item.

Acceptable materials ordered by the Contractor or delivered on the work prior to the date of the RPR’s order will be paid for at the actual cost to the Contractor and shall thereupon become the property of the Owner.

In addition to the reimbursement hereinbefore provided, the Contractor shall be reimbursed for all actual costs incurred for the purpose of performing the omitted contract item prior to the date of the RPR’s order. Such additional costs incurred by the Contractor must be directly related to the deleted contract item and shall be supported by certified statements by the Contractor as to the nature the amount of such costs.

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90-05 Payment for extra work. Extra work, performed in accordance with Section 40, paragraph 40-04, *Extra Work*, will be paid for at the contract prices or agreed prices specified in the change order or supplemental agreement authorizing the extra work.

90-06 Partial payments. Partial payments will be made to the Contractor at least once each month as the work progresses. Said payments will be based upon estimates, prepared by the RPR, of the value of the work performed and materials complete and in place, in accordance with the contract, plans, and specifications. Such partial payments may also include the delivered actual cost of those materials stockpiled and stored in accordance with paragraph 90-07, *Payment for Materials on Hand*. No partial payment will be made when the amount due to the Contractor since the last estimate amounts to less than five hundred dollars.

a. From the total of the amount determined to be payable on a partial payment, **ten percent (10%), unless otherwise modified in the Supplemental General Provision**, of such total amount will be deducted and retained by the Owner for protection of the Owner's interests. Unless otherwise instructed by the Owner, the amount retained by the Owner will be in effect until the final payment is made except as follows:

(1) Contractor may request release of retainage on work that has been partially accepted by the Owner in accordance with Section 50-14. Contractor must provide a certified invoice to the RPR that supports the value of retainage held by the Owner for partially accepted work.

(2) In lieu of retainage, the Contractor may exercise at its option the establishment of an escrow account per paragraph 90-08.

b. The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than thirty (30) days after the Contractor has received a partial payment. Contractor must provide the Owner evidence of prompt and full payment of retainage held by the prime Contractor to the subcontractor within thirty (30) days after the subcontractor's work is satisfactorily completed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Owner. When the Owner has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

c. When at least ninety-five percent (95%) of the work has been completed to the satisfaction of the RPR, the RPR shall, at the Owner's discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done. The Owner may retain an amount not less than twice the contract value or estimated cost, whichever is greater, of the work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the Contractor.

It is understood and agreed that the Contractor shall not be entitled to demand or receive partial payment based on quantities of work in excess of those provided in the proposal or covered by approved change orders or supplemental agreements, except when such excess quantities have been determined by the RPR to be a part of the final quantity for the item of work in question.

No partial payment shall bind the Owner to the acceptance of any materials or work in place as to quality or quantity. All partial payments are subject to correction at the time of final payment as provided in paragraph 90-09, *Acceptance and Final Payment*.

The Contractor shall deliver to the Owner a complete release of all claims for labor and material arising out of this contract before the final payment is made. If any subcontractor or supplier fails to furnish such a release in full, the Contractor may furnish a bond or other collateral satisfactory to the Owner to indemnify the Owner against any potential lien or other such claim. The bond or collateral shall include all costs, expenses, and attorney fees the Owner may be compelled to pay in discharging any such lien or claim.

90-07 Payment for materials on hand. Partial payments may be made to the extent of the delivered cost

DIVISION 1 - FAA GENERAL CONTRACT PROVISIONS

of materials to be incorporated in the work, provided that such materials meet the requirements of the contract, plans, and specifications and are delivered to acceptable sites on the airport property or at other sites in the vicinity that are acceptable to the Owner. Such delivered costs of stored or stockpiled materials may be included in the next partial payment after the following conditions are met:

- a. The material has been stored or stockpiled in a manner acceptable to the RPR at or on an approved site.
- b. The Contractor has furnished the RPR with acceptable evidence of the quantity and quality of such stored or stockpiled materials.
- c. The Contractor has furnished the RPR with satisfactory evidence that the material and transportation costs have been paid.
- d. The Contractor has furnished the Owner legal title (free of liens or encumbrances of any kind) to the material stored or stockpiled.
- e. The Contractor has furnished the Owner evidence that the material stored or stockpiled is insured against loss by damage to or disappearance of such materials at any time prior to use in the work.

It is understood and agreed that the transfer of title and the Owner's payment for such stored or stockpiled materials shall in no way relieve the Contractor of their responsibility for furnishing and placing such materials in accordance with the requirements of the contract, plans, and specifications.

In no case will the amount of partial payments for materials on hand exceed the contract price for such materials or the contract price for the contract item in which the material is intended to be used.

No partial payment will be made for stored or stockpiled living or perishable plant materials.

The Contractor shall bear all costs associated with the partial payment of stored or stockpiled materials in accordance with the provisions of this paragraph.

90-08 Payment of withheld funds. At the Contractor's option, if an Owner withholds retainage in accordance with the methods described in paragraph 90-06 *Partial Payments*, the Contractor may request that the Owner deposit the retainage into an escrow account. The Owner's deposit of retainage into an escrow account is subject to the following conditions:

- a. The Contractor shall bear all expenses of establishing and maintaining an escrow account and escrow agreement acceptable to the Owner.
- b. The Contractor shall deposit to and maintain in such escrow only those securities or bank certificates of deposit as are acceptable to the Owner and having a value not less than the retainage that would otherwise be withheld from partial payment.
- c. The Contractor shall enter into an escrow agreement satisfactory to the Owner.
- d. The Contractor shall obtain the written consent of the surety to such agreement.

90-09 Acceptance and final payment. When the contract work has been accepted in accordance with the requirements of Section 50, paragraph 50-15, *Final Acceptance*, the RPR will prepare the final estimate of the items of work actually performed. The Contractor shall approve the RPR's final estimate or advise the RPR of the Contractor's objections to the final estimate which are based on disputes in measurements or computations of the final quantities to be paid under the contract as amended by change order or supplemental agreement. The Contractor and the RPR shall resolve all disputes (if any) in the measurement and computation of final quantities to be paid within thirty (30) calendar days of the Contractor's receipt of the RPR's final estimate. If, after such 30-day period, a dispute still exists, the Contractor may approve the RPR's estimate under protest of the quantities in dispute, and such disputed quantities shall be considered by the Owner as a claim in accordance with Section 50, paragraph 50-16, *Claims for Adjustment and*

DIVISION 1 - FAA GENERAL CONTRACT PROVISIONS

Disputes.

After the Contractor has approved, or approved under protest, the RPR's final estimate, and after the RPR's receipt of the project closeout documentation required in paragraph 90-11, *Contractor Final Project Documentation*, final payment will be processed based on the entire sum, or the undisputed sum in case of approval under protest, determined to be due the Contractor less all previous payments and all amounts to be deducted under the provisions of the contract. All prior partial estimates and payments shall be subject to correction in the final estimate and payment.

If the Contractor has filed a claim for additional compensation under the provisions of Section 50, paragraph 50-16, *Claims for Adjustments and Disputes*, or under the provisions of this paragraph, such claims will be considered by the Owner in accordance with local laws or ordinances. Upon final adjudication of such claims, any additional payment determined to be due the Contractor will be paid pursuant to a supplemental final estimate.

90-10 Construction warranty.

a. In addition to any other warranties in this contract, the Contractor warrants that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, workmanship, or design furnished, or performed by the Contractor or any subcontractor or supplier at any tier.

b. This warranty shall continue for a period of one (1) year from the date of final acceptance of the work, except as noted. If the Owner takes possession of any part of the work before final acceptance, this warranty shall continue for a period of one (1) year from the date the Owner takes possession. However, this will not relieve the Contractor from corrective items required by the final acceptance of the project work. Light Emitting Diode emitting diode (LED) light fixtures with the exception of obstruction lighting, must be warranted by the manufacturer for a minimum of four (4) years after date of installation inclusive of all electronics.

c. The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to Owner real or personal property, when that damage is the result of the Contractor's failure to conform to contract requirements; or any defect of equipment, material, workmanship, or design furnished by the Contractor.

d. The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for one year from the date of repair or replacement.

e. The Owner will notify the Contractor, in writing, within seven (7) days after the discovery of any failure, defect, or damage.

f. If the Contractor fails to remedy any failure, defect, or damage within fourteen (14) days after receipt of notice, the Owner shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

g. With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall: (1) Obtain all warranties that would be given in normal commercial practice; (2) Require all warranties to be executed, in writing, for the benefit of the Owner, as directed by the Owner, and (3) Enforce all warranties for the benefit of the Owner.

h. This warranty shall not limit the Owner's rights with respect to latent defects, gross mistakes, or fraud.

90-11 Contractor Final Project Documentation. Approval of final payment to the Contractor is

DIVISION 1 - FAA GENERAL CONTRACT PROVISIONS

contingent upon completion and submittal of the items listed below. The final payment will not be approved until the RPR approves the Contractor's final submittal. The Contractor shall:

- a.** Provide two (2) copies of all manufacturers warranties specified for materials, equipment, and installations.
- b.** Provide weekly payroll records (not previously received) from the general Contractor and all subcontractors.
- c.** Complete final cleanup in accordance with Section 40, paragraph 40-08, *Final Cleanup*.
- d.** Complete all punch list items identified during the Final Inspection.
- e.** Provide complete release of all claims for labor and material arising out of the Contract.
- f.** Provide a certified statement signed by the subcontractors, indicating actual amounts paid to the Disadvantaged Business Enterprise (DBE) subcontractors and/or suppliers associated with the project.
- g.** When applicable per state requirements, return copies of sales tax completion forms.
- h.** Manufacturer's certifications for all items incorporated in the work.
- i.** All required record drawings, as-built drawings or as-constructed drawings.
- j.** Project Operation and Maintenance (O&M) Manual(s).
- k.** Security for Construction Warranty.
- l.** Equipment commissioning documentation submitted, if required.

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END OF SECTION 90



FAA Airports

Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects

(As of May 24, 2023)

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DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

ACCESS TO RECORDS AND REPORTS **(2 CFR § 200.333, 2 CFR § 200.336, FAA Order 5100.38)**

CONTRACT CLAUSE

(Required for all FAA Airport Improvement Program funded projects)

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.

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION to ENSURE EQUAL EMPLOYMENT OPPORTUNITY

(41 CFR part 60-4, Executive Order 11246)

(Required for all FAA Airport Improvement Program funded projects - \$10,000 or Greater)

SOLICITATION CLAUSE

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
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:

Timetables

Goals for minority participation for each trade (CT – New Haven County): 9.0%

Goals for female participation in each trade: 6.9%

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 nonfederally 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 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 Connecticut, New Haven County, City of New Haven.**

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

BREACH OF CONTRACT TERMS

(2 CFR § 200 Appendix II(A))

(Required for all FAA Airport Improvement Program funded projects - \$150,000 or Greater)

CONTRACT CLAUSE

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

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

BUY AMERICAN PREFERENCE

**(Title 49 USC § 50101, Executive Order 14005,
Bipartisan Infrastructure Law (Pub. L. No. 117-58), Buy America, Build America (BABA))**
(Required for all FAA Airport Improvement Program funded projects)

SOLICITATION CLAUSE

FAA BUY AMERICAN PREFERENCE

The Contractor certifies that its bid/offer is in compliance with 49 USC § 50101, BABA and other related Made in America Laws,¹ U.S. statutes, guidance, and FAA policies, which provide that Federal funds may not be obligated unless all iron, steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration 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.

The bidder or offeror must complete and submit the certification of compliance with FAA’s Buy American Preference, BABA and Made in America laws included herein with their bid or offer. The Airport Sponsor/Owner will reject as nonresponsive any bid or offer that does not include a completed certification of compliance with FAA’s Buy American Preference and BABA.

The bidder or offeror certifies that all constructions materials, defined to mean an article, material, or supply other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall used in the project are manufactured in the U.S.

NOTE:

Include only one of the following Compliance Forms with the Bid (See Bid Certification List):

Certificate of Buy American Compliance – Equipment/Building Projects

-OR-

Certificate of Buy American Compliance – Construction Projects

¹ Per Executive Order 14005 “Made in America Laws” means all statutes, regulations, rules, and Executive Orders relating to federal financial assistance awards or federal procurement, including those that refer to “Buy America” or “Buy American,” that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, and manufactured products offered in the United States.

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

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DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

Certificate of Buy American Compliance – Equipment/Building Projects

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with its proposal. The bidder or offeror must indicate how it intends to comply with 49 USC § 50101, BABA and other related Made in America Laws, U.S. statutes, guidance, and FAA policies, by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e., not both) by inserting a checkmark (✓) or the letter “X”.

☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101, BABA and other related U.S. statutes, guidance, and policies of the FAA by:

- a) Only installing steel and manufactured products produced in the United States;
- b) Only installing construction materials defined as: an article, material, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
- c) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
- d) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- a) To provide to the Airport Sponsor or FAA evidence that documents the source and origin of the steel and manufactured product.
- b) To faithfully comply with providing U.S. domestic product.
- c) To furnish U.S. domestic product for any waiver request that the FAA rejects.
- d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

☐ The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for a Type 3 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

- a) To submit to the Airport Sponsor or FAA within 15 calendar days of being selected as the responsive bidder, a formal waiver request and required documentation that supports the type of waiver being requested.
- b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.
- c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
- d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

Required Documentation

Type 2 Waiver (Nonavailability) – The iron, steel, manufactured goods or construction materials or manufactured goods are not available in sufficient quantity or quality in the United States. The required documentation for the Nonavailability waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire
- b) Record of thorough market research, consideration where appropriate of qualifying alternate items, products, or materials including;
- c) A description of the market research activities and methods used to identify domestically manufactured items capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of sources.

Type 3 Waiver – The cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components and subcomponents of the “item”. The required documentation for a Type 3 waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire including;
- b) Listing of all product components and subcomponents that are not comprised of 100 percent U.S. domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108 (products of unknown origin must be considered as non-domestic products in their entirety).
- c) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- d) Percentage of non-domestic component and subcomponent cost as compared to total “item” component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

Type 4 Waiver (Unreasonable Costs) – Applying this provision for iron, steel, manufactured goods or construction materials would increase the cost of the overall project by more than 25 percent. The required documentation for this waiver is:

- a) A completed Content Percentage Worksheet and Final Assembly Questionnaire from
- b) At minimum two comparable equal bidders and/or offerors;
- c) Receipt or record that demonstrates that supplier scouting called for in Executive Order 14005, indicates that no domestic source exists for the project and/or component;
- d) Completed waiver applications for each comparable bid and/or offer.

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date

Signature

Company Name

Title

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

Certificate of Buy American Compliance – Construction Projects

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with its proposal. The bidder or offeror must indicate how it intends to comply with 49 USC § 50101, BABA and other related Made in America Laws, U.S. statutes, guidance, and FAA policies, by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e., not both) by inserting a checkmark (✓) or the letter “X”.

- ☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101, BABA and other related U.S. statutes, guidance, and policies of the FAA by:
- a) Only installing iron, steel and manufactured products produced in the United States;
 - b) Only installing construction materials defined as: an article, material, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
 - c) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
 - d) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- a) To provide to the Airport Sponsor or the FAA evidence that documents the source and origin of the iron, steel, and/or manufactured product.
 - b) To faithfully comply with providing U.S. domestic products.
 - c) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
 - d) Certify that all construction materials used in the project are manufactured in the U.S.
- ☐ The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
- a) To the submit to the Airport Sponsor or FAA within 15 calendar days of being selected as the responsive bidder, a formal waiver request and required documentation that supports the type of waiver being requested.
 - b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.
 - c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
 - d) To furnish U.S. domestic product for any waiver request that the FAA rejects.
 - e) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

Required Documentation

Type 2 Waiver (Nonavailability) - The iron, steel, manufactured goods or construction materials or manufactured goods are not available in sufficient quantity or quality in the United States. The required documentation for the Nonavailability waiver is

- d) Completed Content Percentage Worksheet and Final Assembly Questionnaire
- e) Record of thorough market research, consideration where appropriate of qualifying alternate items, products, or materials including;
- f) A description of the market research activities and methods used to identify domestically manufactured items capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of sources.

Type 3 Waiver – The cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components and subcomponents of the “facility/project.” The required documentation for a Type 3 waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire including;
- b) Listing of all manufactured products that are not comprised of 100 percent U.S. domestic content (excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety).
- c) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- d) Percentage of non-domestic component and subcomponent cost as compared to total “facility” component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

Type 4 Waiver (Unreasonable Costs) - Applying this provision for iron, steel, manufactured goods or construction materials would increase the cost of the overall project by more than 25 percent. The required documentation for this waiver is:

- a) A completed Content Percentage Worksheet and Final Assembly Questionnaire from
- b) At minimum two comparable equal bids and/or offers;
- c) Receipt or record that demonstrates that supplier scouting called for in Executive Order 14005, indicates that no domestic source exists for the project and/or component;
- d) Completed waiver applications for each comparable bid and/or offer.

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date

Signature

Company Name

Title

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

GENERAL CIVIL RIGHTS PROVISIONS

(49 USC § 47123)

(Required for ALL projects – regardless of Funding)

CONTRACT CLAUSES

GENERAL CIVIL RIGHTS PROVISIONS

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

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

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

GENERAL CIVIL RIGHTS – TITLE VI ASSURANCES

(49 USC § 47123, FAA Order 1400.11)

(Required for ALL projects – regardless of funding)

TITLE VI SOLICITATION NOTICE:

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

CONTRACT CLAUSE

TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES

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

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, *et seq.*) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, *et seq.*).

TITLE VI CONTRACT CLAUSES FOR COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS

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

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the 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.
5. **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:
 - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **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.

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CLEAN AIR AND WATER POLLUTION CONTROL

(2 CFR § 200, Appendix II(G), 42 USC § 7401, 33 USC § 1251)

(Required for all FAA Airport Improvement Program funded projects - \$150,000 or Greater)

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

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

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CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

(2 CFR § 200, Appendix II(E); 2 CFR§ 5.5(b); 40 USC § 3702; 40 USC § 3704)

(Required for all FAA Airport Improvement Program funded projects - \$100,000 or Greater)

CONTRACT CLAUSE

1. Overtime Requirements.

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

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

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

3. Withholding for Unpaid Wages and Liquidated Damages.

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

4. Subcontractors.

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

COPELAND “ANTI-KICKBACK” ACT

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

(Required for all FAA Airport Improvement Program funded projects - \$2,000 or Greater)

CONTRACT CLAUSE

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

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DAVIS-BACON REQUIREMENTS

**(2 CFR § 200, Appendix II(D); 29 CFR Part 5; 49 USC§ 47112(B);
40 USC §§ 3141-3144, 3146, and 3147)**

(Required for all FAA Airport Improvement Program funded projects - \$2,000 or Greater)

CONTRACT CLAUSE

1. Minimum Wages.

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 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.

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

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

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

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

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

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

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

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

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

2. Withholding.

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

3. Payrolls and Basic Records.

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

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

(ii)(A) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g. the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/agencies/whd/government-contracts/construction/payroll-certification> 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.

(iii) The Contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, Sponsor,

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the 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.

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

5. Compliance with Copeland Act Requirements.

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

6. Subcontracts.

The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 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.

7. Contract Termination: Debarment.

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

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

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

9. Disputes Concerning Labor Standards.

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

10. Certification of Eligibility.

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

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

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

DEBARMENT AND SUSPENSION

**(2 CFR part 180 (Subpart B); 2 CFR part 200, Appendix II(H); 2 CFR part 1200;
DOT Order 4200.5; Executive Orders 12549 and 12689)**

(Required for all FAA Airport Improvement Program funded projects - \$25,000 or Greater)

SOLICITATION PROVISION

CERTIFICATION OF OFFEROR/BIDDER REGARDING DEBARMENT

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

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:

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

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

DISADVANTAGED BUSINESS ENTERPRISES

(49 CFR part 26)

(Required for all FAA Airport Improvement Program funded projects)

SOLICITATION PROVISION

FOR RACE NEUTRAL PROJECTS

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the **Tweed-New Haven Airport Authority, Connecticut** 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.

FOR RACE CONSCIOUS PROJECTS

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the **Tweed-New Haven Airport Authority, Connecticut** 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.

PRIME CONTRACT PROVISIONS

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 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:

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

Prompt Payment (§26.29) – The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than **fifteen (15) 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 **fifteen (15) 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.

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

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

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

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

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

The prime contractor must give the DBE five (5) calendar days to respond to the prime contractor's notice and advise the **Owner** and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the Owner should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the **Owner** may provide a response period shorter than five (5) calendar days.

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

DISTRACTED DRIVING

(Executive Order 13513, DOT Order 3902.10)

(Required for all FAA Airport Improvement Program funded projects - \$3,500 or Greater)

TEXTING WHEN DRIVING CONTRACT CLAUSE

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

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

**PROHIBITION OF CERTAIN TELECOMMUNICATIONS
AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

(2 CFR § 200, Appendix II(K); 2 CFR 200.216)

(Required for ALL projects – regardless of funding)

CONTRACT CERTIFICATION CLAUSE

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

EQUAL EMPLOYMENT OPPORTUNITY

(2 CFR 200, Appendix II©, 41 CFR § 60-1.4, 41 CFR § 60-4.3, Executive Order 11246)

(Required for all FAA Airport Improvement Program funded projects - \$10,000 or Greater)

EQUAL OPPORTUNITY CONTRACT CLAUSE

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

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under this section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS

1. As used in these specifications:

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

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

3. If the Contractor is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

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

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

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

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

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

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

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

D. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

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).

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

(29 USC § 201, et seq; 2 CFR 200.430)

(Required for ALL projects – regardless of funding)

SOLICITATION CLAUSE

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.

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

**(31 USC § 1352 – Byrd Anti-Lobbying Amendment; 2 CFR part 200, Appendix II(i);
49 CFR part 20, Appendix A)**

(Required for all FAA Airport Improvement Program funded projects - \$100,000 or Greater)

SOLICITATION 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.

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

PROHIBITION OF SEGREGATED FACILITIES

(2 CFR Part 200, Appendix II(C); 41 CFR § 60)

(Required for all FAA Airport Improvement Program funded projects - \$10,000 or Greater)

PROHIBITION OF SEGREGATED FACILITIES CONTRACT CLAUSE

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

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

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

(29 CFR part 1910)

(Required for ALL projects – regardless of funding)

CONTRACT CLAUSE

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

PROCUREMENT OF RECOVERED MATERIALS

(2 CFR § 200.322; 2 CFR Part 200, Appendix II(J); 40 CFR part 247;

42 USC § 6901, et seq (Resource Conservation and Recovery Act (RCRA)))

(Required for all FAA Airport Improvement Program funded projects - \$10,000 or Greater)

CONTRACT CLAUSE

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 www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

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

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

RIGHTS TO INVENTIONS

(2 CFR § 200.322; 37 CFR part 401)

(Limited for FAA Airport Improvement Program funded projects)

THIS SECTION IS NOT APPLICABLE FOR THIS CONTRACT.

RIGHTS TO INVENTIONS CONTRACT CLAUSE

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

SEISMIC SAFETY

(2 CFR § 200.322; 37 CFR part 401)

(Limited for FAA Airport Improvement Program funded)

(Applicable ONLY to Building Construction, including Vault Additions)

SEISMIC SAFETY

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

TAX DELINQUENCY AND FELONY CONVICTIONS

(Sections 8113 of the Consolidated Appropriations Act 2022; DOT Order 4200.6)

(Required for all FAA Airport Improvement Program funded projects)

CERTIFICATION CLAUSE

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

Certifications

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

Note

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

Term Definitions

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

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

TERMINATION OF CONTRACT

(2 CFR § 200 Appendix II(B); FAA Advisory Circular 150/5370-10 Sections 80-90)

(Required for all FAA Airport Improvement Program funded projects - \$10,000 or Greater)

CONTRACT CLAUSES

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:

- 1) completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
- 2) 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;
- 3) reasonable and substantiated claims, costs, and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
- 4) 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.

TERMINATION FOR CAUSE (CONSTRUCTION) (FAA Advisory Circular 150/5370-10, Section 80-09)

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.

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

TERMINATION FOR CAUSE (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 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.

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

TRADE RESTRICTION CERTIFICATION

(49 USC § 50104; 49 CFR part 30)

(Required for all FAA Airport Improvement Program funded projects)

TRADE RESTRICTION CERTIFICATION SOLICITATION CLAUSE

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

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

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC 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 USTR or
- 2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
- 3) who incorporates in the public works project any product of a foreign country on such USTR list.

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

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

VETERAN'S PREFERENCE

(49 USC § 47112(c))

(Required for all FAA Airport Improvement Program funded projects)

CONTRACT CLAUSE

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

DIVISION 1 – FAA REQUIRED CONTRACT PROVISIONS

DOMESTIC PREFERENCE FOR PROCUREMENTS

(2 CFR § 200.322; 2 CFR Part 200, Appendix II(L))

(Required for all FAA Airport Improvement Program funded projects)

CERTIFICATION REGARDING

DOMESTIC PREFERENCES FOR PROCUREMENTS

The Bidder or Offeror certifies by signing and submitting this bid or proposal that, to the greatest extent practicable, the Bidder or Offeror has provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR § 200.322.

DIVISION 1 – PROJECT CONTRACT SPECIFICATIONS

FEDERAL REFERENCE DOCUMENTS

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EQUAL EMPLOYMENT OPPORTUNITY

41 CFR 60-4.2 & 4.3

§60-4.2 Solicitations.

(a) All Federal contracting officers and all applicants shall include the notice set forth in paragraph (d) of this section and the Standard Federal Equal Employment Opportunity Construction Contract Specifications set forth in §60-4.3 of this part in all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts to be performed in geographical areas designated by the Director pursuant to §60-4.6 of the part. Administering agencies shall require the inclusion of the notice set forth in paragraph (d) of this section and the specifications set forth in §60-4.3 of this part as a condition of any grant, contract, subcontract, loan, insurance or guarantee involving federally assisted construction covered by this part 60-4.

(b) All nonconstruction contractors covered by Executive Order 11246 and the implementing regulations shall include the notice in paragraph (d) of this section in all construction agreements which are necessary in whole or in part to the performance of the covered nonconstruction contract.

(c) Contracting officers, applicants and nonconstruction contractors shall given written notice to the Director within 10 working days of award of a contract subject to these provisions. The notification shall include the name, address and telephone number of the contractor; employer identification number; dollar amount of the contract, estimated starting and completion dates of the contract; the contract number; and geographical area in which the contract is to be performed. CFR 60-4.6

(d) The following notice shall be included in, and shall be a part of, all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts in excess of \$10,000 to be performed in geographical areas designated by the Director pursuant to §60-4.6 of this part (see 41 CFR 60-4.2(a)):

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY
(EXECUTIVE ORDER 11246)**

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment 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:

Time- tables	Goals for minority participation for each trade	Goals for female participation in each trade
Current Project	9.0% for CT New Haven County	6.9%

These goals are applicable to all 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 nonfederally 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

DIVISION 1 – FEDERAL REFERENCED DOCUMENTS

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 within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of 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 (insert description of the geographical areas where the contract is to be performed giving the state, county and city, if any).

[43 FR 49254, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978, as amended at 45 FR 65977, Oct. 3, 1980]

§60-4.3 Equal opportunity clauses.

(a) The equal opportunity clause published at 41 CFR 60-1.4(a) of this chapter is required to be included in, and is part of, all nonexempt Federal contracts and subcontracts, including construction contracts and subcontracts. The equal opportunity clause published at 41 CFR 60-1.4(b) is required to be included in, and is a part of, all nonexempt federally assisted construction contracts and subcontracts. In addition to the clauses described above, all Federal contracting officers, all applicants and all nonconstruction contractors, as applicable, shall include the specifications set forth in this section in all Federal and federally assisted construction contracts in excess of \$10,000 to be performed in geographical areas designated by the Director pursuant to §60-4.6 of this part and in construction subcontracts in excess of \$10,000 necessary in whole or in part to the performance of nonconstruction Federal contracts and subcontracts covered under the Executive order.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

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, United States 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:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) 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

DIVISION 1 – FEDERAL REFERENCED DOCUMENTS

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

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

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through 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 geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the FEDERAL REGISTER in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

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

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

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

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site 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.

DIVISION 1 – FEDERAL REFERENCED DOCUMENTS

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

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

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

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l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through 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, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity.

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If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

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

(b) The notice set forth in 41 CFR 60-4.2 and the specifications set forth in 41 CFR 60-4.3 replace the New Form for Federal Equal Employment Opportunity Bid Conditions for Federal and Federally Assisted Construction published at 41 FR 32482 and commonly known as the Model Federal EEO Bid Conditions, and the New Form shall not be used after the regulations in 41 CFR part 60-4 become effective.

[43 FR 49254, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978, as amended at 45 FR 65978, Oct. 3, 1980; 79 FR 72995, Dec. 9, 2014]

DISADVANTAGED BUSINESS ENTERPRISE
49 CFR Part 26

Title 49: Transportation

**PART 26—PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN
DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS**

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Appendix B to Part 26—Uniform Report of DBE Awards or Commitments and Payments Form

Appendix C to Part 26—DBE Business Development Program Guidelines

Appendix D to Part 26—Mentor-Protégé Program Guidelines

Appendix E to Part 26—Individual Determinations of Social and Economic Disadvantage

Appendix F to Part 26—Uniform Certification Application Form

Appendix G to Part 26—Personal Net Worth Statement

AUTHORITY: 23 U.S.C. 324; 42 U.S.C. 2000d, *et seq.*; Sec. 1101(b), Pub. L. 114-94, 129 Stat. 1312, 1324; 49 U.S.C. 47113, 47123; Sec. 150, Pub. L. 115-254, 132 Stat. 3215.

SOURCE: 64 FR 5126, Feb. 2, 1999, unless otherwise noted.

Subpart A—General

§26.1 What are the objectives of this part?

This part seeks to achieve several objectives:

- (a) To ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs;
- (b) To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- (c) To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;
- (d) To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
- (e) To help remove barriers to the participation of DBEs in DOT-assisted contracts;
- (f) To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients.
- (g) To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
- (h) To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

[64 FR 5126, Feb. 2, 1999, as amended at 79 FR 59592, Oct. 2, 2014]

§26.3 To whom does this part apply?

- (a) If you are a recipient of any of the following types of funds, this part applies to you:

(1) Federal-aid highway funds authorized under Titles I (other than Part B) and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, or Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, 112 Stat. 107. Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; and Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405.

(2) Federal transit funds authorized by Titles I, III, V and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, III, and V of the TEA-21, Pub. L. 105-178. Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; and Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405.

- (3) Airport funds authorized by 49 U.S.C. 47101, *et seq.*

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(b) [Reserved]

(c) If you are letting a contract, and that contract is to be performed entirely outside the United States, its territories and possessions, Puerto Rico, Guam, or the Northern Marianas Islands, this part does not apply to the contract.

(d) If you are letting a contract in which DOT financial assistance does not participate, this part does not apply to the contract.

[64 FR 5126, Feb. 2, 1999, as amended at 79 FR 59592, Oct. 2, 2014]

§26.5 What do the terms used in this part mean?

Affiliation has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR part 121.

(1) Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly or indirectly:

(i) One concern controls or has the power to control the other; or

(ii) A third party or parties controls or has the power to control both; or

(iii) An identity of interest between or among parties exists such that affiliation may be found.

(2) In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

Alaska Native means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

Alaska Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, *et seq.*).

Assets mean all the property of a person available for paying debts or for distribution, including one's respective share of jointly held assets. This includes, but is not limited to, cash on hand and in banks, savings accounts, IRA or other retirement accounts, accounts receivable, life insurance, stocks and bonds, real estate, and personal property.

Business, business concern or business enterprise means an entity organized for profit with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials, or labor.

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Compliance means that a recipient has correctly implemented the requirements of this part.

Contingent Liability means a liability that depends on the occurrence of a future and uncertain event. This includes, but is not limited to, guaranty for debts owed by the applicant concern, legal claims and judgments, and provisions for federal income tax.

Contract means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For purposes of this part, a lease is considered to be a contract.

Contractor means one who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport program.

Days mean calendar days. In computing any period of time described in this part, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, in circumstances where the recipient's offices are closed for all or part of the last day, the period extends to the next day on which the agency is open.

Department or DOT means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

Disadvantaged business enterprise or DBE means a for-profit small business concern—

(1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and

(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

DOT-assisted contract means any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

Good faith efforts means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

Home state means the state in which a DBE firm or applicant for DBE certification maintains its principal place of business.

Immediate family member means father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law, and domestic partner and civil unions recognized under State law.

Indian tribe means any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the

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United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. See definition of “tribally-owned concern” in this section.

Joint venture means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Liabilities mean financial or pecuniary obligations. This includes, but is not limited to, accounts payable, notes payable to bank or others, installment accounts, mortgages on real estate, and unpaid taxes.

Native Hawaiian means any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

Native Hawaiian Organization means any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

Noncompliance means that a recipient has not correctly implemented the requirements of this part.

Operating Administration or *OA* means any of the following parts of DOT: the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA). The “Administrator” of an operating administration includes his or her designees.

Personal net worth means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in an applicant or participating DBE firm; or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

Primary industry classification means the most current North American Industry Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in the North American Industry Classification Manual—United States, which is available on the Internet at the U.S. Census Bureau Web site: <http://www.census.gov/eos/www/naics/>.

Primary recipient means a recipient which receives DOT financial assistance and passes some or all of it on to another recipient.

Principal place of business means the business location where the individuals who manage the firm's day-to-day operations spend most working hours. If the offices from which management is directed and where the business records are kept are in different locations, the recipient will determine the principal place of business.

Program means any undertaking on a recipient's part to use DOT financial assistance, authorized by the laws to which this part applies.

Race-conscious measure or program is one that is focused specifically on assisting only DBEs,

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including women-owned DBEs.

Race-neutral measure or program is one that is, or can be, used to assist all small businesses. For the purposes of this part, *race-neutral* includes gender-neutrality.

Recipient is any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.

Secretary means the Secretary of Transportation or his/her designee.

Set-aside means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.

Small Business Administration or *SBA* means the United States Small Business Administration.

SBA certified firm refers to firms that have a current, valid certification from or recognized by the SBA under the 8(a) BD or SDB programs.

Small business concern means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a members of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

(1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis. An individual must demonstrate that he or she has held himself or herself out, as a member of a designated group if you require it.

(2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

(i) “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;

(ii) “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(iii) “Native Americans,” which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians;

(iv) “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau),

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Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kirbati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;

(v) “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(vi) Women;

(vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

(3) Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.

Spouse means a married person, including a person in a domestic partnership or a civil union recognized under State law.

Transit vehicle manufacturer means any manufacturer whose primary business purpose is to manufacture vehicles specifically built for public mass transportation. Such vehicles include, but are not limited to: Buses, rail cars, trolleys, ferries, and vehicles manufactured specifically for paratransit purposes. Producers of vehicles that receive post-production alterations or retrofitting to be used for public transportation purposes (e.g., so-called cutaway vehicles, vans customized for service to people with disabilities) are also considered transit vehicle manufacturers. Businesses that manufacture, mass-produce, or distribute vehicles solely for personal use and for sale “off the lot” are not considered transit vehicle manufacturers.

Tribally-owned concern means any concern at least 51 percent owned by an Indian tribe as defined in this section.

You refers to a recipient, unless a statement in the text of this part or the context requires otherwise (i.e., ‘You must do XYZ’ means that recipients must do XYZ).

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 68 FR 35553, June 16, 2003; 76 FR 5096, Jan. 28, 2011; 79 FR 59592, Oct. 2, 2014]

§26.7 What discriminatory actions are forbidden?

(a) You must never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by this part on the basis of race, color, sex, or national origin.

(b) In administering your DBE program, you must not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, sex, or national origin.

§26.9 How does the Department issue guidance and interpretations under this part?

(a) Only guidance and interpretations (including interpretations set forth in certification appeal

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decisions) consistent with this part 26 and issued after March 4, 1999 express the official positions and views of the Department of Transportation or any of its operating administrations.

(b) The Secretary of Transportation, Office of the Secretary of Transportation, FHWA, FTA, and FAA may issue written interpretations of or written guidance concerning this part. Written interpretations and guidance are valid, and express the official positions and views of the Department of Transportation or any of its operating administrations, only if they are issued over the signature of the Secretary of Transportation or if they contain the following statement:

The General Counsel of the Department of Transportation has reviewed this document and approved it as consistent with the language and intent of 49 CFR part 26.

[72 FR 15617, Apr. 2, 2007]

§26.11 What records do recipients keep and report?

(a) You must transmit the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to this part, at the intervals stated on the form.

(b) You must continue to provide data about your DBE program to the Department as directed by DOT operating administrations.

(c) You must create and maintain a bidders list.

(1) The purpose of this list is to provide you as accurate data as possible about the universe of DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts for use in helping you set your overall goals.

(2) You must obtain the following information about DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts:

(i) Firm name;

(ii) Firm address;

(iii) Firm's status as a DBE or non-DBE;

(iv) Age of the firm; and

(v) The annual gross receipts of the firm. You may obtain this information by asking each firm to indicate into what gross receipts bracket they fit (*e.g.*, less than \$500,000; \$500,000-\$1 million; \$1-2 million; \$2-5 million; etc.) rather than requesting an exact figure from the firm.

(3) You may acquire the information for your bidders list in a variety of ways. For example, you can collect the data from all bidders, before or after the bid due date. You can conduct a survey that will result in statistically sound estimate of the universe of DBE and non-DBE contractors and subcontractors who seek to work on your Federally-assisted contracts. You may combine different data collection approaches (*e.g.*, collect name and address information from all bidders, while conducting a survey with respect to age and gross receipts information).

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(d) You must maintain records documenting a firm's compliance with the requirements of this part. At a minimum, you must keep a complete application package for each certified firm and all affidavits of no-change, change notices, and on-site reviews. These records must be retained in accordance with applicable record retention requirements for the recipient's financial assistance agreement. Other certification or compliance related records must be retained for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the recipient's financial assistance agreement, whichever is longer.

(e) The State department of transportation in each UCP established pursuant to §26.81 of this part must report to the Department of Transportation's Office of Civil Rights, by January 1, 2015, and each year thereafter, the percentage and location in the State of certified DBE firms in the UCP Directory controlled by the following:

(1) Women;

(2) Socially and economically disadvantaged individuals (other than women); and

(3) Individuals who are women and are otherwise socially and economically disadvantaged individuals.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 76 FR 5096, Jan. 28, 2011; 79 FR 59593, Oct. 2, 2014]

§26.13 What assurances must recipients and contractors make?

(a) Each financial assistance agreement you sign with a DOT operating administration (or a primary recipient) must include the following assurance: The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 CFR part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

(b) Each contract you sign with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

(1) Withholding monthly progress payments;

(2) Assessing sanctions;

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(3) Liquidated damages; and/or

(4) Disqualifying the contractor from future bidding as non-responsible.

[79 FR 59593, Oct. 2, 2014]

§26.15 How can recipients apply for exemptions or waivers?

(a) You can apply for an exemption from any provision of this part. To apply, you must request the exemption in writing from the Office of the Secretary of Transportation, FHWA, FTA, or FAA. The Secretary will grant the request only if it documents special or exceptional circumstances, not likely to be generally applicable, and not contemplated in connection with the rulemaking that established this part, that make your compliance with a specific provision of this part impractical. You must agree to take any steps that the Department specifies to comply with the intent of the provision from which an exemption is granted. The Secretary will issue a written response to all exemption requests.

(b) You can apply for a waiver of any provision of Subpart B or C of this part including, but not limited to, any provisions regarding administrative requirements, overall goals, contract goals or good faith efforts. Program waivers are for the purpose of authorizing you to operate a DBE program that achieves the objectives of this part by means that may differ from one or more of the requirements of Subpart B or C of this part. To receive a program waiver, you must follow these procedures:

(1) You must apply through the concerned operating administration. The application must include a specific program proposal and address how you will meet the criteria of paragraph (b)(2) of this section. Before submitting your application, you must have had public participation in developing your proposal, including consultation with the DBE community and at least one public hearing. Your application must include a summary of the public participation process and the information gathered through it.

(2) Your application must show that—

(i) There is a reasonable basis to conclude that you could achieve a level of DBE participation consistent with the objectives of this part using different or innovative means other than those that are provided in subpart B or C of this part;

(ii) Conditions in your jurisdiction are appropriate for implementing the proposal;

(iii) Your proposal would prevent discrimination against any individual or group in access to contracting opportunities or other benefits of the program; and

(iv) Your proposal is consistent with applicable law and program requirements of the concerned operating administration's financial assistance program.

(3) The Secretary has the authority to approve your application. If the Secretary grants your application, you may administer your DBE program as provided in your proposal, subject to the following conditions:

(i) DBE eligibility is determined as provided in subparts D and E of this part, and DBE participation is counted as provided in §26.49;

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- (ii) Your level of DBE participation continues to be consistent with the objectives of this part;
- (iii) There is a reasonable limitation on the duration of your modified program; and
- (iv) Any other conditions the Secretary makes on the grant of the waiver.

(4) The Secretary may end a program waiver at any time and require you to comply with this part's provisions. The Secretary may also extend the waiver, if he or she determines that all requirements of paragraphs (b)(2) and (3) of this section continue to be met. Any such extension shall be for no longer than period originally set for the duration of the program.

Subpart B—Administrative Requirements for DBE Programs for Federally-Assisted Contracting

§26.21 Who must have a DBE program?

(a) If you are in one of these categories and let DOT-assisted contracts, you must have a DBE program meeting the requirements of this part:

- (1) All FHWA primary recipients receiving funds authorized by a statute to which this part applies;
- (2) FTA recipients receiving planning, capital and/or operating assistance who will award prime contracts (excluding transit vehicle purchases) the cumulative total value of which exceeds \$250,000 in FTA funds in a Federal fiscal year;
- (3) FAA recipients receiving grants for airport planning or development who will award prime contracts the cumulative total value of which exceeds \$250,000 in FAA funds in a Federal fiscal year.

(b)(1) You must submit a DBE program conforming to this part by August 31, 1999 to the concerned operating administration (OA). Once the OA has approved your program, the approval counts for all of your DOT-assisted programs (except that goals are reviewed by the particular operating administration that provides funding for your DOT-assisted contracts).

(2) You do not have to submit regular updates of your DBE programs, as long as you remain in compliance. However, you must submit significant changes in the program for approval.

(c) You are not eligible to receive DOT financial assistance unless DOT has approved your DBE program and you are in compliance with it and this part. You must continue to carry out your program until all funds from DOT financial assistance have been expended.

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 65 FR 68951, Nov. 15, 2000; 79 FR 59593, Oct. 2, 2014]

§26.23 What is the requirement for a policy statement?

You must issue a signed and dated policy statement that expresses your commitment to your DBE program, states its objectives, and outlines responsibilities for its implementation. You must circulate the statement throughout your organization and to the DBE and non-DBE business communities that perform work on your DOT-assisted contracts.

§26.25 What is the requirement for a liaison officer?

You must have a DBE liaison officer, who shall have direct, independent access to your Chief Executive Officer concerning DBE program matters. The liaison officer shall be responsible for implementing all aspects of your DBE program. You must also have adequate staff to administer the program in compliance with this part.

§26.27 What efforts must recipients make concerning DBE financial institutions?

You must thoroughly investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in your community and make reasonable efforts to use these institutions. You must also encourage prime contractors to use such institutions.

§26.29 What prompt payment mechanisms must recipients have?

(a) You must establish, as part of your DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment you make to the prime contractor.

(b) You must ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. You must use one of the following methods to comply with this requirement:

(1) You may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.

(2) You may decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.

(3) You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor.

(c) For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

(d) Your DBE program must provide appropriate means to enforce the requirements of this section. These means may include appropriate penalties for failure to comply, the terms and conditions of which you set. Your program may also provide that any delay or postponement of payment among the parties may take place only for good cause, with your prior written approval.

(e) You may also establish, as part of your DBE program, any of the following additional mechanisms to ensure prompt payment:

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(1) A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. You may specify the nature of such mechanisms.

(2) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

(3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

[68 FR 35553, June 16, 2003]

§26.31 What information must you include in your DBE directory?

(a) In the directory required under §26.81(g) of this Part, you must list all firms eligible to participate as DBEs in your program. In the listing for each firm, you must include its address, phone number, and the types of work the firm has been certified to perform as a DBE.

(b) You must list each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work. You must make any changes to your current directory entries necessary to meet the requirement of this paragraph (a) by August 26, 2011.

[76 FR 5096, Jan. 28, 2011]

§26.33 What steps must a recipient take to address overconcentration of DBEs in certain types of work?

(a) If you determine that DBE firms are so overconcentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work, you must devise appropriate measures to address this overconcentration.

(b) These measures may include the use of incentives, technical assistance, business development programs, mentor-protégé programs, and other appropriate measures designed to assist DBEs in performing work outside of the specific field in which you have determined that non-DBEs are unduly burdened. You may also consider varying your use of contract goals, to the extent consistent with §26.51, to ensure that non-DBEs are not unfairly prevented from competing for subcontracts.

(c) You must obtain the approval of the concerned DOT operating administration for your determination of overconcentration and the measures you devise to address it. Once approved, the measures become part of your DBE program.

§26.35 What role do business development and mentor-protégé programs have in the DBE program?

(a) You may or, if an operating administration directs you to, you must establish a DBE business development program (BDP) to assist firms in gaining the ability to compete successfully in the marketplace outside the DBE program. You may require a DBE firm, as a condition of receiving assistance through the BDP, to agree to terminate its participation in the DBE program after a certain time has passed or certain

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objectives have been reached. See Appendix C of this part for guidance on administering BDP programs.

(b) As part of a BDP or separately, you may establish a “mentor-protégé” program, in which another DBE or non-DBE firm is the principal source of business development assistance to a DBE firm.

(1) Only firms you have certified as DBEs before they are proposed for participation in a mentor-protégé program are eligible to participate in the mentor-protégé program.

(2) During the course of the mentor-protégé relationship, you must:

(i) Not award DBE credit to a non-DBE mentor firm for using its own protégé firm for more than one half of its goal on any contract let by the recipient; and

(ii) Not award DBE credit to a non-DBE mentor firm for using its own protégé firm for more than every other contract performed by the protégé firm.

(3) For purposes of making determinations of business size under this part, you must not treat protégé firms as affiliates of mentor firms, when both firms are participating under an approved mentor-protégé program. See Appendix D of this part for guidance concerning the operation of mentor-protégé programs.

(c) Your BDPs and mentor-protégé programs must be approved by the concerned operating administration before you implement them. Once approved, they become part of your DBE program.

§26.37 What are a recipient's responsibilities for monitoring the performance of other program participants?

(a) You must implement appropriate mechanisms to ensure compliance with the part's requirements by all program participants (e.g., applying legal and contract remedies available under Federal, state and local law). You must set forth these mechanisms in your DBE program.

(b) Your DBE program must also include a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. This mechanism must include a written certification that you have reviewed contracting records and monitored work sites in your state for this purpose. The monitoring to which this paragraph refers may be conducted in conjunction with monitoring of contract performance for other purposes (e.g., close-out reviews for a contract).

(c) This mechanism must provide for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments. In your reports of DBE participation to the Department, you must display both commitments and attainments.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 68 FR 35554, June 16, 2003; 76 FR 5097, Jan. 28, 2011]

§26.39 Fostering small business participation.

(a) Your DBE program must include an element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude

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small business participation in procurements as prime contractors or subcontractors.

(b) This element must be submitted to the appropriate DOT operating administration for approval as a part of your DBE program by February 28, 2012. As part of this program element you may include, but are not limited to, the following strategies:

(1) Establishing a race-neutral small business set-aside for prime contracts under a stated amount (*e.g.*, \$1 million).

(2) In multi-year design-build contracts or other large contracts (*e.g.*, for “megaprojects”) requiring bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBEs, can reasonably perform.

(3) On prime contracts not having DBE contract goals, requiring the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.

(4) Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.

(5) To meet the portion of your overall goal you project to meet through race-neutral measures, ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.

(c) You must actively implement your program elements to foster small business participation. Doing so is a requirement of good faith implementation of your DBE program.

[76 FR 5097, Jan. 28, 2011]

Subpart C—Goals, Good Faith Efforts, and Counting

§26.41 What is the role of the statutory 10 percent goal in this program?

(a) The statutes authorizing this program provide that, except to the extent the Secretary determines otherwise, not less than 10 percent of the authorized funds are to be expended with DBEs.

(b) This 10 percent goal is an aspirational goal at the national level, which the Department uses as a tool in evaluating and monitoring DBEs' opportunities to participate in DOT-assisted contracts.

(c) The national 10 percent goal does not authorize or require recipients to set overall or contract goals at the 10 percent level, or any other particular level, or to take any special administrative steps if their goals are above or below 10 percent.

§26.43 Can recipients use set-asides or quotas as part of this program?

(a) You are not permitted to use quotas for DBEs on DOT-assisted contracts subject to this part.

(b) You may not set-aside contracts for DBEs on DOT-assisted contracts subject to this part, except

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that, in limited and extreme circumstances, you may use set-asides when no other method could be reasonably expected to redress egregious instances of discrimination.

§26.45 How do recipients set overall goals?

(a)(1) Except as provided in paragraph (a)(2) of this section, you must set an overall goal for DBE participation in your DOT-assisted contracts.

(2) If you are a FTA or FAA recipient who reasonably anticipates awarding (excluding transit vehicle purchases) \$250,000 or less in FTA or FAA funds in prime contracts in a Federal fiscal year, you are not required to develop overall goals for FTA or FAA respectively for that fiscal year. However, if you have an existing DBE program, it must remain in effect and you must seek to fulfill the objectives outlined in §26.1.

(b) Your overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on your DOT-assisted contracts (hereafter, the “relative availability of DBEs”). The goal must reflect your determination of the level of DBE participation you would expect absent the effects of discrimination. You cannot simply rely on either the 10 percent national goal, your previous overall goal or past DBE participation rates in your program without reference to the relative availability of DBEs in your market.

(c) *Step 1.* You must begin your goal setting process by determining a base figure for the relative availability of DBEs. The following are examples of approaches that you may take toward determining a base figure. These examples are provided as a starting point for your goal setting process. Any percentage figure derived from one of these examples should be considered a basis from which you begin when examining all evidence available in your jurisdiction. These examples are not intended as an exhaustive list. Other methods or combinations of methods to determine a base figure may be used, subject to approval by the concerned operating administration.

(1) *Use DBE Directories and Census Bureau Data.* Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market that perform work in the same NAICS codes. (Information about the CBP data base may be obtained from the Census Bureau at their web site, www.census.gov/epcd/cbp/view/cbpview.html.) Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.

(2) *Use a bidders list.* Determine the number of DBEs that have bid or quoted (successful and unsuccessful) on your DOT-assisted prime contracts or subcontracts in the past three years. Determine the number of all businesses that have bid or quoted (successful and unsuccessful) on prime or subcontracts in the same time period. Divide the number of DBE bidders and quoters by the number of all businesses to derive a base figure for the relative availability of DBEs in your market. When using this approach, you must establish a mechanism (documented in your goal submission) to directly capture data on DBE and non-DBE prime and subcontractors that submitted bids or quotes on your DOT-assisted contracts.

(3) *Use data from a disparity study.* Use a percentage figure derived from data in a valid, applicable disparity study.

(4) *Use the goal of another DOT recipient.* If another DOT recipient in the same, or substantially similar, market has set an overall goal in compliance with this rule, you may use that goal as a base figure

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for your goal.

(5) *Alternative methods.* Except as otherwise provided in this paragraph, you may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in your market. The exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of paragraph (c)(2) of this section, is not an acceptable alternative means of determining the availability of DBEs.

(d) *Step 2.* Once you have calculated a base figure, you must examine all of the evidence available in your jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at your overall goal. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

(1) There are many types of evidence that must be considered when adjusting the base figure. These include:

(i) The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years;

(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure; and

(iii) If your base figure is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.

(2) If available, you must consider evidence from related fields that affect the opportunities for DBEs to form, grow and compete. These include, but are not limited to:

(i) Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in your program;

(ii) Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.

(3) If you attempt to make an adjustment to your base figure to account for the continuing effects of past discrimination (often called the “but for” factor) or the effects of an ongoing DBE program, the adjustment must be based on demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought.

(e) Once you have determined a percentage figure in accordance with paragraphs (c) and (d) of this section, you should express your overall goal as follows:

(1) If you are an FHWA recipient, as a percentage of all Federal-aid highway funds you will expend in FHWA-assisted contracts in the forthcoming three fiscal years.

(2) **If you are an FTA or FAA recipient, as a percentage of all FT or FAA funds (exclusive of FTA funds to be used for the purchase of transit vehicles) that you will expend in FTA or FAA-assisted contracts in the three forthcoming fiscal years.**

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(3) In appropriate cases, the FHWA, FTA or FAA Administrator may permit or require you to express your overall goal as a percentage of funds for a particular grant or project or group of grants and/or projects, including entire projects. Like other overall goals, a project goal may be adjusted to reflect changed circumstances, with the concurrence of the appropriate operating administration.

(i) A project goal is an overall goal, and must meet all the substantive and procedural requirements of this section pertaining to overall goals.

(ii) A project goal covers the entire length of the project to which it applies.

(iii) The project goal should include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal.

(iv) The funds for the project to which the project goal pertains are separated from the base from which your regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

(f)(1)(i) If you set your overall goal on a fiscal year basis, you must submit it to the applicable DOT operating administration by August 1 at three-year intervals, based on a schedule established by the FHWA, FTA, or FAA, as applicable, and posted on that agency's Web site.

(ii) You may adjust your three-year overall goal during the three-year period to which it applies, in order to reflect changed circumstances. You must submit such an adjustment to the concerned operating administration for review and approval.

(iii) The operating administration may direct you to undertake a review of your goal if necessary to ensure that the goal continues to fit your circumstances appropriately.

(iv) While you are required to submit an overall goal to FHWA, FTA, or FAA only every three years, the overall goal and the provisions of Sec. 26.47(c) apply to each year during that three-year period.

(v) You may make, for informational purposes, projections of your expected DBE achievements during each of the three years covered by your overall goal. However, it is the overall goal itself, and not these informational projections, to which the provisions of section 26.47(c) of this part apply.

(2) If you are a recipient and set your overall goal on a project or grant basis as provided in paragraph (e)(3) of this section, you must submit the goal for review at a time determined by the FHWA, FTA or FAA Administrator, as applicable.

(3) You must include with your overall goal submission a description of the methodology you used to establish the goal, including your base figure and the evidence with which it was calculated, and the adjustments you made to the base figure and the evidence you relied on for the adjustments. You should also include a summary listing of the relevant available evidence in your jurisdiction and, where applicable, an explanation of why you did not use that evidence to adjust your base figure. You must also include your projection of the portions of the overall goal you expect to meet through race-neutral and race-conscious measures, respectively (*see* 26.51(c)).

(4) You are not required to obtain prior operating administration concurrence with your overall goal. However, if the operating administration's review suggests that your overall goal has not been correctly

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calculated or that your method for calculating goals is inadequate, the operating administration may, after consulting with you, adjust your overall goal or require that you do so. The adjusted overall goal is binding on you. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the operating administration will be guided by goal setting principles and best practices identified by the Department in guidance issued pursuant to §26.9.

(5) If you need additional time to collect data or take other steps to develop an approach to setting overall goals, you may request the approval of the concerned operating administration for an interim goal and/or goal-setting mechanism. Such a mechanism must:

(i) Reflect the relative availability of DBEs in your local market to the maximum extent feasible given the data available to you; and

(ii) Avoid imposing undue burdens on non-DBEs.

(6) Timely submission and operating administration approval of your overall goal is a condition of eligibility for DOT financial assistance.

(7) If you fail to establish and implement goals as provided in this section, you are not in compliance with this part. If you establish and implement goals in a way different from that provided in this part, you are not in compliance with this part. If you fail to comply with this requirement, you are not eligible to receive DOT financial assistance.

(g)(1) In establishing an overall goal, you must provide for consultation and publication. This includes:

(i) Consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and your efforts to establish a level playing field for the participation of DBEs. The consultation must include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it must occur before you are required to submit your methodology to the operating administration for review pursuant to paragraph (f) of this section. You must document in your goal submission the consultation process you engaged in. Notwithstanding paragraph (f)(4) of this section, you may not implement your proposed goal until you have complied with this requirement.

(ii) A published notice announcing your proposed overall goal before submission to the operating administration on August 1st. The notice must be posted on your official Internet Web site and may be posted in any other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by the operating administration, the revised goal must be posted on your official Internet Web site.

(2) At your discretion, you may inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at your principal office and for a 30-day comment period. Notice of the comment period must include addresses to which comments may be sent. The public comment period will not extend the August 1st deadline set in paragraph (f) of this section.

(h) Your overall goals must provide for participation by all certified DBEs and must not be subdivided into group-specific goals.

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[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 65 FR 68951, Nov. 15, 2000; 68 FR 35553, June 16, 2003; 75 FR 5536, Feb. 3, 2010; 76 FR 5097, Jan. 28, 2011; 79 FR 59593, Oct. 2, 2014]

§26.47 Can recipients be penalized for failing to meet overall goals?

(a) You cannot be penalized, or treated by the Department as being in noncompliance with this rule, because your DBE participation falls short of your overall goal, unless you have failed to administer your program in good faith.

(b) If you do not have an approved DBE program or overall goal, or if you fail to implement your program in good faith, you are in noncompliance with this part.

(c) If the awards and commitments shown on your Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall goal applicable to that fiscal year, you must do the following in order to be regarded by the Department as implementing your DBE program in good faith:

(1) Analyze in detail the reasons for the difference between the overall goal and your awards and commitments in that fiscal year;

(2) Establish specific steps and milestones to correct the problems you have identified in your analysis and to enable you to meet fully your goal for the new fiscal year;

(3)(i) If you are a state highway agency; one of the 50 largest transit authorities as determined by the FTA; or an Operational Evolution Partnership Plan airport or other airport designated by the FAA, you must submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (c)(1) and (2) of this section to the appropriate operating administration for approval. If the operating administration approves the report, you will be regarded as complying with the requirements of this section for the remainder of the fiscal year.

(ii) As a transit authority or airport not meeting the criteria of paragraph (c)(3)(i) of this section, you must retain analysis and corrective actions in your records for three years and make it available to FTA or FAA on request for their review.

(4) FHWA, FTA, or FAA may impose conditions on the recipient as part of its approval of the recipient's analysis and corrective actions including, but not limited to, modifications to your overall goal methodology, changes in your race-conscious/race-neutral split, or the introduction of additional race-neutral or race-conscious measures.

(5) You may be regarded as being in noncompliance with this Part, and therefore subject to the remedies in §26.103 or §26.105 of this part and other applicable regulations, for failing to implement your DBE program in good faith if any of the following things occur:

(i) You do not submit your analysis and corrective actions to FHWA, FTA, or FAA in a timely manner as required under paragraph (c)(3) of this section;

(ii) FHWA, FTA, or FAA disapproves your analysis or corrective actions; or

(iii) You do not fully implement the corrective actions to which you have committed or conditions

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that FHWA, FTA, or FAA has imposed following review of your analysis and corrective actions.

(d) If, as recipient, your Uniform Report of DBE Awards or Commitments and Payments or other information coming to the attention of FTA, FHWA, or FAA, demonstrates that current trends make it unlikely that you will achieve DBE awards and commitments that would be necessary to allow you to meet your overall goal at the end of the fiscal year, FHWA, FTA, or FAA, as applicable, may require you to make further good faith efforts, such as by modifying your race-conscious/race-neutral split or introducing additional race-neutral or race-conscious measures for the remainder of the fiscal year.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5098, Jan. 28, 2011]

§26.49 How are overall goals established for transit vehicle manufacturers?

(a) If you are an FTA recipient, you must require in your DBE program that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, certify that it has complied with the requirements of this section. You do not include FTA assistance used in transit vehicle procurements in the base amount from which your overall goal is calculated.

(1) Only those transit vehicle manufacturers listed on FTA's certified list of Transit Vehicle Manufacturers, or that have submitted a goal methodology to FTA that has been approved or has not been disapproved, at the time of solicitation are eligible to bid.

(2) A TVM's failure to implement the DBE Program in the manner as prescribed in this section and throughout 49 CFR part 26 will be deemed as non-compliance, which will result in removal from FTA's certified TVMs list, resulting in that manufacturer becoming ineligible to bid.

(3) FTA recipient's failure to comply with the requirements set forth in paragraph (a) of this section may result in formal enforcement action or appropriate sanction as determined by FTA (e.g., FTA declining to participate in the vehicle procurement).

(4) FTA recipients are required to submit within 30 days of making an award, the name of the successful bidder, and the total dollar value of the contract in the manner prescribed in the grant agreement.

(b) If you are a transit vehicle manufacturer, you must establish and submit for FTA's approval an annual overall percentage goal.

(1) In setting your overall goal, you should be guided, to the extent applicable, by the principles underlying §26.45. The base from which you calculate this goal is the amount of FTA financial assistance included in transit vehicle contracts you will bid on during the fiscal year in question, less the portion(s) attributable to the manufacturing process performed entirely by the transit vehicle manufacturer's own forces.

(i) You must consider and include in your base figure all domestic contracting opportunities made available to non-DBE firms; and

(ii) You must exclude from this base figure funds attributable to work performed outside the United States and its territories, possessions, and commonwealths.

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(iii) In establishing an overall goal, the transit vehicle manufacturer must provide for public participation. This includes consultation with interested parties consistent with §26.45(g).

(2) The requirements of this part with respect to submission and approval of overall goals apply to you as they do to recipients.

(c) Transit vehicle manufacturers awarded must comply with the reporting requirements of §26.11 of this part including the requirement to submit the Uniform Report of Awards or Commitments and Payments, in order to remain eligible to bid on FTA assisted transit vehicle procurements.

(d) Transit vehicle manufacturers must implement all other applicable requirements of this part, except those relating to UCPs and DBE certification procedures.

(e) If you are an FHWA or FAA recipient, you may, with FHWA or FAA approval, use the procedures of this section with respect to procurements of vehicles or specialized equipment. If you choose to do so, then the manufacturers of this equipment must meet the same requirements (including goal approval by FHWA or FAA) as transit vehicle manufacturers must meet in FTA-assisted procurements.

(f) As a recipient you may, with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of complying through the procedures of this section.

[79 FR 59594, Oct. 2, 2014]

§26.51 What means do recipients use to meet overall goals?

(a) You must meet the maximum feasible portion of your overall goal by using race-neutral means of facilitating race-neutral DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal.

(b) Race-neutral means include, but are not limited to, the following:

(1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39 of this part.

(2) Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);

(3) Providing technical assistance and other services;

(4) Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);

(5) Implementing a supportive services program to develop and improve immediate and long-term

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business management, record keeping, and financial and accounting capability for DBEs and other small businesses;

(6) Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;

(7) Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;

(8) Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and

(9) Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

(c) Each time you submit your overall goal for review by the concerned operating administration, you must also submit your projection of the portion of the goal that you expect to meet through race-neutral means and your basis for that projection. This projection is subject to approval by the concerned operating administration, in conjunction with its review of your overall goal.

(d) You must establish contract goals to meet any portion of your overall goal you do not project being able to meet using race-neutral means.

(e) The following provisions apply to the use of contract goals:

(1) You may use contract goals only on those DOT-assisted contracts that have subcontracting possibilities.

(2) You are not required to set a contract goal on every DOT-assisted contract. You are not required to set each contract goal at the same percentage level as the overall goal. The goal for a specific contract may be higher or lower than that percentage level of the overall goal, depending on such factors as the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract. However, over the period covered by your overall goal, you must set contract goals so that they will cumulatively result in meeting any portion of your overall goal you do not project being able to meet through the use of race-neutral means.

(3) Operating administration approval of each contract goal is not necessarily required. However, operating administrations may review and approve or disapprove any contract goal you establish.

(4) Your contract goals must provide for participation by all certified DBEs and must not be subdivided into group-specific goals.

(f) To ensure that your DBE program continues to be narrowly tailored to overcome the effects of discrimination, you must adjust your use of contract goals as follows:

(1) If your approved projection under paragraph (c) of this section estimates that you can meet your entire overall goal for a given year through race-neutral means, you must implement your program without setting contract goals during that year, unless it becomes necessary in order meet your overall goal.

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Example to paragraph (f)(1): Your overall goal for Year 1 is 12 percent. You estimate that you can obtain 12 percent or more DBE participation through the use of race-neutral measures, without any use of contract goals. In this case, you do not set any contract goals for the contracts that will be performed in Year 1. However, if part way through Year 1, your DBE awards or commitments are not at a level that would permit you to achieve your overall goal for Year 1, you could begin setting race-conscious DBE contract goals during the remainder of the year as part of your obligation to implement your program in good faith.

(2) If, during the course of any year in which you are using contract goals, you determine that you will exceed your overall goal, you must reduce or eliminate the use of contract goals to the extent necessary to ensure that the use of contract goals does not result in exceeding the overall goal. If you determine that you will fall short of your overall goal, then you must make appropriate modifications in your use of race-neutral and/or race-conscious measures to allow you to meet the overall goal.

Example to paragraph (f)(2): In Year II, your overall goal is 12 percent. You have estimated that you can obtain 5 percent DBE participation through use of race-neutral measures. You therefore plan to obtain the remaining 7 percent participation through use of DBE goals. By September, you have already obtained 11 percent DBE participation for the year. For contracts let during the remainder of the year, you use contract goals only to the extent necessary to obtain an additional one percent DBE participation. However, if you determine in September that your participation for the year is likely to be only 8 percent total, then you would increase your use of race-neutral and/or race-conscious means during the remainder of the year in order to achieve your overall goal.

(3) If the DBE participation you have obtained by race-neutral means alone meets or exceeds your overall goals for two consecutive years, you are not required to make a projection of the amount of your goal you can meet using such means in the next year. You do not set contract goals on any contracts in the next year. You continue using only race-neutral means to meet your overall goals unless and until you do not meet your overall goal for a year.

Example to paragraph (f)(3): Your overall goal for Years I and Year II is 10 percent. The DBE participation you obtain through race-neutral measures alone is 10 percent or more in each year. (For this purpose, it does not matter whether you obtained additional DBE participation through using contract goals in these years.) In Year III and following years, you do not need to make a projection under paragraph (c) of this section of the portion of your overall goal you expect to meet using race-neutral means. You simply use race-neutral means to achieve your overall goals. However, if in Year VI your DBE participation falls short of your overall goal, then you must make a paragraph (c) projection for Year VII and, if necessary, resume use of contract goals in that year.

(4) If you obtain DBE participation that exceeds your overall goal in two consecutive years through the use of contract goals (*i.e.*, not through the use of race-neutral means alone), you must reduce your use of contract goals proportionately in the following year.

Example to paragraph (f)(4): In Years I and II, your overall goal is 12 percent, and you obtain 14 and 16 percent DBE participation, respectively. You have exceeded your goals over the two-year period by an average of 25 percent. In Year III, your overall goal is again 12 percent, and your paragraph (c) projection estimates that you will obtain 4 percent DBE participation through race-neutral means and 8 percent through contract goals. You then reduce the contract goal projection by 25 percent (*i.e.*, from 8 to 6 percent) and set contract goals accordingly during the year. If in Year III you obtain 11 percent participation, you do not

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use this contract goal adjustment mechanism for Year IV, because there have not been two *consecutive* years of exceeding overall goals.

(g) In any year in which you project meeting part of your goal through race-neutral means and the remainder through contract goals, you must maintain data separately on DBE achievements in those contracts with and without contract goals, respectively. You must report this data to the concerned operating administration as provided in §26.11.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5098, Jan. 28, 2011; 79 FR 59595, Oct. 2, 2014]

§26.53 What are the good faith efforts procedures recipients follow in situations where there are contract goals?

(a) When you have established a DBE contract goal, you must award the contract only to a bidder/offeror who makes good faith efforts to meet it. You must determine that a bidder/offeror has made good faith efforts if the bidder/offeror does either of the following things:

(1) Documents that it has obtained enough DBE participation to meet the goal; or

(2) Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so. If the bidder/offeror does document adequate good faith efforts, you must not deny award of the contract on the basis that the bidder/offeror failed to meet the goal. See Appendix A of this part for guidance in determining the adequacy of a bidder/offeror's good faith efforts.

(b) In your solicitations for DOT-assisted contracts for which a contract goal has been established, you must require the following:

(1) Award of the contract will be conditioned on meeting the requirements of this section;

(2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (b)(3) of this section:

(i) The names and addresses of DBE firms that will participate in the contract;

(ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;

(iii) The dollar amount of the participation of each DBE firm participating;

(iv) Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and

(v) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment.

(vi) If the contract goal is not met, evidence of good faith efforts (see Appendix A of this part). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote

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submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and

(3)(i) At your discretion, the bidder/offeror must present the information required by paragraph (b)(2) of this section—

(A) Under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures; or

(B) No later than 7 days after bid opening as a matter of responsibility. The 7 days shall be reduced to 5 days beginning January 1, 2017.

(ii) Provided that, in a negotiated procurement, including a design-build procurement, the bidder/offeror may make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required by paragraph (b)(2) of this section before the final selection for the contract is made by the recipient.

(c) You must make sure all information is complete and accurate and adequately documents the bidder/offeror's good faith efforts before committing yourself to the performance of the contract by the bidder/offeror.

(d) If you determine that the apparent successful bidder/offeror has failed to meet the requirements of paragraph (a) of this section, you must, before awarding the contract, provide the bidder/offeror an opportunity for administrative reconsideration.

(1) As part of this reconsideration, the bidder/offeror must have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so.

(2) Your decision on reconsideration must be made by an official who did not take part in the original determination that the bidder/offeror failed to meet the goal or make adequate good faith efforts to do so.

(3) The bidder/offeror must have the opportunity to meet in person with your reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so.

(4) You must send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so.

(5) The result of the reconsideration process is not administratively appealable to the Department of Transportation.

(e) In a “design-build” or “turnkey” contracting situation, in which the recipient lets a master contract to a contractor, who in turn lets subsequent subcontracts for the work of the project, a recipient may establish a goal for the project. The master contractor then establishes contract goals, as appropriate, for the subcontracts it lets. Recipients must maintain oversight of the master contractor's activities to ensure that they are conducted consistent with the requirements of this part.

(f)(1)(i) You must require that a prime contractor not terminate a DBE subcontractor listed in response to paragraph (b)(2) of this section (or an approved substitute DBE firm) without your prior written consent.

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This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

(ii) You must include in each prime contract a provision stating:

(A) That the contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains your written consent as provided in this paragraph (f); and

(B) That, unless your consent is provided under this paragraph (f), the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

(2) You may provide such written consent only if you agree, for reasons stated in your concurrence document, that the prime contractor has good cause to terminate the DBE firm.

(3) For purposes of this paragraph, good cause includes the following circumstances:

(i) The listed DBE subcontractor fails or refuses to execute a written contract;

(ii) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;

(iii) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements.

(iv) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;

(v) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law;

(vii) You have determined that the listed DBE subcontractor is not a responsible contractor;

(vi) The listed DBE subcontractor voluntarily withdraws from the project and provides to you written notice of its withdrawal;

(vii) The listed DBE is ineligible to receive DBE credit for the type of work required;

(viii) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;

(ix) Other documented good cause that you determine compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

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

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

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

(g) When a DBE subcontractor is terminated as provided in paragraph (f) of this section, or fails to complete its work on the contract for any reason, you must require the prime contractor to make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal you established for the procurement. The good faith efforts shall be documented by the contractor. If the recipient requests documentation under this provision, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days if necessary at the request of the contractor, and the recipient shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

(h) You must include in each prime contract the contract clause required by §26.13(b) stating that failure by the contractor to carry out the requirements of this part is a material breach of the contract and may result in the termination of the contract or such other remedies set forth in that section you deem appropriate if the prime contractor fails to comply with the requirements of this section.

(i) You must apply the requirements of this section to DBE bidders/offerors for prime contracts. In determining whether a DBE bidder/offeror for a prime contract has met a contract goal, you count the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.

(j) You must require the contractor awarded the contract to make available upon request a copy of all DBE subcontracts. The subcontractor shall ensure that all subcontracts or an agreement with DBEs to supply labor or materials require that the subcontract and all lower tier subcontractors be performed in accordance with this part's provisions.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5098, Jan. 28, 2011; 79 FR 59595, Oct. 2, 2014]

§26.55 How is DBE participation counted toward goals?

(a) When a DBE participates in a contract, you count only the value of the work actually performed by the DBE toward DBE goals.

(1) Count the entire amount of that portion of a construction contract (or other contract not covered by paragraph (a)(2) of this section) that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).

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(2) Count the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, toward DBE goals, provided you determine the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.

(3) When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.

(b) When a DBE performs as a participant in a joint venture, count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.

(c) Count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract.

(1) A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, you must evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

(2) A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, you must examine similar transactions, particularly those in which DBEs do not participate.

(3) If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function.

(4) When a DBE is presumed not to be performing a commercially useful function as provided in paragraph (c)(3) of this section, the DBE may present evidence to rebut this presumption. You may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

(5) Your decisions on commercially useful function matters are subject to review by the concerned operating administration, but are not administratively appealable to DOT.

(d) Use the following factors in determining whether a DBE trucking company is performing a commercially useful function:

(1) The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the

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purpose of meeting DBE goals.

(2) The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

(3) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.

(4) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.

(5) The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement. If a recipient chooses this approach, it must obtain written consent from the appropriate DOT operating administration.

Example to paragraph (d)(5): DBE Firm X uses two of its own trucks on a contract. It leases two trucks from DBE Firm Y and six trucks equipped with drivers from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. DBE credit could be awarded only for the fees or commissions pertaining to the remaining trucks Firm X receives as a result of the lease with Firm Z.

(6) The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.

Example to paragraph (d)(6): DBE Firm X uses two of its own trucks on a contract. It leases two additional trucks from non-DBE Firm Z. Firm X uses its own employees to drive the trucks leased from Firm Z. DBE credit would be awarded for the total value of the transportation services provided by all four trucks.

(7) For purposes of this paragraph (d), a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

(e) Count expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:

(1)(i) If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies toward DBE goals.

(ii) For purposes of this paragraph (e)(1), a manufacturer is a firm that operates or maintains a factory

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or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications.

(2)(i) If the materials or supplies are purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies toward DBE goals.

(ii) For purposes of this section, a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

(A) To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

(B) A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business as provided in this paragraph (e)(2)(ii) if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad hoc or contract-by-contract basis.

(C) Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph (e)(2).

(3) With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward DBE goals, provided you determine the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of the materials and supplies themselves toward DBE goals, however.

(4) You must determine the amount of credit awarded to a firm for the provisions of materials and supplies (e.g., whether a firm is acting as a regular dealer or a transaction expeditor) on a contract-by-contract basis.

(f) If a firm is not currently certified as a DBE in accordance with the standards of subpart D of this part at the time of the execution of the contract, do not count the firm's participation toward any DBE goals, except as provided for in §26.87(i).

(g) Do not count the dollar value of work performed under a contract with a firm after it has ceased to be certified toward your overall goal.

(h) Do not count the participation of a DBE subcontractor toward a contractor's final compliance with its DBE obligations on a contract until the amount being counted has actually been paid to the DBE.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 68 FR 35554, June 16, 2003; 79 FR 59595, Oct. 2, 2014]

Subpart D—Certification Standards

§26.61 How are burdens of proof allocated in the certification process?

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(a) In determining whether to certify a firm as eligible to participate as a DBE, you must apply the standards of this subpart.

(b) The firm seeking certification has the burden of demonstrating to you, by a preponderance of the evidence, that it meets the requirements of this subpart concerning group membership or individual disadvantage, business size, ownership, and control.

(c) You must rebuttably presume that members of the designated groups identified in §26.67(a) are socially and economically disadvantaged. This means they do not have the burden of proving to you that they are socially and economically disadvantaged. In order to obtain the benefit of the rebuttable presumption, individuals must submit a signed, notarized statement that they are a member of one of the groups in §26.67(a). Applicants do have the obligation to provide you information concerning their economic disadvantage (*see* §26.67).

(d) Individuals who are not presumed to be socially and economically disadvantaged, and individuals concerning whom the presumption of disadvantage has been rebutted, have the burden of proving to you, by a preponderance of the evidence, that they are socially and economically disadvantaged. (See Appendix E of this part.)

(e) You must make determinations concerning whether individuals and firms have met their burden of demonstrating group membership, ownership, control, and social and economic disadvantage (where disadvantage must be demonstrated on an individual basis) by considering all the facts in the record, viewed as a whole.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35554, June 16, 2003]

§26.63 What rules govern group membership determinations?

(a)(1) If, after reviewing the signed notarized statement of membership in a presumptively disadvantaged group (*see* §26.61(c)), you have a well founded reason to question the individual's claim of membership in that group, you must require the individual to present additional evidence that he or she is a member of the group.

(2) You must provide the individual a written explanation of your reasons for questioning his or her group membership and a written request for additional evidence as outlined in paragraph (b) of this section.

(3) In implementing this section, you must take special care to ensure that you do not impose a disproportionate burden on members of any particular designated group. Imposing a disproportionate burden on members of a particular group could violate §26.7(b) and/or Title VI of the Civil Rights Act of 1964 and 49 CFR part 21.

(b) In making such a determination, you must consider whether the person has held himself out to be a member of the group over a long period of time prior to application for certification and whether the person is regarded as a member of the group by the relevant community. You may require the applicant to produce appropriate documentation of group membership.

(1) If you determine that an individual claiming to be a member of a group presumed to be disadvantaged is not a member of a designated disadvantaged group, the individual must demonstrate social and economic disadvantage on an individual basis.

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(2) Your decisions concerning membership in a designated group are subject to the certification appeals procedure of §26.89.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35554, June 16, 2003]

§26.65 What rules govern business size determinations?

(a) To be an eligible DBE, a firm (including its affiliates) must be an existing small business, as defined by Small Business Administration (SBA) standards. As a recipient, you must apply current SBA business size standard(s) found in 13 CFR part 121 appropriate to the type(s) of work the firm seeks to perform in DOT-assisted contracts, including the primary industry classification of the applicant.

(b) Even if it meets the requirements of paragraph (a) of this section, a firm is not an eligible DBE for the purposes of Federal Highway Administration and Federal Transit Administration-assisted work in any Federal fiscal year if the firm (including its affiliates) has had average annual gross receipts, as defined by SBA regulations (see 13 CFR 121.104), over the firm's previous three fiscal years, in excess of \$26.29 million. The Department will adjust this amount for inflation on an annual basis. The adjusted amount will be published on the Department's website in subsequent years.

(c) The Department adjusts the number in paragraph (b) of this section annually using the Department of Commerce price deflators for purchases by State and local governments as the basis for this adjustment.

[74 FR 15224, Apr. 3, 2009, as amended at 79 FR 59596, Oct. 2, 2014; 85 FR 80647, Dec. 14, 2020]

§26.67 What rules determine social and economic disadvantage?

(a) *Presumption of disadvantage.* (1) You must rebuttably presume that citizens of the United States (or lawfully admitted permanent residents) who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the SBA, are socially and economically disadvantaged individuals. You must require applicants to submit a signed, notarized certification that each presumptively disadvantaged owner is, in fact, socially and economically disadvantaged.

(2)(i) You must require each individual owner of a firm applying to participate as a DBE, whose ownership and control are relied upon for DBE certification, to certify that he or she has a personal net worth that does not exceed \$1.32 million.

(ii) You must require each individual who makes this certification to support it with a signed, notarized statement of personal net worth, with appropriate supporting documentation. To meet this requirement, you must use the DOT personal net worth form provided in appendix G to this part without change or revision. Where necessary to accurately determine an individual's personal net worth, you may, on a case-by-case basis, require additional financial information from the owner of an applicant firm (e.g., information concerning the assets of the owner's spouse, where needed to clarify whether assets have been transferred to the spouse or when the owner's spouse is involved in the operation of the company). Requests for additional information shall not be unduly burdensome or intrusive.

(iii) In determining an individual's net worth, you must observe the following requirements:

(A) Exclude an individual's ownership interest in the applicant firm;

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(B) Exclude the individual's equity in his or her primary residence (except any portion of such equity that is attributable to excessive withdrawals from the applicant firm). The equity is the market value of the residence less any mortgages and home equity loan balances. Recipients must ensure that home equity loan balances are included in the equity calculation and not as a separate liability on the individual's personal net worth form. Exclusions for net worth purposes are not exclusions for asset valuation or access to capital and credit purposes.

(C) Do not use a contingent liability to reduce an individual's net worth.

(D) With respect to assets held in vested pension plans, Individual Retirement Accounts, 401(k) accounts, or other retirement savings or investment programs in which the assets cannot be distributed to the individual at the present time without significant adverse tax or interest consequences, include only the present value of such assets, less the tax and interest penalties that would accrue if the asset were distributed at the present time.

(iv) Notwithstanding any provision of Federal or State law, you must not release an individual's personal net worth statement nor any documents pertaining to it to any third party without the written consent of the submitter. Provided, that you must transmit this information to DOT in any certification appeal proceeding under §26.89 of this part or to any other State to which the individual's firm has applied for certification under §26.85 of this part.

(b) *Rebuttal of presumption of disadvantage.* (1) An individual's presumption of economic disadvantage may be rebutted in two ways.

(i) If the statement of personal net worth and supporting documentation that an individual submits under paragraph (a)(2) of this section shows that the individual's personal net worth exceeds \$1.32 million, the individual's presumption of economic disadvantage is rebutted. You are not required to have a proceeding under paragraph (b)(2) of this section in order to rebut the presumption of economic disadvantage in this case.

Example to paragraph (b)(1)(i): An individual with very high assets and significant liabilities may, in accounting terms, have a PNW of less than \$1.32 million. However, the person's assets collectively (e.g., high income level, a very expensive house, a yacht, extensive real or personal property holdings) may lead a reasonable person to conclude that he or she is not economically disadvantaged. The recipient may rebut the individual's presumption of economic disadvantage under these circumstances, as provided in this section, even though the individual's PNW is less than \$1.32 million.

(ii)(A) If the statement of personal net worth and supporting documentation that an individual submits under paragraph (a)(2) of this section demonstrates that the individual is able to accumulate substantial wealth, the individual's presumption of economic disadvantage is rebutted. In making this determination, as a certifying agency, you may consider factors that include, but are not limited to, the following:

(1) Whether the average adjusted gross income of the owner over the most recent three year period exceeds \$350,000;

(2) Whether the income was unusual and not likely to occur in the future;

(3) Whether the earnings were offset by losses;

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(4) Whether the income was reinvested in the firm or used to pay taxes arising in the normal course of operations by the firm;

(5) Other evidence that income is not indicative of lack of economic disadvantage; and

(6) Whether the total fair market value of the owner's assets exceed \$6 million.

(B) You must have a proceeding under paragraph (b)(2) of this section in order to rebut the presumption of economic disadvantage in this case.

(2) If you have a reasonable basis to believe that an individual who is a member of one of the designated groups is not, in fact, socially and/or economically disadvantaged you may, at any time, start a proceeding to determine whether the presumption should be regarded as rebutted with respect to that individual. Your proceeding must follow the procedures of §26.87.

(3) In such a proceeding, you have the burden of demonstrating, by a preponderance of the evidence, that the individual is not socially and economically disadvantaged. You may require the individual to produce information relevant to the determination of his or her disadvantage.

(4) When an individual's presumption of social and/or economic disadvantage has been rebutted, his or her ownership and control of the firm in question cannot be used for purposes of DBE eligibility under this subpart unless and until he or she makes an individual showing of social and/or economic disadvantage. If the basis for rebutting the presumption is a determination that the individual's personal net worth exceeds \$1.32 million, the individual is no longer eligible for participation in the program and cannot regain eligibility by making an individual showing of disadvantage, so long as his or her PNW remains above that amount.

(c) *Transfers within two years.* (1) Except as set forth in paragraph (c)(2) of this section, recipients must attribute to an individual claiming disadvantaged status any assets which that individual has transferred to an immediate family member, to a trust a beneficiary of which is an immediate family member, or to the applicant firm for less than fair market value, within two years prior to a concern's application for participation in the DBE program or within two years of recipient's review of the firm's annual affidavit, unless the individual claiming disadvantaged status can demonstrate that the transfer is to or on behalf of an immediate family member for that individual's education, medical expenses, or some other form of essential support.

(2) Recipients must not attribute to an individual claiming disadvantaged status any assets transferred by that individual to an immediate family member that are consistent with the customary recognition of special occasions, such as birthdays, graduations, anniversaries, and retirements.

(d) *Individual determinations of social and economic disadvantage.* Firms owned and controlled by individuals who are not presumed to be socially and economically disadvantaged (including individuals whose presumed disadvantage has been rebutted) may apply for DBE certification. You must make a case-by-case determination of whether each individual whose ownership and control are relied upon for DBE certification is socially and economically disadvantaged. In such a proceeding, the applicant firm has the burden of demonstrating to you, by a preponderance of the evidence, that the individuals who own and control it are socially and economically disadvantaged. An individual whose personal net worth exceeds \$1.32 million shall not be deemed to be economically disadvantaged. In making these determinations, use the guidance found in Appendix E of this part. You must require that applicants provide sufficient information to permit determinations under the guidance of appendix E of this part.

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[79 FR 59596, Oct. 2, 2014]

§26.69 What rules govern determinations of ownership?

(a) In determining whether the socially and economically disadvantaged participants in a firm own the firm, you must consider all the facts in the record viewed as a whole, including the origin of all assets and how and when they were used in obtaining the firm. All transactions for the establishment and ownership (or transfer of ownership) must be in the normal course of business, reflecting commercial and arms-length practices.

(b) To be an eligible DBE, a firm must be at least 51 percent owned by socially and economically disadvantaged individuals.

(1) In the case of a corporation, such individuals must own at least 51 percent of the each class of voting stock outstanding and 51 percent of the aggregate of all stock outstanding.

(2) In the case of a partnership, 51 percent of each class of partnership interest must be owned by socially and economically disadvantaged individuals. Such ownership must be reflected in the firm's partnership agreement.

(3) In the case of a limited liability company, at least 51 percent of each class of member interest must be owned by socially and economically disadvantaged individuals.

(c)(1) The firm's ownership by socially and economically disadvantaged individuals, including their contribution of capital or expertise to acquire their ownership interests, must be real, substantial, and continuing, going beyond pro forma ownership of the firm as reflected in ownership documents. Proof of contribution of capital should be submitted at the time of the application. When the contribution of capital is through a loan, there must be documentation of the value of assets used as collateral for the loan.

(2) Insufficient contributions include a promise to contribute capital, an unsecured note payable to the firm or an owner who is not a disadvantaged individual, mere participation in a firm's activities as an employee, or capitalization not commensurate with the value for the firm.

(3) The disadvantaged owners must enjoy the customary incidents of ownership, and share in the risks and be entitled to the profits and loss commensurate with their ownership interests, as demonstrated by the substance, not merely the form, of arrangements. Any terms or practices that give a non-disadvantaged individual or firm a priority or superior right to a firm's profits, compared to the disadvantaged owner(s), are grounds for denial.

(4) Debt instruments from financial institutions or other organizations that lend funds in the normal course of their business do not render a firm ineligible, even if the debtor's ownership interest is security for the loan.

Examples to paragraph (c): (i) An individual pays \$100 to acquire a majority interest in a firm worth \$1 million. The individual's contribution to capital would not be viewed as substantial.

(ii) A 51% disadvantaged owner and a non-disadvantaged 49% owner contribute \$100 and \$10,000, respectively, to acquire a firm grossing \$1 million. This may be indicative of a pro forma arrangement that does not meet the requirements of (c)(1).

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(iii) The disadvantaged owner of a DBE applicant firm spends \$250 to file articles of incorporation and obtains a \$100,000 loan, but makes only nominal or sporadic payments to repay the loan. This type of contribution is not of a continuing nature.

(d) All securities that constitute ownership of a firm shall be held directly by disadvantaged persons. Except as provided in this paragraph (d), no securities or assets held in trust, or by any guardian for a minor, are considered as held by disadvantaged persons in determining the ownership of a firm. However, securities or assets held in trust are regarded as held by a disadvantaged individual for purposes of determining ownership of the firm, if—

(1) The beneficial owner of securities or assets held in trust is a disadvantaged individual, and the trustee is the same or another such individual; or

(2) The beneficial owner of a trust is a disadvantaged individual who, rather than the trustee, exercises effective control over the management, policy-making, and daily operational activities of the firm. Assets held in a revocable living trust may be counted only in the situation where the same disadvantaged individual is the sole grantor, beneficiary, and trustee.

(e) The contributions of capital or expertise by the socially and economically disadvantaged owners to acquire their ownership interests must be real and substantial. Examples of insufficient contributions include a promise to contribute capital, an unsecured note payable to the firm or an owner who is not a disadvantaged individual, or mere participation in a firm's activities as an employee. Debt instruments from financial institutions or other organizations that lend funds in the normal course of their business do not render a firm ineligible, even if the debtor's ownership interest is security for the loan.

(f) The following requirements apply to situations in which expertise is relied upon as part of a disadvantaged owner's contribution to acquire ownership:

(1) The owner's expertise must be—

(i) In a specialized field;

(ii) Of outstanding quality;

(iii) In areas critical to the firm's operations;

(iv) Indispensable to the firm's potential success;

(v) Specific to the type of work the firm performs; and

(vi) Documented in the records of the firm. These records must clearly show the contribution of expertise and its value to the firm.

(2) The individual whose expertise is relied upon must have a significant financial investment in the firm.

(g) You must always deem as held by a socially and economically disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by the individual—

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(1) As the result of a final property settlement or court order in a divorce or legal separation, provided that no term or condition of the agreement or divorce decree is inconsistent with this section; or

(2) Through inheritance, or otherwise because of the death of the former owner.

(h)(1) You must presume as not being held by a socially and economically disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by the individual as the result of a gift, or transfer without adequate consideration, from any non-disadvantaged individual or non-DBE firm who is—

(i) Involved in the same firm for which the individual is seeking certification, or an affiliate of that firm;

(ii) Involved in the same or a similar line of business; or

(iii) Engaged in an ongoing business relationship with the firm, or an affiliate of the firm, for which the individual is seeking certification.

(2) To overcome this presumption and permit the interests or assets to be counted, the disadvantaged individual must demonstrate to you, by clear and convincing evidence, that—

(i) The gift or transfer to the disadvantaged individual was made for reasons other than obtaining certification as a DBE; and

(ii) The disadvantaged individual actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of a non-disadvantaged individual who provided the gift or transfer.

(i) You must apply the following rules in situations in which marital assets form a basis for ownership of a firm:

(1) When marital assets (other than the assets of the business in question), held jointly or as community property by both spouses, are used to acquire the ownership interest asserted by one spouse, you must deem the ownership interest in the firm to have been acquired by that spouse with his or her own individual resources, provided that the other spouse irrevocably renounces and transfers all rights in the ownership interest in the manner sanctioned by the laws of the state in which either spouse or the firm is domiciled. You do not count a greater portion of joint or community property assets toward ownership than state law would recognize as belonging to the socially and economically disadvantaged owner of the applicant firm.

(2) A copy of the document legally transferring and renouncing the other spouse's rights in the jointly owned or community assets used to acquire an ownership interest in the firm must be included as part of the firm's application for DBE certification.

(j) You may consider the following factors in determining the ownership of a firm. However, you must not regard a contribution of capital as failing to be real and substantial, or find a firm ineligible, solely because—

(1) A socially and economically disadvantaged individual acquired his or her ownership interest as the result of a gift, or transfer without adequate consideration, other than the types set forth in paragraph

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(h) of this section;

(2) There is a provision for the co-signature of a spouse who is not a socially and economically disadvantaged individual on financing agreements, contracts for the purchase or sale of real or personal property, bank signature cards, or other documents; or

(3) Ownership of the firm in question or its assets is transferred for adequate consideration from a spouse who is not a socially and economically disadvantaged individual to a spouse who is such an individual. In this case, you must give particularly close and careful scrutiny to the ownership and control of a firm to ensure that it is owned and controlled, in substance as well as in form, by a socially and economically disadvantaged individual.

[64 FR 5126, Feb. 2, 1999, as amended at 79 FR 59597, Oct. 2, 2014]

§26.71 What rules govern determinations concerning control?

(a) In determining whether socially and economically disadvantaged owners control a firm, you must consider all the facts in the record, viewed as a whole.

(b) Only an independent business may be certified as a DBE. An independent business is one the viability of which does not depend on its relationship with another firm or firms.

(1) In determining whether a potential DBE is an independent business, you must scrutinize relationships with non-DBE firms, in such areas as personnel, facilities, equipment, financial and/or bonding support, and other resources.

(2) You must consider whether present or recent employer/employee relationships between the disadvantaged owner(s) of the potential DBE and non-DBE firms or persons associated with non-DBE firms compromise the independence of the potential DBE firm.

(3) You must examine the firm's relationships with prime contractors to determine whether a pattern of exclusive or primary dealings with a prime contractor compromises the independence of the potential DBE firm.

(4) In considering factors related to the independence of a potential DBE firm, you must consider the consistency of relationships between the potential DBE and non-DBE firms with normal industry practice.

(c) A DBE firm must not be subject to any formal or informal restrictions which limit the customary discretion of the socially and economically disadvantaged owners. There can be no restrictions through corporate charter provisions, by-law provisions, contracts or any other formal or informal devices (e.g., cumulative voting rights, voting powers attached to different classes of stock, employment contracts, requirements for concurrence by non-disadvantaged partners, conditions precedent or subsequent, executory agreements, voting trusts, restrictions on or assignments of voting rights) that prevent the socially and economically disadvantaged owners, without the cooperation or vote of any non-disadvantaged individual, from making any business decision of the firm. This paragraph does not preclude a spousal co-signature on documents as provided for in §26.69(j)(2).

(d) The socially and economically disadvantaged owners must possess the power to direct or cause the direction of the management and policies of the firm and to make day-to-day as well as long-term

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decisions on matters of management, policy and operations.

(1) A disadvantaged owner must hold the highest officer position in the company (e.g., chief executive officer or president).

(2) In a corporation, disadvantaged owners must control the board of directors.

(3) In a partnership, one or more disadvantaged owners must serve as general partners, with control over all partnership decisions.

(e) Individuals who are not socially and economically disadvantaged or immediate family members may be involved in a DBE firm as owners, managers, employees, stockholders, officers, and/or directors. Such individuals must not, however possess or exercise the power to control the firm, or be disproportionately responsible for the operation of the firm.

(f) The socially and economically disadvantaged owners of the firm may delegate various areas of the management, policymaking, or daily operations of the firm to other participants in the firm, regardless of whether these participants are socially and economically disadvantaged individuals. Such delegations of authority must be revocable, and the socially and economically disadvantaged owners must retain the power to hire and fire any person to whom such authority is delegated. The managerial role of the socially and economically disadvantaged owners in the firm's overall affairs must be such that the recipient can reasonably conclude that the socially and economically disadvantaged owners actually exercise control over the firm's operations, management, and policy.

(g) The socially and economically disadvantaged owners must have an overall understanding of, and managerial and technical competence and experience directly related to, the type of business in which the firm is engaged and the firm's operations. The socially and economically disadvantaged owners are not required to have experience or expertise in every critical area of the firm's operations, or to have greater experience or expertise in a given field than managers or key employees. The socially and economically disadvantaged owners must have the ability to intelligently and critically evaluate information presented by other participants in the firm's activities and to use this information to make independent decisions concerning the firm's daily operations, management, and policymaking. Generally, expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the firm is insufficient to demonstrate control.

(h) If state or local law requires the persons to have a particular license or other credential in order to own and/or control a certain type of firm, then the socially and economically disadvantaged persons who own and control a potential DBE firm of that type must possess the required license or credential. If state or local law does not require such a person to have such a license or credential to own and/or control a firm, you must not deny certification solely on the ground that the person lacks the license or credential. However, you may take into account the absence of the license or credential as one factor in determining whether the socially and economically disadvantaged owners actually control the firm.

(i)(1) You may consider differences in remuneration between the socially and economically disadvantaged owners and other participants in the firm in determining whether to certify a firm as a DBE. Such consideration shall be in the context of the duties of the persons involved, normal industry practices, the firm's policy and practice concerning reinvestment of income, and any other explanations for the differences proffered by the firm. You may determine that a firm is controlled by its socially and economically disadvantaged owner although that owner's remuneration is lower than that of some other participants in the firm.

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(2) In a case where a non-disadvantaged individual formerly controlled the firm, and a socially and economically disadvantaged individual now controls it, you may consider a difference between the remuneration of the former and current controller of the firm as a factor in determining who controls the firm, particularly when the non-disadvantaged individual remains involved with the firm and continues to receive greater compensation than the disadvantaged individual.

(j) In order to be viewed as controlling a firm, a socially and economically disadvantaged owner cannot engage in outside employment or other business interests that conflict with the management of the firm or prevent the individual from devoting sufficient time and attention to the affairs of the firm to control its activities. For example, absentee ownership of a business and part-time work in a full-time firm are not viewed as constituting control. However, an individual could be viewed as controlling a part-time business that operates only on evenings and/or weekends, if the individual controls it all the time it is operating.

(k)(1) A socially and economically disadvantaged individual may control a firm even though one or more of the individual's immediate family members (who themselves are not socially and economically disadvantaged individuals) participate in the firm as a manager, employee, owner, or in another capacity. Except as otherwise provided in this paragraph, you must make a judgment about the control the socially and economically disadvantaged owner exercises vis-a-vis other persons involved in the business as you do in other situations, without regard to whether or not the other persons are immediate family members.

(2) If you cannot determine that the socially and economically disadvantaged owners—as distinct from the family as a whole—control the firm, then the socially and economically disadvantaged owners have failed to carry their burden of proof concerning control, even though they may participate significantly in the firm's activities.

(l) Where a firm was formerly owned and/or controlled by a non-disadvantaged individual (whether or not an immediate family member), ownership and/or control were transferred to a socially and economically disadvantaged individual, and the nondisadvantaged individual remains involved with the firm in any capacity, there is a rebuttable presumption of control by the non-disadvantaged individual unless the disadvantaged individual now owning the firm demonstrates to you, by clear and convincing evidence, that:

(1) The transfer of ownership and/or control to the disadvantaged individual was made for reasons other than obtaining certification as a DBE; and

(2) The disadvantaged individual actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of a nondisadvantaged individual who formerly owned and/or controlled the firm.

(m) In determining whether a firm is controlled by its socially and economically disadvantaged owners, you may consider whether the firm owns equipment necessary to perform its work. However, you must not determine that a firm is not controlled by socially and economically disadvantaged individuals solely because the firm leases, rather than owns, such equipment, where leasing equipment is a normal industry practice and the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the firm.

(n) You must grant certification to a firm only for specific types of work in which the socially and economically disadvantaged owners have the ability to control the firm. To become certified in an additional type of work, the firm need demonstrate to you only that its socially and economically disadvantaged owners are able to control the firm with respect to that type of work. You must not require

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that the firm be recertified or submit a new application for certification, but you must verify the disadvantaged owner's control of the firm in the additional type of work.

(1) The types of work a firm can perform (whether on initial certification or when a new type of work is added) must be described in terms of the most specific available NAICS code for that type of work. If you choose, you may also, in addition to applying the appropriate NAICS code, apply a descriptor from a classification scheme of equivalent detail and specificity. A correct NAICS code is one that describes, as specifically as possible, the principal goods or services which the firm would provide to DOT recipients. Multiple NAICS codes may be assigned where appropriate. Program participants must rely on, and not depart from, the plain meaning of NAICS code descriptions in determining the scope of a firm's certification. If your Directory does not list types of work for any firm in a manner consistent with this paragraph (a)(1), you must update the Directory entry for that firm to meet the requirements of this paragraph (a)(1) by August 28, 2011.

(2) Firms and recipients must check carefully to make sure that the NAICS codes cited in a certification are kept up-to-date and accurately reflect work which the UCP has determined the firm's owners can control. The firm bears the burden of providing detailed company information the certifying agency needs to make an appropriate NAICS code designation.

(3) If a firm believes that there is not a NAICS code that fully or clearly describes the type(s) of work in which it is seeking to be certified as a DBE, the firm may request that the certifying agency, in its certification documentation, supplement the assigned NAICS code(s) with a clear, specific, and detailed narrative description of the type of work in which the firm is certified. A vague, general, or confusing description is not sufficient for this purpose, and recipients should not rely on such a description in determining whether a firm's participation can be counted toward DBE goals.

(4) A certifier is not precluded from changing a certification classification or description if there is a factual basis in the record. However, certifiers must not make after-the-fact statements about the scope of a certification, not supported by evidence in the record of the certification action.

(o) A business operating under a franchise or license agreement may be certified if it meets the standards in this subpart and the franchiser or licensor is not affiliated with the franchisee or licensee. In determining whether affiliation exists, you should generally not consider the restraints relating to standardized quality, advertising, accounting format, and other provisions imposed on the franchisee or licensee by the franchise agreement or license, provided that the franchisee or licensee has the right to profit from its efforts and bears the risk of loss commensurate with ownership. Alternatively, even though a franchisee or licensee may not be controlled by virtue of such provisions in the franchise agreement or license, affiliation could arise through other means, such as common management or excessive restrictions on the sale or transfer of the franchise interest or license.

(p) In order for a partnership to be controlled by socially and economically disadvantaged individuals, any non-disadvantaged partners must not have the power, without the specific written concurrence of the socially and economically disadvantaged partner(s), to contractually bind the partnership or subject the partnership to contract or tort liability.

(q) The socially and economically disadvantaged individuals controlling a firm may use an employee leasing company. The use of such a company does not preclude the socially and economically disadvantaged individuals from controlling their firm if they continue to maintain an employer-employee relationship with the leased employees. This includes being responsible for hiring, firing, training, assigning, and otherwise controlling the on-the-job activities of the employees, as well as ultimate

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responsibility for wage and tax obligations related to the employees.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5099, Jan. 28, 2011; 79 FR 59597, Oct. 2, 2014]

§26.73 What are other rules affecting certification?

(a)(1) Consideration of whether a firm performs a commercially useful function or is a regular dealer pertains solely to counting toward DBE goals the participation of firms that have already been certified as DBEs. Except as provided in paragraph (a)(2) of this section, you must not consider commercially useful function issues in any way in making decisions about whether to certify a firm as a DBE.

(2) You may consider, in making certification decisions, whether a firm has exhibited a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirements of the DBE program.

(b)(1) You must evaluate the eligibility of a firm on the basis of present circumstances. You must not refuse to certify a firm based solely on historical information indicating a lack of ownership or control of the firm by socially and economically disadvantaged individuals at some time in the past, if the firm currently meets the ownership and control standards of this part.

(2) You must not refuse to certify a firm solely on the basis that it is a newly formed firm, has not completed projects or contracts at the time of its application, has not yet realized profits from its activities, or has not demonstrated a potential for success. If the firm meets disadvantaged, size, ownership, and control requirements of this Part, the firm is eligible for certification.

(c) DBE firms and firms seeking DBE certification shall cooperate fully with your requests (and DOT requests) for information relevant to the certification process. Failure or refusal to provide such information is a ground for a denial or removal of certification.

(d) Only firms organized for profit may be eligible DBEs. Not-for-profit organizations, even though controlled by socially and economically disadvantaged individuals, are not eligible to be certified as DBEs.

(e) An eligible DBE firm must be owned by individuals who are socially and economically disadvantaged. Except as provided in this paragraph, a firm that is not owned by such individuals, but instead is owned by another firm—even a DBE firm—cannot be an eligible DBE.

(1) If socially and economically disadvantaged individuals own and control a firm through a parent or holding company, established for tax, capitalization or other purposes consistent with industry practice, and the parent or holding company in turn owns and controls an operating subsidiary, you may certify the subsidiary if it otherwise meets all requirements of this subpart. In this situation, the individual owners and controllers of the parent or holding company are deemed to control the subsidiary through the parent or holding company.

(2) You may certify such a subsidiary only if there is cumulatively 51 percent ownership of the subsidiary by socially and economically disadvantaged individuals. The following examples illustrate how this cumulative ownership provision works:

Example 1: Socially and economically disadvantaged individuals own 100 percent of a holding company, which has a wholly-owned subsidiary. The subsidiary may be certified, if it meets all other

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requirements.

Example 2: Disadvantaged individuals own 100 percent of the holding company, which owns 51 percent of a subsidiary. The subsidiary may be certified, if all other requirements are met.

Example 3: Disadvantaged individuals own 80 percent of the holding company, which in turn owns 70 percent of a subsidiary. In this case, the cumulative ownership of the subsidiary by disadvantaged individuals is 56 percent (80 percent of the 70 percent). This is more than 51 percent, so you may certify the subsidiary, if all other requirements are met.

Example 4: Same as Example 2 or 3, but someone other than the socially and economically disadvantaged owners of the parent or holding company controls the subsidiary. Even though the subsidiary is owned by disadvantaged individuals, through the holding or parent company, you cannot certify it because it fails to meet control requirements.

Example 5: Disadvantaged individuals own 60 percent of the holding company, which in turn owns 51 percent of a subsidiary. In this case, the cumulative ownership of the subsidiary by disadvantaged individuals is about 31 percent. This is less than 51 percent, so you cannot certify the subsidiary.

Example 6: The holding company, in addition to the subsidiary seeking certification, owns several other companies. The combined gross receipts of the holding companies and its subsidiaries are greater than the size standard for the subsidiary seeking certification and/or the gross receipts cap of §26.65(b). Under the rules concerning affiliation, the subsidiary fails to meet the size standard and cannot be certified.

(f) Recognition of a business as a separate entity for tax or corporate purposes is not necessarily sufficient to demonstrate that a firm is an independent business, owned and controlled by socially and economically disadvantaged individuals.

(g) You must not require a DBE firm to be prequalified as a condition for certification.

(h) A firm that is owned by an Indian tribe or Native Hawaiian organization, rather than by Indians or Native Hawaiians as individuals, may be eligible for certification. Such a firm must meet the size standards of §26.65. Such a firm must be controlled by socially and economically disadvantaged individuals, as provided in §26.71.

(i) The following special rules apply to the certification of firms related to Alaska Native Corporations (ANCs).

(1) Notwithstanding any other provisions of this subpart, a direct or indirect subsidiary corporation, joint venture, or partnership entity of an ANC is eligible for certification as a DBE if it meets all of the following requirements:

(i) The Settlement Common Stock of the underlying ANC and other stock of the ANC held by holders of the Settlement Common Stock and by Natives and descendants of Natives represents a majority of both the total equity of the ANC and the total voting power of the corporation for purposes of electing directors;

(ii) The shares of stock or other units of common ownership interest in the subsidiary, joint venture, or partnership entity held by the ANC and by holders of its Settlement Common Stock represent a majority of both the total equity of the entity and the total voting power of the entity for the purpose of electing directors, the general partner, or principal officers; and

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(iii) The subsidiary, joint venture, or partnership entity has been certified by the Small Business Administration under the 8(a) or small disadvantaged business program.

(2) As a recipient to whom an ANC-related entity applies for certification, you do not use the DOT uniform application form (*see* Appendix F of this part). You must obtain from the firm documentation sufficient to demonstrate that entity meets the requirements of paragraph (i)(1) of this section. You must also obtain sufficient information about the firm to allow you to administer your program (*e.g.*, information that would appear in your DBE Directory).

(3) If an ANC-related firm does not meet all the conditions of paragraph (i)(1) of this section, then it must meet the requirements of paragraph (h) of this section in order to be certified, on the same basis as firms owned by Indian Tribes or Native Hawaiian Organizations.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35555, June 16, 2003; 76 FR 5099, Jan. 28, 2011; 79 FR 59598, Oct. 2, 2014]

Subpart E—Certification Procedures

§26.81 What are the requirements for Unified Certification Programs?

(a) You and all other DOT recipients in your state must participate in a Unified Certification Program (UCP).

(1) Within three years of March 4, 1999, you and the other recipients in your state must sign an agreement establishing the UCP for that state and submit the agreement to the Secretary for approval. The Secretary may, on the basis of extenuating circumstances shown by the recipients in the state, extend this deadline for no more than one additional year.

(2) The agreement must provide for the establishment of a UCP meeting all the requirements of this section. The agreement must specify that the UCP will follow all certification procedures and standards of this part, on the same basis as recipients; that the UCP shall cooperate fully with oversight, review, and monitoring activities of DOT and its operating administrations; and that the UCP shall implement DOT directives and guidance concerning certification matters. The agreement shall also commit recipients to ensuring that the UCP has sufficient resources and expertise to carry out the requirements of this part. The agreement shall include an implementation schedule ensuring that the UCP is fully operational no later than 18 months following the approval of the agreement by the Secretary.

(3) Subject to approval by the Secretary, the UCP in each state may take any form acceptable to the recipients in that state.

(4) The Secretary shall review the UCP and approve it, disapprove it, or remand it to the recipients in the state for revisions. A complete agreement which is not disapproved or remanded within 180 days of its receipt is deemed to be accepted.

(5) If you and the other recipients in your state fail to meet the deadlines set forth in this paragraph (a), you shall have the opportunity to make an explanation to the Secretary why a deadline could not be met and why meeting the deadline was beyond your control. If you fail to make such an explanation, or the explanation does not justify the failure to meet the deadline, the Secretary shall direct you to complete the required action by a date certain. If you and the other recipients fail to carry out this direction in a timely manner, you are collectively in noncompliance with this part.

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(b) The UCP shall make all certification decisions on behalf of all DOT recipients in the state with respect to participation in the DOT DBE Program.

(1) Certification decisions by the UCP shall be binding on all DOT recipients within the state.

(2) The UCP shall provide “one-stop shopping” to applicants for certification, such that an applicant is required to apply only once for a DBE certification that will be honored by all recipients in the state.

(3) All obligations of recipients with respect to certification and nondiscrimination must be carried out by UCPs, and recipients may use only UCPs that comply with the certification and nondiscrimination requirements of this part.

(c) All certifications by UCPs shall be pre-certifications; i.e., certifications that have been made final before the due date for bids or offers on a contract on which a firm seeks to participate as a DBE.

(d) A UCP is not required to process an application for certification from a firm having its principal place of business outside the state if the firm is not certified by the UCP in the state in which it maintains its principal place of business. The “home state” UCP shall share its information and documents concerning the firm with other UCPs that are considering the firm's application.

(e) Subject to DOT approval as provided in this section, the recipients in two or more states may form a regional UCP. UCPs may also enter into written reciprocity agreements with other UCPs. Such an agreement shall outline the specific responsibilities of each participant. A UCP may accept the certification of any other UCP or DOT recipient.

(f) Pending the establishment of UCPs meeting the requirements of this section, you may enter into agreements with other recipients, on a regional or inter-jurisdictional basis, to perform certification functions required by this part. You may also grant reciprocity to other recipient's certification decisions.

(g) Each UCP shall maintain a unified DBE directory containing, for all firms certified by the UCP (including those from other states certified under the provisions of this part), the information required by §26.31. The UCP shall make the directory available to the public electronically, on the internet, as well as in print. The UCP shall update the electronic version of the directory by including additions, deletions, and other changes as soon as they are made and shall revise the print version of the Directory at least once a year.

(h) Except as otherwise specified in this section, all provisions of this subpart and subpart D of this part pertaining to recipients also apply to UCPs.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5100, Jan. 28, 2011]

§26.83 What procedures do recipients follow in making certification decisions?

(a) You must ensure that only firms certified as eligible DBEs under this section participate as DBEs in your program.

(b) You must determine the eligibility of firms as DBEs consistent with the standards of subpart D of this part. When a UCP is formed, the UCP must meet all the requirements of subpart D of this part and this subpart that recipients are required to meet.

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(c)(1) You must take all the following steps in determining whether a DBE firm meets the standards of subpart D of this part:

(i) Perform an on-site visit to the firm's principal place of business. You must interview the principal officers and review their résumés and/or work histories. You may interview key personnel of the firm if necessary. You must also perform an on-site visit to job sites if there are such sites on which the firm is working at the time of the eligibility investigation in your jurisdiction or local area. You may rely upon the site visit report of any other recipient with respect to a firm applying for certification;

(ii) Analyze documentation related to the legal structure, ownership, and control of the applicant firm. This includes, but is not limited to, Articles of Incorporation/Organization; corporate by-laws or operating agreements; organizational, annual and board/member meeting records; stock ledgers and certificates; and State-issued Certificates of Good Standing

(iii) Analyze the bonding and financial capacity of the firm; lease and loan agreements; bank account signature cards;

(iv) Determine the work history of the firm, including contracts it has received, work it has completed; and payroll records;

(v) Obtain a statement from the firm of the type of work it prefers to perform as part of the DBE program and its preferred locations for performing the work, if any.

(vi) Obtain or compile a list of the equipment owned by or available to the firm and the licenses the firm and its key personnel possess to perform the work it seeks to do as part of the DBE program;

(vii) Obtain complete Federal income tax returns (or requests for extensions) filed by the firm, its affiliates, and the socially and economically disadvantaged owners for the last 3 years. A complete return includes all forms, schedules, and statements filed with the Internal Revenue Service.

(viii) Require potential DBEs to complete and submit an appropriate application form, except as otherwise provided in §26.85 of this part.

(2) You must use the application form provided in Appendix F to this part without change or revision. However, you may provide in your DBE program, with the written approval of the concerned operating administration, for supplementing the form by requesting specified additional information not inconsistent with this part.

(3) You must make sure that the applicant attests to the accuracy and truthfulness of the information on the application form. This shall be done either in the form of an affidavit sworn to by the applicant before a person who is authorized by State law to administer oaths or in the form of an unsworn declaration executed under penalty of perjury of the laws of the United States.

(4) You must review all information on the form prior to making a decision about the eligibility of the firm. You may request clarification of information contained in the application at any time in the application process.

(d) When another recipient, in connection with its consideration of the eligibility of a firm, makes a written request for certification information you have obtained about that firm (e.g., including application

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materials or the report of a site visit, if you have made one to the firm), you must promptly make the information available to the other recipient.

(e) [Reserved]

(f) Subject to the approval of the concerned operating administration as part of your DBE program, you may impose a reasonable application fee for certification. Fee waivers shall be made in appropriate cases.

(g) You must safeguard from disclosure to unauthorized persons information gathered as part of the certification process that may reasonably be regarded as proprietary or other confidential business information, consistent with applicable Federal, state, and local law.

(h)(1) Once you have certified a DBE, it shall remain certified until and unless you have removed its certification, in whole or in part, through the procedures of §26.87 of this part, except as provided in §26.67(b)(1) of this part.

(2) You may not require DBEs to reapply for certification or undergo a recertification process. However, you may conduct a certification review of a certified DBE firm, including a new on-site review, if appropriate in light of changed circumstances (e.g., of the kind requiring notice under paragraph (i) of this section or relating to suspension of certification under §26.88), a complaint, or other information concerning the firm's eligibility. If information comes to your attention that leads you to question the firm's eligibility, you may conduct an on-site review on an unannounced basis, at the firm's offices and job sites.

(i) If you are a DBE, you must inform the recipient or UCP in writing of any change in circumstances affecting your ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material change in the information provided in your application form.

(1) Changes in management responsibility among members of a limited liability company are covered by this requirement.

(2) You must attach supporting documentation describing in detail the nature of such changes.

(3) The notice must take the form of an affidavit sworn to by the applicant before a person who is authorized by state law to administer oaths or of an unsworn declaration executed under penalty of perjury of the laws of the United States. You must provide the written notification within 30 days of the occurrence of the change. If you fail to make timely notification of such a change, you will be deemed to have failed to cooperate under §26.109(c).

(j) If you are a DBE, you must provide to the recipient, every year on the anniversary of the date of your certification, an affidavit sworn to by the firm's owners before a person who is authorized by State law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States. This affidavit must affirm that there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material changes in the information provided in its application form, except for changes about which you have notified the recipient under paragraph (i) of this section. The affidavit shall specifically affirm that your firm continues to meet SBA business size criteria and the overall gross receipts cap of this part, documenting this affirmation with supporting documentation of your firm's size and gross receipts (e.g., submission of Federal tax returns). If you fail to provide this affidavit in a timely manner, you will be deemed to have failed to cooperate under §26.109(c).

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(k) If you are a recipient, you must make decisions on applications for certification within 90 days of receiving from the applicant firm all information required under this part. You may extend this time period once, for no more than an additional 60 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension. You may establish a different time frame in your DBE program, upon a showing that this time frame is not feasible, and subject to the approval of the concerned operating administration. Your failure to make a decision by the applicable deadline under this paragraph is deemed a constructive denial of the application, on the basis of which the firm may appeal to DOT under §26.89.

(l) As a recipient or UCP, you must advise each applicant within 30 days from your receipt of the application whether the application is complete and suitable for evaluation and, if not, what additional information or action is required.

(m) Except as otherwise provided in this paragraph, if an applicant for DBE certification withdraws its application before you have issued a decision on the application, the applicant can resubmit the application at any time. As a recipient or UCP, you may not apply the waiting period provided under §26.86(c) of this part before allowing the applicant to resubmit its application. However, you may place the reapplication at the “end of the line,” behind other applications that have been made since the firm's previous application was withdrawn. You may also apply the waiting period provided under §26.86(c) of this part to a firm that has established a pattern of frequently withdrawing applications before you make a decision.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35555, June 16, 2003; 76 FR 5100, Jan. 28, 2011; 79 FR 59598, Oct. 2, 2014]

§26.85 Interstate certification.

(a) This section applies with respect to any firm that is currently certified in its home state.

(b) When a firm currently certified in its home state (“State A”) applies to another State (“State B”) for DBE certification, State B may, at its discretion, accept State A's certification and certify the firm, without further procedures.

(1) To obtain certification in this manner, the firm must provide to State B a copy of its certification notice from State A.

(2) Before certifying the firm, State B must confirm that the firm has a current valid certification from State A. State B can do so by reviewing State A's electronic directory or obtaining written confirmation from State A.

(c) In any situation in which State B chooses not to accept State A's certification of a firm as provided in paragraph (b) of this section, as the applicant firm you must provide the information in paragraphs (c)(1) through (4) of this section to State B.

(1) You must provide to State B a complete copy of the application form, all supporting documents, and any other information you have submitted to State A or any other state related to your firm's certification. This includes affidavits of no change (*see* §26.83(j)) and any notices of changes (*see* §26.83(i)) that you have submitted to State A, as well as any correspondence you have had with State A's UCP or any other recipient concerning your application or status as a DBE firm.

(2) You must also provide to State B any notices or correspondence from states other than State A

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relating to your status as an applicant or certified DBE in those states. For example, if you have been denied certification or decertified in State C, or subject to a decertification action there, you must inform State B of this fact and provide all documentation concerning this action to State B.

(3) If you have filed a certification appeal with DOT (*see* §26.89), you must inform State B of the fact and provide your letter of appeal and DOT's response to State B.

(4) You must submit an affidavit sworn to by the firm's owners before a person who is authorized by State law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States.

(i) This affidavit must affirm that you have submitted all the information required by 49 CFR 26.85(c) and the information is complete and, in the case of the information required by §26.85(c)(1), is an identical copy of the information submitted to State A.

(ii) If the on-site report from State A supporting your certification in State A is more than three years old, as of the date of your application to State B, State B may require that your affidavit also affirm that the facts in the on-site report remain true and correct.

(d) As State B, when you receive from an applicant firm all the information required by paragraph (c) of this section, you must take the following actions:

(1) Within seven days contact State A and request a copy of the site visit review report for the firm (*see* §26.83(c)(1)), any updates to the site visit review, and any evaluation of the firm based on the site visit. As State A, you must transmit this information to State B within seven days of receiving the request. A pattern by State B of not making such requests in a timely manner or by "State A" or any other State of not complying with such requests in a timely manner is noncompliance with this Part.

(2) Determine whether there is good cause to believe that State A's certification of the firm is erroneous or should not apply in your State. Reasons for making such a determination may include the following:

(i) Evidence that State A's certification was obtained by fraud;

(ii) New information, not available to State A at the time of its certification, showing that the firm does not meet all eligibility criteria;

(iii) State A's certification was factually erroneous or was inconsistent with the requirements of this part;

(iv) The State law of State B requires a result different from that of the State law of State A.

(v) The information provided by the applicant firm did not meet the requirements of paragraph (c) of this section.

(3) If, as State B, unless you have determined that there is good cause to believe that State A's certification is erroneous or should not apply in your State, you must, no later than 60 days from the date on which you received from the applicant firm all the information required by paragraph (c) of this section, send to the applicant firm a notice that it is certified and place the firm on your directory of certified firms.

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(4) If, as State B, you have determined that there is good cause to believe that State A's certification is erroneous or should not apply in your State, you must, no later than 60 days from the date on which you received from the applicant firm all the information required by paragraph (c) of this section, send to the applicant firm a notice stating the reasons for your determination.

(i) This notice must state with particularity the specific reasons why State B believes that the firm does not meet the requirements of this Part for DBE eligibility and must offer the firm an opportunity to respond to State B with respect to these reasons.

(ii) The firm may elect to respond in writing, to request an in-person meeting with State B's decision maker to discuss State B's objections to the firm's eligibility, or both. If the firm requests a meeting, as State B you must schedule the meeting to take place within 30 days of receiving the firm's request.

(iii) The firm bears the burden of demonstrating, by a preponderance of evidence, that it meets the requirements of this Part with respect to the particularized issues raised by State B's notice. The firm is not otherwise responsible for further demonstrating its eligibility to State B.

(iv) The decision maker for State B must be an individual who is thoroughly familiar with the provisions of this Part concerning certification.

(v) State B must issue a written decision within 30 days of the receipt of the written response from the firm or the meeting with the decision maker, whichever is later.

(vi) The firm's application for certification is stayed pending the outcome of this process.

(vii) A decision under this paragraph (d)(4) may be appealed to the Departmental Office of Civil Rights under s§26.89 of this part.

(e) As State B, if you have not received from State A a copy of the site visit review report by a date 14 days after you have made a timely request for it, you may hold action required by paragraphs (d)(2) through (4) of this section in abeyance pending receipt of the site visit review report. In this event, you must, no later than 30 days from the date on which you received from an applicant firm all the information required by paragraph (c) of this section, notify the firm in writing of the delay in the process and the reason for it.

(f)(1) As a UCP, when you deny a firm's application, reject the application of a firm certified in State A or any other State in which the firm is certified, through the procedures of paragraph (d)(4) of this section, or decertify a firm, in whole or in part, you must make an entry in the Department of Transportation Office of Civil Rights' (DOCR's) Ineligibility Determination Online Database. You must enter the following information:

(i) The name of the firm;

(ii) The name(s) of the firm's owner(s);

(iii) The type and date of the action;

(iv) The reason for the action.

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(2) As a UCP, you must check the DOCR Web site at least once every month to determine whether any firm that is applying to you for certification or that you have already certified is on the list.

(3) For any such firm that is on the list, you must promptly request a copy of the listed decision from the UCP that made it. As the UCP receiving such a request, you must provide a copy of the decision to the requesting UCP within 7 days of receiving the request. As the UCP receiving the decision, you must then consider the information in the decision in determining what, if any, action to take with respect to the certified DBE firm or applicant.

(g) You must implement the requirements of this section beginning January 1, 2012.

[76 FR 5100, Jan. 28, 2011]

§26.86 What rules govern recipients' denials of initial requests for certification?

(a) When you deny a request by a firm, which is not currently certified with you, to be certified as a DBE, you must provide the firm a written explanation of the reasons for the denial, specifically referencing the evidence in the record that supports each reason for the denial. All documents and other information on which the denial is based must be made available to the applicant, on request.

(b) [Reserved]

(c) When a firm is denied certification, you must establish a time period of no more than twelve months that must elapse before the firm may reapply to the recipient for certification. You may provide, in your DBE program, subject to approval by the concerned operating administration, a shorter waiting period for reapplication. The time period for reapplication begins to run on the date the explanation required by paragraph (a) of this section is received by the firm. An applicant's appeal of your decision to the Department pursuant to §26.89 does not extend this period.

(d) When you make an administratively final denial of certification concerning a firm, the firm may appeal the denial to the Department under §26.89.

[64 FR 5126, Feb. 2, 1999. Redesignated and amended at 68 FR 35555, June 16, 2003; 79 FR 59598, Oct. 2, 2014]

§26.87 What procedures does a recipient use to remove a DBE's eligibility?

(a) *Ineligibility complaints.* (1) Any person may file with you a written complaint alleging that a currently-certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. You are not required to accept a general allegation that a firm is ineligible or an anonymous complaint. The complaint may include any information or arguments supporting the complainant's assertion that the firm is ineligible and should not continue to be certified. Confidentiality of complainants' identities must be protected as provided in §26.109(b).

(2) You must review your records concerning the firm, any material provided by the firm and the complainant, and other available information. You may request additional information from the firm or conduct any other investigation that you deem necessary.

(3) If you determine, based on this review, that there is reasonable cause to believe that the firm is

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ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. If you determine that such reasonable cause does not exist, you must notify the complainant and the firm in writing of this determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(b) *Recipient-initiated proceedings.* If, based on notification by the firm of a change in its circumstances or other information that comes to your attention, you determine that there is reasonable cause to believe that a currently certified firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(c) *DOT directive to initiate proceeding.* (1) If the concerned operating administration determines that information in your certification records, or other information available to the concerned operating administration, provides reasonable cause to believe that a firm you certified does not meet the eligibility criteria of this part, the concerned operating administration may direct you to initiate a proceeding to remove the firm's certification.

(2) The concerned operating administration must provide you and the firm a notice setting forth the reasons for the directive, including any relevant documentation or other information.

(3) You must immediately commence and prosecute a proceeding to remove eligibility as provided by paragraph (b) of this section.

(d) *Hearing.* When you notify a firm that there is reasonable cause to remove its eligibility, as provided in paragraph (a), (b), or (c) of this section, you must give the firm an opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.

(1) In such a proceeding, you bear the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of this part.

(2) You must maintain a complete record of the hearing, by any means acceptable under state law for the retention of a verbatim record of an administrative hearing. If there is an appeal to DOT under §26.89, you must provide a transcript of the hearing to DOT and, on request, to the firm. You must retain the original record of the hearing. You may charge the firm only for the cost of copying the record.

(3) The firm may elect to present information and arguments in writing, without going to a hearing. In such a situation, you bear the same burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards, as you would during a hearing.

(e) *Separation of functions.* You must ensure that the decision in a proceeding to remove a firm's eligibility is made by an office and personnel that did not take part in actions leading to or seeking to implement the proposal to remove the firm's eligibility and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions.

(1) Your method of implementing this requirement must be made part of your DBE program.

(2) The decisionmaker must be an individual who is knowledgeable about the certification

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requirements of your DBE program and this part.

(3) Before a UCP is operational in its state, a small airport or small transit authority (*i.e.*, an airport or transit authority serving an area with less than 250,000 population) is required to meet this requirement only to the extent feasible.

(f) *Grounds for decision.* You may base a decision to remove a firm's eligibility only on one or more of the following grounds:

(1) Changes in the firm's circumstances since the certification of the firm by the recipient that render the firm unable to meet the eligibility standards of this part;

(2) Information or evidence not available to you at the time the firm was certified;

(3) Information relevant to eligibility that has been concealed or misrepresented by the firm;

(4) A change in the certification standards or requirements of the Department since you certified the firm;

(5) Your decision to certify the firm was clearly erroneous;

(6) The firm has failed to cooperate with you (see §26.109(c));

(7) The firm has exhibited a pattern of conduct indicating its involvement in attempts to subvert the intent or requirements of the DBE program (see §26.73(a)(2)); or

(8) The firm has been suspended or debarred for conduct related to the DBE program. The notice required by paragraph (g) of this section must include a copy of the suspension or debarment action. A decision to remove a firm for this reason shall not be subject to the hearing procedures in paragraph (d) of this section.

(g) *Notice of decision.* Following your decision, you must provide the firm written notice of the decision and the reasons for it, including specific references to the evidence in the record that supports each reason for the decision. The notice must inform the firm of the consequences of your decision and of the availability of an appeal to the Department of Transportation under §26.89. You must send copies of the notice to the complainant in an ineligibility complaint or the concerned operating administration that had directed you to initiate the proceeding. Provided that, when sending such a notice to a complainant other than a DOT operating administration, you must not include information reasonably construed as confidential business information without the written consent of the firm that submitted the information.

(h) [Reserved]

(i) *Status of firm during proceeding.* (1) A firm remains an eligible DBE during the pendency of your proceeding to remove its eligibility.

(2) The firm does not become ineligible until the issuance of the notice provided for in paragraph (g) of this section.

(j) *Effects of removal of eligibility.* When you remove a firm's eligibility, you must take the following

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action:

(1) When a prime contractor has made a commitment to using the ineligible firm, or you have made a commitment to using a DBE prime contractor, but a subcontract or contract has not been executed before you issue the decertification notice provided for in paragraph (g) of this section, the ineligible firm does not count toward the contract goal or overall goal. You must direct the prime contractor to meet the contract goal with an eligible DBE firm or demonstrate to you that it has made a good faith effort to do so.

(2) If a prime contractor has executed a subcontract with the firm before you have notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its DBE goal for the firm's work. In this case, or in a case where you have let a prime contract to the DBE that was later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after you issued the notice of its ineligibility shall not count toward your overall goal, but may count toward the contract goal.

(3) *Exception:* If the DBE's ineligibility is caused solely by its having exceeded the size standard during the performance of the contract, you may continue to count its participation on that contract toward overall and contract goals.

(k) *Availability of appeal.* When you make an administratively final removal of a firm's eligibility under this section, the firm may appeal the removal to the Department under §26.89.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35556, June 16, 2003; 76 FR 5101, Jan. 28, 2011; 79 FR 59599, Oct. 2, 2014]

§26.88 Summary suspension of certification.

(a) A recipient shall immediately suspend a DBE's certification without adhering to the requirements in §26.87(d) of this part when an individual owner whose ownership and control of the firm are necessary to the firm's certification dies or is incarcerated.

(b)(1) A recipient may immediately suspend a DBE's certification without adhering to the requirements in §26.87(d) when there is adequate evidence to believe that there has been a material change in circumstances that may affect the eligibility of the DBE firm to remain certified, or when the DBE fails to notify the recipient or UCP in writing of any material change in circumstances as required by §26.83(i) of this part or fails to timely file an affidavit of no change under §26.83(j).

(2) In determining the adequacy of the evidence to issue a suspension under paragraph (b)(1) of this section, the recipient shall consider all relevant factors, including how much information is available, the credibility of the information and allegations given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result.

(c) The concerned operating administration may direct the recipient to take action pursuant to paragraph (a) or (b) this section if it determines that information available to it is sufficient to warrant immediate suspension.

(d) When a firm is suspended pursuant to paragraph (a) or (b) of this section, the recipient shall immediately notify the DBE of the suspension by certified mail, return receipt requested, to the last known address of the owner(s) of the DBE.

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(e) Suspension is a temporary status of ineligibility pending an expedited show cause hearing/proceeding under §26.87 of this part to determine whether the DBE is eligible to participate in the program and consequently should be removed. The suspension takes effect when the DBE receives, or is deemed to have received, the Notice of Suspension.

(f) While suspended, the DBE may not be considered to meet a contract goal on a new contract, and any work it does on a contract received during the suspension shall not be counted toward a recipient's overall goal. The DBE may continue to perform under an existing contract executed before the DBE received a Notice of Suspension and may be counted toward the contract goal during the period of suspension as long as the DBE is performing a commercially useful function under the existing contract.

(g) Following receipt of the Notice of Suspension, if the DBE believes it is no longer eligible, it may voluntarily withdraw from the program, in which case no further action is required. If the DBE believes that its eligibility should be reinstated, it must provide to the recipient information demonstrating that the firm is eligible notwithstanding its changed circumstances. Within 30 days of receiving this information, the recipient must either lift the suspension and reinstate the firm's certification or commence a decertification action under §26.87 of this part. If the recipient commences a decertification proceeding, the suspension remains in effect during the proceeding.

(h) The decision to immediately suspend a DBE under paragraph (a) or (b) of this section is not appealable to the US Department of Transportation. The failure of a recipient to either lift the suspension and reinstate the firm or commence a decertification proceeding, as required by paragraph (g) of this section, is appealable to the U.S. Department of Transportation under §26.89 of this part, as a constructive decertification.

[79 FR 59599, Oct. 2, 2014]

§26.89 What is the process for certification appeals to the Department of Transportation?

(a)(1) If you are a firm that is denied certification or whose eligibility is removed by a recipient, including SBA-certified firms, you may make an administrative appeal to the Department.

(2) If you are a complainant in an ineligibility complaint to a recipient (including the concerned operating administration in the circumstances provided in §26.87(c)), you may appeal to the Department if the recipient does not find reasonable cause to propose removing the firm's eligibility or, following a removal of eligibility proceeding, determines that the firm is eligible.

(3) Send appeals to the following address: U.S. Department of Transportation, Departmental Office of Civil Rights, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

(b) Pending the Department's decision in the matter, the recipient's decision remains in effect. The Department does not stay the effect of the recipient's decision while it is considering an appeal.

(c) If you want to file an appeal, you must send a letter to the Department within 90 days of the date of the recipient's final decision, including information and setting forth a full and specific statement as to why the decision is erroneous, what significant fact that the recipient failed to consider, or what provisions of this Part the recipient did not properly apply. The Department may accept an appeal filed later than 90 days after the date of the decision if the Department determines that there was good cause for the late filing of the appeal or in the interest of justice.

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(d) When it receives an appeal, the Department requests a copy of the recipient's complete administrative record in the matter. If you are the recipient, you must provide the administrative record, including a hearing transcript, within 20 days of the Department's request. The Department may extend this time period on the basis of a recipient's showing of good cause. To facilitate the Department's review of a recipient's decision, you must ensure that such administrative records are well organized, indexed, and paginated. Records that do not comport with these requirements are not acceptable and will be returned to you to be corrected immediately. If an appeal is brought concerning one recipient's certification decision concerning a firm, and that recipient relied on the decision and/or administrative record of another recipient, this requirement applies to both recipients involved.

(e) The Department makes its decision based solely on the entire administrative record as supplemented by the appeal. The Department does not make a de novo review of the matter and does not conduct a hearing. The Department may also supplement the administrative record by adding relevant information made available by the DOT Office of Inspector General; Federal, State, or local law enforcement authorities; officials of a DOT operating administration or other appropriate DOT office; a recipient; or a firm or other private party.

(f) As a recipient, when you provide supplementary information to the Department, you shall also make this information available to the firm and any third-party complainant involved, consistent with Federal or applicable state laws concerning freedom of information and privacy. The Department makes available, on request by the firm and any third-party complainant involved, any supplementary information it receives from any source.

(1) The Department affirms your decision unless it determines, based on the entire administrative record, that your decision is unsupported by substantial evidence or inconsistent with the substantive or procedural provisions of this part concerning certification.

(2) If the Department determines, after reviewing the entire administrative record, that your decision was unsupported by substantial evidence or inconsistent with the substantive or procedural provisions of this part concerning certification, the Department reverses your decision and directs you to certify the firm or remove its eligibility, as appropriate. You must take the action directed by the Department's decision immediately upon receiving written notice of it.

(3) The Department is not required to reverse your decision if the Department determines that a procedural error did not result in fundamental unfairness to the appellant or substantially prejudice the opportunity of the appellant to present its case.

(4) If it appears that the record is incomplete or unclear with respect to matters likely to have a significant impact on the outcome of the case, the Department may remand the record to you with instructions seeking clarification or augmentation of the record before making a finding. The Department may also remand a case to you for further proceedings consistent with Department instructions concerning the proper application of the provisions of this part.

(5) The Department does not uphold your decision based on grounds not specified in your decision.

(6) The Department's decision is based on the status and circumstances of the firm as of the date of the decision being appealed.

(7) The Department provides written notice of its decision to you, the firm, and the complainant in an ineligibility complaint. A copy of the notice is also sent to any other recipient whose administrative record

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or decision has been involved in the proceeding (*see* paragraph (d) of this section). The Department will also notify the SBA in writing when DOT takes an action on an appeal that results in or confirms a loss of eligibility to any SBA-certified firm. The notice includes the reasons for the Department's decision, including specific references to the evidence in the record that supports each reason for the decision.

(8) The Department's policy is to make its decision within 180 days of receiving the complete administrative record. If the Department does not make its decision within this period, the Department provides written notice to concerned parties, including a statement of the reason for the delay and a date by which the appeal decision will be made.

(g) All decisions under this section are administratively final, and are not subject to petitions for reconsideration.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 68 FR 35556, June 16, 2003; 73 FR 33329, June 12, 2008; 79 FR 59599, Oct. 2, 2014]

§26.91 What actions do recipients take following DOT certification appeal decisions?

(a) If you are the recipient from whose action an appeal under §26.89 is taken, the decision is binding. It is not binding on other recipients.

(b) If you are a recipient to which a DOT determination under §26.89 is applicable, you must take the following action:

(1) If the Department determines that you erroneously certified a firm, you must remove the firm's eligibility on receipt of the determination, without further proceedings on your part. Effective on the date of your receipt of the Department's determination, the consequences of a removal of eligibility set forth in §26.87(i) take effect.

(2) If the Department determines that you erroneously failed to find reasonable cause to remove the firm's eligibility, you must expeditiously commence a proceeding to determine whether the firm's eligibility should be removed, as provided in §26.87.

(3) If the Department determines that you erroneously declined to certify or removed the eligibility of the firm, you must certify the firm, effective on the date of your receipt of the written notice of Department's determination.

(4) If the Department determines that you erroneously determined that the presumption of social and economic disadvantage either should or should not be deemed rebutted, you must take appropriate corrective action as determined by the Department.

(5) If the Department affirms your determination, no further action is necessary.

(c) Where DOT has upheld your denial of certification to or removal of eligibility from a firm, or directed the removal of a firm's eligibility, other recipients with whom the firm is certified may commence a proceeding to remove the firm's eligibility under §26.87. Such recipients must not remove the firm's eligibility absent such a proceeding. Where DOT has reversed your denial of certification to or removal of eligibility from a firm, other recipients must take the DOT action into account in any certification action involving the firm. However, other recipients are not required to certify the firm based on the DOT decision.

Subpart F—Compliance and Enforcement

§26.101 What compliance procedures apply to recipients?

(a) If you fail to comply with any requirement of this part, you may be subject to formal enforcement action under §26.103 or §26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FHWA program, actions provided for under 23 CFR 1.36; in the case of the FAA program, actions consistent with 49 U.S.C. 47106(d), 47111(d), and 47122; and in the case of the FTA program, any actions permitted under 49 U.S.C. chapter 53 or applicable FTA program requirements.

(b) As provided in statute, you will not be subject to compliance actions or sanctions for failing to carry out any requirement of this part because you have been prevented from complying because a Federal court has issued a final order in which the court found that the requirement is unconstitutional.

§26.103 What enforcement actions apply in FHWA and FTA programs?

The provisions of this section apply to enforcement actions under FHWA and FTA programs:

(a) *Noncompliance complaints.* Any person who believes that a recipient has failed to comply with its obligations under this part may file a written complaint with the concerned operating administration's Office of Civil Rights. If you want to file a complaint, you must do so no later than 180 days after the date of the alleged violation or the date on which you learned of a continuing course of conduct in violation of this part. In response to your written request, the Office of Civil Rights may extend the time for filing in the interest of justice, specifying in writing the reason for so doing. The Office of Civil Rights may protect the confidentiality of your identity as provided in §26.109(b). Complaints under this part are limited to allegations of violation of the provisions of this part.

(b) *Compliance reviews.* The concerned operating administration may review the recipient's compliance with this part at any time, including reviews of paperwork and on-site reviews, as appropriate. The Office of Civil Rights may direct the operating administration to initiate a compliance review based on complaints received.

(c) *Reasonable cause notice.* If it appears, from the investigation of a complaint or the results of a compliance review, that you, as a recipient, are in noncompliance with this part, the appropriate DOT office promptly sends you, return receipt requested, a written notice advising you that there is reasonable cause to find you in noncompliance. The notice states the reasons for this finding and directs you to reply within 30 days concerning whether you wish to begin conciliation.

(d) *Conciliation.* (1) If you request conciliation, the appropriate DOT office shall pursue conciliation for at least 30, but not more than 120, days from the date of your request. The appropriate DOT office may extend the conciliation period for up to 30 days for good cause, consistent with applicable statutes.

(2) If you and the appropriate DOT office sign a conciliation agreement, then the matter is regarded as closed and you are regarded as being in compliance. The conciliation agreement sets forth the measures you have taken or will take to ensure compliance. While a conciliation agreement is in effect, you remain eligible for FHWA or FTA financial assistance.

(3) The concerned operating administration shall monitor your implementation of the conciliation

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agreement and ensure that its terms are complied with. If you fail to carry out the terms of a conciliation agreement, you are in noncompliance.

(4) If you do not request conciliation, or a conciliation agreement is not signed within the time provided in paragraph (d)(1) of this section, then enforcement proceedings begin.

(e) *Enforcement actions.* (1) Enforcement actions are taken as provided in this subpart.

(2) Applicable findings in enforcement proceedings are binding on all DOT offices.

§26.105 What enforcement actions apply in FAA programs?

(a) Compliance with all requirements of this part by airport sponsors and other recipients of FAA financial assistance is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

(b) The provisions of §26.103(b) and this section apply to enforcement actions in FAA programs.

(c) Any person who knows of a violation of this part by a recipient of FAA funds may file a complaint under 14 CFR part 16 with the Federal Aviation Administration Office of Chief Counsel.

§26.107 What enforcement actions apply to firms participating in the DBE program?

(a) If you are a firm that does not meet the eligibility criteria of subpart D of this part and that attempts to participate in a DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

(b) If you are a firm that, in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D of this part, the Department may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

(c) In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the concerned operating administration may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude the Department from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.

(d) The Department may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under 49 CFR part 31.

(e) The Department may refer to the Department of Justice, for prosecution under 18 U.S.C. 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5101, Jan. 28, 2011]

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§26.109 What are the rules governing information, confidentiality, cooperation, and intimidation or retaliation?

(a) *Availability of records.* (1) In responding to requests for information concerning any aspect of the DBE program, the Department complies with provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The Department may make available to the public any information concerning the DBE program release of which is not prohibited by Federal law.

(2) Notwithstanding any provision of Federal or state law, you must not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting information. However, you must transmit this information to DOT in any certification appeal proceeding under §26.89 of this part or to any other state to which the individual's firm has applied for certification under §26.85 of this part.

(b) *Confidentiality of information on complainants.* Notwithstanding the provisions of paragraph (a) of this section, the identity of complainants shall be kept confidential, at their election. If such confidentiality will hinder the investigation, proceeding or hearing, or result in a denial of appropriate administrative due process to other parties, the complainant must be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or hearing. FAA follows the procedures of 14 CFR part 16 with respect to confidentiality of information in complaints.

(c) *Cooperation.* All participants in the Department's DBE program (including, but not limited to, recipients, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with DOT and recipient compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to recipients, a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

(d) *Intimidation and retaliation.* If you are a recipient, contractor, or any other participant in the program, you must not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. If you violate this prohibition, you are in noncompliance with this part.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35556, June 16, 2003; 76 FR 5101, Jan. 28, 2011]

Appendix A to Part 26—Guidance Concerning Good Faith Efforts

I. When, as a recipient, you establish a contract goal on a DOT-assisted contract for procuring construction, equipment, services, or any other purpose, a bidder must, in order to be responsible and/or responsive, make sufficient good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate

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good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

II. In any situation in which you have established a contract goal, Part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, you have the responsibility to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made, based on the regulations and the guidance in this Appendix.

The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call. Determinations should not be made using quantitative formulas.

III. The Department also strongly cautions you against requiring that a bidder meet a contract goal (*i.e.*, obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring bona fide good faith efforts.

IV. The following is a list of types of actions which you should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. (1) Conducting market research to identify small business contractors and suppliers and soliciting through all reasonable and available means the interest of all certified DBEs that have the capability to perform the work of the contract. This may include attendance at pre-bid and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, written notices or emails to all DBEs listed in the State's directory of transportation firms that specialize in the areas of work desired (as noted in the DBE directory) and which are located in the area or surrounding areas of the project.

(2) The bidder should solicit this interest as early in the acquisition process as practicable to allow the DBEs to respond to the solicitation and submit a timely offer for the subcontract. The bidder should determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates DBE participation.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation with their offer for the subcontract.

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D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional Agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. (1) Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal. Another practice considered an insufficient good faith effort is the rejection of the DBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the bidder or prime contractor to accept unreasonable quotes in order to satisfy contract goals.

(2) A prime contractor's inability to find a replacement DBE at the original price is not alone sufficient to support a finding that good faith efforts have been made to replace the original DBE. The fact that the contractor has the ability and/or desire to perform the contract work with its own forces does not relieve the contractor of the obligation to make good faith efforts to find a replacement DBE, and it is not a sound basis for rejecting a prospective replacement DBE's reasonable quote.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, State, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

V. In determining whether a bidder has made good faith efforts, it is essential to scrutinize its documented efforts. At a minimum, you must review the performance of other bidders in meeting the contract goal. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts. As provided in

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§26.53(b)(2)(vi), you must also require the contractor to submit copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract to review whether DBE prices were substantially higher; and contact the DBEs listed on a contractor's solicitation to inquire as to whether they were contacted by the prime. Pro forma mailings to DBEs requesting bids are not alone sufficient to satisfy good faith efforts under the rule.

VI. A promise to use DBEs after contract award is not considered to be responsive to the contract solicitation or to constitute good faith efforts.

[79 FR 59600, Oct. 2, 2014]

Appendix B to Part 26—Uniform Report of DBE Awards or Commitments and Payments Form

INSTRUCTIONS FOR COMPLETING THE UNIFORM REPORT OF DBE AWARDS/COMMITMENTS AND PAYMENTS

Recipients of Department of Transportation (DOT) funds are expected to keep accurate data regarding the contracting opportunities available to firms paid for with DOT dollars. Failure to submit contracting data relative to the DBE program will result in noncompliance with Part 26. All dollar values listed on this form should represent the DOT share attributable to the Operating Administration (OA): Federal Highway Administration (FHWA), Federal Aviation Administration (FAA) or Federal Transit Administration (FTA) to which this report will be submitted.

1. Indicate the DOT (OA) that provides your Federal financial assistance. If assistance comes from more than one OA, use separate reporting forms for each OA. If you are an FTA recipient, indicate your Vendor Number in the space provided.

2. If you are an FAA recipient, indicate the relevant AIP Numbers covered by this report. If you are an FTA recipient, indicate the Grant/Project numbers covered by this report. If more than ten attach a separate sheet.

3. Specify the Federal fiscal year (*i.e.*, October 1-September 30) in which the covered reporting period falls.

4. State the date of submission of this report.

5. Check the appropriate box that indicates the reporting period that the data provided in this report covers. For FHWA and FTA recipients, if this report is due June 1, data should cover October 1-March 31. If this report is due December 1, data should cover April 1-September 30. If the report is due to the FAA, data should cover the entire year.

6. Provide the name and address of the recipient.

7. State your overall DBE goal(s) established for the Federal fiscal year of the report being submitted to and approved by the relevant OA. Your overall goal is to be reported as well as the breakdown for specific Race Conscious and Race Neutral projections (both of which include gender-conscious/neutral projections). The Race Conscious projection should be based on measures that focus on and provide benefits only for DBEs. The use of contract goals is a primary example of a race conscious measure. The Race Neutral projection should include measures that, while benefiting DBEs, are not solely focused on DBE firms. For example, a small business outreach program, technical assistance, and prompt payment clauses can assist a

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wide variety of businesses in addition to helping DBE firms.

Section A: Awards and Commitments Made During This Period

The amounts in items 8(A)-10(I) should include all types of prime contracts awarded and all types of subcontracts awarded or committed, including: professional or consultant services, construction, purchase of materials or supplies, lease or purchase of equipment and any other types of services. All dollar amounts are to reflect only the Federal share of such contracts and should be rounded to the nearest dollar.

Line 8: Prime contracts awarded this period: The items on this line should correspond to the contracts directly between the recipient and a supply or service contractor, with no intermediaries between the two.

8(A). Provide the *total dollar amount* for all prime contracts assisted with DOT funds and awarded during this reporting period. This value should include the entire Federal share of the contracts without removing any amounts associated with resulting subcontracts.

8(B). Provide the *total number* of all prime contracts assisted with DOT funds and awarded during this reporting period.

8(C). From the total dollar amount awarded in item 8(A), provide the *dollar amount* awarded in prime contracts to certified DBE firms during this reporting period. This amount should not include the amounts sub contracted to other firms.

8(D). From the total number of prime contracts awarded in item 8(B), specify the *number* of prime contracts awarded to certified DBE firms during this reporting period.

8(E&F). This field is closed for data entry. Except for the very rare case of DBE-set asides permitted under 49 CFR part 26, all prime contracts awarded to DBES are regarded as race-neutral.

8(G). From the total dollar amount awarded in item 8(C), provide the *dollar amount* awarded to certified DBEs through the use of Race Neutral methods. See the definition of Race Neutral in item 7 and the explanation in item 8 of project types to include.

8(H). From the total number of prime contracts awarded in 8(D), specify the *number* awarded to DBEs through Race Neutral methods.

8(I). Of all prime contracts awarded this reporting period, calculate the *percentage* going to DBEs. Divide the dollar amount in item 8(C) by the dollar amount in item 8(A) to derive this percentage. Round percentage to the nearest tenth.

Line 9: Subcontracts awarded/committed this period: Items 9(A)-9(I) are derived in the same way as items 8(A)-8(I), except that these calculations should be based on subcontracts rather than prime contracts. Unlike prime contracts, which may only be awarded, subcontracts may be either awarded or committed.

9(A). If filling out the form for general reporting, provide the total dollar amount of subcontracts assisted with DOT funds awarded or committed during this period. This value should be a subset of the total dollars awarded in prime contracts in 8(A), and therefore should never be greater than the amount awarded in prime contracts. If filling out the form for project reporting, provide the total dollar amount of subcontracts assisted with DOT funds awarded or committed during this period. This value should be a

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subset of the total dollars awarded or previously in prime contracts in 8(A). The sum of all subcontract amounts in consecutive periods should never exceed the sum of all prime contract amounts awarded in those periods.

9(B). Provide the total number of all sub contracts assisted with DOT funds that were awarded or committed during this reporting period.

9(C). From the total dollar amount of sub contracts awarded/committed this period in item 9(A), provide the total dollar amount awarded in sub contracts to DBEs.

9(D). From the total number of sub contracts awarded or committed in item 9(B), specify the number of sub contracts awarded or committed to DBEs.

9(E). From the total dollar amount of sub contracts awarded or committed to DBEs this period, provide the amount in dollars to DBEs using Race Conscious measures.

9(F). From the total number of sub contracts awarded or committed to DBEs this period, provide the number of sub contracts awarded or committed to DBEs using Race Conscious measures.

9(G). From the total dollar amount of sub contracts awarded/committed to DBEs this period, provide the amount in dollars to DBEs using Race Neutral measures.

9(H). From the total number of sub contracts awarded/committed to DBEs this period, provide the number of sub contracts awarded to DBEs using Race Neutral measures.

9(I). Of all subcontracts awarded this reporting period, calculate the *percentage* going to DBEs. Divide the dollar amount in item 9(C) by the dollar amount in item 9(A) to derive this percentage. Round percentage to the nearest tenth.

Line 10: Total contracts awarded or committed this period. These fields should be used to show the total dollar value and number of contracts awarded to DBEs and to calculate the overall percentage of dollars awarded to DBEs.

10(A)-10(B). These fields are unavailable for data entry.

10(C-H). Combine the total values listed on the prime contracts line (Line 8) with the corresponding values on the subcontracts line (Line 9).

10(I). Of all contracts awarded this reporting period, calculate the *percentage* going to DBEs. Divide the total dollars awarded to DBEs in item 10(C) by the dollar amount in item 8(A) to derive this percentage. Round percentage to the nearest tenth.

Section B: Breakdown by Ethnicity & Gender of Contracts Awarded to DBEs This Period

11-17. Further breakdown the contracting activity with DBE involvement. The Total Dollar Amount to DBEs in 17(C) should equal the Total Dollar Amount to DBEs in 10(C). Likewise the total number of contracts to DBEs in 17(F) should equal the Total Number of Contracts to DBEs in 10(D).

Line 16: The “Non-Minority” category is reserved for any firms whose owners are not members of

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the presumptively disadvantaged groups already listed, but who are either “women” OR eligible for the DBE program on an individual basis. All DBE firms must be certified by the Unified Certification Program to be counted in this report.

Section C: Payments on Ongoing Contracts

Line 18(A-E). Submit information on contracts that are currently in progress. All dollar amounts are to reflect only the Federal share of such contracts, and should be rounded to the nearest dollar.

18(A). Provide the total dollar amount paid to all firms performing work on contracts.

18(B). Provide the total number of contracts where work was performed during the reporting period.

18(C). From the total number of contracts provided in 18(A) provide the total number of contracts that are currently being performed by DBE firms for which payments have been made.

18(D). From the total dollar amount paid to all firms in 18(A), provide the total dollar value paid to DBE firms currently performing work during this period.

18(E). Provide the total number of DBE firms that received payment during this reporting period. For example, while 3 contracts may be active during this period, one DBE firm may be providing supplies or services on all three contracts. This field should only list the number of DBE firms performing work.

18(F). Of all payments made during this period, calculate the percentage going to DBEs. Divide the total dollar value to DBEs in item 18(D) by the total dollars of all payments in 18(B). Round percentage to the nearest tenth.

Section D: Actual Payments on Contracts Completed This Reporting Period

This section should provide information only on contracts that are closed during this period. All dollar amounts are to reflect the entire Federal share of such contracts, and should be rounded to the nearest dollar.

19(A). Provide the total number of contracts completed during this reporting period that used Race Conscious measures. Race Conscious contracts are those with contract goals or another race conscious measure.

19(B). Provide the total dollar value of prime contracts completed this reporting period that had race conscious measures.

19(C). From the total dollar value of prime contracts completed this period in 19(B), provide the total dollar amount of dollars awarded or committed to DBE firms in order to meet the contract goals. This applies only to Race Conscious contracts.

19(D). Provide the actual total DBE participation in dollars on the race conscious contracts completed this reporting period.

19(E). Of all the contracts completed this reporting period using Race Conscious measures, calculate the percentage of DBE participation. Divide the total dollar amount to DBEs in item 19(D) by the total dollar value provided in 19(B) to derive this percentage. Round to the nearest tenth.

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20(A)-20(E). Items 21(A)-21(E) are derived in the same manner as items 19(A)-19(E), except these figures should be based on contracts completed using Race Neutral measures.

20(C). This field is closed.

21(A)-21(D). Calculate the totals for each column by adding the race conscious and neutral figures provided in each row above.

21(C). This field is closed.

21(E). Calculate the overall percentage of dollars to DBEs on completed contracts. Divide the Total DBE participation dollar value in 21(D) by the Total Dollar Value of Contracts Completed in 21(B) to derive this percentage. Round to the nearest tenth.

23. Name of the Authorized Representative preparing this form.

24. Signature of the Authorized Representative.

25. Phone number of the Authorized Representative.

****Submit your completed report to your Regional or Division Office.**

UNIFORM REPORT OF DBE COMMITMENTS, AWARDS AND PAYMENTS									
(Please refer to the Instructions sheet for directions in filling out this form)									
(Check one box only)		1. Firms		2. Sole		3. Other (Designate in Remarks)			
4. DBE Number (if not Registered, leave blank)		5. DBE Number (if not Registered, leave blank)		6. DBE Number (if not Registered, leave blank)		7. DBE Number (if not Registered, leave blank)		8. DBE Number (if not Registered, leave blank)	
9. Contract, Bond, and/or other reporting period info		10. Report due date 1 (the period Dec. 1-Mar. 31)		11. Report due date 2 (the period April 1-Sep. 30)		12. DBE annual report due date 1			
13. Name and address of recipient		14. Contract/DBE Project		15. DBE Project		16. DBE Project			
Awards/Commitments this Reporting Period									
A. AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD	Total Dollars	Total Number	Total to DBEs (dollars)	Total to DBEs (number)	Total to DBEs (Race Conscious) (dollars)	Total to DBEs (Race Conscious) (number)	Total to DBEs (Race Neutral) (dollars)	Total to DBEs (Race Neutral) (number)	Percentage of total dollars to DBEs
17. Other awards/commitments made during this reporting period									
18. Subcontract awards/commitments made during this reporting period									
19. Totals									
B. BREAKDOWN BY ETHNICITY & GENDER									
Contracts awarded to DBEs this Period									
Total to DBE (dollar amount)	Total to DBE (number)		Total to DBE (number)		Total to DBE (number)		Total to DBE (number)		Total
Women	Men	Total	Women	Men	Total	Women	Men	Total	Total
20. Black American									
21. Hispanic American									
22. Native American									
23. Asian Pacific American									
24. Subcontinent Asian American									
25. Non-Minority									
26. Totals									
Payments Made this Period									
C. PAYMENT ON ONGOING CONTRACTS	Total Number of Contracts	Total Dollars Paid	Total Number of Contracts with DBEs	Total Payments to DBE firms	Total Number of DBE firms Paid	Percent to DBEs			
27. Prime and sub contracts currently in progress									
D. TOTAL PAYMENTS ON CONTRACTS COMPLETED THIS REPORTING PERIOD	Number of Contracts Completed	Total Dollar Value of Contracts Completed	DBE Participation Needed to Meet Goal (dollars)	Total DBE Participation (dollars)	Percent to DBEs				
28. Race Conscious									
29. Race Neutral									
30. Totals									
31. Submitted by:			32. Signature:			33. Phone Number:			

[79 FR 59601, Oct. 2, 2014]

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Appendix C to Part 26—DBE Business Development Program Guidelines

The purpose of this program element is to further the development of DBEs, including but not limited to assisting them to move into non-traditional areas of work and/or compete in the marketplace outside the DBE program, via the provision of training and assistance from the recipient.

(A) Each firm that participates in a recipient's business development program (BDP) program is subject to a program term determined by the recipient. The term should consist of two stages; a developmental stage and a transitional stage.

(B) In order for a firm to remain eligible for program participation, it must continue to meet all eligibility criteria contained in part 26.

(C) By no later than 6 months of program entry, the participant should develop and submit to the recipient a comprehensive business plan setting forth the participant's business targets, objectives and goals. The participant will not be eligible for program benefits until such business plan is submitted and approved by the recipient. The approved business plan will constitute the participant's short and long term goals and the strategy for developmental growth to the point of economic viability in non-traditional areas of work and/or work outside the DBE program.

(D) The business plan should contain at least the following:

(1) An analysis of market potential, competitive environment and other business analyses estimating the program participant's prospects for profitable operation during the term of program participation and after graduation from the program.

(2) An analysis of the firm's strengths and weaknesses, with particular attention paid to the means of correcting any financial, managerial, technical, or labor conditions which could impede the participant from receiving contracts other than those in traditional areas of DBE participation.

(3) Specific targets, objectives, and goals for the business development of the participant during the next two years, utilizing the results of the analysis conducted pursuant to paragraphs (C) and (D)(1) of this appendix;

(4) Estimates of contract awards from the DBE program and from other sources which are needed to meet the objectives and goals for the years covered by the business plan; and

(5) Such other information as the recipient may require.

(E) Each participant should annually review its currently approved business plan with the recipient and modify the plan as may be appropriate to account for any changes in the firm's structure and redefined needs. The currently approved plan should be considered the applicable plan for all program purposes until the recipient approves in writing a modified plan. The recipient should establish an anniversary date for review of the participant's business plan and contract forecasts.

(F) Each participant should annually forecast in writing its need for contract awards for the next program year and the succeeding program year during the review of its business plan conducted under paragraph (E) of this appendix. Such forecast should be included in the participant's business plan. The forecast should include:

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(1) The aggregate dollar value of contracts to be sought under the DBE program, reflecting compliance with the business plan;

(2) The aggregate dollar value of contracts to be sought in areas other than traditional areas of DBE participation;

(3) The types of contract opportunities being sought, based on the firm's primary line of business; and

(4) Such other information as may be requested by the recipient to aid in providing effective business development assistance to the participant.

(G) Program participation is divided into two stages; (1) a developmental stage and (2) a transitional stage. The developmental stage is designed to assist participants to overcome their social and economic disadvantage by providing such assistance as may be necessary and appropriate to enable them to access relevant markets and strengthen their financial and managerial skills. The transitional stage of program participation follows the developmental stage and is designed to assist participants to overcome, insofar as practical, their social and economic disadvantage and to prepare the participant for leaving the program.

(H) The length of service in the program term should not be a pre-set time frame for either the developmental or transitional stages but should be figured on the number of years considered necessary in normal progression of achieving the firm's established goals and objectives. The setting of such time could be factored on such items as, but not limited to, the number of contracts, aggregate amount of the contract received, years in business, growth potential, etc.

(I) Beginning in the first year of the transitional stage of program participation, each participant should annually submit for inclusion in its business plan a transition management plan outlining specific steps to promote profitable business operations in areas other than traditional areas of DBE participation after graduation from the program. The transition management plan should be submitted to the recipient at the same time other modifications are submitted pursuant to the annual review under paragraph (E) of this section. The plan should set forth the same information as required under paragraph (F) of steps the participant will take to continue its business development after the expiration of its program term.

(J) When a participant is recognized as successfully completing the program by substantially achieving the targets, objectives and goals set forth in its program term, and has demonstrated the ability to compete in the marketplace, its further participation within the program may be determined by the recipient.

(K) In determining whether a concern has substantially achieved the goals and objectives of its business plan, the following factors, among others, should be considered by the recipient:

(1) Profitability;

(2) Sales, including improved ratio of non-traditional contracts to traditional-type contracts;

(3) Net worth, financial ratios, working capital, capitalization, access to credit and capital;

(4) Ability to obtain bonding;

(5) A positive comparison of the DBE's business and financial profile with profiles of non-DBE businesses in the same area or similar business category; and

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(6) Good management capacity and capability.

(L) Upon determination by the recipient that the participant should be graduated from the developmental program, the recipient should notify the participant in writing of its intent to graduate the firm in a letter of notification. The letter of notification should set forth findings, based on the facts, for every material issue relating to the basis of the program graduation with specific reasons for each finding. The letter of notification should also provide the participant 45 days from the date of service of the letter to submit in writing information that would explain why the proposed basis of graduation is not warranted.

(M) Participation of a DBE firm in the program may be discontinued by the recipient prior to expiration of the firm's program term for good cause due to the failure of the firm to engage in business practices that will promote its competitiveness within a reasonable period of time as evidenced by, among other indicators, a pattern of inadequate performance or unjustified delinquent performance. Also, the recipient can discontinue the participation of a firm that does not actively pursue and bid on contracts, and a firm that, without justification, regularly fails to respond to solicitations in the type of work it is qualified for and in the geographical areas where it has indicated availability under its approved business plan. The recipient should take such action if over a 2-year period a DBE firm exhibits such a pattern.

Appendix D to Part 26—Mentor-Protégé Program Guidelines

(A) The purpose of this program element is to further the development of DBEs, including but not limited to assisting them to move into non-traditional areas of work and/or compete in the marketplace outside the DBE program, via the provision of training and assistance from other firms. To operate a mentor-protégé program, a recipient must obtain the approval of the concerned operating administration.

(B)(1) Any mentor-protégé relationship shall be based on a written development plan, approved by the recipient, which clearly sets forth the objectives of the parties and their respective roles, the duration of the arrangement and the services and resources to be provided by the mentor to the protégé. The formal mentor-protégé agreement may set a fee schedule to cover the direct and indirect cost for such services rendered by the mentor for specific training and assistance to the protégé through the life of the agreement. Services provided by the mentor may be reimbursable under the FTA, FHWA, and FAA programs.

(2) To be eligible for reimbursement, the mentor's services provided and associated costs must be directly attributable and properly allowable to specific individual contracts. The recipient may establish a line item for the mentor to quote the portion of the fee schedule expected to be provided during the life of the contract. The amount claimed shall be verified by the recipient and paid on an incremental basis representing the time the protégé is working on the contract. The total individual contract figures accumulated over the life of the agreement shall not exceed the amount stipulated in the original mentor/protégé agreement.

(C) DBEs involved in a mentor-protégé agreement must be independent business entities which meet the requirements for certification as defined in subpart D of this part. A protégé firm must be certified *before* it begins participation in a mentor-protégé arrangement. If the recipient chooses to recognize mentor/protégé agreements, it should establish formal general program guidelines. These guidelines must be submitted to the operating administration for approval prior to the recipient executing an individual contractor/ subcontractor mentor-protégé agreement.

Appendix E to Part 26—Individual Determinations of Social and Economic Disadvantage

The following guidance is adapted, with minor modifications, from SBA regulations concerning social

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and economic disadvantage determinations (see 13 CFR 124.103(c) and 124.104).

SOCIAL DISADVANTAGE

I. Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities. Social disadvantage must stem from circumstances beyond their control. Evidence of individual social disadvantage must include the following elements:

(A) At least one objective distinguishing feature that has contributed to social disadvantage, such as race, ethnic origin, gender, disability, long-term residence in an environment isolated from the mainstream of American society, or other similar causes not common to individuals who are not socially disadvantaged;

(B) Personal experiences of substantial and chronic social disadvantage in American society, not in other countries; and

(C) Negative impact on entry into or advancement in the business world because of the disadvantage. Recipients will consider any relevant evidence in assessing this element. In every case, however, recipients will consider education, employment and business history, where applicable, to see if the totality of circumstances shows disadvantage in entering into or advancing in the business world.

(1) *Education.* Recipients will consider such factors as denial of equal access to institutions of higher education and vocational training, exclusion from social and professional association with students or teachers, denial of educational honors rightfully earned, and social patterns or pressures which discouraged the individual from pursuing a professional or business education.

(2) *Employment.* Recipients will consider such factors as unequal treatment in hiring, promotions and other aspects of professional advancement, pay and fringe benefits, and other terms and conditions of employment; retaliatory or discriminatory behavior by an employer or labor union; and social patterns or pressures which have channeled the individual into non-professional or non-business fields.

(3) *Business history.* The recipient will consider such factors as unequal access to credit or capital, acquisition of credit or capital under commercially unfavorable circumstances, unequal treatment in opportunities for government contracts or other work, unequal treatment by potential customers and business associates, and exclusion from business or professional organizations.

II. With respect to paragraph I.(A) of this appendix, the Department notes that people with disabilities have disproportionately low incomes and high rates of unemployment. Many physical and attitudinal barriers remain to their full participation in education, employment, and business opportunities available to the general public. The Americans with Disabilities Act (ADA) was passed in recognition of the discrimination faced by people with disabilities. It is plausible that many individuals with disabilities—especially persons with severe disabilities (e.g., significant mobility, vision, or hearing impairments)—may be socially and economically disadvantaged.

III. Under the laws concerning social and economic disadvantage, people with disabilities are not a group presumed to be disadvantaged. Nevertheless, recipients should look carefully at individual showings of disadvantage by individuals with disabilities, making a case-by-case judgment about whether such an individual meets the criteria of this appendix. As public entities subject to Title II of the ADA, recipients must also ensure their DBE programs are accessible to individuals with disabilities. For example, physical barriers or the lack of application and information materials in accessible formats cannot be permitted to

DIVISION 1 – FEDERAL REFERENCED DOCUMENTS

thwart the access of potential applicants to the certification process or other services made available to DBEs and applicants.

ECONOMIC DISADVANTAGE

(A) *General.* Economically disadvantaged individuals are socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially disadvantaged.

(B) *Submission of narrative and financial information.* (1) Each individual claiming economic disadvantage must describe the conditions which are the basis for the claim in a narrative statement, and must submit personal financial information.

(2) [Reserved]

(C) *Factors to be considered.* In considering diminished capital and credit opportunities, recipients will examine factors relating to the personal financial condition of any individual claiming disadvantaged status, including personal income for the past two years (including bonuses and the value of company stock given in lieu of cash), personal net worth, and the fair market value of all assets, whether encumbered or not. Recipients will also consider the financial condition of the applicant compared to the financial profiles of small businesses in the same primary industry classification, or, if not available, in similar lines of business, which are not owned and controlled by socially and economically disadvantaged individuals in evaluating the individual's access to credit and capital. The financial profiles that recipients will compare include total assets, net sales, pre-tax profit, sales/working capital ratio, and net worth.

(D) *Transfers within two years.* (1) Except as set forth in paragraph (D)(2) of this appendix, recipients will attribute to an individual claiming disadvantaged status any assets which that individual has transferred to an immediate family member, or to a trust, a beneficiary of which is an immediate family member, for less than fair market value, within two years prior to a concern's application for participation in the DBE program, unless the individual claiming disadvantaged status can demonstrate that the transfer is to or on behalf of an immediate family member for that individual's education, medical expenses, or some other form of essential support.

(2) Recipients will not attribute to an individual claiming disadvantaged status any assets transferred by that individual to an immediate family member that are consistent with the customary recognition of special occasions, such as birthdays, graduations, anniversaries, and retirements.

(3) In determining an individual's access to capital and credit, recipients may consider any assets that the individual transferred within such two-year period described by paragraph (D)(1) of this appendix that are not considered in evaluating the individual's assets and net worth (e.g., transfers to charities).

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35559, June 16, 2003]

Appendix F to Part 26—Uniform Certification Application Form



Appendix F

UNIFORM CERTIFICATION APPLICATION
DISADVANTAGED BUSINESS ENTERPRISE (DBE) /
AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)
49 C.F.R. Parts 23 and 26

Roadmap for Applicants

1. Should I apply?

You may be eligible to participate in the DBE/ACDBE program if:

- The firm is a for-profit business that performs or seeks to perform transportation related work (or a concession activity) for a recipient of Federal Transit Administration, Federal Highway Administration, or Federal Aviation Administration funds.
- The firm is at least 51% owned by a socially and economically disadvantaged individual(s) who also controls it.
- The firm's disadvantaged owners are U.S. citizens or lawfully admitted permanent residents of the U.S.
- The firm meets the Small Business Administration's size standard and does not exceed \$23.98 million in gross annual receipts for DBE (\$52.47 million for ACDBEs). (Other size standards apply for ACDBE that are banks/financial institutions, car rental companies, pay telephone firms, and automobile dealers.)

2. How do I apply?

First time applicants for DBE certification must complete and submit this certification application and related material to the certifying agency in your home state and participate in an on-site interview conducted by that agency. The attached document checklist can help you locate the items you need to submit to the agency with your completed application. If you fail to submit the required documents, your application may be delayed and/or denied. Firms already certified as a DBE do not have to complete this form, but may be asked by certifying agencies outside of your home state to provide a copy of your initial application form, supporting documents, and any other information you submitted to your home state to obtain certification or to any other state related to your certification.

3. Where can I send my application? INSERT UCP PARTICIPATING MEMBER CONTACT INFORMATION**4. Who will contact me about my application and what are the eligibility standards?**

The DBE and ACDBE Programs require that all U.S. Department of Transportation (DOT) recipients of federal assistance participate in a statewide Unified Certification Program (UCP). The UCP is a one-stop certification program that eliminates the need for your firm to obtain certification from multiple certifying agencies within your state. The UCP is responsible for certifying firms and maintaining a database of certified DBEs and ACDBEs for DOT grantees, pursuant to the eligibility standards found in 49 C.F.R. Parts 23 and 26.

5. Where can I find more information?

U.S. DOT—<https://www.civilrights.dot.gov/> (This site provides useful links to the rules and regulations governing the DBE/ACDBE program, questions and answers, and other pertinent information)

SBA—Small Business Size Standards matched to the North American Industry Classification System (NAICS): <http://www.census.gov/eos/www/naics/> and <http://www.sba.gov/content/table-small-business-size-standards>.

In collecting the information requested by this form, the Department of Transportation (Department) complies with the provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The Privacy Act provides comprehensive protections for your personal information. This includes how information is collected, used, disclosed, stored, and discarded. Your information will not be disclosed to third parties without your consent. The information collected will be used solely to determine your firm's eligibility to participate in the Department's Disadvantaged Business Enterprise Program as defined in 49 CFR [26.5] and the Airport Concession Disadvantaged Business Enterprise Program as defined in 49 CFR [23.3]. You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

Under 49 C.F.R. [26.107], dated February 2, 1999 and January 28, 2011, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 2 CFR Parts 180 and 1200, Nonprocurement Suspension and Debarment, take enforcement action under 49 C.F.R. Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.



**INSTRUCTIONS FOR COMPLETING THE
DISADVANTAGED BUSINESS ENTERPRISE (DBE)
AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (ACDBE)
UNIFORM CERTIFICATION APPLICATION**

NOTE: All participating firms must be for-profit enterprises. If your firm is not for profit, then you do NOT qualify for the DBE/ACDBE program and should not complete this application. If you require additional space for any question in this application, please attach additional sheets or copies as needed, taking care to indicate on each attached sheet/copy the section and number of this application to which it refers.

Section 1: CERTIFICATION INFORMATION

A. Basic Contact Information

- (1) Enter the contact name and title of the person completing this application and the person who will serve as your firm's contact for this application.
- (2) Enter the legal name of your firm, as indicated in your firm's Articles of Incorporation or charter.
- (3) Enter the primary phone number of your firm.
- (4) Enter a secondary phone number, if any.
- (5) Enter your firm's fax number, if any.
- (6) Enter the contact person's email address.
- (7) Enter your firm's website addresses, if any.
- (8) Enter the street address of the firm where its offices are physically located (not a P.O. Box).
- (9) Enter the mailing address of your firm, if it is different from your firm's street address.

B. Prior/Other Certifications and Applications

- (10) Check the appropriate box indicating whether your firm is currently certified in the DBE/ACDBE program, and provide the name of the certifying agency that certified your firm. List the dates of any site visits conducted by your home state and any other states or UCP members. Also provide the names of state/UCP members that conducted the review.
- (11) Indicate whether your firm or any of the persons listed has ever been denied certification as a DBE, 8(a), or Small Disadvantaged Business (SDB) firm, or state and local MBE/WBE firm. Indicate if the firm has ever been decertified from one of these programs. Indicate if the application was withdrawn or whether the firm was debarred, suspended, or otherwise had its bidding privileges denied or restricted by any state or local agency, or Federal entity. If your answer is yes, identify the name of the agency, and explain fully the nature of the action in the space provided. Indicate if you have ever appealed this decision to the Department and if so, attach a copy of USDOT's final agency decision(s).

Section 2: GENERAL INFORMATION

A. Business profile:

- (1) Give a concise description of the firm's primary activities, the product(s) or services the company provides, or type of construction. If your company offers more than one product/service, list primary product or service first (attach additional sheets if necessary). This description may be used in our UCP online directory if you are certified as a DBE.

- (2) If you know the appropriate NAICS Code for the line(s) of work you identified in your business profile, enter the codes in the space provided.
- (3) State the date on which your firm was established as stated in your firm's Articles of Incorporation or charter.
- (4) State the date each person became a firm owner.
- (5) Check the appropriate box describing the manner in which you and each other owner acquired ownership of your firm. If you checked "Other," explain in the space provided.
- (6) Check the appropriate box that indicates whether your firm is "for profit." If you checked "No," then you do NOT qualify for the DBE/ACDBE program and should not complete this application. All participating firms must be for-profit enterprises. If the firm is a for-profit enterprise, provide the Federal Tax ID number as stated on your firm's Federal tax return.
- (7) Check the appropriate box that describes the type of legal business structure of your firm, as indicated in your firm's Articles of Incorporation or similar document. Identify all joint venture partners if applicable. If you checked "Other," briefly explain in the space provided.
- (8) Indicate in the spaces provided how many employees your firm has, specifying the number of employees who work on a full-time, part-time, and seasonal basis. Attach a list of employees, their job titles, and dates of employment, to your application.
- (9) Specify the firm's gross receipts for each of the past three years, as stated in your firm's filed Federal tax returns. You must submit complete copies of the firm's Federal tax returns for each year. If there are any affiliates or subsidiaries of the applicant firm or owners, you must provide these firms' gross receipts and submit complete copies of these firms' Federal tax returns. Affiliation is defined in 49 C.F.R. §26.5 and 13 C.F.R. Part 121.

B. Relationships and Dealings with Other Businesses

- (1) Check the appropriate box that indicates whether your firm is co-located at any of its business locations, or whether your firm shares a telephone number(s), a post office box, any office space, a yard, warehouse, other facilities, any equipment, financing, or any office staff and/or employees with any other business, organization or entity of any kind. If you answered "Yes," then specify the name of the other firm(s) and fully explain the nature of your relationship with these other businesses by identifying the business or person with whom you have any formal, informal, written, or



oral agreement. Provide an explanation of any items shared with other firms in the space provided.

- (2) Check the appropriate box indicating whether any other firm currently has or had an ownership interest in your firm at present or at any time in the past. If you checked yes, please explain.
- (3) Check the appropriate box that indicates whether at present or at any time in the past your firm:
 - (a) ever existed under different ownership, a different type of ownership, or a different name;
 - (b) existed as a subsidiary of any other firm;
 - (c) existed as a partnership in which one or more of the partners are/were other firms;
 - (d) owned any percentage of any other firm; and
 - (e) had any subsidiaries of its own.
- (f) served as a subcontractor with another firm constituting more than 25% of your firm's receipts.

If you answered "Yes" to any of the questions in (3)(a-f), you may be asked to explain the arrangement in detail.

Section 3: MAJORITY OWNER INFORMATION

Identify all individuals or holding companies with any ownership interest in your firm, providing the information requested below (if your firm has more than one owner, provide completed copies of this section for each owner):

A. Identify the majority owner of the firm holding 51% or more ownership interest

- (1) Enter the full name of the owner.
- (2) Enter his/her title or position within your firm.
- (3) Give his/her home phone number.
- (4) Enter his/her home (street) address.
- (5) Indicate this owner's gender.
- (6) Identify the owner's ethnic group membership. If you checked "Other," specify this owner's ethnic group/identity not otherwise listed.
- (7) Check the appropriate box to indicate whether this owner is a U.S. citizen or a lawfully admitted permanent resident. If this owner is neither a U.S. citizen nor a lawfully admitted permanent resident of the U.S., then this owner is NOT eligible for certification as a DBE owner.
- (8) Enter the number of years during which this owner has been an owner of your firm.
- (9) Indicate the percentage of the total ownership this person holds and the date acquired, including (if appropriate), the class of stock owned.
- (10) Indicate the dollar value of this owner's initial investment to acquire an ownership interest in your firm, broken down by cash, real estate, equipment, and/or other investment. Describe how you acquired your business and attach documentation substantiating this investment.

B. Additional Owner Information

- (1) Describe the familial relationship of this owner to each other owner of your firm and employees.
- (2) Indicate whether this owner performs a management or supervisory function for any other business. If you

checked "Yes," state the name of the other business and this owner's function/title held in that business.

- (3) (a) Check the appropriate box that indicates whether this owner owns or works for any other firm(s) that has any relationship with your firm. If you checked "Yes," identify the name of the other business, the nature of the business relationship, and the owner's function at the firm.
 - (b) If the owner works for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week, please identify this activity.
- (4) (a) Provide the personal net worth of the owner applying for certification in the space provided. Complete and attach the accompanying "Personal Net Worth Statement for DBE/ACDBE Program Eligibility" with your application. Note, complete this section and accompanying statement only for each owner applying for DBE qualification (i.e., for each owner claiming to be socially and economically disadvantaged).
 - (b) Check the appropriate box that indicates whether any trust has been created for the benefit of the disadvantaged owner(s). If you answered "Yes," you may be asked to provide a copy of the trust instrument.
- (5) Check the appropriate box to indicate whether any of your immediate family members, managers, or employees, own, manage, or are associated with another company. Immediate family member is defined in 49 C.F.R. §26.5. If you answered "Yes," provide the name of each person, your relationship to them, the name of the company, the type of business, and whether they own or manage the company.

Section 4: CONTROL

A. Identify the firm's Officers and Board of Directors

- (1) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each officer.
- (2) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each individual serving on your firm's Board of Directors.
- (3) Check the appropriate box to indicate whether any of your firm's officers and/or directors listed above performs a management or supervisory function for any other business. If you answered "Yes," identify each person by name, his/her title, the name of the other business in which s/he is involved, and his/her function performed in that other business.
- (4) Check the appropriate box that indicates whether any of your firm's officers and/or directors listed above own or work for any other firm(s) that has a relationship with your firm (e.g., ownership interest, shared office space, financial investments, equipment leases, personnel sharing, etc.) If you answered "Yes," identify the name of the firm, the individual's name, and the nature of his/her business relationship with that other firm.



B. Duties of Owners, Officers, Directors, Managers and Key Personnel

(1), (2) Specify the roles of the majority and minority owners, directors, officers, and managers, and key personnel who control the functions listed for the business. Submit résumés for each owner and non-owner identified below. State the name of the individual, title, race and gender and percentage ownership if any. Circle the frequency of each person's involvement as follows: "always, frequently, seldom, or never" in each area.

Indicate whether any of the persons listed in this section perform a management or supervisory function for any other business. Identify the person, business, and their title/function. Identify if any of the persons listed above own or work for any other firm(s) that has a relationship with this firm (e.g. ownership interest, shared office space, financial investment, equipment, leases, personnel sharing, etc.) If you answered "Yes," describe the nature of his/her business relationship with that other firm.

C. Inventory: Indicate firm inventory in these categories:

(1) Equipment and Vehicles

State the make and model, and current dollar value of each piece of equipment and motor vehicle held and/or used by your firm. Indicate whether each piece is either owned or leased by your firm or owner, whether it is used as collateral, and where this item is stored.

(2) Office Space

State the street address of each office space held and/or used by your firm. Indicate whether your firm or owner owns or leases the office space and the current dollar value of that property or its lease.

(3) Storage Space

State the street address of each storage space held and/or used by your firm. Indicate whether your firm or owner owns or leases the storage space and the current dollar value of that property or its lease. Provide a signed lease agreement for each property.

D. Does your firm rely on any other firm for management functions or employee payroll?

Check the appropriate box that indicates whether your firm relies on any other firm for management functions or for employee payroll. If you answered "Yes," you may be asked to explain the nature of that reliance and the extent to which the other firm carries out such functions.

E. Financial / Banking Information

Banking Information. State the name, City and State of your firm's bank. In the space provided, identify the persons able to sign checks on this account. Provide bank authorization and signature cards.

Bonding Information. State your firm's bonding limits (in dollars), specifying both the aggregate and project limits.

F. Sources, amounts, and purposes of money loaned to your firm, including the names of persons or firms guaranteeing the loan.

State the name and address of each source, the name of person securing the loan, original dollar amount and the current balance of each loan, and the purpose for which each loan was made to your firm. Provide copies of signed loan agreements and security agreements.

G. Contributions or transfers of assets to/from your firm and to/from any of its owners or another individual over the past two years:

Indicate in the spaces provided, the type of contribution or asset that was transferred, its current dollar value, the person or firm from whom it was transferred, the person or firm to whom it was transferred, the relationship between the two persons and/or firms, and the date of the transfer.

H. Current licenses/permits held by any owner or employee of your firm.

List the name of each person in your firm who holds a professional license or permit, the type of permit or license, the expiration date of the permit or license, and issuing State of the license or permit. Attach copies of licenses, license renewal forms, permits, and local authority forms.

I. Largest contracts completed by your firm in the past three years, if any.

List the name of each owner or contractor for each contract, the name and location of the projects under each contract, the type of work performed on each contract, and the dollar value of each contract.

J. Largest active jobs on which your firm is currently working.

For each active job listed, state the name of the prime contractor and the project number, the location, the type of work performed, the project start date, the anticipated completion date, and the dollar value of the contract.

AIRPORT CONCESSION (ACDBE) APPLICANTS


Identify the concession space, address and location at the airport, the value of the property or lease, and fees/lease payments paid to the airport. Provide information concerning any other airport concession businesses the applicant firm or any affiliate owns and/or operates, including name, location, type of concession, and start date of the concession enterprise.

AFFIDAVIT & SIGNATURE

The Affidavit of Certification must accompany your application for certification. Carefully read the attached affidavit in its entirety. Fill in the required information for each blank space, and sign and date the affidavit in the presence of a Notary Public, who must then notarize the form.

Section 1: CERTIFICATION INFORMATION				
A. Basic Contact Information				
(1) Contact person and Title: _____		(2) Legal name of firm: _____		
(3) Phone #: (____) _____ - _____		(4) Other Phone #: (____) _____ - _____ (5) Fax #: (____) _____ - _____		
(6) E-mail: _____		(7) Firm Websites: _____		
(8) Street address of firm (No P.O. Box): _____		City: _____	County/Parish: _____	State: _____ Zip: _____
(9) Mailing address of firm (if different): _____		City: _____	County/Parish: _____	State: _____ Zip: _____
B. Prior/Other Certifications and Applications				
(10) Is your firm currently certified for any of the following U.S. DOT programs? <input type="checkbox"/> DBE <input type="checkbox"/> ACDBE Names of certifying agencies: _____				
<small>© If you are certified in your home state as a DBE/ACDBE, you do <u>not</u> have to complete this application for other states. Ask your state UCP about the interstate certification process.</small>				
List the dates of any site visits conducted by your home state and any other states or UCP members:				
Date ____/____/____ State/UCP Member: _____ Date ____/____/____ State/UCP Member: _____				
(11) Indicate whether the firm or any persons listed in this application have ever been:				
(a) Denied certification or decertified as a DBE, ACDBE, 8(a), SDB, MBE/WBE firm? <input type="checkbox"/> Yes <input type="checkbox"/> No (b) Withdrawn an application for these programs, or debarred or suspended or otherwise had bidding privileges denied or restricted by any state or local agency, or Federal entity? <input type="checkbox"/> Yes <input type="checkbox"/> No				
If yes, explain the nature of the action. (If you appealed the decision to DOT or another agency, attach a copy of the decision, _____)				
Section 2: GENERAL INFORMATION				
A. Business Profile: (1) Give a concise description of the firm's primary activities and the product(s) or service(s) it provides. If your company offers more than one product/service, list the primary product or service first. Please use additional paper if necessary. This description may be used in our database and the UCP online directory if you are certified as a DBE or ACDBE.				
_____ _____ _____ _____ _____				
(2) Applicable NAICS Codes for this line of work include: _____				
(3) This firm was established on ____/____/____ (4) I/We have owned this firm since: ____/____/____				
(5) Method of acquisition (Check all that apply):				
<input type="checkbox"/> Started new business <input type="checkbox"/> Bought existing business <input type="checkbox"/> Inherited business <input type="checkbox"/> Secured concession <input type="checkbox"/> Merger or consolidation <input type="checkbox"/> Other (explain) _____				
U.S. DOT Uniform DBE / ACDBE Certification Application • Page 5 of 15				

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(6) Is your firm "for profit"? ☐ Yes ☐ No **STOP!** If your firm is NOT for-profit, then you do NOT qualify for this program and should not fill out this application. 

Federal Tax ID# _____

(7) Type of Legal Business Structure: (check all that apply):

☐ Sole Proprietorship ☐ Limited Liability Partnership

☐ Partnership ☐ Corporation

☐ Limited Liability Company ☐ Joint Venture (Identify all JV partners _____)

☐ Applying as an ACDBE ☐ Other, Describe _____

(8) Number of employees: Full-time _____ Part-time _____ Seasonal _____ Total _____
(Provide a list of employees, their job titles, and dates of employment, to your application).

(9) Specify the firm's gross receipts for the last 3 years. (Submit complete copies of the firm's Federal tax returns for each year. If there are affiliates or subsidiaries of the applicant firm or owners, you must submit complete copies of these firms' Federal tax returns).

Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____
Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____
Year _____	Gross Receipts of Applicant Firm \$ _____	Gross Receipts of Affiliate Firms \$ _____

B. Relationships and Dealings with Other Businesses

(1) Is your firm co-located at any of its business locations, or does it share a telephone number, P.O. Box, office or storage space, yard, warehouse, facilities, equipment, inventory, financing, office staff, and/or employees with any other business, organization, or entity? ☐ Yes ☐ No
If Yes, explain the nature of your relationship with these other businesses by identifying the business or person with whom you have any formal, informal, written, or oral agreement. Also detail the items shared.

(2) Has any other firm had an ownership interest in your firm at present or at any time in the past?
☐ Yes ☐ No If Yes, explain _____

(3) At present, or at any time in the past, has your firm:

(a) Ever existed under different ownership, a different type of ownership, or a different name? ☐ Yes ☐ No

(b) Existed as a subsidiary of any other firm? ☐ Yes ☐ No

(c) Existed as a partnership in which one or more of the partners are/were other firms? ☐ Yes ☐ No

(d) Owned any percentage of any other firm? ☐ Yes ☐ No

(e) Had any subsidiaries? ☐ Yes ☐ No

(f) Served as a subcontractor with another firm constituting more than 25% of your firm's receipts? ☐ Yes ☐ No

(If you answered "Yes" to any of the questions in (2) and/or (3)(a)-(f), you may be asked to provide further details and explain whether the arrangement continues).

U.S. DOT Uniform DBE/ACDBE Certification Application • Page 6 of 14

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Section 3: MAJORITY OWNER INFORMATION												
A. Identify the majority owner of the firm holding 51% or more ownership interest.												
(1) Full Name: _____	(2) Title: _____	(3) Home Phone #: _____ () _____ - _____										
(4) Home Address (Street and Number): _____	City: _____	State: _____	Zip: _____ - _____									
(5) Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	(8) Number of years as owner: _____											
(6) Ethnic group membership (Check all that apply): <input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> Asian Pacific <input type="checkbox"/> Native American <input type="checkbox"/> Subcontinent Asian <input type="checkbox"/> Other (specify) _____	(9) Percentage owned: _____ % Class of stock owned: _____ Date acquired: _____											
	(10) Initial investment to acquire ownership interest in firm: <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black;">Type</th> <th style="text-align: left; border-bottom: 1px solid black;">Dollar Value</th> </tr> </thead> <tbody> <tr> <td>Cash</td> <td>\$ _____</td> </tr> <tr> <td>Real Estate</td> <td>\$ _____</td> </tr> <tr> <td>Equipment</td> <td>\$ _____</td> </tr> <tr> <td>Other</td> <td>\$ _____</td> </tr> </tbody> </table>			Type	Dollar Value	Cash	\$ _____	Real Estate	\$ _____	Equipment	\$ _____	Other
Type	Dollar Value											
Cash	\$ _____											
Real Estate	\$ _____											
Equipment	\$ _____											
Other	\$ _____											
(7) U.S. Citizenship: <input type="checkbox"/> U.S. Citizen <input type="checkbox"/> Lawfully Admitted Permanent Resident	Describe how you acquired your business: <input type="checkbox"/> Started business myself <input type="checkbox"/> It was a gift from: _____ <input type="checkbox"/> I bought it from: _____ <input type="checkbox"/> I inherited it from: _____ <input type="checkbox"/> Other: _____ <i>(Attach documentation substantiating your investment)</i>											
B. Additional Owner Information												
(1) Describe familial relationship to other owners and employees: _____ _____												
(2) Does this owner perform a management or supervisory function for any other business? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, identify: Name of Business: _____ Function/Title: _____												
(3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.) <input type="checkbox"/> Yes <input type="checkbox"/> No Identify the name of the business, and the nature of the relationship, and the owner's function at the firm: _____ _____												
(b) Does this owner work for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week? If yes, identify this activity: _____												
(4)(a) What is the personal net worth of this disadvantaged owner applying for certification? \$ _____												
(b) Has any trust been created for the benefit of this disadvantaged owner(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If Yes, you may be asked to provide a copy of the trust instrument).</i>												
(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, provide their name, relationship, company, type of business, and indicate whether they own or manage the company: <i>(Please attach extra sheets, if needed):</i> _____ _____												
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Section 3: OWNER INFORMATION, Cont'd.													
A. Identify all individuals, firms, or holding companies that hold LESS THAN 51% ownership interest in the firm <i>(Attach separate sheets for each additional owner)</i>													
(1) Full Name: _____	(2) Title: _____	(3) Home Phone #: _____ () _____ - _____											
(4) Home Address (Street and Number): _____	City: _____	State: _____	Zip: _____										
(5) Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female		(8) Number of years as owner: _____											
(6) Ethnic group membership <i>(Check all that apply)</i>		(9) Percentage owned: _____ % Class of stock owned: _____ Date acquired: _____											
<input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> Asian Pacific <input type="checkbox"/> Native American <input type="checkbox"/> Subcontinent Asian <input type="checkbox"/> Other (specify) _____		(10) Initial investment to acquire ownership interest in firm: <table style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left; border-bottom: 1px solid black;">Type</th> <th style="text-align: left; border-bottom: 1px solid black;">Dollar Value</th> </tr> <tr> <td>Cash</td> <td>\$ _____</td> </tr> <tr> <td>Real Estate</td> <td>\$ _____</td> </tr> <tr> <td>Equipment</td> <td>\$ _____</td> </tr> <tr> <td>Other</td> <td>\$ _____</td> </tr> </table>		Type	Dollar Value	Cash	\$ _____	Real Estate	\$ _____	Equipment	\$ _____	Other	\$ _____
Type	Dollar Value												
Cash	\$ _____												
Real Estate	\$ _____												
Equipment	\$ _____												
Other	\$ _____												
(7) U.S. Citizenship:		Describe how you acquired your business:											
<input type="checkbox"/> U.S. Citizen <input type="checkbox"/> Lawfully Admitted Permanent Resident		<input type="checkbox"/> Started business myself <input type="checkbox"/> It was a gift from: _____ <input type="checkbox"/> I bought it from: _____ <input type="checkbox"/> I inherited it from: _____ <input type="checkbox"/> Other: _____											
<i>(Attach documentation substantiating your investment)</i>													
B. Additional Owner Information													
(1) Describe familial relationship to other owners and employees: _____													
(2) Does this owner perform a management or supervisory function for any other business? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, identify: Name of Business: _____ Function/Title: _____													
(3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? <i>(e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)</i> <input type="checkbox"/> Yes <input type="checkbox"/> No Identify the name of the business, and the nature of the relationship, and the owner's function at the firm: _____													
(b) Does this owner work for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week? If yes, identify this activity: _____													
(4)(a) What is the personal net worth of this disadvantaged owner applying for certification? \$ _____													
(b) Has any trust been created for the benefit of this disadvantaged owner(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If Yes, you may be asked to provide a copy of the trust instrument).</i>													
(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, provide their name, relationship, company, type of business, and indicate whether they own or manage: <i>(Please attach extra sheets, if needed):</i> _____													
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Section 4: CONTROL



A. Identify your firm's Officers and Board of Directors (If additional space is required, attach a separate sheet):

	Name	Title	Date Appointed	Ethnicity	Gender
(1) Officers of the Company	(a)				
	(b)				
	(c)				
	(d)				
(2) Board of Directors	(a)				
	(b)				
	(c)				
	(d)				

(3) Do any of the persons listed above perform a management or supervisory function for any other business?

☐ Yes ☐ No If Yes, identify for each:

Person: _____ Title: _____
 Business: _____ Function: _____

Person: _____ Title: _____
 Business: _____ Function: _____

(4) Do any of the persons listed in section A above own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investment, equipment, leases, personnel sharing, etc.)

☐ Yes ☐ No If Yes, identify for each:

Firm Name: _____ Person: _____
 Nature of Business Relationship: _____

B. Duties of Owners, Officers, Directors, Managers, and Key Personnel

1. (Identify your firm's management personnel who control your firm in the following areas (Attach separate sheets as needed).)

A = Always F = Frequently	S = Seldom N = Never	Majority Owner (51% or more)				Minority Owner (49% or less)			
		Name:	Title:	Percent Owned:		Name:	Title:	Percent Owned:	
Sets policy for company direction/scope of operations		A	F	S	N	A	F	S	N
Bidding and estimating		A	F	S	N	A	F	S	N
Major purchasing decisions		A	F	S	N	A	F	S	N
Marketing and sales		A	F	S	N	A	F	S	N
Supervises field operations		A	F	S	N	A	F	S	N
Attend bid opening and lettings		A	F	S	N	A	F	S	N
Perform office management (billing, accounts receivable/payable, etc.)		A	F	S	N	A	F	S	N
Hires and fires management staff		A	F	S	N	A	F	S	N
Hire and fire field staff or crew		A	F	S	N	A	F	S	N
Designates profits spending or investment		A	F	S	N	A	F	S	N
Obligates business by contract/credit		A	F	S	N	A	F	S	N
Purchase equipment		A	F	S	N	A	F	S	N
Signs business checks		A	F	S	N	A	F	S	N

2. Complete for all Officers, Directors, Managers, and Key Personnel who control the following functions for the firm. (Attach separate sheets as needed).

A = Always S = Seldom F = Frequently N = Never	Officer/Director/Manager/Key Personnel				Officer/Director/Manager/Key Personnel			
	Name: _____ Title: _____ Race and Gender: _____ Percent Owned: _____				Name: _____ Title: _____ Race and Gender: _____ Percent Owned: _____			
Sets policy for company direction/scope of operations	A	F	S	N	A	F	S	N
Bidding and estimating	A	F	S	N	A	F	S	N
Major purchasing decisions	A	F	S	N	A	F	S	N
Marketing and sales	A	F	S	N	A	F	S	N
Supervises field operations	A	F	S	N	A	F	S	N
Attend bid opening and lettings	A	F	S	N	A	F	S	N
Perform office management (billing, accounts receivable/payable, etc.)	A	F	S	N	A	F	S	N
Hires and fires management staff	A	F	S	N	A	F	S	N
Hire and fire field staff or crew	A	F	S	N	A	F	S	N
Designates profits spending or investment	A	F	S	N	A	F	S	N
Obligates business by contract/credit	A	F	S	N	A	F	S	N
Purchase equipment	A	F	S	N	A	F	S	N
Signs business checks	A	F	S	N	A	F	S	N

Do any of the persons listed in B1 or B2 perform a management or supervisory function for any other business? If Yes, identify the person, the business, and their title/function: _____

Do any of the persons listed above own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.) If Yes, describe the nature of the business relationship: _____

C. Inventory: Indicate your firm's inventory in the following categories (Please attach additional sheets if needed):


1. Equipment and Vehicles

Make and Model	Current Value	Owned or Leased by Firm or Owner?	Used as collateral?	Where is item stored?
1. _____				
2. _____				
3. _____				
4. _____				
5. _____				
6. _____				
7. _____				
8. _____				
9. _____				

2. Office Space


Street Address	Owned or Leased by Firm or Owner?	Current Value of Property or Lease

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3. Storage Space <i>(Provide signed lease agreements for the properties listed)</i>					
Street Address	Owned or Leased by Firm or Owner?	Current Value of Property or Lease			
D. Does your firm rely on any other firm for management functions or employee payroll? <input type="checkbox"/> Yes <input type="checkbox"/> No					
E. Financial/Banking Information <i>(Provide bank authorization and signature cards)</i>					
Name of bank: _____		City and State: _____			
The following individuals are able to sign checks on this account: _____					
Name of bank: _____		City and State: _____			
The following individuals are able to sign checks on this account: _____					
Bonding Information: If you have bonding capacity, identify the firm's bonding aggregate and project limits: Aggregate limit \$ _____ Project limit \$ _____					
F. Identify all sources, amounts, and purposes of money loaned to your firm including from financial institutions. Identify whether you the owner and any other person or firm loaned money to the applicant DBE/ACDBE. Include the names of any persons or firms guaranteeing the loan, if other than the listed owner. (Provide copies of signed loan agreements and security agreements).					
Name of Source	Address of Source	Name of Person Guaranteeing the Loan	Original Amount	Current Balance	Purpose of Loan
1. _____					
2. _____					
3. _____					
G. List all contributions or transfers of assets to/from your firm and to/from any of its owners or another individual over the past two years (Attach additional sheets if needed):					
Contribution/Asset	Dollar Value	From Whom Transferred	To Whom Transferred	Relationship	Date of Transfer
1. _____					
2. _____					
3. _____					
H. List current licenses/permits held by any owner and/or employee of your firm (e.g. contractor, engineer, architect, etc.) (Attach additional sheets if needed):					
Name of License/Permit Holder	Type of License/Permit	Expiration Date	State		
1. _____					
2. _____					
3. _____					
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DIVISION 1 – FEDERAL REFERENCED DOCUMENTS



I. List the three largest contracts completed by your firm in the past three years, if any:

Name of Owner/Contractor	Name/Location of Project	Type of Work Performed	Dollar Value of Contract
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____

J. List the three largest active jobs on which your firm is currently working:

Name of Prime Contractor and Project Number	Location of Project	Type of Work	Project Start Date	Anticipated Completion Date	Dollar Value of Contract
1. _____	_____	_____	_____	_____	_____
2. _____	_____	_____	_____	_____	_____
3. _____	_____	_____	_____	_____	_____

AIRPORT CONCESSION (ACDBE) APPLICANTS ONLY MUST COMPLETE THIS SECTION

Identify the following information concerning the ACDBE applicant firm:

<u>Concession Space</u>	<u>Address / Location at Airport</u>	<u>Value of Property or Lease</u>	<u>Fees/Lease Payments Paid to the Airport</u>

Provide information concerning any other airport concession businesses the applicant firm or any affiliate owns and/or operates, including name, location, type of concession, and start date of concession

<u>Name of Concession</u>	<u>Location</u>	<u>Type of Concession</u>	<u>Start Date of Concession</u>

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AFFIDAVIT OF CERTIFICATION

This form must be signed and notarized for each owner upon which disadvantaged status is relied.

A MATERIAL OR FALSE STATEMENT OR OMISSION MADE IN CONNECTION WITH THIS APPLICATION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, REVOCATION OF A PRIOR APPROVAL, INITIATION OF SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON AND/OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PENALTIES AVAILABLE PURSUANT TO APPLICABLE FEDERAL AND STATE LAW.

I _____ (full name printed),
swear or affirm under penalty of law that I am
_____ (title) of the applicant firm
_____ and that I

have read and understood all of the questions in this application and that all of the foregoing information and statements submitted in this application and its attachments and supporting documents are true and correct to the best of my knowledge, and that all responses to the questions are full and complete, omitting no material information. The responses include all material information necessary to fully and accurately identify and explain the operations, capabilities and pertinent history of the named firm as well as the ownership, control, and affiliations thereof.

I recognize that the information submitted in this application is for the purpose of inducing certification approval by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the application, and I authorize such agency to contact any entity named in the application, and the named firm's bonding companies, banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm's eligibility.

I agree to submit to government audit, examination and review of books, records, documents and files, in whatever form they exist, of the named firm and its affiliates, inspection of its place(s) of business and equipment, and to permit interviews of its principals, agents, and employees. I understand that refusal to permit such inquiries shall be grounds for denial of certification.

If awarded a contract, subcontract, concession lease or sublease, I agree to promptly and directly provide the prime contractor, if any, and the Department, recipient agency, or federal funding agency on an ongoing basis, current, complete and accurate information regarding (1) work performed on the project; (2) payments; and (3) proposed changes, if any, to the foregoing arrangements.

I agree to provide written notice to the recipient agency or Unified Certification Program of any material change in the information contained in the original application within 30 calendar days of such change (e.g., ownership changes, address/telephone number, personal net worth exceeding \$1.32 million, etc.).

I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded; denial or revocation of certification; suspension and debarment; and for initiating action under federal and/or state law concerning false statement, fraud or other applicable offenses.

I certify that I am a socially and economically disadvantaged individual who is an owner of the above-referenced firm seeking certification as a Disadvantaged Business Enterprise or Airport Concession Disadvantaged Business Enterprise. In support of my application, I certify that I am a member of one or more of the following groups, and that I have held myself out as a member of the group(s): (Check all that apply):

☐ Female ☐ Black American ☐ Hispanic American
☐ Native American ☐ Asian-Pacific American
☐ Subcontinent Asian American ☐ Other (specify) _____

I certify that I am socially disadvantaged because I have been subjected to racial or ethnic prejudice or cultural bias, or have suffered the effects of discrimination, because of my identity as a member of one or more of the groups identified above, without regard to my individual qualities.

I further certify that my personal net worth does not exceed \$1.32 million, and that I am economically disadvantaged because my ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially and economically disadvantaged.

I declare under penalty of perjury that the information provided in this application and supporting documents is true and correct.

Signature _____ (DBE/ACDBE Applicant) _____ (Date)

NOTARY CERTIFICATE



UNIFORM CERTIFICATION APPLICATION SUPPORTING DOCUMENTS CHECKLIST

In order to complete your application for DBE or ACDBE certification, you must attach copies of all of the following **REQUIRED** documents. A failure to supply any information requested by the UCP may result in your firm denied DBE/ACDBE certification.

Required Documents for All Applicants

- ☐ Resumes (that include places of employment with corresponding dates), for all owners, officers, and key personnel of the applicant firm
- ☐ Personal Net Worth Statement for each socially and economically disadvantaged owners comprising 51% or more of the ownership percentage of the applicant firm.
- ☐ Personal Federal tax returns for the past 3 years, if applicable, for each disadvantaged owner
- ☐ Federal tax returns (and requests for extensions) filed by the firm and its affiliates with related schedules, for the past 3 years.
- ☐ Documented proof of contributions used to acquire ownership for each owner (e.g., both sides of cancelled checks)
- ☐ Signed loan and security agreements, and bonding forms
- ☐ List of equipment and/or vehicles owned and leased including VIN numbers, copy of titles, proof of ownership, insurance cards for each vehicle.
- ☐ Title(s), registration certificate(s), and U.S. DOT numbers for each truck owned or operated by your firm
- ☐ Licenses, license renewal forms, permits, and haul authority forms
- ☐ Descriptions of all real estate (including office/storage space, etc.) owned/leased by your firm and documented proof of ownership/signed leases
- ☐ Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners over the past 2 years
- ☐ DBE/ACDBE and SBA 8(a), SDB, MBE/WBE certifications, denials, and/or decertifications, if applicable; and any U.S. DOT appeal decisions on these actions.
- ☐ Bank authorization and signatory cards
- ☐ Schedule of salaries (or other remuneration) paid to all officers, managers, owners, and/or directors of the firm
- ☐ List of all employees, job titles, and dates of employment.
- ☐ Proof of warehouse/storage facility ownership or lease arrangements

Partnership or Joint Venture

- ☐ Original and any amended Partnership or Joint Venture Agreements

Corporation or LLC

- ☐ Official Articles of Incorporation (signed by the state official)
- ☐ Both sides of all corporate stock certificates and your firm's stock transfer ledger
- ☐ Shareholders' Agreement(s)
- ☐ Minutes of all stockholders and board of directors meetings

- ☐ Corporate by-laws and any amendments
- ☐ Corporate bank resolution and bank signature cards
- ☐ Official Certificate of Formation and Operating Agreement with any amendments (for LLCs)

Optional Documents to Be Provided on Request

The UCP to which you are applying may require the submission of the following documents. If requested to provide these documents, you must supply them with your application or at the on-site visit.

- ☐ Proof of citizenship
- ☐ Insurance agreements for each truck owned or operated by your firm
- ☐ Audited financial statements (if available)
- ☐ Personal Federal Tax returns for the past 3 years, if applicable, for other disadvantaged owners of the firm.
- ☐ Trust agreements held by any owner claiming disadvantaged status
- ☐ Year-end balance sheets and income statements for the past 3 years (or life of firm, if less than three years)

Suppliers


- ☐ List of product lines carried and list of distribution equipment owned and/or leased

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[79 FR 59603, Oct. 2, 2014]

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Appendix G to Part 26—Personal Net Worth Statement

 U.S. Department of Transportation		Personal Net Worth Statement For DBE/ACDBE Program Eligibility As of _____		OMB APPROVAL NO: _____ EXPIRATION DATE: _____	
<p>This form is used by all participants in the U.S. Department of Transportation's Disadvantaged Business Enterprise (DBE) Programs. Each individual owner of a firm applying to participate as a DBE or ACDBE, whose ownership and control are relied upon for DBE certification must complete this form. Each person signing this form authorizes the Unified Certification Program (UCP) recipient to make inquiries as necessary to verify the accuracy of the statements made. The agency you apply to will use the information provided to determine whether an owner is economically disadvantaged as defined in the DBE program regulations 49 C.F.R. Parts 23 and 26. Return form to appropriate UCP certifying member, not U.S. DOT.</p>					
Name				Business Phone	
Residence Address (As reported to the IRS) City, State and Zip Code				Residence Phone	
Business Name of Applicant Firm					
Spouse's Full Name (Marital Status: Single, Married, Divorced, Union)					
ASSETS		(Omit Cents)		LIABILITIES	
(Omit Cents)		(Omit Cents)		(Omit Cents)	
Cash and Cash Equivalents	\$	Loan on Life Insurance (Complete Section 5)	\$		
Retirement Accounts (IRAs, 401Ks, 403Bs, Pensions, etc.) (Report full value minus tax and interest penalties that would apply if assets were distributed today) (Complete Section 3)	\$	Mortgages on Real Estate Excluding Primary Residence Debt (Complete Section 4)	\$		
Brokerage, Investment Accounts	\$	Notes, Obligations on Personal Property (Complete Section 6)	\$		
Assets Held in Trust	\$	Notes & Accounts Payable to Banks and Others (Complete Section 2)	\$		
Loans to Shareholders & Other Receivables (Complete section 6)	\$	Other Liabilities (Complete Section 8)	\$		
Real Estate Excluding Primary Residence (Complete Section 4)	\$	Unpaid Taxes (Complete Section 8)	\$		
Life Insurance (Cash Surrender Value Only) (Complete Section 5)	\$				
Other Personal Property and Assets (Complete Section 6)	\$				
Business Interests Other Than the Applicant Firm (Complete Section 7)	\$				
Total Assets	\$	Total Liabilities	\$		
		NET WORTH			
Section 2: Notes Payable to Banks and Others					
Name of Noteholder(s)	Original Balance	Current Balance	Payment Amount	Frequency (monthly, etc.)	How Secured or Endorsed Type of Collateral

DIVISION 1 – FEDERAL REFERENCED DOCUMENTS

Section 3. Brokerage and custodial accounts, stocks, bonds, retirement accounts. (Full Value) (Use attachments if necessary).				
Name of Security / Brokerage Account / Retirement Account	Cost	Market Value Quotation/Exchange	Date of Quotation/Exchange	Total Value

Section 4. Real Estate Owned (Including Primary Residence, Investment Properties, Personal Property Leased or Rented for Business Purposes, Farm Properties, or any Other Income Producing property). (List each parcel separately. Add additional sheets if necessary).			
	Primary Residence	Property B	Property C
Type of Property			
Address			
Date Acquired and Method of Acquisition (purchase, inherit, divorce, gift, etc.)			
Names on Deed			
Purchase Price			
Present Market Value			
Source of Market Valuation			
Name of all Mortgage Holders			
Mortgage Acc. # and balance (as of date of form)			
Equity line of credit balance			
Amount of Payment Per Month/Year (Specify)			

Section 5. Life Insurance Held (Give face amount and cash surrender value of policies, name of insurance company and beneficiaries).				
Insurance Company	Face Value	Cash Surrender Amount	Beneficiaries	Loan on Policy Information

U.S. DOT Personal Net Worth Statement for DBE/ACDBE Program Eligibility • Page 2 of 5

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DIVISION 1 – FEDERAL REFERENCED DOCUMENTS

Section 6. Other Personal Property and Assets (Use attachments as necessary)				
Type of Property or Asset	Total Present Value	Amount of Liability (Debt)	Is this asset insured?	Lien or Note amount and Terms of Payment
Automobiles and Vehicles (including recreation vehicles, motorcycles, boats, etc.) Include personally owned vehicles that are leased or rented to businesses or other individuals.				
Household Goods / Jewelry				
Other (List)				
Accounts and Notes Receivables				
Section 7. Value of Other Business Investments, Other Businesses Owned (excluding applicant firm) Sole Proprietorships, General Partners, Joint Ventures, Limited Liability Companies, Closely-held and Public Traded Corporations				
Section 8. Other Liabilities and Unpaid Taxes (Describe)				
Section 9. Transfer of Assets: Have you within 2 years of this personal net worth statement, transferred assets to a spouse, domestic partner, relative, or entity in which you have an ownership or beneficial interest including a trust? Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, describe				
<p>I declare under penalty of perjury that the information provided in this personal net worth statement and supporting documents is complete, true and correct. I certify that no assets have been transferred to any beneficiary for less than fair market value in the last two years. I recognize that the information submitted in this application is for the purpose of inducing certification approval by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the application and this personal net worth statement, and I authorize such agency to contact any entity named in the application or this personal financial statement, including the names banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm's eligibility. I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded, denial or revocation of certification, suspension and debarment, and for instituting action under federal and/or state law concerning false statement, fraud or other applicable offenses.</p>				
<p>NOTARY CERTIFICATE: (Insert applicable state acknowledgment, affirmation, or oath)</p>				
<p>Signature (DBE/ACDBE Owner) _____ Date _____</p>				
<p>In collecting the information requested by this form, the Department of Transportation complies with Federal Freedom of Information and Privacy Act (5 U.S.C. 552 and 552a) provisions. The Privacy Act provides comprehensive protections for your personal information. This includes how information is collected, used, disclosed, stored, and discarded. Your information will not be disclosed to third parties without your consent. The information collected will be used solely to determine your firm's eligibility to participate in the Disadvantaged Business Enterprise (DBE) Program or Airport Concessionaire DBE Programs as defined in 49 C.F.R. Parts 23 and 25. You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).</p>				



**General Instructions for Completing the
Personal Net Worth Statement
for DBE/ACDBE Program Eligibility**

Please do not make adjustments to your figures pursuant to U.S. DOT regulations 49 C.F.R. Parts 23 and 26. The agency that you apply to will use the information provided on your completed Personal Net Worth (PNW) Statement to determine whether you meet the economic disadvantage requirements of 49 C.F.R. Parts 23 and 26. If there are discrepancies or questions regarding your form, it may be returned to you to correct and complete again.

An individual's personal net worth according to 49 C.F.R. Parts 23 and 26 includes only his or her own share of assets held separately, jointly, or as community property with the individual's spouse and excludes the following:

- Individual's ownership interest in the applicant firm;
- Individual's equity in his or her primary residence;
- Tax and interest penalties that would accrue if retirement savings or investments (e.g., pension plans, Individual Retirement Accounts, 401(k) accounts, etc.) were distributed at the present time.

Indicate on the form, if any items are jointly owned. If the personal net worth of the majority owner(s) of the firm exceeds \$1.32 million, as defined by 49 C.F.R. Parts 23 and 26, the firm is not eligible for DBE or ACDBE certification. If the personal net worth of the majority owner(s) exceeds the \$1.32 million cap at any time after your firm is certified, the firm is no longer eligible for certification. Should that occur, it is your responsibility to contact your certifying agency in writing to advise that your firm no longer qualifies as a DBE or ACDBE. You must fill out all line items on the Personal Net Worth Statement.

If necessary, use additional sheets of paper to report all information and details. If you have any questions about completing this form, please contact one of the UCP certifying agencies.

Assets

All assets must be reported at their current fair market values as of the date of your statement. *Assessor's assessed value for real estate, for example, is not acceptable.* Assets held in a trust should be included.

Cash and Cash Equivalents: On page 1, enter the total amount of cash or cash equivalents in bank accounts, including checking, savings, money market, certificates of deposit held domestic or foreign. Provide copies of the bank statement.

Retirement Accounts, IRA, 401Ks, 403Bs, Pensions: On page 1, enter the full value minus tax and interest penalties that would apply if assets were distributed as of the date of the form. Describe the number of shares, name of securities, cost market value, date of quotation, and total value in section 3 on page 2.

Brokerage and Custodial Accounts, Stocks, Bonds, Retirement Accounts: Report total value on page 1, and on page 2, section 3, enter the name of the security, brokerage account, retirement account, etc.; the cost; market value of the asset; the date of quotation; and total value as of the date of the PNW statement.

Assets Held in Trust: Enter the total value of the assets held in trust on page 1, and provide the names of beneficiaries and trustees, and other information in Section 6 on page 3.

Loans to Shareholders and Other Receivables not listed: Enter amounts loaned to you from your firm, from any other business entity in which you hold an ownership interest, and other receivables not listed above. Complete Section 6 on page 3.

Real Estate: The total value of real estate excluding your primary residence should be listed on page 1. In section 4 on page 2, please list your primary residence in column 1, including the address, method of acquisition, date of acquired, names of deed, purchase price, present fair market value, source of market valuation, names of all mortgage holders, mortgage account number and balance, equity line of credit balance, and amount of payment. List this information for all real estate held. Please ensure that this section contains all real estate owned, including rental properties, vacation properties, commercial properties, personal property leased or rented for business purposes, farm properties and any other income producing properties, etc. Attach additional sheets if needed.

Life Insurance: On page 1, enter the cash surrender value of this asset. In section 5 on page 2, enter the name of the insurance company, the face value of the policy, cash surrender value, beneficiary names, and loans on the policy.

Other Personal Property and Assets: Enter the total value of personal property and assets you own on page 1. Personal property includes motor vehicles, boats, trailers, jewelry, furniture, household goods, collectibles, clothing, and personally owned vehicles that are leased or rented to businesses or other individuals. In section 6 on page 3, list these assets and enter the present value, the balance of any liabilities, whether the asset is insured, and lien or note information and terms of payments. For accounts and notes receivable, enter the total value of all monies owed to you personally, if any. This should include shareholder loans to the applicant firm, if those exist. If the asset is insured, you may be asked to provide a copy of the policy. You may also be asked to provide a copy of any liens or notes on the property.

Other Business Interests Other than Applicant Firm: On page 1, enter the total value of your other business investments (excluding the applicant firm). In section 7 on page 3, enter information concerning the businesses you

hold an ownership interest in, such as sole proprietorships, partnerships, joint ventures, corporations, or limited liability corporations (other than the applicant firm). Do not reduce the value of these entries by any loans from the outside firm to the DBE/ACDBE applicant business.

Liabilities

Mortgages on Real Estate: Enter the total balance on all mortgages payable on real estate on page 1.

Loans on Life Insurance: Enter the total value of all loans due on life insurance policies on page 1, and complete section 5 on page 2.

Notes & Accounts Payable to Bank and Others: On page 1, section 2, enter details concerning any liability, including name of noteholders, original and current balances, payment terms, and security/collateral information. The entries should include automobile installment accounts. This should not, however, include any mortgage balances as this information is captured in section 4. Do not include loans for your business or mortgages for your properties in this section. You may be asked to submit copy of note/security agreement, and the most recent account statement.

Other Liabilities: On page 1, enter the total value due on all other liabilities not listed in the previous entries. In section 8, page 3, report the name of the individual obligated, names of co-signers, description of the liability, the name of the entity owed, the date of the obligation, payment amounts and terms. Note: Do not include contingent liabilities in this section. Contingent liabilities are liabilities that belong to you only if an event(s) should occur. For example, if you

have co-signed on a relative's loan, but you are not responsible for the debt until your relative defaults, that is a contingent liability. Contingent liabilities do not count toward your net worth until they become actual liabilities.

Unpaid Taxes: Enter the total amount of all taxes that are currently due, but are unpaid on page 1, and complete section 8 on page 3. Contingent tax liabilities or anticipated taxes for current year should not be included. Describe in detail the name of the individual obligated, names of co-signers, the type of unpaid tax, to whom the tax is payable, due date, amount, and to what property, if any, the tax lien attaches. If none, state "NONE." You must include documentation, such as tax liens, to support the amounts.

Transfers of Assets:

Transfers of Assets: If you checked the box indicating yes on page 3 in this category, provide details on all asset transfers (within 2 years of the date of this personal net worth statement) to a spouse, domestic partner, relative, or entity in which you have an ownership or beneficial interest including a trust. Include a description of the asset; names of individuals on the deed, title, note or other instrument indicating ownership rights; the names of individuals receiving the assets and their relation to the transferor; the date of the transfer; and the value or consideration received. Submit documentation requested on the form related to the transfer.

Affidavit

Be sure to sign and date the statement. The Personal Net Worth Statement must be notarized.

DIVISION 1 – FEDERAL REFERENCED DOCUMENTS

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DIVISION 1 – PROJECT CONTRACT SPECIFICATIONS

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STATE OF CONNECTICUT CONTRACT PROVISIONS

1. CONNECTICUT STATUTORY LABOR REQUIREMENTS

- a. **Construction, Alteration or Repair of Public Works Projects; Wage Rates.** The Contractor shall comply with Section 31-53 of the Connecticut General Statutes, as revised. The wages paid on an hourly basis to any person performing the work of any mechanic, laborer or work on the work herein contracted to be done and the amount of payment or contribution paid or payable on behalf of each such person to any employee welfare fund, as defined in subsection (i) of Section 31-53 of the Connecticut General Statutes, shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any contractor who is not obligated by agreement to make payment or contribution on behalf of such persons to any such employee welfare fund shall pay to each mechanic, laborer or worker as part of such person's wages the amount of payment or contribution for such person's classification on each pay day.
- b. **Debarment List. Limitation on Awarding Contracts.** The Contractor shall comply with Section 31-53a of the Connecticut General Statutes, as revised.
- c. **Construction Safety and Health Course.** The Contractor shall comply with Section 31-53b of the Connecticut General Statutes, as revised. The Contractor shall furnish proof to the Labor Commissioner with the weekly certified payrolls form for the first week each employee begins work on such project that any person performing the work of a mechanic, laborer or work pursuant to the classifications of labor under Section 31-53 of the Connecticut General Statutes, as revised, on such public works project, pursuant to such contract, has completed a course of at least ten (10) hours in duration in construction safety and health approved by the federal Occupational Safety and Health Administration or, has completed a new miner training program approved by the Federal Mine Safety and Health Administration in accordance with 30 CFR 48 or, in the case of telecommunications employees, has completed at least ten (10) hours of training in accordance with 29 CFR 1910.268.

Any employee required to complete a construction safety and health course as required that has not completed the course, shall have a maximum of fourteen (14) calendar days to complete the course. If the employee has not been brought into compliance, they shall be removed from the project until such time as they have completed the required training.

Any costs associated with this notice shall be included in the general cost of the contract. In addition, there shall be not time granted to the Contractor for compliance with this notice. The Contractor's compliance with this notice and associated regulations shall not be grounds for claims as outlined in these Specifications.

- d. **Awarding of Contracts to Occupational Safety and Health Law Violators Prohibited.** The Contract is subject to Section 31-57b of the Connecticut General Statutes, as revised.
- e. **Residents Preference in Work on Other Public Facilities (NOT APPLICABLE TO FEDERAL AID PROJECTS).** Pursuant to Section 31-52a of the Connecticut General Statutes, as revised, in the employment of mechanics, laborers or workmen to perform the work specified herein, preference shall be given to residents of the state who are, and continuously for at least six (6) months prior to the date hereof have been, residents of this state, and if no such person is available then to residents of other states.

2. TAX LIABILITY – CONTRACTOR'S EXEMPT PURCHASE CERTIFICATE (CERT 141).

The Contractor shall comply with Chapter 219 of the Connecticut General Statutes, as revised, pertaining to tangible personal property or services rendered that is/are subject to sales tax. The

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Contractor is responsible for determining its tax liability. If the Contractor purchases materials or supplies pursuant to the Connecticut Department of Revenue Services “Contractor’s Exempt Purchase Certificate (CERT 141)”, as may be revised, the Contractor acknowledges and agrees that title to such materials and supplies installed or placed in the project will vest in the State simultaneously with passage of title from the retailers or vendors thereof, and the Contractor will have no property rights in the materials and supplies purchased.

Forms and instructions are available anytime by:

Internet: Visit DRS website at www.ct.gov/DRS to download and print Connecticut tax forms; or

Telephone: Call 1-800-382-9463 (Connecticut calls outside Greater Hartford area only) and select Option 2 or call 860-297-4753 (from anywhere).

3. **STATE REQUIRED PROVISIONS.**

The Second Party understands and agrees that the **Tweed-New Haven Airport Authority (TNHAA)** is a quasi-public agency of the State of Connecticut and therefore must comply with certain provisions of the Connecticut General Statutes. These statutes provide that every contract to which a political subdivision of the state other than a municipality is a party must contain the provisions below. Second Party understands and agrees that this Contract is such a contract. Accordingly, for purposes of this Contract, Second Party agrees to comply for the Period of Performance with the state contracting obligations in this Section. For purposes of this Section, where applicable, Contract and Agreement shall have the same meaning, and Second Party, Contractor, and Consultant shall have the same meaning.

a. **Nondiscrimination Affirmation.**

Pursuant to the requirements of C.G.S. §§ 4a-60 and 4a-60a, Contractor agrees not to discriminate against any person on the basis of race, color, religious creed, age, marital status, national origin, ancestry, sex, gender identity or expression, sexual orientation, intellectual disability, mental disability or physical disability, including, but not limited to, blindness, unless it is shown by such party that such disability prevents performance of the work involved. Contractor agrees to comply with all applicable federal and state of Connecticut nondiscrimination and affirmative action laws, including, but not limited to, C.G.S. §§ 4a-60 and 4a-60a. Contractor understands the obligations of C.G.S. §§ 4a-60 and 4a-60a and will maintain a policy for the duration of the Contract to assure that the Contract will be performed in compliance with the nondiscrimination requirements of C.G.S. §§ 4a-60(a) and 4a-60a(a). Contractor understands the obligations of C.G.S. §§ 4a-60 and 4a-60a and will maintain a policy for the duration of the Contract to assure that the Contract will be performed in compliance with the nondiscrimination requirements of C.G.S. §§ 4a-60(a) and 4a-60a(a). Contractor will include this section in any subcontract or purchase order it enters into related to performance of the Contract and that section shall be binding on the subcontractor, vendor, or manufacturer.

b. **Gift Prohibition Representation for Contractor**

As used in this section, the following terms have the meaning set forth below:

- (1) “Applicable Public Official or State Employee” means any public official or state employee described in C.G.S. §4-252(c)(1)(i) or (ii);
- (2) “Gift” has the same meaning given that term in C.G.S. § 4-250(1);
- (3) “Principals or Key Personnel” means and refers to those principals and key personnel of the Contractor, and its or their agents, as described in C.G.S. §§ 4-250(5) and 4-252(c)(1)(B) and (C).

Pursuant to the requirements of C.G.S. § 4-252, the TNHAA represents that its selection of Contractor was not the result of collusion, the giving of a Gift or the promise of a Gift, compensation, fraud, or inappropriate influence from any person.

DIVISION 1 – STATE OF CONNECTICUT CONTRACT PROVISIONS

Pursuant to C.G.S. § 4-252 of the Connecticut General Statutes and Acting Governor Susan Bysiewicz Executive Order No. 21-2, promulgated July 1, 2021, the Contractor, for itself and on behalf of all of its Principals or Key Personnel who submitted a bid or proposal, represents:

- (1) That no Gifts were made by (A) the Contractor, (B) any Principals and Key Personnel of the Contractor, who participate substantially in preparing bids, proposals or negotiating State contracts, or (C) any agent of the Contractor or Principals and Key Personnel, who participates substantially in preparing bids, proposals or negotiating State contracts, to (i) any Public Official or TNHAA employee who participates substantially in the preparation of bid solicitations or requests for proposals for TNHAA contracts or the negotiation or award of TNHAA contracts, or (ii) any Public Official or State employee of any other State agency, who has supervisory or appointing authority over the TNHAA;
- (2) That no such Principals and Key Personnel of the Contractor, or its agent or their agents, knows of any action by the Contractor to circumvent such prohibition on gifts by providing for any other Principals, Key Personnel, official, employee or agent of the Contractor to provide a gift to any applicable Public Official or State employee; and
- (3) That the Contractor is submitting bids or proposals without fraud or collusion with any person.

c. **Iran Energy Investment Certification**

This section is applicable only to contracts with an annual value of more than \$500,000.

- (a) Pursuant to section 4-252a of the Connecticut General Statutes, the Contractor certifies that it has not made a direct investment of twenty million dollars (\$20,000,000) or more in the energy sector of Iran on or after October 1, 2013, as described in Section 202 of the Comprehensive Iran Sanctions, Accountability and Divestment Act of 2010, and has not increased or renewed such investment on or after said date.
- (b) If the Contractor makes a good faith effort to determine whether it has made an investment described in subsection (a) of this section, then the Contractor shall not be deemed to be in breach of the contract or in violation of section 4-252a of the Connecticut General Statutes. A "good faith effort" for purposes of this subsection includes a determination that the Contractor is not on the list of persons who engage in certain investment activities in Iran created by the Department of General Services of the State of California pursuant to Division 2, Chapter 2.7 of the California Public Contract Code. Nothing in this subsection shall be construed to impair the ability of the TNHAA to pursue a breach of contract action for any violation of the provisions of the Contract.

d. **Campaign Contribution Restriction.**

Pursuant to the requirements of section 9-612 of the Connecticut General Statutes as having a value in a calendar year of \$50,000 or more, or a combination or series of such agreements or contracts having a value of \$100,000 or more, Contractor represents that its chief executive officer or the authorized signatory to this Contract has received the State Elections Enforcement Commission's notice advising state contractors of state campaign contribution and solicitation prohibitions, and will inform its principals of the contents of the notice.

e. **Summary of Ethics Laws in Public Contracting.**

Pursuant to the requirements of section 1-101qq of the Connecticut General Statutes:

- (a) the TNHAA has provided to the Contractor the summary of State ethics laws developed by the Office of State Ethics pursuant to section 1-81b of the Connecticut General Statutes, which summary is incorporated by reference into and made a part of this Contract as if the summary had been fully set forth in this Contract;

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- (b) the Contractor represents that the chief executive officer or authorized signatory of the Contract and all key employees of such officer or signatory have read and understood the summary and agree to comply with the provisions of state ethics law;
- (c) prior to entering into a contract with any subcontractors or consultants, the Contractor shall provide the summary to all subcontractors and consultants and each such contract entered into with a subcontractor or consultant on or after July 1, 2021, shall include a representation that each subcontractor or consultant and the key employees of such subcontractor or consultant have read and understood the summary and agree to comply with the provisions of state ethics law;
- (d) failure to include such representations in such contracts with subcontractors or consultants shall be cause for termination of the Contract; and (e) each contract with such contractor, subcontractor or consultant shall incorporate such summary by reference as a part of the contract terms

f. **Required Provisions for Timely Payment of Contractors, Subcontractors and Suppliers.**

Pursuant to the requirements of Title 42, Chapter 742b, Section 42-158j (2024) Required Contract Provisions RE: timely payment of contractors of the Connecticut General Statutes:

- (a) Each construction contract shall contain the following provisions:
 - (1) A requirement that the Owner pay any amounts due to any contractor in a direct contractual relationship with the Owner, or due to any subcontractor or supplier in a direct contractual relationship with the Contractor, whether for labor performed or materials furnished, not later than thirty (30) days after the date any written request for such payment has been made to the owner by such contractor, subcontractor or supplier;
 - (2) a requirement that the Contractor pay any amounts due any subcontractor or supplier, whether for labor performed or materials furnished, not later than twenty-five (25) days after the date the Contractor receives payment from the Owner which encompasses labor performed or materials furnished by such subcontractor or supplier; and
 - (3) a requirement that the Contractor shall include in each of its subcontracts a provision requiring each subcontractor and supplier to pay any amounts due any of its subcontractors or suppliers, whether for labor performed or materials furnished, not later than twenty-five (25) days after the date such subcontractor or supplier receives a payment from the Contractor which encompasses labor performed or materials furnished by such subcontractor or supplier.
- (b) Each payment requisition submitted by a contractor or subcontractor in accordance with the requirements of subsection (a) of this section shall include a statement showing the status of all pending construction change orders, other pending change directives and approved changes to the original contract or subcontract. Such statement shall identify the pending construction change orders and other pending change directives, and shall include the date such change orders and directives were initiated, the costs associated with their performance and a description of any work completed. As used in this section, “pending construction change order” or “other pending change directive” means an authorized directive for extra work that has been issued to a contractor or a subcontractor.
- (c)
 - (1) If payment is not made by an Owner in accordance with the requirements of subdivision (1) of subsection (a) of this section or any applicable construction contract, such contractor, subcontractor or supplier shall set forth its claim against the owner through notice by registered or certified mail. All amounts due from the Owner pursuant to this subsection and subdivision (1) of subsection (a) of this section shall be limited to the amount owed to the Contractor by the Owner for work performed under the contract at the date such notice is provided.
 - (2) If payment is not made by a contractor in accordance with the requirements of subdivision (2) of subsection (a) of this section or any applicable construction contract, the subcontractor or

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supplier shall set forth its claim against the contractor through notice by registered or certified mail.

- (3) If payment is not made by a subcontractor or supplier in accordance with the provisions of subdivision (3) of subsection (a) of this section, the subcontractor or supplier to whom money is owed shall set forth its claim against the subcontractor or supplier who has failed to comply with the provisions of said subdivision (3) through notice by registered or certified mail.
- (4) Ten days after the receipt of any notice specified in subdivisions (1), (2) and (3) of this subsection, the Owner, contractor, subcontractor or supplier, as the case may be, shall be liable for interest on the amount due and owing at the rate of one percent (1%) per month. Such interest shall accrue beginning on the date any such notice is received. In addition, such Owner, contractor, subcontractor or supplier, upon written demand from the party providing such notice, shall be required to place funds in the amount of the claim, plus such interest of one percent (1%) per month, in an interest-bearing escrow account in a bank in this state, provided such Owner, contractor, subcontractor or supplier may refuse to place the funds in escrow on the grounds that the party making such demand has not substantially performed the work or supplied the materials according to the terms of the construction contract or that the funds so demanded are not due under the owner's contract with the contractor. In the event that such Owner, contractor, subcontractor or supplier refuses to place such funds in escrow and such Owner, contractor, subcontractor or supplier is found to have unreasonably withheld payment due a party providing such notice, such Owner, contractor, subcontractor or supplier shall be liable to the party making demand for payment of such funds and for reasonable attorneys' fees plus interest on the amount due and owing at the rate of one percent (1%) per month. In addition, any Owner, contractor, subcontractor or supplier who is found to have withheld payments to a party providing such notice in bad faith shall be liable for ten per cent damages.
- (d) No payment may be withheld from a subcontractor or supplier for work performed or materials furnished because of a dispute between a contractor and another contractor, subcontractor or supplier.
- (e) This section shall not be construed to prohibit progress payments prior to final payment of the contract and is applicable to all subcontractors and suppliers for material or labor whether they have contracted directly with the Contractor or with some other subcontractor on the work. Each Owner that enters into a contract under this section and fails or neglects to make payment to a Contractor for labor and materials supplied under a contract, as required pursuant to this section, shall, upon demand of any person who has not been paid by the Contractor for such labor and materials supplied in the performance of the work under the contract, promptly pay the person for such labor or materials. Demand for payment shall be served on the Owner and a copy of each demand shall be sent to the Contractor by certified mail, return receipt requested to any address at which the Owner and Contractor conduct business. If the Owner fails to make such payment, the person shall have a direct right of action against the Owner in the superior court for the judicial district in which the project is located. The Owner's obligations for direct payments to the Contractor, subcontractors or suppliers giving notice pursuant to this section shall be limited to the amount owed to the Contractor by the Owner for work performed under the contract at the date such notice is provided.

(P.A. 99-153, S. 2; P.A. 04-202, S. 2; P.A. 09-146, S. 1; P.A. 17-182, S. 1; P.A. 19-141, S. 2.)

4. **CONFLICT OF INTEREST RESTRICTIONS.**

The Contractor shall comply with the provisions contained in Section 1-86e of the Connecticut General Statutes, which provides as follows: (for the purpose of this section, "state" shall include the TNHAA):

- (a) No person hired by the state as a consultant or independent contractor shall:

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- (i) Use the authority provided to the person under the contract, or any confidential information acquired in the performance of the contract, to obtain financial gain for the person, an employee of the person or a member of the immediate family of any such person or employee;
 - (ii) Accept another state contract which could impair the independent judgment of the person in the performance of the existing contract;
 - (iii) Accept anything of value based on an understanding that the actions of the person on behalf of the state would be influenced.
- (b) No person shall give anything of value to a person hired by the state as a consultant or independent contractor based on an understanding that the actions of the consultant or independent contractor on behalf of the state would be influenced.

5. **CONNECTICUT FREEDOM OF INFORMATION ACT.**

a. **Disclosure of Records.**

This Contract may be subject to the provisions of Section 1-218 of the Connecticut General Statutes. In accordance with this statute, each contract in excess of two million five hundred thousand dollars (\$2,500,000) between a public agency and a person for the performance of a governmental function shall:

- (a) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and
- (b) indicate that such records and files are subject to Freedom of Information Act (FOIA) and may be disclosed by the public agency pursuant to FOIA.

No request to inspect or copy such records shall be brought to the Freedom of Information Commission in accordance with the provisions of Sections 1-205 and 1-206 of the Connecticut General Statutes.

b. **Confidential Information.**

This State will afford due regard to the Contractor's request for the protection of proprietary or confidential information which the State receives from the Contractor. However, all materials associated with the Contract are subject to the terms of the FOIA and all corresponding rules, regulations and interpretations. In making such a request, the Contractor may not merely state generally that the materials are proprietary or confidential in nature and not, therefore, subject to release to third parties. Those particular sentences, paragraphs, pages or sections that the Contractor believes are exempt from disclosure under FOIA must be specifically identified as such. Convincing explanations and rationale sufficient to justify each exemption consistent with the FOIA must accompany the request. The rationale and explanation must be stated in terms of the prospective harm to the competitive position of the Contractor what would result if the identified material were to be released and the reasons why the materials are legally exempt from release pursuant to the FOIA. To the extent that any other provision or part of the Contract conflicts or is any way inconsistent with this Section, this Section controls and shall apply and the conflicting provision or part shall not be given effect. If the Contractor indicates that certain documentation as "CONFIDENTIAL", Tweed-New Haven Airport Authority (TNHAA) will first review the Contractor's claim for consistency with the FOIA (that is, review that the documentation is actually a trade secret or commercial or financial information and not required by statute), and if determined to be consistent, will endeavor to keep such information confidential to the extent permitted by law. See e.g. Connecticut General Statute §1-210(b)(5)(A-B). The State, however, has no obligation to initiate, prosecute or defend any legal proceeding or to seek a protective order or other similar relief to prevent disclosure of any information that is sought pursuant to a FOIA request. Should

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the State withhold such documentation from a Freedom of Information requester and a complaint be brought to the Freedom of Information Commission, the Contractor shall have the burden of cooperating with TNHAA in defense of that action and in terms of establishing the availability of any FOIA exemption in any proceeding where it is an issue. In no event shall the State have any liability for the disclosure of any documents or information in its possession which the State believes are required to be disclosed pursuant to the FOIA or other law.

6. **ACCESS TO CONTRACT-RELATED DATA**

The Contractor shall provide to the TNHAA access to any data, as defined in Conn. Gen Stat. Sec. 4e-1, concerning the Contract and the TNHAA that are in the possession or control of the Contractor upon demand and shall provide the data to the TNHAA in a format prescribed by the TNHAA and the State Auditors of Public Accounts at no additional cost.

7. **AUDIT AND INSPECTION OF PLANTS, PLACES OF BUSINESS AND RECORDS**

- a. For purposes of this subsection, "State" shall include the TNHAA.
- b. The State and its agents, including but not limited to, the Connecticut Auditors of Public Accounts, Attorney General, and State's Attorney and their respective agents, may, at reasonable hours, inspect and examine all of the parts of the Contractor's and Contractor Parties' plants and places of business which, in any way, are related to, or involved in, the performance of this Contract. For the purposes of this Section, "Contractor Parties" means the Contractor's members, directors, officers, shareholders, partners, managers, principal officers, representatives, agents, servants, consultants, employees or any one of them or any other person or entity with whom the Contractor is in privity of oral or written contract and the Contractor intends for such other person or entity to Perform under the Contract in any capacity.
- c. The Contractor shall maintain, and shall require each of the Contractor Parties to maintain, accurate and complete Records. The Contractor shall make all of it and the Contractor Parties' Records available at all reasonable hours for audit and inspection by the State and its agents.
- d. The State shall make all requests for any audit or inspection in writing and shall provide the Contractor with at least twenty-four (24) hours notice prior to the requested audit and inspection date. If the State suspects fraud or other abuse, or in the event of an emergency, the State is not obligated to provide any prior notice.
- e. The Contractor shall keep and preserve or cause to be kept and preserved all of it and Contractor Parties' Records until three (3) years after the latter of:
 - (i) final payment under this Agreement, or
 - (ii) the expiration or earlier termination of this Agreement, as the same may be modified for any reason.

The State may request an audit or inspection at any time during this period. If any Claim or audit is started before the expiration of this period, the Contractor shall retain or cause to be retained all Records until all Claims or audit findings have been resolved.

- f. The Contractor shall cooperate fully with the State and its agents in connection with an audit or inspection. Following any audit or inspection, the State may conduct and the Contractor shall cooperate with an exit conference.
- g. The Contractor shall incorporate this entire Section verbatim into any contract or other agreement that it enters into with any Contractor Party.

8. **SERVICE OF PROCESS.**

The Contractor, if not a resident of the state of Connecticut, or, in the case of a partnership, the partners,

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if not residents, hereby appoints the Secretary of State of the State of Connecticut, and their successors in office, as agent for service of process for any action arising out of or as a result of this Contract; such appointment to be in effect throughout the life of this Contract and six (6) years thereafter.

9. **HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)**

The Contract shall comply, if applicable, with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and, pursuant thereto, the provisions attached in Division 01 – State of Connecticut Contract Provisions - Exhibit A, and hereby made part of this Contract.

10. **FORUM AND CHOICE OF LAW.**

The parties deem the Contract to have made in the City of New Haven, State of Connecticut. Both parties agree that it is fair and reasonable for the validity and construction of the Contract to be, and it shall be, governed by the laws and court decisions of the State of Connecticut, without giving effect to its principles of conflicts of law. To the extent that these courts are courts of competent jurisdiction, for the purpose of venue, the complaint shall be made returnable to the Judicial District of Hartford only or shall be brought in United States District Court for the District of Connecticut only, and shall not be transferred to any other court. The Contractor waives any objection which it may now have or will have to the laying of venue of any Claims in any forum and further irrevocably submits to such jurisdiction in any suit, action or proceeding.

11. **BID RIGGING AND/OR FRAUD.**

The **Tweed-New Haven Airport Authority**, along with the Connecticut Department of Transportation, is cooperating with the U. S. Department of Transportation and the Justice Department in their investigation into highway and airport construction contract bid rigging and/or fraud.

A toll-free “HOT LINE” telephone number 800-424-9071 has been established to receive information from contractors, subcontractors, manufacturers, suppliers or anyone with knowledge of bid rigging and/or fraud, either past or current. The “HOT LINE” telephone number will be available during normal working hours (8:00 AM to 5:00 PM EST). Information will be treated confidentially and anonymity respected.

12. **AMERICAN WITH DISABILITIES ACT OF 1990.**

This provision applies to those Contractors who are or will be responsible for compliance with the terms of the American with Disabilities Act of 1990 (42 U.S.C. 12101 et. seq.), (Act), during the term of the Contract. The Contractor represents that it is familiar with the terms of this Act and that it is in compliance with the Act. Failure of the Contractor to satisfy this standard as the same applies to performance under this Contract, either now or during the term of the Contract as it may be amended, will render the Contract voidable at the option of the State upon notice to the Contractor. The Contractor warrants that it will hold the State harmless and indemnify the State from any liability which may be imposed upon the State as a result of any failure of the Contractor to be in compliance with this Act, as the same applies to performance under this Contract.

DIVISION 1 – STATE OF CONNECTICUT CONTRACT PROVISIONS

13. **CONSULTING AGREEMENTS REPRESENTATION.**

Pursuant to section 4a-81 of the Connecticut General Statutes, the Contractor represents that it has not entered into any consulting agreements in connection with this Contract, except for the agreements listed below. "Consulting agreement" means any written or oral agreement to retain the services, for a fee, of a consultant for the purposes of communications concerning business of a state or quasi-public agency, whether or not direct contact with a state agency, state or public official or state employee was expected or made, specifically:

(A) providing counsel to a contractor, vendor, consultant or other entity seeking to conduct, or conducting, business with the State,

(B) contacting, whether in writing or orally, any executive, judicial, or administrative office of the State, including any department, institution, bureau, board, commission, authority, official or employee for the purpose of solicitation, dispute resolution, introduction, requests for information, or

(C) any other similar activity related to such contracts.

"Consulting agreement" does not include any agreements entered into with a consultant who is registered under the provisions of Chapter 10 of the Connecticut General Statutes as of the date such contract is executed in accordance with the provisions of section 4a-81 of the Connecticut General Statutes. Contractor makes this representation to the best knowledge and belief of the person signing the contract, and the representation is subject to the penalty of false statement as provided in section 53a-157b of the Connecticut General Statutes.

Sample of the representation information:

Consultant's Name and Title

Name of Firm (if Applicable)

Start Date

End Date

Cost

The basic terms of the consulting agreement are:

Description of Services Provided:

Is the consultant a former State employee or former public official? ☐ YES ☐ NO

If YES: _____
Name of Former State Agency

Termination Date of Employment

DIVISION 1 – STATE OF CONNECTICUT CONTRACT PROVISIONS

14. **WHISTLEBLOWING.**

This section is applicable only to contracts with a value of more than \$5,000,000.

This Contract is subject to the provisions of §4-61dd of the Connecticut General Statutes. In accordance with this Statute, if an officer, employee or appointing authority of the Contractor takes or threatens to take any personnel action against any employee of the Contractor in retaliation for such employee's disclosure of information to any employee of the TNHAA or the Auditors of Public Accounts or the Attorney General under the provisions of subsection (a) of such statute, then the Contractor shall be liable for a civil penalty of not more than five thousand dollars (\$5,000) for each offense, up to a maximum of twenty percent (20%) of the value of this Contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The TNHAA may request that the Attorney General bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) of such statute, each large state contractor, as defined in the statute, shall post a notice of the provisions of the statute relating to large state contractors in a conspicuous place which is readily available for viewing by the employees of the Contractor.

15. **TNHAA DISCLAIMER**

Tweed-New Haven Airport Authority (TNHAA) bidding and other information and documents which were obtained through the Internet, World Wide Web, or other sources NOT IDENTIFIED IN THE ADVERTISEMENT FOR BID are not to be construed to be official information for the purposes of bidding or conducting other business with the TNHAA.

It is the responsibility of each bidder and all other interested parties to obtain all bidding related information and documents from official sources within the TNHAA.

Persons and/or entities which reproduce and/or make such information available by any means not authorized by the TNHAA to do so and may be liable for claims resulting from the dissemination of unofficial, incomplete and/or inaccurate information.

END OF SECTION

DIVISION 01 - STATE OF CONNECTICUT CONTRACT PROVISIONS
APPENDIX A

October 2011

Health Insurance Portability and Accountability Act of 1996 (“HIPAA”).

- (a) If the Contactor is a Business Associate under the requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Contractor must comply with all terms and conditions of this Section of the Contract. If the Contractor is not a Business Associate under HIPAA, this Section of the Contract does not apply to the Contractor for this Contract.
- (b) The Contractor is required to safeguard the use, publication and disclosure of information on all applicants for, and all clients who receive, services under the Contract in accordance with all applicable federal and state law regarding confidentiality, which includes but is not limited to HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E; and
- (c) The State of Connecticut Agency named on page 1 of this Contract (hereinafter the “Department”) is a “covered entity” as that term is defined in 45 C.F.R. § 160.103; and
- (d) The Contractor, on behalf of the Department, performs functions that involve the use or disclosure of “individually identifiable health information,” as that term is defined in 45 C.F.R. § 160.103; and
- (e) The Contractor is a “business associate” of the Department, as that term is defined in 45 C.F.R. § 160.103; and
- (f) The Contractor and the Department agree to the following in order to secure compliance with the HIPAA, the requirements of Subtitle D of the Health Information Technology for Economic and Clinical Health Act (hereinafter the HITECH Act), (Pub. L. 111-5, sections 13400 to 13423), and more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.
- (g) Definitions
 - (1) “Breach shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(1))
 - (2) “Business Associate” shall mean the Contractor.
 - (3) “Covered Entity” shall mean the Department of the State of Connecticut named on page 1 of this Contract.
 - (4) “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.
 - (5) “Electronic Health Record” shall have the same meaning as the term is defined in section 13400 of the HITECH Act (42 U.S.C. §17921(5))

- (6) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
 - (7) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and parts 164, subparts A and E.
 - (8) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
 - (9) "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
 - (10) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
 - (11) "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.
 - (12) "This Section of the Contract" refers to the HIPAA Provisions stated herein, in their entirety.
 - (13) "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.
 - (14) "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and parts 164, subpart A and C.
 - (15) "Unsecured protected health information" shall have the same meaning as the term as defined in section 13402(h)(1)(A) of HITECH. Act. (42 U.S.C. § 17932(h)(1)(A)).
- (h) Obligations and Activities of Business Associates.
- (1) Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the Contract or as Required by Law.
 - (2) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the Contract.
 - (3) Business Associate agrees to use administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
 - (4) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the Contract.

- (5) Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the Contract or any security incident of which it becomes aware.
- (6) Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the Contract to Business Associate with respect to such information.
- (7) Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
- (8) Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.
- (9) Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- (10) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (11) Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with clause h. (10) of this Section of the Contract, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder. Business Associate agrees at the Covered Entity's direction to provide an accounting of disclosures of PHI directly to an individual in accordance with 45 C.F.R. § 164.528 and section 13405 of the HITECH Act (42 U.S.C. § 17935) and any regulations promulgated thereunder.
- (12) Business Associate agrees to comply with any state or federal law that is more stringent than the Privacy Rule.
- (13) Business Associate agrees to comply with the requirements of the HITECH Act relating to privacy and security that are applicable to the Covered Entity and with the requirements of 45 C.F.R. sections 164.504(e), 164.308, 164.310, 164.312, and 164.316.

- (14) In the event that an individual requests that the Business Associate (a) restrict disclosures of PHI; (b) provide an accounting of disclosures of the individual's PHI; or (c) provide a copy of the individual's PHI in an electronic health record, the Business Associate agrees to notify the covered entity, in writing, within two business days of the request.
- (15) Business Associate agrees that it shall not, directly or indirectly, receive any remuneration in exchange for PHI of an individual without (1) the written approval of the covered entity, unless receipt of remuneration in exchange for PHI is expressly authorized by this Contract and (2) the valid authorization of the individual, except for the purposes provided under section 13405(d)(2) of the HITECH Act,(42 U.S.C. § 17935(d)(2)) and in any accompanying regulations

(16) Obligations in the Event of a Breach

- A. The Business Associate agrees that, following the discovery of a breach of unsecured protected health information, it shall notify the Covered Entity of such breach in accordance with the requirements of section 13402 of HITECH (42 U.S.C. 17932(b) and the provisions of this Section of the Contract.
- B. Such notification shall be provided by the Business Associate to the Covered Entity without unreasonable delay, and in no case later than 30 days after the breach is discovered by the Business Associate, except as otherwise instructed in writing by a law enforcement official pursuant to section 13402 (g) of HITECH (42 U.S.C. 17932(g)) . A breach is considered discovered as of the first day on which it is, or reasonably should have been, known to the Business Associate. The notification shall include the identification and last known address, phone number and email address of each individual (or the next of kin of the individual if the individual is deceased) whose unsecured protected health information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
- C. The Business Associate agrees to include in the notification to the Covered Entity at least the following information:
1. A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.
 2. A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
 3. The steps the Business Associate recommends that individuals take to protect themselves from potential harm resulting from the breach.
 4. A detailed description of what the Business Associate is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.
 5. Whether a law enforcement official has advised either verbally or in writing the Business Associate that he or she has determined that notification or notice to

individuals or the posting required under section 13402 of the HITECH Act would impede a criminal investigation or cause damage to national security and; if so, include contact information for said official.

- D. Business Associate agrees to provide appropriate staffing and have established procedures to ensure that individuals informed by the Covered Entity of a breach by the Business Associate have the opportunity to ask questions and contact the Business Associate for additional information regarding the breach. Such procedures shall include a toll-free telephone number, an e-mail address, a posting on its Web site and a postal address. Business Associate agrees to include in the notification of a breach by the Business Associate to the Covered Entity, a written description of the procedures that have been established to meet these requirements. Costs of such contact procedures will be borne by the Contractor.
 - E. Business Associate agrees that, in the event of a breach, it has the burden to demonstrate that it has complied with all notifications requirements set forth above, including evidence demonstrating the necessity of a delay in notification to the Covered Entity.
- (i) Permitted Uses and Disclosure by Business Associate.
- (1) General Use and Disclosure Provisions Except as otherwise limited in this Section of the Contract, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
 - (2) Specific Use and Disclosure Provisions
 - (A) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
 - (B) Except as otherwise limited in this Section of the Contract, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
 - (C) Except as otherwise limited in this Section of the Contract, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).
- (j) Obligations of Covered Entity.

- (1) Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. § 164.520, or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
 - (2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
 - (3) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- (k) Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the Contract.

(l) Term and Termination.

- (1) Term. The Term of this Section of the Contract shall be effective as of the date the Contract is effective and shall terminate when the information collected in accordance with clause h. (10) of this Section of the Contract is provided to the Covered Entity and all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (2) Termination for Cause Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:
 - (A) Provide an opportunity for Business Associate to cure the breach or end the violation and terminate the Contract if Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or
 - (B) Immediately terminate the Contract if Business Associate has breached a material term of this Section of the Contract and cure is not possible; or
 - (C) If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(3) Effect of Termination

- (A) Except as provided in (l)(2) of this Section of the Contract, upon termination of this Contract, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Business Associate shall also provide the information collected in accordance with clause h. (10) of this Section of the Contract to the Covered Entity

within ten business days of the notice of termination. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

(B) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the Contract to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

(m) Miscellaneous Provisions.

- (1) Regulatory References. A reference in this Section of the Contract to a section in the Privacy Rule means the section as in effect or as amended.
- (2) Amendment. The Parties agree to take such action as is necessary to amend this Section of the Contract from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- (3) Survival. The respective rights and obligations of Business Associate shall survive the termination of this Contract.
- (4) Effect on Contract. Except as specifically required to implement the purposes of this Section of the Contract, all other terms of the Contract shall remain in force and effect.
- (5) Construction. This Section of the Contract shall be construed as broadly as necessary to implement and comply with the Privacy Standard. Any ambiguity in this Section of the Contract shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy Standard.
- (6) Disclaimer. Covered Entity makes no warranty or representation that compliance with this Section of the Contract will be adequate or satisfactory for Business Associate's own purposes. Covered Entity shall not be liable to Business Associate for any claim, civil or criminal penalty, loss or damage related to or arising from the unauthorized use or disclosure of PHI by Business Associate or any of its officers, directors, employees, contractors or agents, or any third party to whom Business Associate has disclosed PHI contrary to the provisions of this Contract or applicable law. Business Associate is solely responsible for all decisions made, and actions taken, by Business Associate regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.

(7) Indemnification. The Business Associate shall indemnify and hold the Covered Entity harmless from and against any and all claims, liabilities, judgments, fines, assessments, penalties, awards and any statutory damages that may be imposed or assessed pursuant to HIPAA, as amended or the

HITECH Act, including, without limitation, attorney's fees, expert witness fees, costs of investigation, litigation or dispute resolution, and costs awarded thereunder, relating to or arising out of any violation by the Business Associate and its agents, including subcontractors, of any obligation of Business Associate and its agents, including subcontractors, under this section of the contract, under HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

Notice to Executive Branch State Contractors and Prospective State Contractors of Campaign Contribution and Solicitation Limitations

This notice is provided under the authority of Connecticut General Statutes §9-612(g)(2), as amended by P.A. 10-1, and is for the purpose of informing state contractors and prospective state contractors of the following law (*italicized words are defined on the reverse side of this page*).

CAMPAIGN CONTRIBUTION AND SOLICITATION LIMITATIONS

No *state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor*, with regard to a *state contract or state contract solicitation* with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee (which includes town committees).

In addition, no holder or principal of a holder of a valid prequalification certificate, shall make a contribution to (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of State senator or State representative, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

On and after January 1, 2011, no state contractor, prospective state contractor, principal of a state contractor or principal of a prospective state contractor, with regard to a state contract or state contract solicitation with or from a state agency in the executive branch or a quasi-public agency or a holder, or principal of a holder of a valid prequalification certificate, shall **knowingly solicit** contributions from the state contractor's or prospective state contractor's employees or from a *subcontractor or principals of the subcontractor* on behalf of (i) an exploratory committee or candidate committee established by a candidate for nomination or election to the office of Governor, Lieutenant Governor, Attorney General, State Comptroller, Secretary of the State or State Treasurer, (ii) a political committee authorized to make contributions or expenditures to or for the benefit of such candidates, or (iii) a party committee.

DUTY TO INFORM

State contractors and prospective state contractors are required to inform their principals of the above prohibitions, as applicable, and the possible penalties and other consequences of any violation thereof.

PENALTIES FOR VIOLATIONS

Contributions or solicitations of contributions made in violation of the above prohibitions may result in the following civil and criminal penalties:

Civil penalties—Up to \$2,000 or twice the amount of the prohibited contribution, whichever is greater, against a principal or a contractor. Any state contractor or prospective state contractor which fails to make reasonable efforts to comply with the provisions requiring notice to its principals of these prohibitions and the possible consequences of their violations may also be subject to civil penalties of up to \$2,000 or twice the amount of the prohibited contributions made by their principals.

Criminal penalties—Any knowing and willful violation of the prohibition is a Class D felony, which may subject the violator to imprisonment of not more than 5 years, or not more than \$5,000 in fines, or both.

CONTRACT CONSEQUENCES

In the case of a state contractor, contributions made or solicited in violation of the above prohibitions may result in the contract being voided.

In the case of a prospective state contractor, contributions made or solicited in violation of the above prohibitions shall result in the contract described in the state contract solicitation not being awarded to the prospective state contractor, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

The State shall not award any other state contract to anyone found in violation of the above prohibitions for a period of one year after the election for which such contribution is made or solicited, unless the State Elections Enforcement Commission determines that mitigating circumstances exist concerning such violation.

Additional information may be found on the website of the State Elections Enforcement Commission, www.ct.gov/seec. Click on the link to "Lobbyist/Contractor Limitations."

DEFINITIONS

“State contractor” means a person, business entity or nonprofit organization that enters into a state contract. Such person, business entity or nonprofit organization shall be deemed to be a state contractor until December thirty-first of the year in which such contract terminates. “State contractor” does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

“Prospective state contractor” means a person, business entity or nonprofit organization that (i) submits a response to a state contract solicitation by the state, a state agency or a quasi-public agency, or a proposal in response to a request for proposals by the state, a state agency or a quasi-public agency, until the contract has been entered into, or (ii) holds a valid prequalification certificate issued by the Commissioner of Administrative Services under section 4a-100. “Prospective state contractor” does not include a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

“Principal of a state contractor or prospective state contractor” means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a state contractor or prospective state contractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a state contractor or prospective state contractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a state contractor or prospective state contractor, which is not a business entity, or if a state contractor or prospective state contractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any state contractor or prospective state contractor who has *managerial or discretionary responsibilities with respect to a state contract*, (v) the spouse or a *dependent child* who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the state contractor or prospective state contractor.

“State contract” means an agreement or contract with the state or any state agency or any quasi-public agency, let through a procurement process or otherwise, having a value of fifty thousand dollars or more, or a combination or series of such agreements or contracts having a value of one hundred thousand dollars or more in a calendar year, for (i) the rendition of services, (ii) the furnishing of any goods, material, supplies, equipment or any items of any kind, (iii) the construction, alteration or repair of any public building or public work, (iv) the acquisition, sale or lease of any land or building, (v) a licensing arrangement, or (vi) a grant, loan or loan guarantee. “State contract” does not include any agreement or contract with the state, any state agency or any quasi-public agency that is exclusively federally funded, an education loan, a loan to an individual for other than commercial purposes or any agreement or contract between the state or any state agency and the United States Department of the Navy or the United States Department of Defense.

“State contract solicitation” means a request by a state agency or quasi-public agency, in whatever form issued, including, but not limited to, an invitation to bid, request for proposals, request for information or request for quotes, inviting bids, quotes or other types of submittals, through a competitive procurement process or another process authorized by law waiving competitive procurement.

“Managerial or discretionary responsibilities with respect to a state contract” means having direct, extensive and substantive responsibilities with respect to the negotiation of the state contract and not peripheral, clerical or ministerial responsibilities.

“Dependent child” means a child residing in an individual's household who may legally be claimed as a dependent on the federal income tax of such individual.

“Solicit” means (A) requesting that a contribution be made, (B) participating in any fund-raising activities for a candidate committee, exploratory committee, political committee or party committee, including, but not limited to, forwarding tickets to potential contributors, receiving contributions for transmission to any such committee or bundling contributions, (C) serving as chairperson, treasurer or deputy treasurer of any such committee, or (D) establishing a political committee for the sole purpose of soliciting or receiving contributions for any committee. Solicit does not include: (i) making a contribution that is otherwise permitted by Chapter 155 of the Connecticut General Statutes; (ii) informing any person of a position taken by a candidate for public office or a public official, (iii) notifying the person of any activities of, or contact information for, any candidate for public office; or (iv) serving as a member in any party committee or as an officer of such committee that is not otherwise prohibited in this section.

“Subcontractor” means any person, business entity or nonprofit organization that contracts to perform part or all of the obligations of a state contractor's state contract. Such person, business entity or nonprofit organization shall be deemed to be a subcontractor until December thirty first of the year in which the subcontract terminates. “Subcontractor” does not include (i) a municipality or any other political subdivision of the state, including any entities or associations duly created by the municipality or political subdivision exclusively amongst themselves to further any purpose authorized by statute or charter, or (ii) an employee in the executive or legislative branch of state government or a quasi-public agency, whether in the classified or unclassified service and full or part-time, and only in such person's capacity as a state or quasi-public agency employee.

“Principal of a subcontractor” means (i) any individual who is a member of the board of directors of, or has an ownership interest of five per cent or more in, a subcontractor, which is a business entity, except for an individual who is a member of the board of directors of a nonprofit organization, (ii) an individual who is employed by a subcontractor, which is a business entity, as president, treasurer or executive vice president, (iii) an individual who is the chief executive officer of a subcontractor, which is not a business entity, or if a subcontractor has no such officer, then the officer who duly possesses comparable powers and duties, (iv) an officer or an employee of any subcontractor who has managerial or discretionary responsibilities with respect to a subcontract with a state contractor, (v) the spouse or a dependent child who is eighteen years of age or older of an individual described in this subparagraph, or (vi) a political committee established or controlled by an individual described in this subparagraph or the business entity or nonprofit organization that is the subcontractor.

DIVISION 1 – PROJECT CONTRACT SPECIFICATIONS

TWEED-NEW HAVEN AIRPORT LOCAL GENERAL PROVISIONS

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DIVISION 1 – TWEED-NEW HAVEN AIRPORT LOCAL PROVISIONS

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LOCAL GENERAL CONDITIONS – PART I

101. DEFINITIONS

Wherever used in any of the Contract Documents, the following meanings shall be given to the terms herein defined:

- a. The term "Contract" or "Contract Documents" mean that group of documents which embody the agreement between the Authority and the Contractor for the construction and installation of improvements specified herein, and shall include the following: Executed Agreement Addenda (if any), Invitation for Bids, General Conditions, Special Conditions, Technical Specifications, and Drawings (as listed in the Schedule of Drawings).
- b. The terms "Owner", "Authority" and "Tweed-New Haven Airport Authority" refer to the particular contracting authority entering into, carrying out, and administering the Contract with the Contractor.
- c. The term "Contractor" means the person, firm or corporation entering into the Contract with the Authority to construct and install the improvements embodied in the Contract.
- d. The term "Project Area" means the physical area (contract limits) in which the improvements contemplated by the Contract are to be installed or constructed.
- e. The term "Engineer" means the Engineer serving the Tweed-New Haven Airport Authority with architectural or engineering services, his successor, or any other person or persons employed by the Authority for the purpose of directing or having charge of the improvements embodied in this Contract, and shall include said Engineer's acting (directly or indirectly) through an Assistant Engineer having general charge of the work or through any assistant having immediate charge of a portion thereof.
- f. The term "Technical Specifications" means that part of the Contract Documents which describes, outlines and specifies the qualities, quantities, technical characteristics, data and standards of the (materials to be furnished, the workmanship required, and methods to be used in carrying out the construction and installation of the improvements contemplated by this Contract.
- g. The term "Addendum" or "Addenda" means any changes, revisions or clarifications of the Contract Documents which have been duly issued to prospective Bidders prior to the time of receiving bids.

102. COMMUNICATIONS

All notices, demands, requests, instructions, approvals, proposals, and claims must be in writing.

Any notice or demand upon the Contractor shall be sufficiently given if delivered at the office of the Contractor stated on the signature page of the Agreement or at such other office as the Contractor may from time to time designate in writing to the Authority Engineer, or if deposited in the United States mail in a sealed, postage prepaid envelope, or delivered with charges prepaid to any telegraph company for transmission, in each case addressed to such office.

All papers required to be delivered to the Authority shall, unless otherwise specified in writing, be

delivered to the Airport Manager, 155 Burr Street, New Haven, CT. All papers required to be delivered Authority shall, unless otherwise specified in writing, be delivered to the Airport Manager, 155 Burr Street, New Haven, CT. Any notice to or demand upon the Authority shall be sufficiently given if so delivered, or if received in the United States mail in a sealed, postage prepaid envelope, or if transmitted to said Authority at such address with charges prepaid by any telegraph company, or if delivered by any of the foregoing means to such other representative of the Authority or to such other address as the Authority may subsequently specify in writing to the Contractor for such purpose.

Any such notice shall be deemed to have been given as of the time of actual delivery or in the case of mailing when the same should have been received in due course of post, or in the case of telegrams, at the time of actual receipt as the case may be.

103. RESPONSIBILITIES OF CONTRACTOR

Except as otherwise specifically stated in the Contract Documents and Technical Specifications, the Contractor shall provide and pay for all materials, labor, tools, transportation, superintendence, equipment, water, light, heat, power, temporary construction of every nature, charges, levies, fees or other expenses and all other services and facilities of every nature whatsoever necessary for the performance of the Contract and to deliver all Improvements embraced in this Contract complete in every respect within the specified time.

Where the work is located in a public street or highway, the Contractor must apply for and obtain such permit or permits as may be necessary, in accordance with these Specifications. The Contractor must provide such security or insurance as may reasonably be required incidental to and as a prerequisite to such permit or permits. He shall bear all expenses for and incidental to securing the permit or permits and complying with the terms and requirements thereof.

The Contractor shall arrange his operations and the spaces occupied by him so as to provide access to properties along the street, particularly driveways, access to fire hydrants, manholes, gate boxes and their utilities. If for any reason it is not expedient to backfill an excavation, the Contractor shall construct and maintain suitable bridges to carry pedestrians and traffic in or to the street, driveway or property in question as directed by the Engineer. The Contractor shall confine his occupancy of public or traveled ways to the smallest spaces compatible with the efficient performance or construction of the work contemplated by this Contract, and more particularly to such limits as are set by the Contract Documents.

104. OTHER CONTRACTS

The Authority may award, or may have awarded other contracts for additional work, and the Contractor shall cooperate fully with such other contractors, by scheduling his own work with that to be performed under other contracts as may be directed by the Engineer. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor as scheduled, but shall act as necessary to insure the orderly, proper and economical construction of the whole project or group of projects.

In case of conflict between contractors, the Engineer will determine the location where work shall commence. Such determination shall have no effect on the contract costs and will not be considered as the basis for a claim for additional compensation. The work under this Contract shall be coordinated with any other work which may be under construction or contemplated in the same general area. In order that the work under this Contract may conform to the conditions under which

it has been undertaken, the Authority Engineer will determine the location where the work will commence. Such determination shall have no effect on the contract cost and will not be considered as the basis for a claim for additional compensation.

105. MUTUAL RESPONSIBILITY OF CONTRACTORS

If, through acts of neglect on the part of the Contractor, any other contractor or any subcontractor, shall suffer loss or damage on the work, the Contractor shall settle with such other contractor or subcontractor by agreement or arbitration, if such other contractor or subcontractor will so settle. If such other contractor or subcontractor shall assert any claim against the Authority on account of any damage alleged to have been so sustained, the Authority will notify the this Contractor, who shall defend at his own expense any suit based upon such claim, and if any judgment or claims against the Authority shall be allowed, the Contractor shall pay or satisfy such judgment or claim and pay all costs and expenses in connection herewith.

106. SUPERINTENDENCE BY CONTRACTOR

- a. Except where the Contractor is an individual and gives his personal superintendence to the work, the Contractor shall provide a competent superintendent, satisfactory to the Authority and the Authority Engineer, on the work at all times during working hours with full authority to act for him. The Contractor shall also provide an adequate staff for the proper coordination and expediting of his work.
- b. The Contractor shall lay out his own work unless otherwise provided, and he shall be responsible for all work executed by him under the Contract. He shall verify all figures and elevations before proceeding with the work and will be held responsible for any error resulting from his failure to do so.

107. SUBCONTRACTS

- a. The Contractor shall not execute an agreement with any subcontractor or permit any subcontractor to perform any work included in this Contract until he has submitted a non collusive affidavit and insurance certificate with evidence of public liability, vehicle, and workers' compensation coverage from the subcontractor, both items in substantially the form shown below, and has received written approval of such subcontractor from the Authority. He shall submit a written statement containing such information as the Authority may require concerning the experience, ability and responsibility of the proposed subcontractor and the scope of the subcontract.

108. FITTING AND COORDINATION OF THE WORK

The Contractor shall be responsible for the proper fitting of all work for the coordination of the operations of all subcontractors, trades, or material men engaged upon this Contract. He shall be prepared to guarantee to each of his subcontractors the locations and measurements which they may require for the fitting of their work to all surrounding work.

109. PERMITS AND CODES

- a. The Contractor shall give all notices required by and comply with all applicable laws, ordinances, and codes of the City of New Haven or Town of East Haven. All construction work and/or utility installations shall comply with all applicable ordinances and codes,

including all written waivers. Before installing any work, the Contractor shall examine the Drawings and Technical Specifications for compliance with applicable ordinances and codes and shall immediately report any discrepancy to the Authority. Where the requirements of the Drawings and Technical Specifications fail to comply with such applicable ordinances or codes, the Authority will adjust the Contract by Change Order to conform to such ordinances or codes (unless waivers in writing covering the difference have been granted by the governing body or department) and make appropriate adjustment in the Contract price or stipulated unit prices.

Should the Contractor fail to observe the foregoing provisions and proceed with the construction and/or install any utility at variance with any applicable ordinance or code, including any written waivers (notwithstanding the fact that such installation is in compliance with the Drawings and Technical Specifications), the Contractor shall remove such work without cost to the Authority, but a change order will be issued to cover only the excess cost the Contractor would have entitled to receive if the change had been before the Contractor commenced work on the items involved.

- b. The Contractor shall, at his own expense, secure and pay to the appropriate department of the City or State of Connecticut the fees or charges for all permits for street pavements, sidewalks, sheds, removal of abandoned water taps, sealing of house connection drains, pavement cuts, building, electrical, plumbing, water, gas and sewer permits required by the regulatory body of any of its agencies. The Contractor's attention is called to the fact that the City Engineer's office has a list of all State maintained streets which is readily available to the Contractor for inspection.
- c. The Contractor shall comply with applicable local laws and ordinances governing the disposal of surplus excavation, materials, debris and rubbish on or off the Project Area and commit no trespass on any public or private property in any operation due to or connected with improvements embraced in this Contract.

110. WAGES

- a. State of Connecticut Requirement
 - 1. The wages paid on an hourly basis to any mechanic, laborer, or workman employed upon the work herein contracted to be done, and the amount of payment or contribution paid or payable on behalf of each such employee to an employee's welfare fund, as defined in section 31-78 of the General Statutes of Connecticut shall be at a rate equal to the rate customary or prevailing for the same work in the same trade or occupation in the town in which such public works project is being constructed. Any Contractor who is not obligated by agreement to make payment or contribution on behalf of such employee to any such employee's welfare fund shall pay to each employee as part of his wages the amount of payment or contribution for his classification on each pay day.
- b. City of New Haven Requirement (Section 82 of City Charter)
 - 1. "In all contracts for the construction, repairing, or remodeling of public buildings or public works of any kind by the City or any of its divisions, there shall be incorporated a provision that the wages paid any mechanic, laborer, or workman employed under the contract shall be at the rate of wages for the same type of work in the same trade or occupation prevailing in the City, based upon the wage schedule and rate therein set by the United States Department of Labor for the New Haven area".

c. Federal and State Wage Standards

1. The wage determinations governing the work to be performed under this Contract are set forth elsewhere in the Contract Documents. The higher of the Federal and State wage standards shall be the prevailing standard in every case. However, nothing herein contained shall be construed to permit the payment of wages or salaries below the rates required by any other provision for this Contract.

111. INSURANCE

- a. The Contractor shall carry or require that there be carried Workers' Compensation and Employer's Liability insurance for all of its employees and those of its subcontractors engaged in work at the site. Workers' Compensation insurance shall be in compliance with the Connecticut Workers' Compensation Law and the Employer's Liability limit shall not be less than the following:

Bodily Injury by Accident, each Accident - \$1,000,000
Bodily Injury by Disease, each Employee - \$1,000,000
Bodily Injury by Disease, Policy Limit - \$1,000,000

Contractor shall certify that it and its subcontractors are not in arrears to the State of Connecticut Second Injury Fund.

- b. The Contractor shall carry or require, during the life of the Contract, that there be carried Aviation and Commercial General Liability Insurance with the following limits:

General Aggregate - \$5,000,000
Products/Completed Operations Aggregate - \$5,000,000
Personal/Advertising Injury Aggregate - \$5,000,000
Each Occurrence Limit - \$5,000,000

Coverage can be provided through an individual policy and umbrella policy.

Coverage shall be on an occurrence form and apply to bodily injury and property damage for operations (including explosion, collapse and underground coverage), independent contractors, product and completed operations.

All Commercial General Liability Policies must be primary and non-contributory with a waiver of subrogation included on behalf of The New HVN LLC, Tweed-New Haven Airport Authority, Avports LLC, Avports HVN LLC, and <Designer Name>. (Revised)

- c. The Contractor shall carry, during the life of the Contract, Commercial Automobile Liability and Property Damage Insurance covering all owned, leased, hired and non-owned automobiles, trucks and trailers with coverage no less broad than that of the ISO Commercial Business Auto Policy with limits not less than \$1,000,000 combines single limit each accident for bodily injury, and property damage. Coverage shall apply to both on and away from the Project Site.

All hazardous waste or material transporters, including but not limited to any contractor or subcontractor (including fuel, oil, gasoline), must carry a minimum \$5,000,000 combined single limit and provide evidence the policy includes the MCS 90 Endorsement.

- d. The Contractor shall either (a) require each of his/her subcontractors to procure, and to maintain during the life of his/her subcontract, Subcontractor's Public Liability, Property Damage Insurance and Automotive/Motor Vehicle Liability Insurance of the types and amount specified in (b and c) above or (b) insure the activities of all subcontractors under the Contractor's own policies specified in (b and c) above by naming all such subcontractors as additional insured parties thereunder.
- e. The successful bidder shall provide certificates of insurance showing coverage by an insurance carrier authorized by the State of Connecticut to write insurance in the State. Said certificate should contain the following endorsements.
 1. The New HVN LLC, Avports HVN LLC, Avports LLC, The Tweed-New Haven Airport Authority, and <Designer Name> shall be named as additional insured on a primary and non-contributory basis, including products and completed operations, on all policies excluding Workers Compensation and Professional Liability and noted on the certificate. A copy of the Additional Insured Endorsement is to be provided with the certificate. **(Revised)**

Waiver of Subrogation applies to all policies, except Professional Liability, and shall be noted on the certificate. **(Revised)**
 2. The Contractor agrees to hold harmless and indemnify The New HVN LLC, Avports HVN LLC, Avports LLC, The Tweed-New Haven Airport Authority, and <Designer Name> for claims, damages, judgments or costs arising out of negligence, gross negligence and/or willful acts of the Contractor or any of its subcontractors in the performance of its services under the agreement. **(Revised)**
 3. The Contractor, subcontractors and insurance company agree to waive governmental immunity in the adjustment of claims or the defense of any suit action or claim brought against the Authority.

PLEASE NOTE THAT ALL CERTIFICATES OF INSURANCE SHOULD INCLUDE:

4. Endorsement of the work description, contract name, number and location;
 5. An endorsement that the insurance company will give at least thirty (30) days written notice to the Authority prior to a modification or cancellation of any such insurance coverage; and
 6. An endorsement that the Contractor will be responsible for the payment of all insurance premiums and/or charges.
- f. At the discretion of the Authority, the Contractor may be asked to submit to the Authority copies of Worker's Compensation, Manufacturer's and Contractor's Public Liability, Property Damage, Builder's Risk, Automobile, Fire and Extended Coverage, if applicable, insurance policies for review and approval. The Authority may, in writing, notify the Contractor of a disapproval of any such policies, and satisfactory policies shall be provided in place of those disapproved. The Contractor shall submit insurance certificate and shall provide a copy of each policy upon request.

- g. The Contractor shall require its subcontractors to obtain policies of similar insurance before each commences work. All such insurance shall be carried with financially responsible insurance companies, licensed in the State and approved by the Authority and shall be kept in force until the Contractor's work is accepted by the Authority. Contracts of insurance covering all operations under this Contract which expire before the Contractor's work is accepted by the Authority shall be renewed and submitted to the Authority for its approval.

112. PATENTS

The Contractor shall pay all royalties and license fee. He shall hold and save the Authority, its officers and employees, harmless from liability of any nature or kind, including, but not limited to costs and expense arising out of the use of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the Authority, unless otherwise specifically stipulated in the Technical Specifications.

113. WARRANTY OF TITLE

Materials, supplies, or equipment purchased for the work shall not subject to any chattel mortgage or under a conditional sale or other agreement by which an interest therein or in any part thereof is retained by the seller, supplier or any other person excepting only the Contractor. The Contractor shall warrant good title to all materials, supplies and equipment installed or incorporated in the work and upon completion of all work, shall deliver the same together with all improvements and appurtenances constructed or placed thereon by him to the Authority free from any claims, liens, or charges. Neither the Contractor nor any person, firm or corporation furnishing any material or labor for any work covered by this contract shall have any right to a lien upon any improvement or appurtenances thereon. Nothing contained in this paragraph, however shall defeat or impair the right of persons furnishing materials or labor to recover under any bond given by the Contractor for their protection nor any right under any law permitting such persons to look to funds due the Contractor in the hands of the Authority. The provisions of this paragraph shall be inserted in all subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing material for the work when no formal contract is entered into for such materials.

114. ASSIGNMENT OF NOVATION

The Contractor shall assign or transfer, whether by an assignment or novation, any of its rights, duties, benefits, obligations, liabilities under this Contract without the written consent of the Authority, provided, however, that assignments to banks, trust companies or other financial institution may be made without the consent of the Authority. No assignment or novation of this Contract shall be valid unless the assignment or novation expressly provides that the assignment of any of the Contractor's rights or benefits under the contract is subject to prior lien for services rendered and materials, tools, and equipment, supplied for the performance of the work under this Contract in favor of all persons, firms or corporations rendering any such services or supplying such materials, tools or equipment.

115. PROGRESS SCHEDULE

The Contractor shall submit for approval immediately after execution of the Agreement, a carefully prepared progress schedule, showing the proposed dates of starting and completing each of the various sections of the work, the anticipated monthly payments to become due the Contractor, and the accumulated percent of progress each month.

116. PROGRESS OF WORK

In general, work shall be continued and prosecuted throughout the term of the Contract, including the winter season. The Contractor will be expected to keep work going whenever possible. The Engineer will determine when conditions are unfavorable for work, or for any portion thereof, and may order that the work be suspended on any part or all portions of the Contract whenever, in his opinion, the conditions are not such as will insure first class work.

117. CONSTRUCTION EQUIPMENT

Prior to the start of the work, the Contractor shall submit to the Engineer, for his approval, a "schedule of Equipment" stating the type and number of pieces of equipment to be used on the job. All equipment to be used in the City streets shall be equipped with rubber tires. The use of equipment without rubber tires shall be by written approval and under direction of the Engineer.

118. ACCESS TO PROJECT AREA

The requirements specified in section PERMITS & CODES of the General Specifications apply to work outside the public streets and highways, insofar as those requirements can reasonably be expected apply.

The term "land", "private land", "property", "private road", "driveway", etc., as used in these Specifications, shall be interpreted to include not only the property or properties of any private individual or corporation, but also the property of a public utility or of public body not used as and legally established as a public street highway. The provisions of this section shall apply to operations with the sites of any public building or institution, and similar location.

The Contractor should make inquiry and ascertain the limit conditions, etc. of right-of-way, access, etc., possessed by the Authority, and available for use by the Contractor. Certain essential facts as to such rights may be indicated on plans or elsewhere in the Contract Documents. In some cases, the indications in the Contract Documents indicated restrictions the Contractor more closely than the full extent of the rights possessed by the Authority, in which case such indicated restrictions shall govern the operations of and occupancies by the Contractor. The Contractor, and those operating under him, must know and conform to the limits of the spaces that he may occupy at the site of the work, the means of access thereto, and the conditions under which he may occupy or use rights.

If the Contractor, by direct negotiation and bargain with any land owner, lessee or tenant, has secured for himself any right to use more space or greater privileges than the space provided by the Authority, for purposes incidental to the performance of the Contract, he shall upon request of the Engineer, furnish to the Engineer proper evidence that such additional rights have been properly secured and assurance that damage to or claim upon the Authority will arise therefrom. The Authority shall not be liable in any way for any expense incurred by the Contractor in securing any such right to use additional property.

The Contractor shall be responsible for and reimburse the Authority any and all losses, damage or expense which the Authority or others may suffer, either directly or indirectly or through any claims of any person or party, for any trespass outside the spaces and rights-of-way provided by the Authority to the Contractor or any violation or disregard the terms and conditions established for the use of occupancy of those rights, or for negligence in the exercise of those rights. The Authority may retain or deduct from any sum or sums due or to become due to the Contractor or such amount

or amounts as may be proper to insure the Authority against loss or expense by reason of the failure of the Contractor observe the limits and conditions of the rights-of-way, rights-of-access, etc., provided by the Authority.

The Contractor shall request the Engineer to give proper notice to the owners and tenants of land traversed by the rights-of-way or access ways to be used or occupied by the Contractor prior to reentry into such rights-of-way, etc., or shall cause proper notice to be given to said owners and/or tenants. The Contractor shall thereafter wait a sufficient time to permit the delivery of such notice or notices, and also to allow time in which owners or tenants may make necessary adjustments to avoid undo loss or inconvenience by the interference with their ordinary use of occupancy caused by the acts of the Contractor.

The Contractor shall take proper means to identify his employees, etc., when operating within private or restricted lands. He shall not permit his employees, subcontractors, suppliers, etc., to trespass outside the limits of the spaces provided for him, to unnecessarily interfere with or annoy or to commit any nuisance or scatter rubbish thereon, or to loiter therein when their presence is not essential to the work then underway. He shall not permit others attracted to the site of his work by his operations to loiter in the vicinity of his work or to enter or damage private property, within or without and near the rights-of-way provided by the Authority, or to annoy the regular owners or occupants of such property.

If access is provided by means of any private road or driveway or through private roads, the Contractor shall permit the regular owners or users thereof to use the same so far as it consistent with the construction of the work. If any existing driveway or road is damaged by thereof, the Contractor shall at once restore to as good condition as it would have been had he not used it. The Contractor and those under him using any private road or driveway must assume to use that road or driveway on an "as is " basis and use it at their own risk. Neither the Authority nor the land owner shall be liable for damage to persons or property of the Contractor's forces arising from any defect in such road or driveway, except as such defect may be the consequence of negligence of the Authority or of the land owner before the award of the Contract or after completion of work called for by the Contract. The liability of any party may be limited by the terms of the right-of-way or right-of- access Document. The landowner and the Authority make no representation that the road or driveway surface, culverts, etc. are adequate to carry any specific load or weight. The Contractor may be held liable to the owner or regular users of the road and driveway for injury, damage or loss by reason of negligence of the Contractor in the operation of vehicles thereon, or with respect to damage done to the road or driveway by his forces or by reason of failure to provide and maintain suitable earning of dangers created by the operations of the Contractor.

Should it be necessary to open or remove portions of any hedge, gate, fence, or similar structure, such opening shall not be kept open at any time when it is not essential to the conduct of the work. Temporary gates shall be provided and such openings shall be closed except when opened for the passage of persons or vehicles. The openings shall be permanently restored and repaired when no longer needed for the performance of the Contract. Precautions shall be taken by the Contractor to prevent unauthorized persons from passing through such temporary openings or, having passed through such openings into otherwise enclosed lands, from causing lesser damage therein.

119. USE OF PREMISES

- a. The Contractor shall confine his equipment, storage of materials, and construction operations to the Contract Limits, as shown on the Drawings and as prescribed by ordinances or permits, or as may directed by the Authority, and shall not unreasonably encumber the site public rights-

of-way with his materials and construction equipment.

- b. The Contractor shall comply with all reasonable instructions the Engineer and the ordinances and codes of the Authority regarding signs, advertising, traffic, fires, explosives, danger signals and barricades.

120. PUBLIC UTILITIES

The Contractor shall determine the actual location of utilities. The information shown on the Contract Plans is only for information and convenience of the Contractor and is in no way warrant to indicate the true conditions.

The Contractor shall inquire of the utility companies as to their mains, conduits, services and service laterals in and adjacent to the area under construction. The costs for such locations, and any costs for connections or disconnections, shall be paid by the Contract unless otherwise specified.

The Contractor, shall without expense to the Authority and to the satisfaction of the Engineer, do everything necessary to support, protect and maintain all pipes, wires, poles or fixtures of all kinds in line of work or adjacent thereto, and all fences, buildings, or structures which might be damaged by the work herein contemplated. The Contractor shall give at least twenty four (24) hours notice, before breaking ground, to owners of the structures, pipes or wire conduits that may be affected by his operations and shall not cause any hindrance to or interference with any such owners or their agents in protecting repairing their property should they wish to do so, but will suffer them to take all such measures as they may deem necessary for said purpose. The Contractor shall protect water pipes from freezing during cold weather.

The Engineer may require the Contractor to take proper steps protect the main lines of public utilities in the immediate vicinity the work when endangered by the Contractor's operations, and, if the Contractor fails to take adequate provisions to protect such lines structures, the Engineer may employ others to perform protective work as may be reasonably needed, at the Contractor's expense.

121. TECHNICAL SPECIFICATIONS AND DRAWINGS

Anything mentioned in the Technical Specifications and not shown on the Drawings or shown on the Drawings and not mentioned in the Technical Specifications, shall be of like effect as if shown or mentioned in both. In case of difference between Drawings and Technical Specifications, the Technical Specifications shall govern. In case of any discrepancy in Drawings, or Technical Specifications, the matter shall be immediately submitted to the Authority, without whose decision said Discrepancy shall not be adjusted by the Contractor, save only at his own risk and expense.

Except the Contractor's executed set, all Working Drawings and the Technical Specifications are and remain the property of the Authority. Such working Drawings and Technical Specifications are not to be used on other work, and those sets in useable condition shall be returned to the Authority, upon request, and the completion, cessation of the work or termination of the Contract.

122. CONTRACT DOCUMENTS AND DRAWINGS

The Authority will furnish the Contractor, without charge, six (6) copies of the Contract Documents, including Technical Specifications and Drawings. Additional copies requested by the

Contractor will be furnished at cost.

The Contractor shall, at all times, keep at the site of the work two (2) complete sets of the Contract Drawings and Specifications, also of all further Drawings or instructions issued covering the work under the Contract for his own use and that of the Engineer or his authorized representatives. All changes as they may occur are to be recorded immediately thereon.

As a part of his general supervision, the Contractor shall carefully study and compare all instructions, specifications and other drawings given to him and shall report to the Engineer to clarify any errors, omissions or discrepancies in or between such documents.

123. SHOP DRAWINGS

- a. All required shop drawings, machinery details, layout drawings, etc., shall be submitted to the Engineer in triplicate for his approval sufficiently in advance of requirements to afford ample time for checking, including time for correcting, resubmitting and rechecking, if necessary. The Contractor may proceed, only at his own risk, with manufacture or installation of any equipment or work covered by said shop drawings. etc., until they are approved and no claim, by the Contractor, for extension of the Contract time will be granted by reason of his failure in this respect.
- b. Any drawings submitted without the Contractor's stamp approval will not be considered and will be returned to him for proper resubmission. If any drawings show variations from the requirements the Contract because of standard shop practice or other reason, the Contractor shall make specific mention of such variation in his letter transmittal in order that, if acceptable suitable action may be taken for proper adjustment of contract price and/or time otherwise the Contractor will not be relieved of the responsibility to execute the work in accordance with the Contract even though the drawings have been approved.
- c. If a shop drawing is in accordance with the Contract or involves only a minor adjustment in the interest of the Authority, not involving change in contract price or time, the Engineer may approve the drawing. The approval shall be general, shall not relieve the Contractor from his responsibility for adherence to the Contract or for any error in the drawing and shall contain in substance the following:

“The modification shown on the attached drawing is approved in the interest of the Authority to effect an improvement for the project and ordered with the understanding that it does not involve any change in the Contract Price or time; that it is subject generally to all Contract Stipulations and covenants; and that it is without prejudice to any and all rights of the Authority under the Contract and surety bond or bonds.”
- d. The Contractor shall furnish as many copies of approved shop drawings as are necessary for proper coordination of the work, and shall maintain a complete set of approved shop drawings at the site at all times.

124. REQUESTS FOR SUPPLEMENTARY INFORMATION

It shall be the responsibility of the Contractor to make timely requests of the Authority for any additional information not already in possession, which should be furnished by the Authority under the terms of this Contract, and which he will require in the planning and execution of the work. Such request may be submitted from time to time as the need is approached, but each shall be filed

in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay. Each request shall be in writing, and list the various items and the latest date by which each will be required by the Contractor. The first list shall be submitted within two weeks after Contract award and shall be as complete as possible at the time. The Contractor shall, if requested, furnish promptly any assistance and information the Engineer may require in responding to these requests of the Contractor. The Contractor shall be fully, responsible for any delay in his work or to others arising from his failure to comply fully with the provisions of this section.

125. INSPECTION

- a. All materials and workmanship will be subject to examination, inspection, or test by the Authority and the Engineer at any and all times during manufacture or construction and at any and all places where such manufacture or construction is carried on. The Engineer shall have the right to reject defective material and workmanship or require its correction. Unacceptable workmanship shall be satisfactorily corrected. Rejected material shall be promptly segregated and removed from the Project Area and replaced with material of specified quality without charge therefore. If the Contractor fails to proceed at once with the correction of rejected workmanship or defective material, the Authority may by contract or otherwise, have rejected materials removed from the Project Area or the defects remedied or and charge the cost of the same against any moneys which may be due the Contractor, without prejudice to any other rights or remedies of the Authority.
- b. The Contractor shall furnish promptly all materials reasonably necessary for any tests that may be required. (see section - SAMPLES, CERTIFICATES AND TESTS, under GENERAL CONDITIONS). All tests by the Authority will be performed in such a manner as not to unnecessarily delay work and shall be made as described in the Technical Specifications.
- c. The Contractor shall notify the Engineer sufficiently in advance on backfilling or concealing any facilities to permit proper inspection. If any facilities are concealed without approval or consent of the Engineer, the Contractor shall uncover for inspection and recover such facilities all at his own expense, when so ordered by the Engineer. Should it be considered necessary or advisable by the Engineer at any time before final acceptance of the entire work to make any examination of work already completed, by uncovering the same, the Contractor shall on request promptly furnish all necessary facilities, labor and materials. If such work is found to be defective in any important or essential respect due to fault of the Contractor or his subcontractor, he shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, the actual cost of labor and material necessarily involved in the examination and replacement, plus fifteen percent of such costs to cover superintendence, general expenses and profit, shall be allowed the Contractor and in addition he shall be granted a suitable extension of time on account of the additional work involved, if completion of the work of the entire contract has been delayed thereby
- d. Inspection of materials and appurtenances to be incorporated in the improvements embraced in this Contract may be made at the place of production, manufacture or shipment, whenever the quantity is justified, and such inspection and acceptance, unless otherwise stated in the Technical Specifications, shall be final, except as regards (1) latent defects, (2) departures from specific requirements of the Contract, (3) damage or loss in transit, or (4) fraud or such gross mistakes as amount to fraud. Subject to the requirements contained in the preceding sentence, the inspection of materials as a whole or in part will be made at the project site.

- e. Neither inspection, testing, approval nor acceptance of the work in whole or in part by the Authority or its agents shall relieve Contractor or his sureties of full responsibility for furnished materials or work performed not in strict accordance with the Contract.

126. REVIEW BY THE AUTHORITY

The Authority, its authorized representatives and agents, authorized representatives of State of Connecticut departments, and authorized representatives of the Federal Aviation Administration shall, at all times, have access to and be permitted to observe and review all work, materials, equipment, payrolls, personnel records, employment conditions, material invoices, and other relevant data and records pertaining to this Contract, provided, however, that all instructions and approval with respects to the work will be given to the Contractor only by the Authority through its authorized representatives or agents.

127. MATERIALS AND WORKMANSHIP

- a. Unless otherwise specifically provided for in the Technical Specifications, all workmanship, equipment, materials and articles to be incorporated in the work shall be new and the best grade of the respective kinds for the purpose. The Engineer shall decide whether such workmanship, equipment, materials and articles to be incorporated in the work are new and the best grade of the respective kinds for the purpose. Where equipment, materials, articles or workmanship are referred to in these Specifications as “equal to” any particular standard, the Engineer shall decide the question of equality.
- b. The Contractor shall furnish to the Authority for approval the manufacturer’s detailed specifications for all machinery, mechanical and other special equipment, which he contemplates installing together with full information as to type, performance characteristics, and all other pertinent information as required and shall likewise submit for approval as required full information concerning all other materials or articles which he proposes to incorporate in the work. (See Section – SAMPLES, CERTIFICATES AND TESTS UNDER GENERAL CONDITIONS). Machinery, mechanical and other equipment, materials or articles installed or used without such prior approval shall be at the risk of subsequent rejections.
- c. Materials specified by reference to the number or symbol of a specific standard, such as A.S.T.M. Standard, a Federal Specification or other similar standard, shall comply with requirements with the latest revision thereof and any amendment or supplement thereto in effect on the date of the Invitation for Bids, except as such specific standards are limited or modified in such reference in regard to type, class or grade. The standards referred to, except as modified in the Technical Specifications, shall have full force and effect as though printed therein.
- d. In addition to the requirements of the General Specifications, prior to the start of work, the Contractor shall notify the Engineer in writing of his anticipated sources of all materials proposed to be incorporated into the work. The Contractor shall further notify the Engineer in writing of any changes in his source or anticipated source of materials.
- e. The Authority may require the Contractor to dismiss from the work such employee or employees as the Engineer may deem incompetent, careless, or insubordinate.

128. SAMPLES, CERTIFICATES AND TESTS

- a. The Contractor shall submit all materials or equipment samples, certificates, affidavits, etc., as

called for in the Contract Documents or required by the Engineer, promptly after award of the Contract and acceptance of the Contractor's bond. No such material or equipment shall be manufactured or delivered to the site, except at the Contractor's own risk, until the Engineer has approved the required samples or certificates in writing. Any delay in the work caused by late or improper submission of samples or certificates for approval shall not be considered just cause for an extension of the contract time.

Each sample submitted by the Contractor shall carry a label giving the name of the Contractor, the project for which it is intended, and the name of the producer. The accompanying certificate or letter from the Contractor shall state that the sample complies with the contract requirements, shall give the name and brand of the product, its place of origin, the name of address of the producer and all specifications or other detailed information which will assist the Engineer in passing upon the acceptability of the sample promptly. It shall also include the statement that all materials or equipment furnished for use in the project will comply with the samples and/or certified statements.

- b. Approval of any materials shall be general and shall not constitute a waiver of the Authority's right to demand full compliance with Contract requirements. After actual deliveries, the Engineer will have such check tests made as he deems necessary in each instance and may reject materials and equipment and accessories for cause, even though such materials and articles have been given general approval. If materials, equipment or accessories that fail to meet check tests have been incorporated in the work, the Engineer will have the right to cause their removal and replacement by proper materials or to demand and secure such reparation by the Contractor as is equitable. If the aforementioned materials, equipment or accessories are caused to be removed or replaced by the Engineer, the cost of such removal or replacement shall not be considered cause for a change in the contract price or for extension of the contract time.
- c. Except as otherwise specifically stated in the Contract, the costs of sampling and testing will be divided as follows:
 - 1. The Contractor shall furnish without extra cost, including packing and delivery charges, all samples required for testing purposes, except those samples taken on the project by the Engineer;
 - 2. The Contractor shall assume all costs of re-testing materials that fail to meet contract requirements;
 - 3. The Contractor shall assume all costs of testing materials offered in substitution for those found deficient; and
 - 4. The Authority will pay all other expenses except as specifically excepted by these General Conditions.

129. CARE OF WORK

- a. The Contractor shall be responsible for the continuous and proper care and protection of all materials delivered and work performed until completion and final acceptance, whether or not the same has been covered in whole or in part by payments made by the Authority. All damaged work and materials shall be immediately removed from the Project Area and replaced at the Contractor's expense.

- b. The Contractor shall provide sufficient competent watchmen, both day and night, including Saturdays, Sundays and holidays, from the time the work is commenced until final completion and acceptance. The judgment of the Authority as to the sufficiency and competency of the watchmen shall be final.
- c. In an emergency affecting the safety of life or property, including adjoining property, the Contractor, without special instructions or authorization from the Authority, is authorized to act at his discretion to prevent such threatened loss or injury, and he shall so act. He shall likewise act if instructed to do so by the Authority. The Authority, as provided in the Section “CHANGES IN THE WORK under GENERAL CONDITIONS”, will determine any compensation claims by the Contractor on account of such emergency work.
- d. The Contractor shall avoid damage as a result of his operations to existing curbs, utilities, (except those which are to be replaced or removed), sidewalks, streets, pavements, adjoining property, etc., and he shall, at his own expense completely repair any damage thereto caused by his operation.
- e. The Contractor shall shore up, brace, underpin, secure, and protect as many as may be necessary, all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be in any way affected by the excavations or other operations connected with construction of the improvements, embraced in the Contract. The Contractor shall be responsible for the giving of any all required notices to any adjoining or adjacent property owner or other party before the commencement of any work. The Contractor shall indemnify and save harmless the Authority from any damages or account of settlements or the loss of lateral support of adjoining property and from all loss or expense and all damages for which the Authority may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.

130. PARTIAL USE OF SITE IMPROVEMENTS

The Authority Engineer, at his election, may give notice to the Contractor and place in use those sections of the Improvements which have been completed, inspected and can be accepted as complying with the Technical Specifications and if, in his opinion, each such section is reasonably safe, fit and convenient, for the use and accommodation for which it was intended, provided:

- a. The use of such sections of Improvements shall in no way impede the completion of the remainder of the work by the Contractor.
- b. The Contractor shall not be responsible for any damages or maintenance cost due directly to the use of such sections.
- c. The use of such sections shall in no way relieve the Contractor of liability due to having used defective materials or to poor workmanship.
- d. The period of guarantee stipulated in the Section – “GENERAL GUARANTEE under GENERAL CONDITIONS, shall not begin to run until the date of the final acceptance of all work which the Contractor is required to construct under the Contract.

131. FIRES

Burning shall not be permitted.

132. BLASTING AND EXPLOSIVES

When the use of explosives is necessary for the prosecution of the work all requirements of local and State laws and regulations shall be complied with and all necessary permits and licenses obtained by the Contractor at his expense. Permits and licenses shall be shown to the Engineer.

The Contractor will keep on the job only such quantities of explosives as may be needed for the work underway and only during such time or times as they are being used. Explosives shall be stored in a secure manner in locked containers and separate from all tools. Caps and detonators shall be stored separately from explosives.

The Contractor shall notify each public utility company, having structures in proximity to the site of the work and all others who may be affected, of his intention to use explosives and such notice shall be given sufficiently in advance to enable the companies, the Contractor and others to take such steps as they may deem necessary to protect utilities and property from injury. Such notice shall not relieve the Contractor of responsibility for any damage resulting from his blasting operation.

Explosives shall be of such power, placed and used in such quantities and positions as will not make the excavation unduly large, nor shatter unnecessarily the rock mass structure, upon or against which the sewer or structure to be built.

The rock obstacle or mass structure must be covered sufficiently when blasts are fired to prevent damage or injury to persons or property or the scattering of broken fragments on the adjacent ground. Adequate warning shall be given all persons in the vicinity before any blast is discharged.

No separate payment shall be made for blasting.

133. DEWATERING

The Contractor shall provide all necessary pumps, dams, drains, ditches, flumes, well points and other means of excluding and removing water from trenches, tunnels and other parts of the work, and for preventing the slopes from sliding or caving. He shall satisfactorily remove all water that interferes with the work. The flow of all sewers, drains, house connections and watercourses encountered shall be maintained and provided for by the Contractor without damage or nuisance to other parties.

All connections shall be restored as ordered. Before any masonry is placed or sewer pipes are laid, suitable drains shall be provided as needed and maintained in order that the bottom may be free from water and sufficiently dry at all times. No masonry of any kind laid in cement mortar shall be placed in water. No water shall be allowed to flow over or rise up on fresh concrete and no drainage shall be allowed to enter the sewer until such time under such conditions as the Engineer may direct. The Contractor shall provide and operate additional pumps or drains at any place where the Engineer shall deem them necessary.

Where in the opinion of the Engineer, some form of under-drainage is necessary but conditions do not warrant the installation of tile or pipe underdrain, he may order a layer of broken stone of suitable size placed in the bottom of the trench below the sewer, to serve as a drain.

No direct payment shall be made for the work specified herein, but compensation for such work and all expenses incidental thereto shall be considered as having been included in the contract bid prices for various items of work.

134. CONTROL POINTS AND BENCHMARKS

The Engineer shall furnish sufficient control points and benchmarks to permit the Contractor to perform all layout work in accordance with the General Specifications.

The Contractor shall be held responsible for the protecting and safeguarding of all control points and Bench Marks set by the Engineer or his own forces. Any replacement or reestablishment of control points or benchmarks, by the Engineer, shall be at the Expense of the Contractor.

135. ACCIDENT PREVENTION

- a. The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of or his failure to prosecute the work. The safety provisions of applicable laws and building and construction codes shall be observed and the Contractor shall take or cause to be taken such additional safety and health measures as the Authority determines to be reasonably necessary. Any costs arising out of the taking of such health or safety measures shall be borne by the Contractor. Machinery, equipment and all hazards shall be guarded in accordance with safety provisions of the "Manual of Accident Prevention in Construction" published by the Associated General Contractors of American, Inc., to the extent that such provisions are not in conflict with applicable local laws.
- b. The Contractor shall indemnify and save harmless the Authority from any claims for damages resulting from property damage, personal injury and/or death suffered or alleged to have been suffered by any person as a result of any work conduct under this contract, and the Contractor shall defend at his own expense any action, suit, proceeding, or other claim brought against the Authority by any such person.

136. ACCIDENT RECORDS AND REPORTS

The Contractor shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work under the Contract. The Contractor shall promptly furnish the Authority Engineer with reports concerning these matters.

137. SANITARY FACILITIES

The Contractor shall furnish, install, and maintain ample sanitary facilities for the workmen. As the needs arise, a sufficient number of enclosed temporary toilets shall be conveniently placed as required by the sanitary codes of the State and the Authority. Drinking water shall be provided from an approved source, so piped or transported as to keep it safe and fresh and served from single service containers or satisfactory types of sanitary drinking stands or fountains. All such facilities and services shall be furnished in strict accordance with existing and governing health regulations.

138. REMOVAL OF DEBRIS, CLEANING, ETC.

The Contractor shall, as directed during the progress of the work, or periodically remove and legally dispose of all surplus excavated material and debris, and keep the Project Area and public rights of way reasonably clear. Upon completion of the work, he shall remove all temporary construction facilities, debris and unused materials provided for the work, and put the whole site of the work and public rights of way in a neat and clean condition. Trash burning on the site of the work will not be allowed.

No separate payment will be made for this removal and clean up, and all costs shall be included in the applicable contract unit prices.

139. CHANGES IN THE WORK

- a. The Authority may make changes and alterations in the scope of the work required to be performed by the Contractor by making additions thereto, or by omitting work therefrom, or by giving extensions of time for the performance of this contract or by giving any other forbearance, without invalidating the Contract, and without relieving or releasing the Contractor from any of his obligations under the Contract or any guarantee given by him pursuant to the Contract provision, and without affecting the validity of the guarantee bonds, and without relieving or releasing the surety or sureties of said bonds. Notice of any such change, alteration, extension or forbearance to the surety or sureties of said bonds shall not be required. All such work shall be executed under the terms of the original Contract unless it is expressly provided otherwise.
- b. Except for the purpose of affording protection against any emergency endangering life or property, the Contractor shall make no change in the materials used or in the specified manner to construct and /or install the improvements or supply additional labor, services or materials beyond that actually required for the execution of Contract, unless pursuing a written Change Order from the Authority authorizing the Contractor to proceed with the change. No claim for an adjustment of the Contract price will be valid unless undertaken as aforesaid.
- c. If applicable unit prices are contained in the Agreement the Authority may order the Contractor to proceed with desired changes in the work, the value of such changes to be determined by the measured quantities involved and the applicable unit prices specified in the Contract.
- d. If applicable unit prices are not contained in the Agreement, the Authority shall, before ordering the Contractor to proceed with desired changes, request an itemized proposal from him covering the work involved in the change after which the procedure shall be as follows:
 1. If the proposal is acceptable to the Authority, the Authority will prepare the Change Order in accordance therewith for acceptance by the Contractor; or
 2. If the proposal is not acceptable to the Authority and prompt agreement between the two parties cannot be reached, the Authority at its sole option, may order the Contractor to proceed with the work on a "Cost-plus" basis. A "Cost-plus" basis is defined as the net cost of the work to the Contractor plus an allowance to cover overhead and profit, as stipulated below. The following shall apply:
 - (a) For all labor the Contractor shall receive the rate of wage actually paid as shown by his certified payroll, which shall be at least the minimum rate established by the Contract Documents. For all foremen in direct charge of the work the Contractor shall receive the actual wage paid the foremen, as shown on (his certified payroll). No part of the salary or expense of anyone above the grade of foreman and having general supervision of the work will be included in the labor item.
 - (b) For all cost of all insurance and taxes imposed by law on labor employed on the work, the Contractor shall receive the actual amount paid.

- (c) For all materials used by the Contractor, he shall receive the actual cost of such materials, less any allowable cash discounts, delivered on the work, including delivery charges as shown by original receipted bills, to which shall be added fifteen percent (15%) of the sum thereof.

Contractor shall receive the actual cost of such labor, to which shall be added fifteen percent (15%) of the sum thereof.

- (d) For any power operated machinery, trucks or equipment, which it may be necessary to use, the Authority shall allow the Contractor the rental price as set forth in the standard schedule of equipment rental prices established by the Rental Rate Blue Book For Construction Equipment, current edition as published by Dataquest. (weekly rate pro-rated), and is hereby made a part of this Contract and is hereby accepted as such by both parties.
- (e) Should the proper completion of the work require equipment of a type not covered by the above-mentioned schedule, the Authority shall allow the Contractor a reasonable rental price to be agreed upon in writing before the work is begun.
- (f) No percentage shall be added to the amounts of any of the above stated equipment rental prices, but the price as set forth in the schedule or agreed upon shall be total compensation allowed for the use of such equipment.
- (g) The compensation as herein provided shall be received by the Contractor as payment in full for the extra work done on a "Cost Plus" basis, and shall include superintendence, use of tools machinery and equipment for which no rental is allowed, and profit.
- (h) All extra work performed by a subcontractor will be according to the above requirements as if the work were performed directly by the Contractor. Extra work performed by a subcontractor will be paid as actual cost plus fifteen percent (15%) to subcontractor and five percent (5%) to the General Contractor. If there are second and third tier subcontractors, the aggregate mark-up all subcontractors involved shall be fifteen percent (15%). The maximum mark-up for all subcontractors plus General Contractor is twenty percent (20%).
- (i) Should the Contractor refuse or fail to prosecute the work as directed, the Engineer may withhold the payment of all current estimates until the Contractor's refusal or failure is eliminated.

140. CLAIMS FOR EXTRA COST

- a. If the Contractor claims that any instruction by Drawings or otherwise involve extra cost or extension of time, he shall, within ten (10) days after the receipt of such instruction, and in any event before proceeding to execute the work, submit his protest thereto in writing to the Authority, stating clearly and in detail the basis of his objections. No such claims will be considered unless so made.
- b. Claims for additional compensation for extra work, due to alleged errors in ground elevations, contour lines, or benchmarks, will not be recognized unless accompanied by certified survey data, made prior to the time the original ground was disturbed, clearly showing that errors exist

which resulted, or would result, in handling more material, or performing more work, than would be reasonably estimated from the Drawings and maps issued.

- c. Any discrepancies that may be discovered between the actual conditions and those represented by the Drawings and map shall at once be reported to the Authority and work shall not proceed except at the Contractor's risk, until he has received written instructions from the Authority.
- d. If, on the basis of the available evidence, the Authority determines that an adjustment of the Contract Price and/or time is justifiable, the procedure shall then be as provided in Section CHANGES IN THE WORK under GENERAL CONDITIONS.
- e. During the progress of the work, if the Contractor encounters at the site (1) subsurface or latent physical conditions differing materially from those inherent in the work of the character provided for in this Contract, the Contractor shall promptly and before such conditions are distributed, notify the Engineer in writing. The Engineer shall thereupon investigate such conditions and if he finds that they do materially differ, he shall cause such changes to be made in Specifications and Drawings as may be deemed necessary, and shall make such equitable adjustment in the Contract Price or time as justified, if any, by written order, as provided in the section CHANGES IN THE WORK. No claim of the Contractor for adjustment hereunder shall be allowed unless he has given notice as above required.

141. DISPUTES

- a. All disputes arising under this Contract or its interpretation, whether involving law or fact or both, or extra work, and all claims for alleged breach of contract shall within ten (10) days of commencement of the dispute be presented by the Contractor to the Authority for decision. All papers pertaining to claims shall be filled in quadruplicate. Such notice need not detail the amount of the claim, but shall state the facts surrounding the claim in sufficient detail to identify the claim, together with its character and scope. In the meantime the Contractor shall proceed with the work as directed. Any claim not presented within the time limit specified within this paragraph shall be deemed to have been waived, except that if the claim is of a continuing character and notice of the claim is not given within ten (10) days of commencement, the claim will be considered only for a period commencing ten (10) days prior to the receipt by the Authority of Notice thereof.
- b. The Contractor shall submit in detail his claim and his proof thereof. Each decision by the governing body of the Authority will be in writing and will be mailed to the Contractor by registered mail, return receipt requested.
- c. If the Contractor does not agree with any decision of the Authority he shall in no case allow the dispute to delay the work but shall notify the Authority promptly that he is proceeding with the work under protest and he may then except the matter in question from the final release.

142. UNFORESEEN WORK

Work necessary to complete the project that is to be done in accordance with to any section of the specifications for which no unit price is established in the contract shall be done in accordance with section 139 of the General Specifications. It shall be the responsibility of the Contractor to bring this work in writing to the attention of the Engineer and no such work shall proceed until a written order is issued to the Contractor.

143. PAYMENT TO CONTRACTOR

a. Partial Payment

1. The Contractor shall prepare his requisition for partial payment as of the last day of the month and submit it, with the required number of copies, to the Engineer for his approval. The amount of the payment due the Contractor shall be determined by the total value of the work completed to date, deducting (1) ten percent (10%) of the total amount, to be retained until final payment and (2) the amount of all previous payments. The total value of work completed to date shall be based on the estimated quantities of work completed and on the unit prices contained in the agreement.
2. Monthly or partial payments made by the Authority to the Contractor are moneys advanced for the purpose of assisting the Contractor to expedite the work of construction. All completed work covered by such monthly or partial payments shall remain the property of the Contractor and he shall be responsible for the care and protection of all materials and work upon which payments have been made. Such payments shall not constitute a waiver of the rights of the Authority to require the fulfillment of all terms of the Contract and delivery of all improvements embraced in the Contract complete and satisfactory to the Authority in all details.
3. The Authority may reinstate up to five percent (5%) withholding if the Authority determines, at its discretion, that the Contractor is not making satisfactory progress or there is other specific cause for such withholding.

b. Final Payment

1. After final inspection and acceptance by the Authority of all work under the Contract, the Contractor shall prepare his requisition for final payment which shall be based upon the carefully measured or computed quantity of each item of work at the applicable unit prices stipulated in the agreement. The total amount of the final payment due the Contractor under this Contract shall be the amount computed as described above less all previous payments. Final payment to the Contractor shall be made subject to his furnishing the Authority with the release in satisfactory form of all claims against the Authority arising under and by virtue of his contract, other than such claims, if any, as may be specifically accepted by the Contractor from the operation of the release as provided under the section entitled DISPUTES under GENERAL CONDITIONS.
2. The Authority, before paying the final estimate, may require the Contractor to furnish releases of receipt from all subcontractors having performed any work and all persons having supplied materials, equipment (installed on the project) and services to the Contractor, if the Authority deems the same necessary in order to protect its interest. The Authority, however, may if it deems such action advisable, make payment in part or in full to the Contractor without requiring the furnishing of such releases or receipts and any payment so made shall in no way impair the obligations of any surety or sureties furnished under this Contract.

Further, the Authority may, if it deems such action advisable, make payment in part or in full to the Contractor, although the Authority has notice or knowledge of the existence of claims, causes of action, or disputes by subcontractors, laborers, material men, suppliers of equipment and services and others, against the Contractor, and any payments so made

shall in no ways impair the obligations of any surety or sureties furnished under this Contract.

c. Withholding Payment

The Authority may withhold from any payment otherwise due the Contractor to much as may be necessary to protect the Authority and if it so elects may also withhold any amounts due from the Contractor to any subcontractors or material dealers, for work performed or material furnished by them. The foregoing provisions shall be construed solely for the benefit of the Authority and will not require the Authority to determine or adjust any claims or disputes between the Contractor and his subcontractors or material dealers, or to withhold any money for their protection unless the Authority elects to do so. The failure or refusal of the Authority to withhold any moneys from the Contractor shall in no way impair the obligations of any surety or sureties under any bond or bonds furnished under this contract.

d. Payments subject to Submission to Certificates

Each payment to the Contractor by the City shall be made subject to submission by the Contractor of all written certifications required of him and his subcontractors by the Section entitled CONTRACTOR'S CERTIFICATES under GENERAL CONDITIONS.

144. FINAL INSPECTION

When the improvements embraced in this contract are substantially completed, the Contractor shall notify the Engineer in writing that the work will be ready for final inspection on a definite date, which shall be stated in the notice. The notice will be given at least ten (10) days prior to the date stated for final inspection, and bear the signed concurrence of the representative of the Authority having charge for inspection. If the Engineer determines the status of the Improvements is as represented, he will make the arrangements necessary to have final inspection commenced on the date stated in the notice, or as soon as practicable. The inspection party may include representatives of the FAA, State of Connecticut and the Authority having charge of Improvements of like character.

145. DEDUCTION FOR UNCORRECTED WORK

If the Authority deems it not expedient to require the Contractor to correct work not done in accordance with the Contract Documents, as equitable deduction from the Contract price will be made by agreement between the contractor and the Authority and subject to settlement, in case of dispute, as herein provided.

146. TERMINATION: DELAYS AND LIQUIDATED DAMAGES

- a. Termination of Contract. If the Contractor should be adjudged a bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver shall be appointed on account of his insolvency, or if he should fail to make prompt payment to subcontractors or for material or labor, or if he refuses or fails to prosecute the work with such diligence as will insure its completion within the time specified in these Contract Documents, or if the Contractor should otherwise be guilty of a substantial violation of a provision of the Contract, then the Authority may, without prejudice to any other right or remedy and after giving the Contractor seven (7) days written notice, terminate the Contractor's right to proceed with the work. Upon such termination, the Authority may take over the work and prosecute the same

to completion by contract or otherwise and the Contractor and his sureties shall be liable to the Authority for liquidated damages for any delay in the completion of the work, as provided in these Contract Documents. If the Contractor's right to proceed is terminated, the Authority may take possession of and utilize in completing the work such materials, tools, equipment and plant as may be on the site of the work and necessary therefore.

- b. Excusable Delays. The right of the Contractor to proceed shall not be terminated for any delays in the completion of work due:
1. To any acts of Government, including controls or restrictions upon or requisitioning of materials, equipment tools, or labor by reason of war, national defense, or any other national emergency;
 2. To any acts of the Authority except as such acts are specifically permitted by the Contract Document;;
 3. To cause not reasonably foreseeable by the parties to this Contract which are beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God or of the public enemy, acts of another contractor in the performance of some other contract with the Authority, fires, flood, epidemics, quarantine restrictions, strikes, freight embargoes. and weather of unusual severity such as hurricanes, tornadoes, cyclones and other extreme weather conditions; and
 4. To any delay of any subcontractors occasioned by any of the causes specified in sub paragraph 1, 2, and 3 of this paragraph "B".

Provided, however, that the Contractor promptly notify the Authority in ten (10) days, in writing, of the cause of the delay. Upon receipt of such notification, the Authority shall ascertain the facts and the cause and extent of delay. If, upon the basis of the facts and the terms of this contract the delay is properly excusable, the Authority shall extend the time for completing the work for a period of time commensurate with the period of excusable delay.

- c. Liquidated Damages. Refer to Division 0B – SAMPLE CONTRACT for details.

147. GENERAL GUARANTY

Neither the final certificates of payment nor any provision in the Contract nor partial or entire use of the improvements embraced in this Contract by the Authority or the public shall constitute an acceptance of work done in accordance with the Contract, or relieve the contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall promptly remedy any defects in the work and pay any damage to other work resulting therefrom which shall appear within a period of one (1) year from the date of final acceptance of the work, unless otherwise specified. The Authority will give notice of defective materials and work with reasonable promptness.

**LOCAL GENERAL CONDITIONS
PART II**

201. EMPLOYMENT OF APPRENTICES

This Contract is subject to the apprenticeship hiring requirements set forth in the City of New Haven Code of Ordinances, Sec. 12 ½ 33, as it may be amended from time to time. Before the start of construction, the Contractor shall submit a plan to the Engineer on its business letterhead with regard to its apprenticeship hiring for this work, including the number of apprentices, trades, wages, and hours of work anticipated. The Contractor shall provide reports during the course of the work, detailing the implementation of said apprenticeship hiring plan.

202. UNDERPAYMENTS OF WAGES OR SALARIES

In case of underpayment of wages or salaries by the Contractor or by any subcontractor to laborers, mechanics, or technical employees employed by the Contractor or subcontractor upon the work covered by this Contract, the Authority, in addition to such other rights as may be afforded it under this Contract, may withhold from the Contractor, so much thereof as Authority may consider necessary to pay such laborers, mechanics or technical employees the full amount of wages or salaries required by the Contract.

203. CONTRACTOR'S CERTIFICATES

Before any payment by the Authority to the Contractor, under this Contract, the Contractor shall furnish the Authority with his certificate, in duplicate, substantially to the effect that the Contractor and each subcontractor has complied with the wage and other labor-standards provisions of this Contract which pertain to laborers and mechanics employed upon the work covered by this Contract or that there is an honest dispute with respect to such provisions. The form of certificate to be used will be furnished by the Authority.

204. EMPLOYMENT OF CERTAIN PERSONS PROHIBITED

No person, who at the time is serving sentence in a penal or correctional institution shall be employed on the work covered by this Contract.

205. COMPLAINTS, ETC., BY EMPLOYEES

No labor, mechanic or technical employee to whom the wage, salary or other labor-standards provision of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding relating to the labor standards applicable under this Contract to his employer.

206. CLAIMS AND DISPUTES PERTAINING TO SALARY AND WAGE RATES

Claims and disputes pertaining to classifications or salary rates of technical employees, wage rates or classifications of laborers and mechanics employed upon the work covered by this Contract shall be promptly reported by the Contractor in writing to the Authority for decision by the latter, whose decision shall be final with respect thereto.

207. EQUAL EMPLOYMENT OPPORTUNITY

“During the performance of this Contract, the Contractor agrees:

- a. To comply with all provisions of Executive Order 11246 and Executive Order 11375, Connecticut Fair Employment Practices Act , including all standards and regulations which are promulgated by the government authorities who established such requirements and acts, and all standards and regulations are incorporated herein by reference;
- b. Not to discriminate against any employee or applicant for employment because of race color, religion, age, sex, physical disability or national origin. The Contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to race, color, religion, sex, age, or national origin and physical handicap. 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;
- c. To post, in conspicuous places available to employees and applicants for employment, notice to be provided by the contracting officers setting forth the provisions of this non-discrimination clause;
- d. To state, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, physical disability or national origin;
- e. To send to each labor union or representative of workers with whom he has a collective bargaining agreement, or another contractor or understanding, a notice advising the labor union or workers representative of the Contractors commitments under the equal opportunity clause of the Authority, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor shall register all workers in the skill trades, or below the journeymen, with the Apprentice Training Division of the Connecticut State Labor Department;
- f. To utilize labor department and City of New Haven sponsored manpower programs as a source of recruitment and to notify the contract compliance unit and such programs of all job vacancies;
- g. To make affirmative action to negotiate with qualified minority contractors for any work which may be proposed for subletting, or for any additional services, supplies, or work which may be required as a result of this Contract;
- h. To cooperate with the Authority in implementing required contract obligations for increasing the utilization of minority and women business enterprises;
- i. To furnish all information and reports required by the contract and to permit access to his books, records and accounts by the Authority, State of Connecticut, the Secretary of Labor for purposes of investigation to ascertain compliance with the program.
- j. To take such action, with respect to any subcontractor, the Authority may direct as a means of enforcing the provisions of subparagraphs (a) through (m) herein, including penalties and

sanctions for non-compliance, provided however, that, in the event the Contractor becomes involved in or is threatened with litigation as a result of such direction by the Authority, the Authority will intervene in such litigation to the extent necessary to protect the interest of the Authority and to effectuate the Authority's equal employment opportunity program. In the case of contracts funded directly or indirectly, in whole or in part, the Contractor of the Authority may ask the United States to enter into such litigation to protect the interest of the United States.

- k. To file, along with his subcontractors, if any, compliance reports with the Authority in the form and to the extent described in the contracts. Compliance reports filed at such time as directed shall contain information as to employment practices, policies, programs and statistics of the Contractor and his subcontractors, if any.
- l. To include the provisions of subparagraphs (a) through (m) of the equal opportunity clause and every subcontract or purchase order so that said provisions will be binding on each subcontractor or vendor;
- m. That a finding, as hereinafter provided, the refusal by the Contractor, or subcontractor, to comply with any portion of this program, as herein stated and described, may subject the offending party to any or all of the following penalties:
 - 1. Withholding of all future payments under the involved public contract to the Contractor in violation until it is determined that the Contractor, or subcontractor, is in compliance with the provisions of the Contract.
 - 2. Refusal of all future bids for any public contract with the Authority until such time as the Contractor or subcontractor, is in compliance with the provisions of the Contract.
 - 3. Cancellation of the public Contract.
 - 4. Recovery of specified monetary penalties.
 - 5. In case of substantial or material violation, or the threat of substantial or material violation of the compliance procedure or as may be provided for by the Contract, appropriate equitable or legal proceedings may be brought to enforce these provisions against Contractors, subcontractors, or other organizations, individuals or groups who directly or indirectly are not in compliance with the policy as herein outlined.

208. UTILIZATION OF MINORITY, HANDICAP AND WOMEN BUSINESS ENTERPRISES

Disadvantage Business Enterprises (DBE) requirements are applicable to each general aviation airport sponsor receiving grant funds in excess of \$250,000; each non-hub airport sponsor (including commuters) receiving a grant in excess of \$500,000.

Since the contract to be awarded under this advertised bid falls into the above category, the bid is subject to the following DBE requirements:

- A. The successful bidder shall make a good faith effort to use DBE subcontractors and to replace a DBE subcontractor that is unable to perform successfully with another DBE subcontractor. There shall be no substitution of any subcontractors without the prior approval of the sponsor in order to ensure that the substitute firm is an eligible DBE.

B. Definitions

1. A disadvantaged business enterprise is a small business concern:
 - (a) Which is at least 51% owned by one or more socially or economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more socially and economically disadvantaged individuals; and
 - (b) Whose management and daily business operations are controlled by one or more socially and economically disadvantaged individuals who own it.
 2. Small business concern means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto except that a small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual average gross receipts in excess of \$14 million over the previous three fiscal years.
 3. Socially and economically disadvantaged individuals means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act. Recipients shall make rebuttable presumption that individuals in the following groups are socially and economically disadvantaged. Recipients also may determine, on a case-by-case basis that individuals who are not a member of one of the following groups are socially and economically disadvantaged:
 - (a) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - (b) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - (c) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - (d) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Mariana's; and
 - (e) "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh.
- C. Bidding Requirements. Each Bidder is required to submit DBE participation information and, as a condition of contract award, must meet DBE goal or demonstrate to the Airport Sponsor that it made good faith efforts to reach the goal.

The Bidder shall make good faith efforts, as defined in Appendix A of 49 CFR Part 23,

Regulations of the Office of the Secretary of Transportation, to subcontract 14.69% of the dollar value of the prime contract to small business concerns owned and controlled by socially and economically disadvantaged individuals (DBE). In the event that the bidder for this solicitation qualifies as a DBE, the contract goal shall be deemed to have been met. Individuals who are rebuttably presumed to be socially and economically disadvantaged include Women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, and Asian-Indian Americans. Each Bidder will be required to submit within the bid, information concerning the DBE's that will participate in this contract. The information will include: (1) the name and address of each DBE; (2) a description of the work to be performed by each named firm; (3) the dollar value of the contract; and (4) a copy of the DBE Certificate. If the bidder fails to achieve the contract goal stated herein, it shall provide documentation with the bid demonstrating that it made good faith efforts in attempting to do so. A bid that fails to meet these requirements will be considered non-responsive.

D. Procedures to Confirm Good Faith Efforts. If the apparent low bidder, who is otherwise responsive and responsible, cannot meet the goal, he must show that he has made good faith efforts to this end through:

1. Attendance at the pre-bid meeting;
2. Copies of advertisement(s) in trade association newsletters and minority-owned media;
3. A report with a detailed statement of efforts made to locate and negotiate with DBE's, including information on:
 - (a) Efforts made to select portions of the work proposed to be performed by DBE's in order to increase the likelihood of achieving the stated goal;
 - (b) Each DBE contacted, but which the bidder considers to be unqualified to perform the work;
 - (c) Each DBE contacted, but which the bidder considers to be unavailable; and
 - (d) Which organizations, including City and State agencies, that represent or provide assistance to DBE subcontractors were contacted.

The stated percentage goal may not be waived unless the aforementioned good faith efforts to reach the goal have been made to the satisfaction of the Authority. In addition, a bidder or proposer's failure to meet the goal or show meaningful good faith efforts to reach the goal may be grounds for find the bid non-responsive.

E. To insure that any substitute firm is an eligible DBE, the Contractor shall not substitute subcontractors without the prior approval of the Owner.

F. The Contractor shall establish and maintain records and submit reports, as required and requested, which will identify the efforts and achievements made to meet DBE subcontract goals and other DBE affirmative action efforts.

Each bid must include the following information as part of the required certifications:

1. The nature of the work to be undertaken by the Minority, Handicap and Women Business

Enterprises.

2. Dollar amount of the work to be undertaken by the Minority, Handicap and Women Business Enterprises.
3. Total percentage of the contract the bidder will expend and aggregate for all such Minority, Handicap and Women Business Enterprises.

Prior to award of this Contract and in a period not more than thirty (30) days after bid opening the Contractor must furnish the name, address and contact person for each Minority, Handicap and Women Business Enterprises the bidder will use.

The following definitions shall be used for the purpose of this Agreement:

1. African American means all persons having origins in any of the black African racial groups.
2. Hispanic American shall mean all persons of Mexican, Puerto Rican, Cuban, Central or South American culture or origin, regardless of race.
3. Minority business enterprise means an enterprise which is owned by one or more African American or Hispanic American individuals and which is controlled by one or more African American or Hispanic American individuals.
4. Owned for the purpose of determining whether a business is a minority business enterprise or a women business enterprise, shall mean that the minority individuals or women, as the context requires, shall possess an ownership interest of over fifty (50) percent of the enterprises and shall:
 - (a) Possess incidents of ownership, such as an interest in profit and loss, equal to at least the required ownership percentage; and
 - (b) Contributed capital, equipment and expertise to the enterprise equal to at least the required ownership percentage; and
5. Person includes one or more individuals, partnerships, associations, organizations, trade or professional associates, corporations, cooperatives, legal representative, trustees, trustees in bankrupt, receives or any group of persons including any official, agent, or employee of Authority.
6. Women business enterprise means an enterprise that is:
 - (a) Owned by one or more women;
 - (b) Controlled by one or more women who own it; and
 - (c) Located in the State of Connecticut.

209. SUBSTITUTION OF SECURITIES FOR RETAINAGES

The Contractor is advised of the provisions of Section 3-112a of the General Statutes of the State

of Connecticut, Revision of 1966 which is quoted as follows:

Section 3-112a. Substitution of securities for retainages on State contracts and subcontractors. (a) Under any contract made or awarded by the State, or by any public department or official thereof, the Contractor may, from time to time withdraw the whole or any portion of the amount retained for payments to the Contractor pursuant to the terms of the Contract, upon depositing with the comptroller (1) United States treasury bonds, United States treasury notes, United States treasury certificates of indebtedness or United States treasury bills, or (2) bonds or notes of the State of Connecticut or (3) bonds of any political subdivision in the State of Connecticut. No amount shall be withdrawn in excess of the market value of the securities at the time of deposit or of the par value of such securities, whichever is lower. (b) The comptroller shall, on a regular basis, collect all interest or income on the obligations so deposited and shall pay the same, when and as collected, to the Contractor who deposited the obligations. If the deposit is in the form of coupon bonds, the comptroller shall deliver each coupon as it matures to the Contractor. (c) Any amount deducted by the State, or by any public department or official thereof pursuant to the terms of the Contract, from the retainages due the Contractor, shall be deducted, first from that portion of the retainages for which no security has been substituted, then from proceeds of any deposited security. In the latter case, the Contractor shall be entitled to receive interest, coupons or income only from those securities which remain after such amount has been deducted.

210. NONDISCRIMINATION

The Contractor agrees and warrants that in the performance of this Contract he will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such Contractor that such disability prevents performance of the work involved in any manner prohibited by the laws of the United States or of the State of Connecticut, and further agrees to provide the commission on human rights and opportunities with such information requested by the commission concerning the employment practices and procedures of the Contractor as relate to the provisions of Public Act 78-148.

This Contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971 and as such, this Contract may be canceled, terminated or suspended by the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Three, or any State or Federal law concerning nondiscrimination, notwithstanding that the labor commissioner is not a party to this contract. The parties of this Contract as part of the consideration hereof, agree that Executive Order No Three is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the State Labor Commissioner shall have continuing jurisdiction in respect to contract performance in regard to nondiscrimination, until the Contract is completed or terminated prior to completion.

The (Contractor), (subcontractors), (bidder), (vendor), agrees as part consideration hereof, that this (order), (Contract) is subject to the Guidelines and Rules issued by the State Labor Commissioner to implement Executive Order No. Three, and that he will not discriminate in his employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the State Labor Commissioner.

The Governor's Executive Order No. Three and the Guidelines and Rules implementing the Governor's Executive Order No. Three and included elsewhere herein.

211. RESIDENTS PREFERENCE TO WORK ON OTHER PUBLIC FACILITIES

The Contractor shall comply with the provisions of Section 31-52a of the General Statutes of the State of Connecticut, Revision of 1967, a part of which is quoted as follows:

Section 2 (b) Each contract for any such project covered by this section under the supervision of the State or any of its agents shall contain the following provision: "In employment of mechanics, laborers or workmen to perform the work specified herein, preference shall be given to residents of the State who are, and continuously for at least six (6) months prior to the date hereof, have been residents of this State, and if no such person is available then to residents of other states".

212. LISTING ALL EMPLOYMENT OPENINGS WITH THE OFFICE OF THE CONNECTICUT STATE EMPLOYMENT SERVICE

This Contract is executed subject to the Governor's Executive Order No. 17, a copy of which is attached hereto and is hereby made a part of this Agreement. Governor's Executive Order No. 17 requires, inter alia, that all contractors and subcontractors shall list all employment openings with the office of Connecticut State Employment Service in the area where the work is to be performed to where the services are to be rendered. Failure of Contractor to conform with the requirements of the Governor's Executive Order No. 17 and any orders, regulations or rules issued pursuant thereto, shall be a basis to termination of this Agreement by the State.

213. SERVICE OF PROCESS

The successful bidder, if not a resident of the State of Connecticut, or, in the case of partnership, the partners, if not residents, hereby appoints the Secretary of the State of Connecticut, and his successors in office as agent for service of process for any action arising out of or as a result of this Contract; such appointment to be in effect throughout the life of this Contract, and six (6) years thereafter.

214. "OR EQUAL" CLAUSE

- a. Whenever a material or article required is specified or shown on the drawings by using the name of the proprietary product or of a particular manufacturer or vendor, any material or article which will perform adequately the duties imposed by the general design may be considered equal and satisfactory providing the material or article so proposed is of equal substance and function in the owner's opinion. It shall not be purchased or installed without his written approval. In all cases, new material shall be used in the project.
- b. If two (2) or more brands, makes of material, devices or equipment are shown or specified, each should be regarded as equal of the other. Any other brand, make of material, device or equipment, which in the opinion of the Engineer or his authorized agent, is the recognized equal of that specified, considering quality, workmanship and economy of operation and is suitable for the purpose intended, may be accepted.

215. STATE OF CONNECTICUT WAGE SCHEDULE

The wages paid on this project shall be as shown on the State of Connecticut Labor Department "Prevailing Wage Rates". Refer Division 1 for additional information.

216. CONTRACTOR/SUBCONTRACTOR PAYMENT PROCEDURES

This section is a supplement to and an addition to the terms, conditions and requirements of General Condition Section 143. PAYMENT TO CONTRACTOR.

1. Before any payment is made by the Authority to the Contractor, said Contractor shall submit to the Authority lien waivers for the month signed by all subcontractors showing that they have received payment. If any subcontractor has not been paid, a written statement explaining the reason why shall be submitted to the Authority. The lien waiver form shall the reason that the Contractor has not been paid.

To ensure prompt payment of subcontractor, the Contractor shall make payment to any subcontractor within thirty (30) days of the payment by the Authority to the contractor for any work performed or for material furnished by such subcontractor, provided the Contractor has a bona fide reason for such withholding and if the Contractor notifies the affected subcontractor in writing of his reasons for withholding such payment and provides the Authority with a copy of the notice within such thirty day period.

The Contractor shall include in each subcontract entered into by the Contractor the following:

1. A payment clause which obligates the Contractor to pay the Subcontractor for satisfactory performance under its subcontract within thirty (30) day out of such amounts are paid to the Contractor by the Authority under such contract; and
2. An interest penalty clause which obligates the Contractor to pay the subcontractor an interest penalty of one and a half one percent per month, or any higher amount allowed by law, on amounts due in the case of each payment not paid in accordance with the payment clause included in the subcontract pursuant to provision (3) (a) above.
3. A clause which states that the Contractor may not withhold retainage from the subcontractor in any percentage greater than the percentage being withheld from the Contractor's requisition. The Contractor shall reference section 143 of these Contract General Conditions.

DIVISION 1 – PROJECT CONTRACT SPECIFICATIONS

FEDERAL PREVAILING WAGE RATES

**STATE OF CONNECTICUT
NEW HAVEN COUNTY**

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DIVISION 1 – PROJECT CONTRACT SPECIFICATIONS

FEDERAL PREVAILING WAGE RATES

**STATE OF CONNECTICUT
NEW HAVEN COUNTY**

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General Decision Number:

Superseded General Decision Number:

State: Connecticut

Construction Type: Building

County: New Haven County in Connecticut.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	<ul style="list-style-type: none">• Executive Order 14026 generally applies to the contract.• The contractor must pay all covered workers at least \$17.75 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2025.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	<ul style="list-style-type: none">• Executive Order 13658 generally applies to the contract.• The contractor must pay all covered workers at least \$13.30 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours performing on that contract in 2025.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/03/2025
1	01/17/2025
2	01/31/2025
3	03/14/2025
4	04/25/2025

HVN ARFF ONE-BAY EXPANSION
Tweed-New Haven Airport

Division 1
Federal Wage Schedule

ASBE0033-002 06/01/2023

	Rates	Fringes
HEAT & FROST INSULATOR (Includes Duct, Pipe & Mechanical Systems).....	\$ 45.56	32.65

BRCT0001-001 01/06/2025

	Rates	Fringes
BRICK LAYER	\$ 42.61	34.89

BRCT0001-005 01/06/2025

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER	\$ 42.61	34.89

CARP0326-023 05/06/2024

	Rates	Fringes
CARPENTER (Includes Acoustical Ceiling Installation, Drywall Hanging, Form Work, Metal Stud Installation, Soft Floor Layer – Vinyl and Resilient)	\$ 39.54	28.68

CARP0326-024 05/06/2024

	Rates	Fringes
FLOOR LAYER: Carpet Only	\$ 39.54	28.68

CARP0326-025 05/06/2024

	Rates	Fringes
FLOOR LAYER: Hardwood Floor Only	\$ 39.54	28.68

CARP0326-026 05/06/2024

	Rates	Fringes
METAL BUILDING ERECTOR (Metal Siding/Wall Panels)	\$ 39.54	28.68

CARP0326-027 05/06/2024

	Rates	Fringes
CARPENTER (Scaffold Builder)	\$ 39.54	28.68

CARP0326-036 05/06/2024

	Rates	Fringes
SOFT FLOOR LAYER	\$ 39.54	28.68

HVN ARFF ONE-BAY EXPANSION
Tweed-New Haven Airport

Division 1
Federal Wage Schedule

CARP1121-006 01/06/2025

	Rates	Fringes
MILLWRIGHT	\$ 43.25	29.13

ELEC0090-012 06/01/2023

	Rates	Fringes
ELECTRICIAN	\$ 42.60	3% + 33.21

ELEC0090-013 06/01/2024

	Rates	Fringes
ELECTRICIAN (Alarm Installation Only).....	\$ 44.60	3% + 34.71

ELEC0090-014 06/01/2024

	Rates	Fringes
ELECTRICIAN (Communication Technician).....	\$ 44.60	3% + 34.71

ELEC0090-015 06/01/2024

	Rates	Fringes
ELECTRICIAN (Low Voltage Wiring Only)	\$ 44.60	3% + 34.71

ELEC0488-003 06/01/2024

	Rates	Fringes
ELECTRICIAN (HVAC/Temperature Controls Installation).....	\$ 45.40	3% + 33.57

ELEV0091-002 01/01/2025

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 66.72	38.435 + a + b

FOOTNOTE:

- a. VACATION: 6%/under 5 years based on regular hourly rate for all hours worked. 8%/over 5 years based on regular hourly rate for all hours worked.
- b. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, the Friday after Thanksgiving Day, and Christmas Day

HVN ARFF ONE-BAY EXPANSION
Tweed-New Haven Airport

Division 1
Federal Wage Schedule

ENGI0478-004 04/06/2025

	Rates	Fringes
POWER EQUIPMENT OPERATOR (Backhoe/Excavator/Trackhoe).....	\$ 51.92	29.80

- A. Paid Holidays: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, provided the employee works 3 days during the week in which the holiday falls, if scheduled, and if scheduled, the working day before and after the holiday.

ENGI0478-005 04/06/2025

	Rates	Fringes
POWER EQUIPMENT OPERATOR (Bulldozer) Finegrade (Slopes, Shaping, laser or GPS, etc.).....	\$ 51.92	29.80
Rough Grade Dozer.. ..	\$ 50.22	29.80

- A. Paid Holidays: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, provided the employee works 3 days during the week in which the holiday falls, if scheduled, and if scheduled, the working day before and after the holiday.

ENGI0478-012 04/06/2025

	Rates	Fringes
POWER EQUIPMENT OPERATOR (Crane under 100 ton rated capacity)	\$ 56.79	29.80

- A. Paid Holidays: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, provided the employee works 3 days during the week in which the holiday falls, if scheduled, and if scheduled, the working day before and after the holiday.

ENGI0478-016 04/06/2025

	Rates	Fringes
POWER EQUIPMENT OPERATOR (Loader – 7 cubic yards or over).....	\$ 53.33	29.80

- A. Paid Holidays: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, provided the employee works 3 days during the week in which the holiday falls, if scheduled, and if scheduled, the working day before and after the holiday.

IRON0424-001 06/03/2024

	Rates	Fringes
IRONWORKER (Reinforcing, Structural, Ornamental).....	\$ 45.25	41.27

* LABR0455-001 04/06/2025

	Rates	Fringes
LABORER (Mason Tender – Cement/Concrete).....	\$ 35.70	28.85

HVN ARFF ONE-BAY EXPANSION
Tweed-New Haven Airport

Division 1
Federal Wage Schedule

PAIN0011-014 06/01/2024

Rates Fringes

GLAZIER..... \$ 41.18 24.55

PAIN0011-021 06/01/2024

Rates Fringes

PAINTER (Brush and Roller) \$ 38.07 25.70

PAIN0011-023 06/01/2024

Rates Fringes

DRYWALL FINISHER/TAPER \$ 38.82 25.70

PLUM0777-001 08/01/2024

Rates Fringes

PLUMBER..... \$ 49.58 35.70

PLUM0777-008 08/01/2024

Rates Fringes

PIPEFITTER (Includes HVAC Pipe Installation) \$ 49.58 35.70

ROOF0009-001 01/01/2025

Rates Fringes

ROOFER

Composition..... \$ 44.15 22.23

Slate and Tile..... \$ 44.65 22.23

SH EE0040-001 07/01/2024

Rates Fringes

SHEET METAL WORKER (Including HVAC Unit Installation)..... \$ 43.89 42.90

SH EE0040-002 07/01/2024

Rates Fringes

SHEET METAL WORKER (Metal Flashing and
HVAC Duct Installation Only)..... \$ 41.89 26.15

SH EE0040-008 07/01/2024

Rates Fringes

SHEET METAL WORKER (Metal Roof Installation)..... \$ 43.89 42.90

TEAM0191-001 04/07/2024

	Rates	Fringes
TRUCK DRIVIER (Dump Truck)	\$ 33.39	32.36

SUCT2013-005 09/19/2018

	Rates	Fringes
LABORER: Common or General	\$ 27.85	18.04

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"", ""UAVG"", ""SA"" or ""SC"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2024 is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

""SU"" wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

Classifications listed under the ""SA"" identifier indicate that the prevailing wage rate set by a state (or local) government was adopted under 29 C.F.R.1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 01/03/2024 reflects the date on which the classifications and rates under the ""SA"" identifier took effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

- a) a survey underlying a wage determination
- b) an existing published wage determination
- c) an initial Wage and Hour Division (WHD) letter setting forth a position on a wage determination matter
- d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be with the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

END OF GENERAL DECISION

General Decision Number: CT20250001 05/09/2025

Superseded General Decision Number: CT20240001

State: Connecticut

Construction Type: Highway

Counties: Fairfield, Litchfield, Middlesex, New Haven, Tolland, & Windham Counties in Connecticut.

HIGHWAY CONSTRUCTION PROJECTS

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	<ul style="list-style-type: none">• Executive Order 14026 generally applies to the contract.• The contractor must pay all covered workers at least \$17.75 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2025.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	<ul style="list-style-type: none">• Executive Order 13658 generally applies to the contract.• The contractor must pay all covered workers at least \$13.30 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours performing on that contract in 2025.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/03/2025
1	01/17/2025
2	03/28/2025
3	04/25/2025
4	05/09/2025

HVN ARFF ONE-BAY EXPANSION
Tweed-New Haven Airport

Division 1
Federal Wage Schedule

BRCT0001-004 01/06/2025

	Rates	Fringes
BRICK LAYER, CEMENT MASONS, CEMENT FINISHERS, PLASTERERS AND STONE MASONS.....	\$ 43.14	34.74

CARP0326-003 05/06/2024

	Rates	Fringes
LITCHFIELD COUNTY (Harwinton, Plymouth, Thomaston, Watertown)		
MIDDLESEX COUNTY		
NEW HAVEN COUNTY (Beacon Falls, Bethany, Branford, Cheshire, East Haven, Guilford, Hamden, Madison, Meriden, Middlebury, Naugatuck, New Haven, North Branford, North Haven, Orange (east of Orange Center Road and north of Route 1, and north of Route 1 and east of the Oyster River), Prospect, Southbury, Wallingford, Waterbury, West Haven, Wolcott, Woodbridge)		
TOLLAND COUNTY (Andover, Columbia, Coventry, Hebron, Mansfield, Union, Willington)		
WINDHAM COUNTY		

CARPENTERS, PILE DRIVERS.....	\$ 39.54	28.68
DIVER TENDERS	\$ 39.54	28.68
DIVERS	\$ 48.00	28.68

CARP0326-014 05/06/2024

	Rates	Fringes
TOLLAND COUNTY (Bolton, Ellington, Somers, Tolland, Vernon)		
CARPENTERS, PILE DRIVERS.....	\$ 39.54	28.68
DIVER TENDERS	\$ 39.54	28.68
DIVERS	\$ 48.00	28.68

CARP0326-017 05/06/2024

	Rates	Fringes
FAIRFIELD COUNTY (Bethel, Bridgeport, Brookfield, Danbury, Darien, Easton, Fairfield, Greenwich, Monroe, New Canaan, New Fairfield, Newtown, Norwalk, Redding, Ridgefield, Shelton, Sherman, Stamford, Stratford, Trumbull, Weston, Westport, Wilton)		

HVN ARFF ONE-BAY EXPANSION
Tweed-New Haven Airport

Division 1
Federal Wage Schedule

LITCHFIELD COUNTY

(Barkhamstead, Bethlehem, Bridgewater, Canaan, Colebrook, Cornwall, Goshen, Kent, Litchfield, Morris, New Hartford, New Milford, Norfolk, North Canaan, Roxbury, Salisbury, Sharon, Torrington, Warren, Washington, Winchester, Woodbury)

NEW HAVEN COUNTY

(Ansonia, Derby, Milford, Orange (west of Orange Center Road and south of Route 1 and west of the Oyster River), Oxford, Seymour)

CARPENTERS, PILE DRIVERS.....	\$ 39.54	28.68
DIVER TENDERS	\$ 39.54	28.68
DIVERS	\$ 48.00	28.68

CARP1121-006 01/06/2025

	Rates	Fringes
MILLWRIGHT	\$ 43.25	29.13

ELEC0003-007 04/18/2024

	Rates	Fringes
FAIRFIELD COUNTY (Darien, Greenwich, New Canaan, Stamford)		
ELECTRICIAN	\$ 44.00	67.15% + 12.31

ELEC0035-001 06/01/2023

	Rates	Fringes
MIDDLESEX COUNTY (Cromwell, Middlefield, Middleton and Portland)		
TOLLAND COUNTY		
WINDHAM COUNTY		

ELECTRICIAN	\$ 45.75	3% + 33.97
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ELEC0090-002 06/01/2024

	Rates	Fringes
LITCHFIELD COUNTY (Plymouth Township)		
MIDDLESEX COUNTY (Chester, Clinton, Deep River, Durham, East Haddam, East Hampton, Essex, Haddam, Killingworth, Old Saybrook, Westbrook)		
NEW HAVEN COUNTY (All Townships, excluding Beacon Falls, Middlebury, Milford, Naugatuck, Oxford, Prospect, Seymour, Southbury, Waterbury and Wolcott)		
ELECTRICIAN	\$ 44.60	3% + 34.71

HVN ARFF ONE-BAY EXPANSION
Tweed-New Haven Airport

Division 1
Federal Wage Schedule

ELEC0488-002 06/01/2024

	Rates	Fringes
FAIRFIELD COUNTY (Bethel, Bridgeport, Brookfield, Danbury, Easton, Fairfield, Monroe, New Fairfield, Newtown, Norwalk, Redding, Ridgefield, Shelton, Sherman, Stratford, Trumbull, Weston, Westport and Wilton)		
LITCHFIELD COUNTY (Except Plymouth)		
NEW HAVEN COUNTY (Beacon Falls, Middlebury, Milford, Naugatuck, Oxford, Prospect, Seymour, Southbury, Waterbury and Wolcott)		

ELECTRICIAN	\$ 45.40	3% + 33.57
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ELEC0090-014 06/01/2024

	Rates	Fringes
ELECTRICIAN (Communication Technician)	\$ 44.60	3% + 34.71

* ENGI0478-001 04/06/2025

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
GROUP 1..	\$ 58.19	29.80
GROUP 2..	\$ 57.78	29.80
GROUP 3..	\$ 56.79	29.80
GROUP 4..	\$ 51.92	29.80
GROUP 5..	\$ 50.63	29.80
GROUP 6..	\$ 50.22	29.80
GROUP 7..	\$ 49.25	29.80
GROUP 8..	\$ 49.25	29.80
GROUP 9..	\$ 48.67	29.80
GROUP 10..	\$ 45.96	29.80
GROUP 11..	\$ 45.96	29.80
GROUP 12..	\$ 45.87	29.80
GROUP 13..	\$ 47.91	29.80
GROUP 14..	\$ 45.12	29.80
GROUP 15..	\$ 44.70	29.80
GROUP 16..	\$ 43.60	29.80
GROUP 17..	\$ 43.06	29.80
GROUP 18..	\$ 42.20	29.80
GROUP 19..	\$ 53.33	29.80
GROUP 20	\$ 52.92	29.80

GROUP 21..... \$ 51.92 29.80

Hazardous waste premium \$3.00 per hour over classified rate.

Crane with boom, including jib, 150 feet - \$1.50 extra.

Crane with boom, including jib, 200 feet - \$2.50 extra.

Crane with boom, including jib, 250 feet - \$5.00 extra.

Crane with boom, including jib, 300 feet - \$7.00 extra.

Crane with boom, including jib, 400 feet - \$10.00 extra

1) Crane handling or erecting structural steel or stone, hoisting engineer (2 drums or over)

2) Cranes (100 ton rated capacity and over) Bauer Drill/Caisson

3) Cranes (under 100 ton rated capacity)

A. PAID HOLIDAYS: New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, provided the employee works 3 days during the week in which the holiday falls, if scheduled, and if scheduled, the working day before and after the holiday.

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Crane handling or erecting structural steel or stone, hoisting engineer (2 drums or over)

GROUP 2: Cranes (100 ton capacity & over) Bauer Drill/Caisson

GROUP 3: Cranes (under 100 ton rated capacity)

GROUP 4: Trenching machines, lighter derrick, concrete finishing machine, CMI machine or similar, Koehring Loader (skooter).

GROUP 5: Specialty railroad equipment, asphalt spreader, asphalt reclaiming machine, line grider, concrete pumps, drills with self contained power units, boring machine, post hole digger, auger, pounder, well digger, milling machine (over 24' mandrel), side boom, combination hoe and loader, directional driller

GROUP 6: Front end loader (3 cu. yds. up to 7 cu. yards), bulldozer (Rough grade dozer) .

GROUP 7: Asphalt roller, concrete saws and cutters (ride on types), Vermeer concrete cutter, stump grinder, scraper, snoopers, skidder, milling machine (24" and under Mandrel).

GROUP 8: Mechanic, grease truck operator, hydoblaster, barrier mover, power stone spreader, welder, work boat under 26 ft. transfer machine.

GROUP 9: Front end loader (under 3 cubic yards), skid steer loader (regardless of attachments), bobcat or similar, forklift, power chipper, landscape equipment (including hydroseeder), Vacuum Excavation Truck and Hydrovac Excavation Truck (27 HG pressure or greater).

GROUP 10: Vibratory hammer, ice machine, diesel & air, hammer, etc.

GROUP 11: Conveyor, earth roller, power pavement breaker (whiphammer), robot demolition equipment.

GROUP 12: Wellpoint operator.

GROUP 13: Portable asphalt plant operator, portable concrete plant operator, portable crusher plant operator, portable grout plant operator, portable water filtration plant operator.

GROUP 14: Compressor battery operator.

GROUP 15: Power Safety boat, Vacuum truck, Zim mixer, Sweeper; (Minimum for any job requiring a CDL license) .

GROUP 16: Elevator operator, tow motor operator (solid tire no rough terrain).

HVN ARFF ONE-BAY EXPANSION
Tweed-New Haven Airport

Division 1
Federal Wage Schedule

- GROUP 17: Generator operator, compressor operator, pump operator, welding machine operator; Heater operator.
- GROUP 18: Maintenance engineer.
- GROUP 19: Front end loader(7 cubic yards or over); work boat 26 ft. and over.
- GROUP 20: Excavator over 2 cubic yards; pile driver (\$3.00 premium when operator controls hammer).
- GROUP 21: Excavator, gradall, master mechanic, hoisting engineer (all types of equipment where a drum and cable are used to hoist or drag material regardless of motive power or operating), rubber tire excavator (drott 1085 similar), grader operator, bulldozer finegrade (slopes shaping, laser or GPS, etc.)

IRON0015-002 06/03/2024

	Rates	Fringes
IRONWORKER (Reinforcing, Structural, and Precast Concrete Erection).....	\$ 45.25	41.27

LABR0146-001 04/06/2025

	Rates	Fringes
GROUP 1.....	\$ 35.70	28.85
GROUP 2.....	\$ 35.95	28.85
GROUP 3.....	\$ 36.20	28.85
GROUP 4.....	\$ 38.70	28.85
GROUP 5.....	\$ 37.45	28.85
GROUP 6.....	\$ 37.70	28.85
GROUP 7.....	\$ 21.42	28.85
GROUP 8.....	\$ 36.70	28.85
GROUP 9.....	\$ 38.70	28.85

LABORERS CLASSIFICATIONS

- GROUP 1: Laborers (Unskilled), concrete specialist
- GROUP 2: Chain saw operators, fence and guard rail erectors, pneumatic tool operators and powdermen.
- GROUP 3: Pipelayers, Jackhammer/Pavement breaker (handheld), mason tenders/catch basin builders, asphalt rakers, air track operators, block paver and curb setter
- GROUP 4: Asbestos/lead removal
- GROUP 5: Blasters
- GROUP 6: Toxic waste remover
- GROUP 7: Traffic control signalman
- GROUP 8: Acetylene burner (Hours worked with a torch)
- GROUP 9: Toxic Waste Removers A or B With PPE
(On a site designated as a SuperFund Site by the U.S. Army Corps of Engineers and is deemed a HAZ-MAT site, and applies to employees required to wear OSHA level A or B even if the PPE is not worn.)

HVN ARFF ONE-BAY EXPANSION
Tweed-New Haven Airport

Division 1
Federal Wage Schedule

LABR0146-001 04/06/2025

	Rates	Fringes
LABORERS (TUNNEL CONSTRUCTION)		
CLEANING, CONCRETE AND CAULKING TUNNEL:		
Concrete Workers, Form Movers and Strippers	\$ 36.96	28.85
Form Movers and Strippers	\$ 37.29	28.85
ROCK SHAFT, CONCRETE, LINING OF SAME AND TUNNEL IN FREE AIR:		
Brakemen, Trackmen, Tunnel Laborers, Shaft Laborers	\$ 36.96	28.85
Laborers Topside, Cage Tenders, Bellman	\$ 36.85	28.85
Miners	\$ 37.93	28.85
SHIELD DRIVE AND LINER PLATE TUNNELS IN FREE AIR:		
Brakemen, Trackmen	\$ 36.96	28.85
Miners, Motormen, Mucking Machine Operators, Nozzlemen, Grout Men, Shaft and Tunnel, Steel and Rodmen, Shield and Erector, Arm Operator, Cable Tenders	\$ 37.93	28.85
TUNNELS, CAISSON AND CYLINDER WORK IN COMPRESSED AIR:		
Blaster	\$ 44.42	28.85
Brakemen, Trackmen, Groutman, Laborers, Outside Lock Tender, Gauge Tenders	\$ 44.22	28.85
Change House Attendants, Powder Watchmen, Top on Iron Bolt	\$ 42.24	28.85
Mucking Machine Operator	\$ 45.01	28.85

- a. PAID HOLIDAYS: On tunnel work only: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

No employee shall be eligible for holiday pay when he fails, without cause, to work the regular workday preceding the holiday or the regular workday following the holiday.

PAIN0011-001 06/01/2024

	Rates	Fringes
PAINTER		
Blast and Spray	\$ 41.07	25.70
Brush and Roller	\$ 38.07	25.70
Tanks, Towers, Swing	\$ 40.07	25.70

PAIN0011-003 06/01/2024

	Rates	Fringes
PAINTER: (BRIDGE CONSTRUCTION)		
Brush, Roller, Blasting (Sand, Water, etc.) Spray	\$ 57.85	25.85

TEAM0251-002 04/07/2024

	Rates	Fringes
TRUCK DRIVIERS		
2 Axle Ready Mix	\$ 33.27	32.36
2 Axle	\$ 32.16	32.36
3 Axle Ready Mix	\$ 33.33	32.36
3 Axle	\$ 33.27	32.36
4 Axle Ready Mix	\$ 33.44	32.36
4 Axle	\$ 33.39	32.36
Heavy Duty Trailer – 40 Tons and over	\$ 35.66	32.36
Heavy Duty Trailer – Up to 40 Tons	\$ 34.39	32.36
Snorkle Truck	\$ 33.54	32.36
Specialized (Earth Moving Equipment other than conventional type on-the-road and semi-trailers, including Euclids)	\$ 33.44	32.36

Hazardous waste removal work receives additional \$1.25 per hour.

- a. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Good Friday, provided the employee has at least 31 calendar days of service and works the last scheduled day before and the first scheduled day after the holiday, unless excused.

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"", ""UAVG"", ""SA"" or ""SC"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2024 is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

""SU"" wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

Classifications listed under the ""SA"" identifier indicate that the prevailing wage rate set by a state (or local) government was adopted under 29 C.F.R.1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 01/03/2024 reflects the date on which the classifications and rates under the ""SA"" identifier took effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

- 1) Has there been an initial decision in the matter? This can be:
 - a) a survey underlying a wage determination
 - b) an existing published wage determination
 - c) an initial Wage and Hour Division (WHD) letter setting forth a position on a wage determination matter
 - d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be with the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

- 2.) If an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

- 3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

END OF GENERAL DECISION

DIVISION 1 – PROJECT CONTRACT SPECIFICATIONS

**STATE OF CONNECTICUT
PREVAILING WAGE RATES**

**CITY OF NEW HAVEN
NEW HAVEN COUNTY**

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DIVISION 01
STATE OF CONNECTICUT PREVAILING WAGE RATES

Attached are the State of Connecticut Wage Rates as provided by the Connecticut Department of Labor, Wage and Workplace Standards Division.

Attached Wage Rate Schedule: **PENDING**

NOTE:

*If Federal Funds are being used, but the total project is less than \$100,000, **STATE PREVAILING WAGE RATES DO NOT APPLY**, but the Federal Davis-Bacon Wage Schedules still apply.*

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DIVISION 1 – PROJECT CONTRACT SPECIFICATIONS

**STATE OF CONNECTICUT
PREVAILING WAGE RATES**

**CITY OF NEW HAVEN
NEW HAVEN COUNTY**

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OCCUPATIONAL CLASSIFICATION BULLETIN

The Connecticut Department of Labor has the responsibility to properly determine "job classification" on prevailing wage projects covered under C.G.S. Section 31-53.

Note: This information is intended to provide a sample of some occupational classifications for guidance purposes only. It is not an all-inclusive list of each occupation's duties. This list is being provided only to highlight some areas where a contractor may be unclear regarding the proper classification.

Below are additional clarifications of specific job duties performed for certain classifications:

ASBESTOS WORKERS

Applies all insulating materials, protective coverings, coatings and finishes to all types of mechanical systems.

ASBESTOS INSULATOR

Handle, install apply, fabricate, distribute, prepare, alter, repair, dismantle, heat and frost insulation, including penetration and fire stopping work on all penetration fire stop systems.

BOILERMAKERS

Erects hydro plants, incomplete vessels, steel stacks, storage tanks for water, fuel, etc. Builds incomplete boilers, repairs heat exchanges and steam generators.

BRICKLAYERS, CEMENT MASONS, CEMENT FINISHERS, MARBLE MASONS, PLASTERERS, STONE MASONS, PLASTERERS. STONE MASONS, TERRAZZO WORKERS, TILE SETTERS

Lays building materials such as brick, structural tile and concrete cinder, glass, gypsum, terra cotta block. Cuts, tools and sets marble, sets stone, finishes concrete, applies decorative steel, aluminum and plastic tile, applies cements, sand, pigment and marble chips to floors, stairways, etc.

CARPENTERS, MILLWRIGHTS. PILEDRIVERMEN. LATHERS. RESILEINT FLOOR LAYERS, DOCK BUILDERS, DIKERS, DIVER TENDERS

Constructs, erects, installs and repairs structures and fixtures of wood, plywood and wallboard. Installs, assembles, dismantles, moves industrial machinery. Drives piling into ground to provide foundations for structures such as buildings and bridges, retaining walls for earth embankments, such as cofferdams. Fastens wooden, metal or rockboard lath to walls, ceilings and partitions of buildings, acoustical tile layer, concrete form builder. Applies firestopping materials on fire resistive joint systems only. Installation of curtain/window walls only where attached to wood or metal studs. Installation of insulated material of all types whether blown, nailed or attached in other ways to walls, ceilings and floors of buildings. Assembly and installation of modular furniture/furniture systems. Free-standing furniture is not covered. This includes free standing: student chairs, study top desks, book box desks, computer furniture, dictionary stand, atlas stand, wood shelving, two-position information access station, file cabinets, storage cabinets, tables, etc.

CLEANING LABORER

The clean up of any construction debris and the general cleaning, including sweeping, wash down, mopping, wiping of the construction facility, washing, polishing, dusting, etc.,

DIVISION 1 - CT DOL WAGE RATE ATTACHMENTS

prior to the issuance of a certificate of occupancy falls under the *Labor classification*.

DELIVERY PERSONNEL

If delivery of supplies/building materials is to one common point and stockpiled there, prevailing wages are not required. If the delivery personnel are involved in the distribution of the material to multiple locations within the construction site then they would have to be paid prevailing wages for the type of work performed: laborer, equipment operator, electrician, ironworker, plumber, etc.

An example of this would be where delivery of drywall is made to a building and the delivery personnel distribute the drywall from one "stockpile" location to further sub-locations on each floor. Distribution of material around a construction site is the job of a laborer/tradesman and not a delivery personnel.

ELECTRICIANS

Install, erect, maintenance, alteration or repair of any wire, cable, conduit, etc., which generates, transforms, transmits or uses electrical energy for light, heat, power or other purposes, including the installation or maintenance of telecommunication, LAN wiring or computer equipment, and low voltage wiring. ****License required per Connecticut General Statutes: E-1,2 L-5,6 C-5,6 T-1,2 L-1,2 V-1,2,7,8,9.***

ELEVATOR CONSTRUCTORS

Install, erect, maintenance and repair of all types of elevators, escalators, dumb waiters and moving walks. ****License required by Connecticut General Statutes: R-1,2,5,6.***

FORK LIFT OPERATOR

Laborers Group 4) Mason Tenders - operates forklift solely to assist a mason to a maximum height of nine (9) feet only.

Power Equipment Operator Group 9 - operates forklift to assist any trade, and to assist a mason to a height over nine (9) feet.

GLAZIERS

Glazing wood and metal sash, doors, partitions, and 2 story aluminum storefronts. Installs glass windows, skylights, store fronts and display cases or surfaces such as building fronts, interior walls, ceilings and table tops and metal store fronts. Installation of aluminum window walls and curtain walls is the "joint" work of glaziers and ironworkers which requires either a blended rate or equal composite workforce.

IRONWORKERS

Erection, installation and placement of structural steel, precast concrete, miscellaneous iron, ornamental iron, metal curtain wall, rigging and reinforcing steel. Handling, sorting, and installation of reinforcing steel (rebar). Metal bridge rail (traffic), metal bridge handrail, and decorative security fence installation. Installation of aluminum window walls and curtain walls is the "joint" work of glaziers and ironworkers which requires either a blended rate or equal composite workforce. Insulated metal and insulated composite panels are still installed by the Ironworker.

INSULATOR

Installing fire stopping systems/materials for "Penetration Firestop Systems": transit to cables, electrical conduits, insulated pipes, sprinkler pipe penetrations, ductwork behind radiation, electrical cable trays, fire rated pipe penetrations, natural polypropylene,

DIVISION 1 - CT DOL WAGE RATE ATTACHMENTS

HVAC ducts, plumbing bare metal, telephone and communication wires, and boiler room ceilings. Past practice using the applicable licensed trades, Plumber, Sheet Metal, Sprinkler Fitter, and Electrician, is not inconsistent with the Insulator classification and would be permitted.

LABORERS

Acetylene burners, asphalt rakers, chain saw operators, concrete and power buggy operator, concrete saw operator, fence and guard rail erector (except metal bridge rail (traffic), metal bridge handrail, and decorative security fence installation.), hand operated concrete vibrator operator, mason tenders, pipelayers (installation of storm drainage or sewage lines on the street only), pneumatic drill operator, pneumatic gas and electric drill operator, powermen and wagon drill operator, air track operator, block paver, curb setters, blasters, concrete spreaders.

PAINTERS

Maintenance, preparation, cleaning, blasting (water and sand, etc.), painting or application of any protective coatings of every description on all bridges and appurtenances of highways, roadways, and railroads. Painting, decorating, hardwood finishing, paper hanging, sign writing, scenic art work and drywall hanging+ for any and all types of building and residential work.

LEAD PAINT REMOVAL

Painter's Rate

Removal of lead paint from bridges.

Removal of lead paint as preparation of any surface to be repainted.

Where removal is on a Demolition project prior to reconstruction.

Laborer's Rate

Removal of lead paint from any surface NOT to be repainted.

Where removal is on a *TOTAL* Demolition project only.

PLUMBERS AND PIPEFITTERS

Installation, repair, replacement, alteration or maintenance of all plumbing, heating, cooling and piping. ****License required per Connecticut General Statutes: P-1,2,6,7,8,9 J-1,2,3,4 SP-1,2 S-1,2,3,4,5,6,7,8 B-1,2,3,4 D-1,2,3,4.***

POWER EQUIPMENT OPERATORS

Operates several types of power construction equipment such as compressors, pumps, hoists, derricks, cranes, shovels, tractors, scrapers or motor graders, etc. Repairs and maintains equipment. ****License required, crane operators only, per Connecticut General Statutes.***

ROOFERS

Covers roofs with composition shingles or sheets, wood shingles, slate or asphalt and gravel to waterproof roofs, including preparation of surface. (tear-off and/or removal of any type of roofing and/or clean-up of any and all areas where a roof is to be relaid)

SHEETMETAL WORKERS

Fabricate, assemble, install and repair sheetmetal products and equipment in such areas as ventilation, air-conditioning, warm air heating, restaurant equipment, architectural sheet metal work, sheetmetal roofing, and aluminum gutters. Fabrication, handling, assembling, erecting, altering, repairing, etc. of coated metal material panels

DIVISION 1 - CT DOL WAGE RATE ATTACHMENTS

and composite metal material panels when used on building exteriors and interiors as soffits, fascia, louvers, partitions, wall panel siding, canopies, cornice, column covers, awnings, beam covers, cladding, sun shades, lighting troughs, spires, ornamental roofing, metal ceilings, mansards, copings, ornamental and ventilation hoods, vertical and horizontal siding panels, trim, etc. The sheet metal classification also applies to the vast variety of coated metal material panels and composite metal material panels that have evolved over the years as an alternative to conventional ferrous and non-ferrous metals like steel, iron, tin, copper, brass, bronze, aluminum, etc. Insulated metal and insulated composite panels are still installed by the Iron Worker. Fabrication, handling, assembling, erecting, altering, repairing, etc. of architectural metal roof, standing seam roof, composite metal roof, metal and composite bathroom/toilet partitions, aluminum gutters, metal and composite lockers and shelving, kitchen equipment, and walk-in coolers.

SPRINKLER FITTERS

Installation, alteration, maintenance and repair of fire protection sprinkler systems.

****License required per Connecticut General Statutes: F-1,2,3,4.***

TILE MARBLE AND TERRAZZO FINISHERS

Assists and tends the tile setter, marble mason and terrazzo worker in the performance of their duties.

TRUCK DRIVERS

Definitions:

1) "Site of the work" (29 Code of Federal Regulations (CFR) 5.2(l)(b) is the physical place or places where the building or work called for in the contract will remain and any other site where a significant portion of the building or work is constructed, provided that such site is established specifically for the performance of the contract or project;

(a) Except as provided in paragraph (l) (3) of this section, job headquarters, tool yards, batch plants, borrow pits, etc. are part of the "site of the work"; provided they are dedicated exclusively, or nearly so, to the performance of the contract or project, and provided they are adjacent to "the site of work" as defined in paragraph (e)(1) of this section;

(b) Not included in the "site of the work" are permanent home offices, branch plant establishments, fabrication plants, tool yards etc, of a contractor or subcontractor whose location and continuance in operation are determined wholly without regard to a particular State or political subdivision contract or uncertain and indefinite periods of time involved of a few seconds or minutes duration and where the failure to count such time is due to consideration justified by industrial realities (29 CFR 785.47)

2) "Engaged to wait" is waiting time that belongs to and is controlled by the employer which is an integral part of the job and is therefore compensable as hours worked. (29 CFR 785.15)

3) "Waiting to be engaged" is waiting time that an employee can use effectively for their own purpose and is not compensable as hours worked. (29 CFR 785.16)

4) "De Minimus" is a rule that recognizes that unsubstantial or insignificant periods of time which cannot as a practical administrative matter be precisely recorded for payroll purposes, may be disregarded. This rule applies only where there are uncertain and indefinite periods of time involved of a short duration and where the failure to count such

DIVISION 1 - CT DOL WAGE RATE ATTACHMENTS

time is due to consideration justified by worksite realities. For example, with respect to truck drivers on prevailing wage sites, this is typically less than 15 minutes at a time.

Coverage of Truck Drivers on State or Political subdivision Prevailing Wage Projects

Truck drivers **are covered** for payroll purposes under the following conditions:

Truck Drivers for time spent working on the site of the work.

Truck Drivers for time spent loading and/or unloading materials and supplies on the site of the work, if such time is not “de minimus”.

Truck drivers transporting materials or supplies between a facility that is deemed part of the site of the work and the actual construction site.

Truck drivers transporting portions of the building or work between a site established specifically for the performance of the contract or project where a significant portion of such building or work is constructed and the physical places where the building or work outlined in the contract will remain.

For example: Truck drivers delivering asphalt are covered under prevailing wage while” engaged to wait” on the site and when directly involved in the paving operation, provided the total time is not “de minimus”.

Truck Drivers **are not covered** in the following instances:

Material delivery truck drivers while off “the site of the work”

Truck Drivers traveling between a prevailing wage job and a commercial supply facility while they are off the “site of the work”

Truck drivers whose time spent on the “site of the work” is de minimus, such as under 15 minutes at a time, merely to drop off materials or supplies, including asphalt.

These guidelines are similar to U.S. Labor Department policies. The application of these guidelines may be subject to review based on factual considerations on a case by case basis.

For example:

Material men and deliverymen are not covered under prevailing wage as long as they are not directly involved in the construction process. If, they unload the material, they would then be covered by prevailing wage for the classification they are performing work in: laborer, equipment operator, etc.

Hauling material off site is not covered provided they are not dumping it at a location outlined above.

Driving a truck on site and moving equipment or materials on site would be considered covered work, as this is part of the construction process.

DIVISION 1 - CT DOL WAGE RATE ATTACHMENTS

Any questions regarding the proper classification should be directed to:

*Public Contract Compliance Unit
Wage and Workplace Standards Division
Connecticut Department of Labor
200 Folly Brook Blvd, Wethersfield, CT 06109
(860) 263-6543*

Important Information:

Welders: Rate for craft to which welding is incidental.

*Note: Hazardous waste removal work receives additional \$1.25 per hour for truck drivers.

**Note: Hazardous waste premium \$3.00 per hour over classified rate

Crane with 150 ft. boom (including jib) - \$1.50 extra

Crane with 200 ft. boom (including jib) - \$2.50 extra

Crane with 250 ft. boom (including jib) - \$5.00 extra

Crane with 300 ft. boom (including jib) - \$7.00 extra

Crane with 400 ft. boom (including jib) - \$10.00 extra

All classifications that indicate a percentage of the fringe benefits must be calculated at the percentage rate times the "base hourly rate".

Apprentices duly registered under the Commissioner of Labor's regulations on "Work Training Standards for Apprenticeship and Training Programs" Section 31-51-d-1 to 12, are allowed to be paid the appropriate percentage of the prevailing journeymen hourly base and the full fringe benefit rate, providing the work site ratio shall not be less than one full-time journeyperson instructing and supervising the work of each apprentice in a specific trade.

The Prevailing wage rates applicable to this project are subject to annual adjustments each July 1st for the duration of the project.

Each contractor shall pay the annual adjusted prevailing wage rate that is in effect each July 1st, as posted by the Department of Labor.

It is the contractor's responsibility to obtain the annual adjusted prevailing wage rate increases directly from the Department of Labor's website.

The annual adjustments will be posted on the Department of Labor's Web page: www.ct.gov/dol. For those without internet access, please contact the division listed below.

The Department of Labor will continue to issue the initial prevailing wage rate schedule to the Contracting Agency for the project.

All subsequent annual adjustments will be posted on our Web Site for contractor access.

Contracting Agencies are under no obligation pursuant to State labor law to pay any increase due to the annual adjustment provision.

Effective October 1, 2005 - Public Act 05-50: any person performing the work of any mechanic, laborer, or worker shall be paid prevailing wage

All Person who perform work ON SITE must be paid prevailing wage for the appropriate mechanic, laborer, or worker classification.

All certified payrolls must list the hours worked and wages paid to All Persons who perform work ON SITE regardless of their ownership i.e.: (Owners, Corporate Officers, LLC Members, Independent Contractors, et. al)

Reporting and payment of wages is required regardless of any contractual relationship alleged to exist between the contractor and such person.

~~Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clause (29 CFR 5.5 (a) (1) (ii)).

Please direct any questions which you may have pertaining to classification of work and payment of prevailing wages to the Wage and Workplace Standards Division, telephone (860)263-6790.

DIVISION 1 - CT DOL WAGE RATE ATTACHMENTS

Connecticut Department of Labor Wage and Workplace Standards Division FOOTNOTES

Please Note: If the “Benefits” listed on the schedule for the following occupations includes a letter(s) (+ a or + a+b for instance), refer to the information below.

Benefits to be paid at the appropriate prevailing wage rate for the listed occupation.

If the “Benefits” section for the occupation lists only a dollar amount, disregard the information below.

Bricklayers, Cement Masons, Cement Finishers, Concrete Finishers, Stone Masons (Building Construction) and (Residential- Hartford, Middlesex, New Haven, New London and Tolland Counties)

- a. Paid Holiday: Employees shall receive 4 hours for Christmas Eve holiday provided the employee works the regularly scheduled day before and after the holiday. Employers may schedule work on Christmas Eve and employees shall receive pay for actual hours worked in addition to holiday pay.

Elevator Constructors: Mechanics

- a. Paid Holidays: New Year’s Day, Memorial Day, Independence Day, Labor Day, Veterans’ Day, Thanksgiving Day, Christmas Day, plus the Friday after Thanksgiving.
- b. Vacation: Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

Glaziers

- a. Paid Holidays: Labor Day and Christmas Day.

Power Equipment Operators (Heavy and Highway Construction & Building Construction)

- a. Paid Holidays: New Year’s Day, Good Friday, Memorial day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day, provided the employee works 3 days during the week in which the holiday falls, if scheduled, and if scheduled, the working day before and the working day after the holiday. Holidays falling on Saturday may be observed on Saturday, or if the employer so elects, on the preceding Friday.

DIVISION 1 - CT DOL WAGE RATE ATTACHMENTS

Ironworkers

- a. Paid Holiday: Labor Day provided employee has been on the payroll for the 5 consecutive work days prior to Labor Day.

Laborers (Tunnel Construction)

- a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. No employee shall be eligible for holiday pay when he fails, without cause, to work the regular work day preceding the holiday or the regular work day following the holiday.

Roofers

- a. Paid Holidays: July 4th, Labor Day, and Christmas Day provided the employee is employed 15 days prior to the holiday.

Sprinkler Fitters

- a. Paid Holidays: Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day, provided the employee has been in the employment of a contractor 20 working days prior to any such paid holiday.

Truck Drivers

(Heavy and Highway Construction & Building Construction)

- a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas day, and Good Friday, provided the employee has at least 31 calendar days of service and works the last scheduled day before and the first scheduled day after the holiday, unless excused.

November 29, 2006

Notice

To All Mason Contractors and Interested Parties Regarding Construction Pursuant to Section 31-53 of the Connecticut General Statutes (Prevailing Wage)

The Connecticut Labor Department Wage and Workplace Standards Division is empowered to enforce the prevailing wage rates on projects covered by the above referenced statute.

Over the past few years the Division has withheld enforcement of the rate in effect for workers who operate a forklift on a prevailing wage rate project due to a potential jurisdictional dispute.

The rate listed in the schedules and in our Occupational Bulletin (see enclosed) has been as follows:

Forklift Operator:

- **Laborers (Group 4) Mason Tenders** - operates forklift solely to assist a mason to a maximum height of nine feet only.
- **Power Equipment Operator (Group 9)** - operates forklift to assist any trade and to assist a mason to a height over nine feet.

The U.S. Labor Department conducted a survey of rates in Connecticut but it has not been published and the rate in effect remains as outlined in the above Occupational Bulletin.

Since this is a classification matter and not one of jurisdiction, effective January 1, 2007 the Connecticut Labor Department will enforce the rate on each schedule in accordance with our statutory authority.

Your cooperation in filing appropriate and accurate certified payrolls is appreciated.

STATUTE 31-55a

- SPECIAL NOTICE -

To: All State and Political Subdivisions, Their Agents, and Contractors

Connecticut General Statute 31-55a - Annual adjustments to wage rates by contractors doing state work.

Each contractor that is awarded a contract on or after October 1, 2002, for (1) the construction of a state highway or bridge that falls under the provisions of section 31-54 of the general statutes, or (2) the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project that falls under the provisions of section 31-53 of the general statutes shall contact the Labor Commissioner on or before July first of each year, for the duration of such contract, to ascertain the prevailing rate of wages on an hourly basis and the amount of payment or contributions paid or payable on behalf of each mechanic, laborer or worker employed upon the work contracted to be done, and shall make any necessary adjustments to such prevailing rate of wages and such payment or contributions paid or payable on behalf of each such employee, effective each July first.

- The prevailing wage rates applicable to any contract or subcontract awarded on or after October 1, 2002 are subject to annual adjustments each July 1st for the duration of any project which was originally advertised for bids on or after October 1, 2002.
- Each contractor affected by the above requirement shall pay the annual adjusted prevailing wage rate that is in effect each July 1st, as posted by the Department of Labor.
- It is the **contractor's** responsibility to obtain the annual adjusted prevailing wage rate increases directly from the Department of Labor's Web Site. The annual adjustments will be posted on the Department of Labor Web page: www.ctdol.state.ct.us. For those without internet access, please contact the division listed below.
- The Department of Labor will continue to issue the initial prevailing wage rate schedule to the Contracting Agency for the project. All subsequent annual adjustments will be posted on our Web Site for contractor access.

Any questions should be directed to the Contract Compliance Unit, Wage and Workplace Standards Division, Connecticut Department of Labor, 200 Folly Brook Blvd., Wethersfield, CT 06109 at (860)263-6790.

Sec. 31-53b. Construction safety and health course. New miner training program. Proof of completion required for mechanics, laborers and workers on public works projects. Enforcement. Regulations. Exceptions. (a) Each contract for a public works project entered into on or after July 1, 2009, by the state or any of its agents, or by any political subdivision of the state or any of its agents, described in subsection (g) of section 31-53, shall contain a provision requiring that each contractor furnish proof with the weekly certified payroll form for the first week each employee begins work on such project that any person performing the work of a mechanic, laborer or worker pursuant to the classifications of labor under section 31-53 on such public works project, pursuant to such contract, has completed a course of at least ten hours in duration in construction safety and health approved by the federal Occupational Safety and Health Administration or, has completed a new miner training program approved by the Federal Mine Safety and Health Administration in accordance with 30 CFR 48 or, in the case of telecommunications employees, has completed at least ten hours of training in accordance with 29 CFR 1910.268.

(b) Any person required to complete a course or program under subsection (a) of this section who has not completed the course or program shall be subject to removal from the worksite if the person does not provide documentation of having completed such course or program by the fifteenth day after the date the person is found to be in noncompliance. The Labor Commissioner or said commissioner's designee shall enforce this section.

(c) Not later than January 1, 2009, the Labor Commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of subsections (a) and (b) of this section. Such regulations shall require that the ten-hour construction safety and health courses required under subsection (a) of this section be conducted in accordance with federal Occupational Safety and Health Administration Training Institute standards, or in accordance with Federal Mine Safety and Health Administration Standards or in accordance with 29 CFR 1910.268, as appropriate. The Labor Commissioner shall accept as sufficient proof of compliance with the provisions of subsection (a) or (b) of this section a student course completion card issued by the federal Occupational Safety and Health Administration Training Institute, or such other proof of compliance said commissioner deems appropriate, dated no earlier than five years before the commencement date of such public works project.

(d) This section shall not apply to employees of public service companies, as defined in section 16-1, or drivers of commercial motor vehicles driving the vehicle on the public works project and delivering or picking up cargo from public works projects provided they perform no labor relating to the project other than the loading and unloading of their cargo.

(P.A. 06-175, S. 1; P.A. 08-83, S. 1.)

DIVISION 1 - CT DOL WAGE RATE ATTACHMENTS

History: P.A. 08-83 amended Subsec. (a) by making provisions applicable to public works project contracts entered into on or after July 1, 2009, replacing provision re total cost of work with reference to Sec. 31-53(g), requiring proof in certified payroll form that new mechanic, laborer or worker has completed a 10-hour or more construction safety course and adding provision re new miner training program, amended Subsec. (b) by substituting "person" for "employee" and adding "or program", amended Subsec. (c) by adding "or in accordance with Federal Mine Safety and Health Administration Standards" and setting new deadline of January 1, 2009, deleted former Subsec. (d) re "public building", added new Subsec. (d) re exemptions for public service company employees and delivery drivers who perform no labor other than delivery and made conforming and technical changes, effective January 1, 2009.

Informational Bulletin

THE 10-HOUR OSHA CONSTRUCTION SAFETY AND HEALTH COURSE

(applicable to public building contracts entered into *on or after July 1, 2007*, where the total cost of all work to be performed is at least \$100,000)

- (1) This requirement was created by Public Act No. 06-175, which is codified in Section 31-53b of the Connecticut General Statutes (pertaining to the prevailing wage statutes);
- (2) The course is required for public building construction contracts (projects funded in whole or in part by the state or any political subdivision of the state) entered into on or after July 1, 2007;
- (3) It is required of private employees (not state or municipal employees) and apprentices who perform manual labor for a general contractor or subcontractor on a public building project where the total cost of all work to be performed is at least \$100,000;
- (4) The ten-hour construction course pertains to the ten-hour Outreach Course conducted in accordance with federal OSHA Training Institute standards, and, for telecommunications workers, a ten-hour training course conducted in accordance with federal OSHA standard, 29 CFR 1910.268;
- (5) The internet website for the federal OSHA Training Institute is http://www.osha.gov/fso/ote/training/edcenters/fact_sheet.html;
- (6) The statutory language leaves it to the contractor and its employees to determine who pays for the cost of the ten-hour Outreach Course;
- (7) Within 30 days of receiving a contract award, a general contractor must furnish proof to the Labor Commissioner that all employees and apprentices performing manual labor on the project will have completed such a course;
- (8) Proof of completion may be demonstrated through either: (a) the presentation of a *bona fide* student course completion card issued by the federal OSHA Training Institute; *or* (2) the presentation of documentation provided to an employee by a trainer certified by the Institute pending the actual issuance of the completion card;
- (9) Any card with an issuance date more than 5 years prior to the commencement date of the construction project shall not constitute proof of compliance;

DIVISION 1 - CT DOL WAGE RATE ATTACHMENTS

- (10) Each employer shall affix a copy of the construction safety course completion card to the certified payroll submitted to the contracting agency in accordance with Conn. Gen. Stat. § 31-53(f) on which such employee's name first appears;
- (11) Any employee found to be in non-compliance shall be subject to removal from the worksite if such employee does not provide satisfactory proof of course completion to the Labor Commissioner by the fifteenth day after the date the employee is determined to be in noncompliance;
- (12) Any such employee who is determined to be in noncompliance may continue to work on a public building construction project for a maximum of fourteen consecutive calendar days while bringing his or her status into compliance;
- (13) The Labor Commissioner may make complaint to the prosecuting authorities regarding any employer or agent of the employer, or officer or agent of the corporation who files a false certified payroll with respect to the status of an employee who is performing manual labor on a public building construction project;
- (14) The statute provides the minimum standards required for the completion of a safety course by manual laborers on public construction contracts; any contractor can exceed these minimum requirements; and
- (15) Regulations clarifying the statute are currently in the regulatory process, and shall be posted on the CTDOL website as soon as they are adopted in final form.
- (16) Any questions regarding this statute may be directed to the Wage and Workplace Standards Division of the Connecticut Labor Department via the internet website of <http://www.ctdol.state.ct.us/wgwkstnd/wgemenu.htm>; or by telephone at (860)263-6790.


THE ABOVE INFORMATION IS PROVIDED EXCLUSIVELY AS AN EDUCATIONAL RESOURCE, AND IS NOT INTENDED AS A SUBSTITUTE FOR LEGAL INTERPRETATIONS WHICH MAY ULTIMATELY ARISE CONCERNING THE CONSTRUCTION OF THE STATUTE OR THE REGULATIONS.

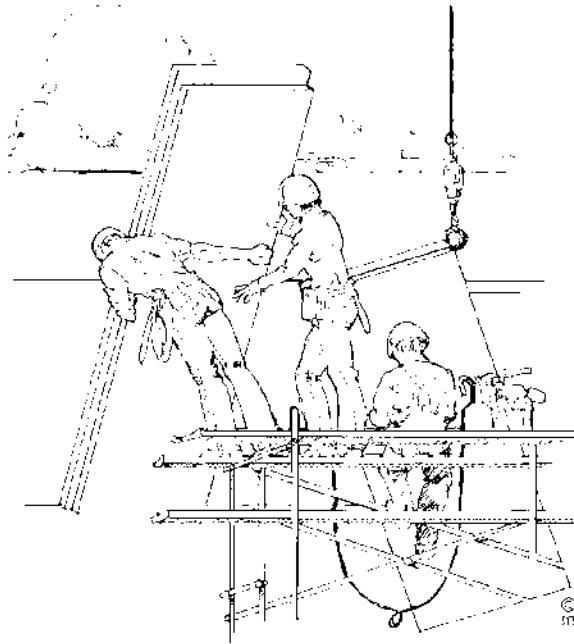
~NOTICE~

TO ALL CONTRACTING AGENCIES

Please be advised that Connecticut General Statutes Section 31-53, requires the contracting agency to certify to the Department of Labor, the total dollar amount of work to be done in connection with such public works project, regardless of whether such project consists of one or more contracts.

Please find the attached “Contracting Agency Certification Form” to be completed and returned to the Department of Labor, Wage and Workplace Standards Division, Public Contract Compliance Unit.

 Inquiries can be directed to (860)263-6543.



DIVISION 1 - CT DOL WAGE RATE ATTACHMENTS
CONNECTICUT DEPARTMENT OF LABOR
WAGE AND WORKPLACE STANDARDS DIVISION
CONTRACT COMPLIANCE UNIT

CONTRACTING AGENCY CERTIFICATION FORM

I, _____, acting in my official capacity as _____,
authorized representative title

for _____, located at _____,
contracting agency address

do hereby certify that the total dollar amount of work to be done in connection with

_____, located at _____,
project name and number address

shall be \$_____, which includes all work, regardless of whether such project
consists of one or more contracts.

CONTRACTOR INFORMATION

Name: _____

Address: _____

Authorized Representative: _____

Approximate Starting Date: _____

Approximate Completion Date: _____

Signature

Date

Return To: Connecticut Department of Labor
Wage & Workplace Standards Division
Contract Compliance Unit
200 Folly Brook Blvd.
Wethersfield, CT 06109

Date Issued: _____

CONNECTICUT DEPARTMENT OF LABOR
WAGE AND WORKPLACE STANDARDS DIVISION

CONTRACTORS WAGE CERTIFICATION FORM
Construction Manager at Risk/General Contractor/Prime Contractor

I, _____ of _____
Officer, Owner, Authorized Rep. Company Name

do hereby certify that the _____
Company Name

Street

City

and all of its subcontractors will pay all workers on the

Project Name and Number

Street and City

the wages as listed in the schedule of prevailing rates required for such project (a copy of which is attached hereto).

Signed

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

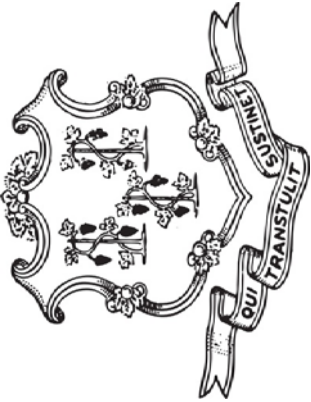
Notary Public

Return to:

Connecticut Department of Labor
Wage & Workplace Standards Division
200 Folly Brook Blvd.
Wethersfield, CT 06109

Rate Schedule Issued (Date): _____

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THIS IS A PUBLIC WORKS PROJECT

Covered by the

PREVAILING WAGE LAW

CT General Statutes Section 31-53

**If you have QUESTIONS regarding your wages
CALL (860) 263-6790**

Section 31-55 of the CT State Statutes requires every contractor or subcontractor performing work for the state to post in a prominent place the prevailing wages as determined by the Labor Commissioner.

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[New] In accordance with Section 31-53b(a) of the C.G.S. each contractor shall provide a copy of the OSHA 10 Hour Construction Safety and Health Card for each employee, to be attached to the first certified payroll on the project.

PAYROLL CERTIFICATION FOR PUBLIC WORKS PROJECTS																			
Connecticut Department of Labor Wage and Workplace Standards Division 200 Folly Brook Blvd. Wethersfield, CT 06109																			
WEEKLY PAYROLL																			
CONTRACTOR NAME AND ADDRESS:																			
SUBCONTRACTOR NAME & ADDRESS																			
WORKER'S COMPENSATION INSURANCE CARRIER																			
POLICY #																			
EFFECTIVE DATE:																			
EXPIRATION DATE:																			
PAYROLL NUMBER	Week-Ending Date	APPR RATE %	MALE/FEMALE AND RACE*	WORK CLASSIFICATION	DAY AND DATE							Total ST Hours	Total OT Hours	GROSS PAY FOR ALL WORK PERFORMED THIS WEEK	TOTAL DEDUCTIONS			GROSS PAY FOR THIS PREVAILING RATE JOB	CHECK #AND NET PAY
					S	M	T	W	TH	F	S				FICA	WITH-HOLDING	STATE		
PROJECT NAME & ADDRESS																			
HOURS WORKED EACH DAY																			
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*SEE REVERSE SIDE

PAGE NUMBER ____ OF ____

*IF REQUIRED

DIVISION 1 - CT DOL WAGE RATE ATTACHMENTS

*FRINGE BENEFITS EXPLANATION (P):

Bona fide benefits paid to approved plans, funds or programs, except those required by Federal or State Law (unemployment tax, worker's compensation, income taxes, etc.).

Please specify the type of benefits provided:

- 1) Medical or hospital care _____ 4) Disability _____
2) Pension or retirement _____ 5) Vacation, holiday _____
3) Life Insurance _____ 6) Other (please specify) _____

CERTIFIED STATEMENT OF COMPLIANCE

For the week ending date of _____,

I, _____ of _____, (hereafter known as

Employer) in my capacity as _____ (title) do hereby certify and state:

Section A:

1. All persons employed on said project have been paid the full weekly wages earned by them during the week in accordance with Connecticut General Statutes, section 31-53, as amended. Further, I hereby certify and state the following:

- a) The records submitted are true and accurate;
- b) The rate of wages paid to each mechanic, laborer or workman and the amount of payment or contributions paid or payable on behalf of each such person to any employee welfare fund, as defined in Connecticut General Statutes, section 31-53 (h), are not less than the prevailing rate of wages and the amount of payment or contributions paid or payable on behalf of each such person to any employee welfare fund, as determined by the Labor Commissioner pursuant to subsection Connecticut General Statutes, section 31-53 (d), and said wages and benefits are not less than those which may also be required by contract;
- c) The Employer has complied with all of the provisions in Connecticut General Statutes, section 31-53 (and Section 31-54 if applicable for state highway construction);
- d) Each such person is covered by a worker's compensation insurance policy for the duration of his employment which proof of coverage has been provided to the contracting agency;
- e) The Employer does not receive kickbacks, which means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided directly or indirectly, to any prime contractor, prime contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a prime contractor in connection with a subcontractor relating to a prime contractor; and
- f) The Employer is aware that filing a certified payroll which he knows to be false is a class D felony for which the employer may be fined up to five thousand dollars, imprisoned for up to five years or both.

2. OSHA~The employer shall affix a copy of the construction safety course, program or training completion document to the certified payroll required to be submitted to the contracting agency for this project on which such persons name first appears.

(Signature) (Title) Submitted on (Date)

THIS IS A PUBLIC DOCUMENT

DO NOT INCLUDE SOCIAL SECURITY NUMBERS

Appendix - CT DOL Attachments - Page 25 of 28

PAYROLL CERTIFICATION FOR PUBLIC WORKS PROJECTS																Week-Ending Date: Contractor or Subcontractor Business Name:				
WEEKLY PAYROLL																				
PERSON/WORKER, ADDRESS and SECTION	APPR RATE %	MALE/ FEMALE AND RACE*	WORK CLASSIFICATION Trade License Type & Number - OSHA 10 Certification Number	DAY AND DATE							Total ST Hours	BASE HOURLY RATE	TYPE OF FRINGE BENEFITS Per Hour 1 through 6 (see back)	GROSS PAY FOR ALL WORK PERFORMED THIS WEEK	TOTAL DEDUCTIONS			GROSS PAY FOR THIS PREVAILING RATE JOB	CHECK # AND NET PAY	
				S	M	T	W	TH	F	\$					FICA	WITH- HOLDING	STATE			OTHER
				HOURS WORKED EACH DAY																
				Total O/T Hours	TOTAL-FRINGE BENEFIT PLAN CASH															
																		\$		
																		Base Rate		
																		\$		
																		Cash Fringe		
																		\$		
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																		Cash Fringe		

*IF REQUIRED

NOTICE: THIS PAGE MUST BE ACCOMPANIED BY A COVER PAGE (FORM # WWS-CPI)

OF

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[New] In accordance with Section 31-53b(a) of the C.G.S. each contractor shall provide a copy of the OSHA 10 Hour Construction Safety and Health Card for each employee, to be attached to the first certified payroll on the project.

PAYROLL CERTIFICATION FOR PUBLIC WORKS PROJECTS

CONTRACTOR NAME AND ADDRESS: XYZ Corporation 2 Main Street Yantic, CT 06389		SUBCONTRACTOR NAME & ADDRESS: Travelers Insurance Company POLICY # #BAC888928 EFFECTIVE DATE: 1/1/09 EXPIRATION DATE: 12/31/09		Connecticut Department of Labor Wage and Workplace Standards Division 200 Folly Brook Blvd. Wethersfield, CT 06109	
--	--	--	--	---	--

WEEKLY PAYROLL

PAYROLL NUMBER	PERSON/WORKER, ADDRESS and SECTION	Week-Ending Date 9/26/09	APPR MALE/ RATE FEMALE AND RACE*	WORK CLASSIFICATION Trade License Type & Number - OSHA 10 Certification Number	DAY AND DATE							Total ST Hours	Total O/T Hours	GROSS PAY FOR ALL WORK PERFORMED THIS WEEK	TOTAL DEDUCTIONS			GROSS PAY FOR THIS PREVAILING RATE JOB	CHECK # AND NET PAY		
					HOURS WORKED EACH DAY										FICA	WITH- HOLDING	WITH- HOLDING			LIST OTHER	
					S	M	T	W	TH	F	S										
1	Robert Craft 31 Maple Street Middletown, CT 06226	M/C		8	8	8	8	8	8	8	8	40		\$ 30.75 Base Rate \$ 8.82 Cash Fringe	1. \$ 5.80 2. \$ 3. \$ 2.01 4. \$ 5. \$ 6. \$				P-xxxx	\$1,582.80	#123 \$ xxx.xx
2	Donald Jones 212 Elm Street Norwich, CT 06360	M/B	65%		8	8	8	8	8	8	8	40		\$ 19.99 Base Rate \$ 16.63 Cash Fringe	1. \$ 2. \$ 3. \$ 4. \$ 5. \$ 6. \$	xx.xx	xx.xx	xx.xx	G-xxx	\$1,464.80	#124 \$xxx.xx
3	Franklin T. Smith 14 Washington Rd. New London, CT 06320 SECTION B	M/H			8							8		\$ Base Rate \$ Cash Fringe	1. \$ 2. \$ 3. \$ 4. \$ 5. \$ 6. \$	xx.xx	xx.xx	xx.xx	M-xxx	\$1,500.00	#125 xxx.xx

OSHA 10 ~ATTACH CARD TO 1ST CERTIFIED PAYROLL

DIVISION 1 - CT DOL WAGE RATE ATTACHMENTS

*FRINGE BENEFITS EXPLANATION (P):

EXAMPLE
PAGE 2

Bona fide benefits paid to approved plans, funds or programs, except those required by Federal or State Law (unemployment tax, worker's compensation, income taxes, etc.).

Please specify the type of benefits provided:

- 1) Medical or hospital care Blue Cross 4) Disability _____
2) Pension or retirement _____ 5) Vacation, holiday _____
3) Life Insurance Utopia 6) Other (please specify) _____

CERTIFIED STATEMENT OF COMPLIANCE

For the week ending date of 9/26/09,

I, Robert Craft of XYZ Corporation, (hereafter known as
Employer) in my capacity as Owner (title) do hereby certify and state:

Section A:

1. All persons employed on said project have been paid the full weekly wages earned by them during the week in accordance with Connecticut General Statutes, section 31-53, as amended. Further, I hereby certify and state the following:

- The records submitted are true and accurate;
- The rate of wages paid to each mechanic, laborer or workman and the amount of payment or contributions paid or payable on behalf of each such employee to any employee welfare fund, as defined in Connecticut General Statutes, section 31-53 (h), are not less than the prevailing rate of wages and the amount of payment or contributions paid or payable on behalf of each such employee to any employee welfare fund, as determined by the Labor Commissioner pursuant to subsection Connecticut General Statutes, section 31-53 (d), and said wages and benefits are not less than those which may also be required by contract;
- The Employer has complied with all of the provisions in Connecticut General Statutes, section 31-53 (and Section 31-54 if applicable for state highway construction);
- Each such employee of the Employer is covered by a worker's compensation insurance policy for the duration of his employment which proof of coverage has been provided to the contracting agency;
- The Employer does not receive kickbacks, which means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided directly or indirectly, to any prime contractor, prime contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a prime contractor in connection with a subcontractor relating to a prime contractor; and
- The Employer is aware that filing a certified payroll which he knows to be false is a class D felony for which the employer may be fined up to five thousand dollars, imprisoned for up to five years or both.

2. OSHA~The employer shall affix a copy of the construction safety course, program or training completion document to the certified payroll required to be submitted to the contracting agency for this project on which such employee's name first appears.

Robert Craft owner 10/2/09
(Signature) (Title) Submitted on (Date)

Section B: Applies to CONNDOT Projects ONLY

That pursuant to CONNDOT contract requirements for reporting purposes only, all employees listed under Section B who performed work on this project are not covered under the prevailing wage requirements defined in Connecticut General Statutes Section 31-53.

Robert Craft owner 10/2/09
(Signature) (Title) Submitted on (Date)

Note: CTDOL will assume all hours worked were performed under Section A unless clearly delineated as Section B WWS-CP1 as such. Should an employee perform work under both Section A and Section B, the hours worked and wages paid must be segregated for reporting purposes.

THIS IS A PUBLIC DOCUMENT
DO NOT INCLUDE SOCIAL SECURITY NUMBERS

DIVISION 2

SPECIAL PROVISIONS

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**SPECIAL PROVISIONS/SUPPLEMENTAL GENERAL CONDITIONS FOR
FEDERALLY OBLIGATED AVIATION PROJECTS**

PART A – PROJECT SPECIFIC CLAUSES

1. **DBE DIRECTORY.** The latest edition of the DBE Directory can be obtained from the State of Connecticut Department of Transportation Office at the following address:

https://www.biznet.ct.gov/dot_dbe/dbesearch.aspx

2. **WAGE RATES.** U.S. Department of Labor Davis-Bacon wage rates are applicable to this Contract and are included in Division 1 – Federal Wage Schedules.

In addition, the State of Connecticut Department of Labor Standards Prevailing Wages shall apply and are included in Division 1, State Prevailing Wage Schedule.

In areas of conflict between the U.S. Department of Labor Davis-Bacon wage rates and the Connecticut Prevailing Wage rates, the higher combined value of base pay plus benefits shall govern.

It is the Contractors responsibility to reviews the wages rates and labor classifications included within the Contract Documents. If it appears that a labor classification is required but not provided, the Contractor shall notify the Engineer prior to the start of construction.

3. **CONTACT WITH THE AIRPORT.** From the time of advertising until the actual bid opening for this Contract, the only contact with the Airport will be as described in the Invitation for Bids.
4. **SUSPENSION OF WORK.** The Contractor is hereby notified that in the absence of the Engineer, the Airport's Safety Officer and the Airport Operator shall each have the authority to suspend work when they determine that a serious safety or environmental violation exists on the job site. The period of time when work is suspended due to a serious safety or environmental violation will not be justification for an extension of time or the award of damages to the Contractor.
5. **CONTRACT DOCUMENTS.** The Contractor's attention is directed to the following documents that make up the Contract Documents and are effective for this Contract:

Table of Contents
Invitation to Bid
Instructions to Bidders
Bid Proposal
Bid Bond
ALL Bidding Requirement and Proposal Forms (see Bidder's Certification List)
Award of Contract and Execution of Contract Bonds
Contract/Agreement and its Execution
Performance Bond
Payment Bond
Insurance Provision Requirements

DIVISION 2 – SPECIAL PROVISION/SUPPLEMENTAL GENERAL PROVISIONS

Notice of Award
Notice to Proceed
Contractor's Guaranty
ALL Contract Execution Forms

Division 1 – Project Contract Specifications

FAA General Provisions
FAA Required Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects
Reference Documents:
41 CFR – 60-4.2 & 4.3
49 CFR 26 – Title 49: Transportation
State of Connecticut General Contract Provisions
Tweed-New Haven Airport General Condition Provisions
US Department of Labor – Davis-Bacon Wage Rates
Connecticut State Prevailing Wage Rates

Division 2 - Special Provisions:

Special Provisions/Supplemental General Provisions
Construction Safety and Phasing Plan
AC 150/5370-2G - Operational Safety on Airports During Construction (referenced)
Geotechnical Report (*if applicable*)
Other Technical Reports (*if applicable*)
Permits

Division 3 - FAA – Technical Specifications

Plans
Addendums, Request for Information responses, and Field Issued Sketches

6. **DAILY LIST OF WORKERS.** The Contractor shall provide a daily list of workers on the site in accordance with Part C. General Aviation Clauses, Section 3 Disadvantaged Business Enterprise, Subsection 3.1 paragraph viii. of this Special Provisions/Supplemental General Provisions.
7. **UTILITIES.** The Contractor shall coordinate with all utilities the service the Airport and surrounding area. No disturbance of utility facilities is anticipated as part of this project.
8. **PERMIT AND REGULATION COMPLIANCE.** The Contractor shall comply with all project permits, general permits, state laws, and state and local regulations. Any fines assessed against the Airport and related expenses due to non-compliance with the permits, laws, rules, and regulations cited in the Contract Documents and caused by the Contractor and their personnel, Subcontractors and Vendors shall be paid for by the Contractor.

For permit requirements refer to copies of the permits in Division 2 - Special Provisions of the Contract Documents.

9. **WORK AREAS.** In order to enhance safety during construction and minimize the impacts on Airport operations caused by construction, the Project may have been divided into phases or different work areas as required for project execution. For additional detail of the phases, work

DIVISION 2 – SPECIAL PROVISION/SUPPLEMENTAL GENERAL PROVISIONS

zones and restrictions, please refer to:

- a) Project Plan Set: Refer to project phasing and work zone plans, notes and details.
- b) CSPP Drawings: The CSPP drawings as included in the contract drawings.
- c) Construction Safety and Phasing Plan (CSPP): Refer to the Construction Safety and Phasing Plan in Division 2 of the Contract Documents for additional detail, as applicable.
- d) Contractor Provided Safety Plan Compliance Document (SPCD): The SPCD, as reviewed and approved by the Engineer, shall become part of the work area restrictions, as applicable.

10. **WORK AREA REQUIREMENTS.** A general outline of the safety precautions, pre-work requirements and administrative requirements required prior to being allowed to work in any of the specified work areas is provided within the CSPP documents in Division 2 of the Contract Documents. The work area requirements are not intended to describe every work element or every detail of work, but rather provide the Contractor with an outline of Airport safety measures, safety protocols and operational requirements during the progression of work.

As part of the SPCD preparation, the Contractor shall propose the actual sequencing of the work in all work areas subject to the conditions indicated and specified within the CSPP. If requested, the Contractor may make necessary changes in the sequencing in order to facilitate Airport operation and safety within a work zone. The Contractor may sequence that time, with coordination with the Airport and the Engineer, as required as long as that time falls within the specified total contract time for the work area.

11. **PROJECT DURATION.** Upon execution of the Contract, the Sponsor will issue a written “Notice to Proceed” which will specify an effective date for the Contractor to begin work at the site. All work under this Contract must be completed within **Total Contract Time as identified in the “Notice to Proceed.”**

For additional work area duration requirements and restrictions refer to any phasing notes on the plan sheets of the Contract Documents and the Construction Safety and Phasing Plan (CSPP).

It shall be understood that it is the Contractor's responsibility to schedule and request stoppages in contract time for each respective work area. Further, it is understood that if it is determined to be in the best interest of the Owner and the Airport, the request for a Contract time stoppage can and will be denied. During a Contract time stoppage, no work may commence in that work area until a request is made to resume work and Contract time. If work is performed without an official restart of the Contract time it is agreed that the work performed is at the Contractor's expense and is not eligible for measurement of payment.

It shall be clearly understood that the Contract time is contractual, and if the time is exceeded, liquidated damages will be assessed. Requests for additional Contract time will only be granted for the following reasons:

- 1) Additional work is authorized by change order.
- 2) Delays or postponements of critical path work per the approved construction schedule are requested by the Owner.
- 3) Material delivery delays, which are documented and are beyond the Contractor's control.

DIVISION 2 – SPECIAL PROVISION/SUPPLEMENTAL GENERAL PROVISIONS

Material delivery delays, which are not documented, and not accounted for or identified in the Contractor's schedule, will not be considered a valid justification to extend the Contract time.

12. **LIQUIDATED DAMAGES.** If the work remains incomplete after the times specified in the Allowable Project Duration for the Total Contract Time or the Contract Time Within a Work Area, the Contractor agrees to pay the Owner as liquidated damages in the following amounts:

The Liquidated Damages amount listed in the CONTRACT per day for each and every calendar day that the work remains incomplete beyond the Total Contract Time listed for the Project Duration.

The amount to be assessed as Liquidated Damages listed shall be in accordance with Division 1 - FAA General Provisions Section 80-08.

Liability for Liquidated Damages. The Contractor covenants and agrees that should the amount of monies due, or that may become due the Contractor, are to be less than the amount of ascertained liquidated damages, the Contractor and the Contractor's surety shall be liable to the Owner for the deficiency.

For Working Day Only contracts, should the Contractor elect to work on Saturdays, Sundays, or Holidays after the Contract Completion Date, the Contractor will be charged liquidated damages for such days worked.

13. **ADDITIONAL RESIDENT PROJECT REPRESENTATIVE SERVICES.** The Owner has established a Resident Project Representative budget based on the work hours made available to the Contractor. If the Contractor's work schedule exceeds the Total Contract Time for the project, the Contractor agrees to pay the Owner the additional cost for the Resident Project Representative in excess of the budgeted hours. The typical weekly Resident Project Representative budget is up to sixty (60) hours per week. The cost to the Contractor shall be based on the Resident Project Representative's actual billing rate, plus expenses and fifteen percent (15%) profit in effect at the time the services were provided. ***For budgeting purposes, an hourly rate of \$160.00/hour is recommended.*** It shall be understood that these charges are in addition to any other damage claims available to the Owner (Liquidated Damages, Breach of Contract, etc, as described within the Contract Documents).

14. **MONTHLY DBE REPORTING.** The Contractor shall submit monthly Disadvantaged Business Enterprise (DBE) reports. The Contractor shall use Form 208 *Subcontractor/Supplier DBE Project Expenditure Report* as included within this Specification. The report shall be submitted regardless if any DBE participation took place during the period indicated. In general, Form 208 is to be submitted with the Contractor's Periodic Cost Estimate, but the form must be submitted monthly, even if no Periodic Cost Estimates are submitted.

The Contractor shall continually monitor their DBE participation on the Project. If it appears that the actual DBE participation will be lower than indicated in the Contractor's DBE Letter of Intent, the Contractor shall promptly provide written notification, and indicate just reason for the change. The Contractor shall further provide additional Good Faith Effort documentation that effort was made to replace this DBE participation as outlined in the Division 1 – Referenced Documentation.

Monthly DBE reports will be required prior to the acceptance of any Periodic Cost Estimate

DIVISION 2 – SPECIAL PROVISION/SUPPLEMENTAL GENERAL PROVISIONS

(PCE). Retainage for the Project will not be released until all Project monthly DBE reporting documentation has been submitted to and approved by the Engineer.

15. COORDINATION OF CONTRACT DOCUMENTS.

- (a) General. The various sections of the Contract Documents are essential parts of the Contract; a requirement occurring in one is as binding as though occurring in all. The Contract Documents are complementary and intended to describe and provide for a complete work product. In case of discrepancy, precedence of the Contract Documents will be determined in the following order:

Contract Document Order of Precedence

1. Project Permits. In the event of a conflict between permit requirements, the more protective or stringent shall take precedence as determined by the Engineer.
2. Contract
3. FAA Required Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects
4. Special Provisions – Supplemental General Provisions
5. Other Special Provisions documents.
6. Invitation to Bid and Instruction to Bidders
7. FAA – Technical Specifications
8. FAA – General Provisions
9. Tweed-New Haven Airport General Provisions
10. Contract Plans
 - a. Calculated or Stated Dimensions
 - b. Scaled Dimensions
11. Cited Standards for Materials or Testing
12. Cited FAA Advisory Circulars and Orders
13. Any Other Specifications Adopted by Reference

Addendum, Request for Information responses and Field Issued Sketches items take on the precedence of the item they are revising or the section into which they are added.

- (b) No Advantage from Errors or Omissions in Contract Documents. Neither the Contractor nor the Owner shall take advantage or be afforded any benefit as the result of apparent error(s) or omission(s) in the Contract Documents. If either party discovers error(s) or omission(s), it shall immediately notify the other. Failure of a bidder to notify the Owner or apparent error(s) or omission(s) in the Contract Documents during the bid process may result in their bid being determined to be non-responsive.
- (c) Corrections to Contract Documents. The Engineer will make corrections and interpretations deemed necessary and appropriate to fulfill the intent of the Contract Documents. When there is an apparent absence or mention of a detail or an apparent omission of a detailed description in the Contract Documents, the detail or description shall be interpreted/understood/determined using the best general engineering and

DIVISION 2 – SPECIAL PROVISION/SUPPLEMENTAL GENERAL PROVISIONS

construction practice.

- (d) Effect of Other Specifications/Standards. Other specifications (e.g. ASTM, NDS, CRSI, ACI) cited by reference shall become effective only if the work or material covered by them is not included in the Contract Documents. Specifications so referenced shall be the latest revision in effect on the date of advertisement for bids.

16. BID VALID PERIOD. No bids may be withdrawn by the Bidder prior to the date listed in the Invitation to Bid.

17. SPECIALTY ITEMS. The following items are considered “Specialty Items” in this project:

a. None anticipated.

18. GENERAL SURETY REQUIREMENTS:

The Proposal Surety shall be as specified in the Invitation to Bid; only the Bid Bond as bound within these documents or a Cashier's Check is acceptable. Upon request of the bidder, the Owner may choose to accept the AIA Bid Bond form. Each separate Proposal shall be accompanied by a Cashier's Check or Proposal Bond on the form provided herein in the amount of Five Percent (5 %) of the total amount bid, made payable to the Owner. If a Proposal Bond is provided in lieu of a Cashier's Check, it must be accompanied by a Surety's Bond Affidavit indicating that the person signing the bond on behalf of the Surety has full legal authority to do so.

If a Surety Bond is provided, the Surety Company issuing the bond shall be listed on the current United States Department of the Treasury “Department of the Treasury’s listing of approved Sureties (Department Circular 570)” as authorized to do business in the **State of Connecticut**. Bids submitted without Bid Security will be rejected as nonresponsive.

100% Contract Payment and 100% Performance Bonds shall be as specified in Section 30-05 of the General Provisions, and must be accompanied by a Surety's Bond Affidavit indicating that the person signing the bond on behalf of the Surety has full legal authority to do so. The Surety Company issuing the bond shall be listed on the current United States Department of the Treasury “Department of the Treasury’s listing of approved Sureties (Department Circular 570)” as authorized to do business in the **State of Connecticut**. These Bonds are required from the Contractor guaranteeing that the Contract, including the various guarantee periods thereunder, will be faithfully performed and that Contractor will promptly make payment to all persons supplying them labor, materials, supplies, and services used directly or indirectly by the Contractor in the prosecution of the work provided for in the Contract.

If, at any time after the execution of the Contract and the Contract Bonds, as above required, the Owner deems the Surety or Sureties upon such Bond or Bonds is unsatisfactory, or if, for any reasons, such Bond or Bonds cease(s) to be adequate to cover the performance of the work or prompt payment as above specified, Contractor shall, at its expense and within fifteen (15) days written notice from the Owner to do so, furnish additional Bond or Bonds in such form and amount and with such Surety and Sureties as shall be satisfactory to the Owner. In such event, no further payment to the Contractor shall be deemed due under the Agreement until such new or additional bond or bonds are furnished in a manner and form satisfactory to the Owner.

The Bidder to whom the Contract is awarded must deposit with the Owner at the date of substantial completion of the Contract a Maintenance Surety Bond in a sum equal to Fifteen Percent (15%) of the adjusted Contract amount at completion of work, guaranteeing against

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defective workmanship and materials for a period of one (1) year from the date of substantial completion. The bond shall be in the form acceptable to the Owner and the Surety Company issuing the bond shall be listed on the current United States Department of the Treasury “Department of the Treasury’s listing of approved Sureties (Department Circular 570)” as authorized to do business in the **State of Connecticut**. The Contractor shall be responsible for obtaining and maintaining the Bond in force from the date of substantial completion until the expiration of the one (1) year maintenance period.

19. **RETAINAGE.** The Retainage Percentage for this project, as defined in Division 1 – FAA General Provisions Section 90-06 Partial Payments, shall be no more than **Ten Percent (10%)** based on the maximum percentage allowed.

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PART B – FAA REQUIRED CONTRACT PROVISIONS CLAUSES

ORIGINAL REFERENCE DOCUMENT:

Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects
(Current as of May 24, 2023 revisions)

Link: https://www.faa.gov/airports/aip/procurement/federal_contract_provisions/may_2023

1. ACCESS TO RECORDS AND REPORTS

(This section must be incorporated in all construction contracts and subcontracts)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-2

2. NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION

(This section must be incorporated in all construction contracts and subcontracts that exceed \$10,000.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-3

Required to provide Form 100 *Affirmative Action Certification* as part of the Bidder's Certifications.

3. BREACH OF CONTRACT TERMS

(This section must be incorporated in all construction contracts and subcontracts that exceed \$150,000.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-4

See “Termination of Contract” and “Termination of Contract for Convenience” in this section.

4. BUY AMERICAN PREFERENCE

(This section must be incorporated in all construction contracts and subcontracts)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-5

Required to provide Form 101 *Certificate of Buy American Compliance for Construction Products* as part of the Bidder's Certifications.

Required to provide Form 205 *Contractor/Subcontractor/Supplier Buy American Certification* as part of the Submittal Process.

FAA Buy American Reference Info: https://www.faa.gov/airports/aip/buy_american/
(Including detailed explanation of Waiver Process and Buy American Conformance Lists)

Required Documentation

The FAA Buy American Requests. All applications (requests) for an FAA Buy American Preference Waiver includes, at minimum, a completed Content Percentage Worksheet and Final Assembly Questionnaire. Additional information may be requested from the applicant by the FAA. Airport Sponsors, consultants, construction contractors, or equipment manufacturers are responsible for completing and submitting waiver applications. The FAA is unable to make a determination on waiver requests with incomplete information. Sponsors must confirm with the bidder or offeror to assess the adequacy of the waiver request and associated information prior to forwarding a waiver request to the FAA for action. All FAA waivers forms are available from the FAA Buy American Requirements webpage.

Proprietary Confidentiality. Exemption 4 of the Freedom of Information Act protects "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential. Proprietary manufacturing and design information submitted to the Federal Aviation

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Administration for the purposes of receiving a Buy American Waiver shall not be disclosed outside the FAA. The FAA will provide a written notification to the Airport Sponsor, manufacturer(s), contractor(s) or supplier(s) when a waiver determination is complete.

Timing of Waiver Requests. Sponsors desiring a Type 2 waiver should submit their waiver request, with justification, before issuing a solicitation for bids or a request for proposal for a project.

The Sponsor must submit a Type 2, Type 3, or Type 4 waiver request prior to executing the contract. The FAA will generally not consider waiver requests after execution of the contract except where extraordinary and extenuating circumstances exist.

The Buy American Notice of Determination (NOD) Process. The FAA Reauthorization Act of 2018 requires that all approved waivers must be posted to the FAA’s website and remain posted for public comment for 10 days, before becoming effective. All FAA waivers must complete the NOD process. Sponsors are encouraged to wait until approved waivers become effective before executing AIP projects.

Buy American Conformance Lists. The FAA Office of Airports maintains listings of projects and products that have received a waiver from the Buy American Preference requirements for project specific and nationwide use. Each of these conformance lists is available online at www.faa.gov/airports/aip/buy_american/. Products listed on the FAA Nationwide Buy American Conformance list do not require additional submittal of domestic content information. Nationwide waivers expire five years from the date issued, unless revoked earlier by the FAA.

5. **CIVIL RIGHTS – GENERAL**

(This section must be incorporated in all construction contracts and subcontracts)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-11

6. **CIVIL RIGHTS – TITLE VI ASSURANCES**

(This section must be incorporated in all construction contracts and subcontracts)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-11

7. **CLEAN AIR AND WATER POLLUTION CONTROL**

(This section must be incorporated in all construction contracts and subcontracts that exceed \$150,000.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-14

8. **CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

(This section must be incorporated in all construction contracts and subcontracts that exceed \$100,000.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-15

9. **COPELAND “ANTI-KICKBACK” ACT**

(This section must be incorporated in all construction contracts and subcontracts that exceed \$2,000.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-16

10. **DAVIS-BACON REQUIREMENTS**

(This section must be incorporated in all construction contracts and subcontracts that exceed \$2,000.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-17

11. **DEBARMENT AND SUSPENSION (NON-PROCUREMENT)**

(This section must be incorporated in all construction contracts and subcontracts that exceed \$25,000.)

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Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-22

Required to provide Form 102 *Certification of Offeror/Bidder Regarding Debarment* as part of the Bidder's Certifications.

12. DISADVANTAGED BUSINESS ENTERPRISE

(This section must be incorporated in all construction contracts and subcontracts.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-20

Required to provide Form 103 *Proposed DBE Utilization* as part of the Bidder's Certifications.

Required to provide Form 104 *Subcontractor/Supplier DBE – Letter of Intent* as part of the Bidder's Certifications.

Required to provide Form 105 *Prime Contractor – DBE Reporting Information Form* as part of the Bidder's Certifications.

Required to provide Form 106 *Subcontractor/Supplier – DBE Reporting Information Form* as part of the Bidder's Certifications.

13. DISTRACTED DRIVER

(This section must be incorporated in all construction contracts and subcontracts that exceed \$3,500.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-25

14. PROHIBITION OF CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

(This section must be incorporated in all construction contracts and subcontracts.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-26

15. EQUAL EMPLOYMENT OPPORTUNITY

(This section must be incorporated in all construction contracts and subcontracts that exceed \$10,000.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-27

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

(This section must be incorporated in all construction contracts and subcontracts.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-33

17. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

(This section must be incorporated in all construction contracts and subcontracts that exceed \$100,000.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-34

Required to provide Form 107 *Certification Regarding Lobbying* as part of the Bidder's Certifications.

18. PROHIBITION OF SEGREGATED FACILITIES

(This section must be incorporated in all construction contracts and subcontracts that exceed \$10,000.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-35

Required to provide Form 108 *Prohibition of Segregated Facilities* as part of the Bidder's Certifications.

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19. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

(This section must be incorporated in all construction contracts and subcontracts.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-36

20. PROCUREMENT OF RECOVERED MATERIALS

(This section must be incorporated in all construction contracts and subcontracts that exceed \$10,000.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-37

21. RIGHT TO INVENTIONS

NOT APPLICABLE TO THIS CONTRACT.

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-38

22. SEISMIC SAFETY

ONLY APPLICABLE TO BUILDING CONSTRUCTION CONTRACTS.

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-39

23. TAX DELINQUENCY AND FELONY CONVICTIONS

(This section must be incorporated in all construction contracts and subcontracts.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-40

Required to provide Form 109 *Certification of Offeror/Bidder Regarding Tax Delinquency and Felony Convictions* as part of the Bidder's Certifications.

24. TERMINATION OF CONTRACT

(This section must be incorporated in all construction contracts and subcontracts that exceed \$10,000.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-41

25. TRADE RESTRICTION CERTIFICATION

(This section must be incorporated in all construction contracts and subcontracts.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-43

26. VETERAN'S PREFERENCE

(This section must be incorporated in all construction contracts and subcontracts.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-45

27. DOMESTIC PREFERENCE FOR PROCUREMENT

(This section must be incorporated in all construction contracts and subcontracts.)

Refer to Division 1 – FAA Required Contract Provisions for AIP Projects Section – Page RCP-46

PART C – GENERAL AVIATION CLAUSES

1. FORMS

The Special Provisions Section of these Specifications references most of the forms as provided in Division 1 and Division 2 of the Contract which are required for use during the project and referenced throughout the Contract Documents. Most of the forms have been assigned unique form numbers to assist the Contractor in locating the correct form. After award of the Contract, the Prime Contractor may request electronic copies of some or all the forms contained in Division 1 and Division 2.

2. SHOP DRAWINGS AND SUBMITTALS

- 2.1. Submittals shall include but not be limited to: shop drawings, schedules, samples, and manufacturer's literature as required by the Specifications or requested by the Resident Engineer.

No work shall be fabricated until such approval has been received. Work performed without shop drawing approval is at the Contractor's own risk.

- 2.2. All submissions shall include Form 206 "CONTRACTOR SUBMITTAL FORM" as a cover sheet to the submittal information.

For submittals generated from Subcontractors, two (2) submittal forms are required, one (1) Form MJ-206 from the Contractor and one (1) Form 207 "SUBCONTRACTOR SUBMITTAL FORM" from the Subcontractor.

Submittals received without the completed submittal form(s) will be returned to the Contractor as incomplete and not reviewed. Contractor submittal forms shall be printed on colored paper of the Contractor's choice and shall remain the same color throughout the project.

Contractor submittal Forms 206 and 207 are provided in Division 1 "Contract Execution Forms" as referenced above.

- 2.3. Submissions made directly by Subcontractors will not be accepted. All business concerning approval will be conducted through the Contractor.

The Contractor shall submit for the approval of the Resident Engineer, the following number of submittal copies:

Single Digital Copy (Which is the preferable method)

The Contractor may submit Submittals via email, or other Engineer approved method, using Adobe Acrobat (.pdf) format. In the event that Submittals are submitted via email, it shall be the Contractor's responsibility to ensure that the Submittal is received by the Engineer.

If Hard Copies of Submittals are used:

- Four (4) copies for the Resident Project Representative/Engineer
- Plus the number of copies required by the Contractor/Subcontractor

- 2.4. Submissions shall be made sufficiently in advance of construction requirements to allow ample time for checking, resubmitting and rechecking without causing delay in the work. Failure to submit shop drawings in a timely manner shall not be considered as a valid reason for a Contract time extension.

- 2.5. Each submission, including the submission of Subcontractors shall be checked by the Contractor

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for accuracy and compliance with the Contract Documents. The certification on the submittal form shall constitute as evidence of such checking and coordination. Submissions without this certification will not be considered for review by the Resident Project Representative.

Submittal certification shall include one (1) of the following:

2.5.1. Submitted "as specified" for the product

2.5.2. Submitted "AS EQUAL" to the product specified

2.5.3. Submitted "IN SUBSTITUTION" for the product specified

2.5.4. "OTHER"

- A. Submitted "as specified" shall mean the Contractor is certifying that the submittal item or system is of the same manufacture and model number, or performance standard as specified and is in all ways identical to the Contract Documents in form and function. For these items, manufacturer's data sheets shall be attached to the Contractor submittal form.
- B. Submitted "AS EQUAL" to the product or system specified shall mean the Contractor is certifying the proposed submittal, although supplied by a manufacturer other than the one specified for the item meets or exceeds the physical requirements, function, specifications, quality, speed, reliability, service life, safety, and/or maintenance costs of the product specified, and is capable of being incorporated into the overall project without design revisions and will perform equally or better than the specified item. For these items, manufacturer's data sheets shall be attached to the Contractor submittal to demonstrate that the performance, durability and/or maintenance standards of the product are as specified.
- C. Submitted "IN SUBSTITUTION" to the product or system specified means the Contractor is proposing an item or system of different physical requirements, specifications, quality, reliability, and/or maintenance costs, than the product specified. For a submission "IN SUBSTITUTION" of the product or system specified, the following information and procedure shall be followed to determine if the Owner's requirements will be satisfied:
 - a. Design the system to meet or exceed the operational requirements, physical requirements, specifications, quality, reliability, maintenance costs, and ease of operation of the specified system.
 - b. Submit full Specifications for the system and all components in the form of shop drawings for review by the Owner and the Engineer.
 - c. Submit a revised design for the system, stamped by a licensed Professional Engineer within the state in which the work is to be performed.
 - d. Submit revised details for any and all components of the proposed system that are different than those of the specified system. A licensed Professional Engineer within the state in which the work is to be performed shall stamp details.
 - e. Demonstrate the proposed system to the satisfaction of the Owner and Engineer.
 - f. Reimburse the Engineer at the rate of \$200.00 per hour for Project Managers and \$150.00 per hour plus expenses for Project Engineers for all time spent reviewing, discussing and otherwise being involved with the substitute system. The payment shall be made based on an estimate of the time required and shall be paid in

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advance of the review. If the estimated amount is exceeded, additional amounts must be provided by the Contractor for the review to continue. Upon completion of the review, a summary invoice will be provided to the Contractor indicating the hours spent and amount billed. Any money not spent on the review will be returned to the Contractor.

- g. Provide a credit satisfactory to the Owner for any cost savings associated with the substitution. The Contractor should anticipate providing a credit equal to one-half of the cost differential between the specified system and the system proposed for substitution.

Acceptance of any alternate item or system will be at the discretion of the Owner. Upon acceptance or rejection of a system or component thereof, the Engineer shall provide a written response to the Contractor in the form of a shop drawing review.

- D. Submitted Certified as "OTHER". The Contractor shall provide information to demonstrate the proposed item or system will satisfy the design intent and provide the Owner performance, reliability and maintenance ease over its anticipated service life that exceeds that of the specified product. The final determination of suitability shall be the sole responsibility of the Owner.

- 2.6. Changes on the submitted shop drawings that deviate from the Project Plans and Specifications must be brought to the Owner's and Resident Project Representative's attention, in writing, prior to review. Changes must be clearly visible on the shop drawings in the form of written notation, ballooning, or highlighting the intended change. A written description for the proposed change must also be included and submitted on company letterhead. Changes to drawings and details not submitted in accordance with these requirements will not be recognized as an approved deviation from the Design of Record. Construction repairs, renovations, or replacements required as a result of shop drawing and submittal deviations that are not documented in accordance with these requirements are subject to removal and/or replacement by the Contractor, at the sole cost of the Contractor. The Contractor shall not be relieved of responsibility for errors or omissions in shop drawings, product data, samples or similar submittals by the Resident Project Representative's actions.
- 2.7. Shop drawings for pipe, fittings, and masonry items shall consist of certificates of conformance or affidavits from the manufacturer's signifying that all materials conform to the Specifications.
- 2.8. The Contractor shall allow for sufficient time within the project schedule for shop drawing review and processing. Items requiring long lead times which impact the start or completion of the project shall be identified, brought to the Engineer's attention and noted on the shop drawing submission. Additional Contract time will not be provided for failure to submit shop drawings for approval in a timely manner.
- 2.9. The Owner reserves the right to back charge the Contractor for expenses incurred in reviewing and returning incomplete shop drawings. Expenses shall include the costs of the Engineer at the rate of \$200.00 per hour for Project Managers and \$150.00 per hour plus expenses for Project Engineer's for the actual time incurred. The Contractor will be provided documentation of the expenses incurred. Contractor back charges will be deducted from payments due to the Contractor.
- 2.10. The Contractor shall submit all required Buy American Preferences documentation with each shop drawing as outlined in Appendix Y of FAA Order 5100-38D (AIP Handbook) dated

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February 26, 2019 (or current version) included in this Contract Document (Division 1 – Referenced Documents) and as required by the Owner or the Resident Project Representative. Delays caused by the Buy American Preferences program shall be expected and the Contractor agrees to make no monetary claim for delays, interferences or hindrances of any kind in the performance of this Contract occasioned by any act or omission to act of the Owner or any of its Representatives.

Each shop drawing and submittal shall be accompanied by a signed copy of Form MJ-205 “Contractor / Subcontractor / Supplier Buy American Certification.” A blank copy of this form is included in Division 1 - “Contract Execution Forms” Section referenced above.

3. DISADVANTAGED BUSINESS ENTERPRISE (DBE) AND SMALL BUSINESS PROGRAMS

The **Tweed-New Haven Airport Authority** for the **Tweed-New Haven Airport (SPONSOR)** has established a DBE program in accordance with 49 CFR Part 26 (Part 26) and the U. S. Department of Transportation (USDOT) regulations.

3.1. DBE PROGRAM:

It is the policy of the **SPONSOR** to help ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in FAA - assisted contracts. It is also our policy:

- To help ensure nondiscrimination in the award and administration of FAA - assisted contracts;
- To create a level playing field on which DBEs can compete fairly for FAA - assisted contracts;
- To help ensure that the DBE program is narrowly tailored in accordance with applicable law. To help ensure that only firms that fully meet Part 26 eligibility standards are permitted to participate as DBE firms;
- To help remove barriers to the participation of DBEs in DOT assisted contracts;
- To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and,
- To help ensure that all firms, from prime contractors to subcontractors, understand and respect their obligations relative to all aspects of the DBE program, and that deviations from the requirements of the regulation may be subject to applicable state and federal enforcement sanctions

The **SPONSOR** has delegated a DBE Liaison Officer. In that capacity, they are responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the **SPONSOR** in its financial assistance agreements with the Department of Transportation. A Copy of the **SPONSOR’s** – “DBE Program” is on file at the **SPONSOR’s** administrative offices.

The **SPONSOR** has chosen to have a Race-Neutral DBE program for federal fiscal year 2023. A Race-Neutral program is one where the Airport works to create a level playing field where all firms, including DBE’s and small businesses, can compete for work. A Race-Neutral DBE program does not include project specific DBE goals.

Although Contractors do not have a project specific goal for DBE participation on a Race-Neutral project, Contractors must still comply with the requirements of 49 CFR Part 26 and the

DIVISION 2 – SPECIAL PROVISION/SUPPLEMENTAL GENERAL PROVISIONS

AIP Federal Contract Provisions contained in Division 1 – FAA Required Contract Provisions for AIP Projects.

Some of these FAA Required Contract Provisions for AIP Projects requirements include:

- i. Seeking Subcontractors and Suppliers: Bidders must make a good faith effort to provide notice to all firms, including small businesses and DBE's, of upcoming opportunities to supply materials or subcontract on federally funded projects. Some examples of good faith efforts would be: contacting all firms on the state DBE or minority contractor listing to notify them of opportunities; compiling lists of firms that have previously shown an interest in working on federally funded projects and contacting them when bidding projects; using services like Construction Summary to advertise for suppliers and subcontractors; and before the start of the "bidding season" place ads in newspapers and on the company web site to solicit letters of interest from firms.

Despite the fact that there is no project specific DBE goal for this project, the Contractor must still utilize the Good Faith Effort guidelines and procedures in 49 CFR Part 26 including Appendix A.

- ii. Prompt Payment: Prime Contractor can level the playing field for all Subcontractors and Suppliers by paying them promptly for satisfactory completion of their work. Contractors are encouraged to pay Subcontractors and Suppliers as quickly as possible. **Contractors are required to pay all Subcontractors and Suppliers in accordance with the Prompt Payment** clause stated in this Division 1 – FAA Required Contract Provisions for Obligated Sponsors and Airport Improvement Program Projects – Disadvantaged Business Enterprise Section.
- iii. Identification of DBE and Small Business Contractors Included in the Bid: The Prime Contractor is required to provide the anticipated DBE and Small Business utilization that is included in their bid. Form 103A "Proposed Disadvantaged Business Enterprise (DBE) and Small Business Utilization – Race Neutral Projects" or Form 103B "Proposed Disadvantaged Business Enterprise (DBE) and Small Business Utilization – Race Conscious Projects" must be filled in and included with the Prime Contractor's bid. The form must include the percentage of DBE participation and Small Business participation that the Prime Contractor anticipates achieving for the project. The form must include the name, proposed work, and dollar amount of the work that the DBE or Small Business will be providing.

For each DBE or Small Business listed on Form 103A/103B, the Contractor must also submit a copy of Form 105 "Prime Contractor – DBE/Small Business Reporting Information Form" (if the Prime Contractor is a DBE or Small Business) or 106 "Subcontractor / Supplier DBE / Small Business Reporting Information Form" with detailed information on the firm.

As part of the bid opening, the Contractor must submit signed copies of Form 104 "Subcontractor / Supplier Disadvantaged Business Enterprise (DBE) and Small Business – Letter of Intent" for each DBE or Small Business firm listed in on Form 103A/103B.

- iv. DBE and Small Business Termination and Substitution: Contractors must utilize the all DBE and Small Business Subcontractors and Suppliers for the work and for the payment amount listed in their bids. The work or payment amount of DBE and Small Business Subcontractors and Suppliers may not be reduced, switched to a different contractor, or eliminated unless a written request is made to the Owner and the Owner approves the change.

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If a substitution or a change in the work or payment amount of DBE and Small Business Subcontractors and Suppliers is requested, the work or payment shall be shifted to another DBE or Small Business Subcontractor or Supplier. Any change or substitution of subcontractors, suppliers, or joint venture partners requires the approval of the Owner. **The Contractor shall submit a copy of Form 210 “Change of Subcontractor/Supplier” to the Engineer to request permission to change or substitution of subcontractors, suppliers, or joint venture partners.** If another DBE or Small Business Subcontractor or Supplier cannot be found by the Contractor, they must provide documentation of Good Faith Effort as outlined in 49 CFR Part 26 including Appendix A.

The DBE and Small Business termination or substitution process is complicated and time consuming. The Contractor is not entitled to any contract time extensions as a result of the process. The Contractor may not make any delay claims against the Owner nor will the Contractor be entitled to receive any additional compensation due to the termination or substitution of a Subcontractor or a Supplier.

Failure to comply with the requirements of this section may result in the Contractor’s termination for cause.

- v. Commercially Useful Function: DBE’s and Small Businesses must perform a commercially useful function as defined by 49 CFR Part 26 to be counted in the calculation of DBE or Small Business accomplishments. In particular, DBE’s and Small Businesses may not use any of the Prime Contractor’s employees, equipment, or materials in the performance of their work.
- vi. Calculating DBE Participation: The Contractor shall consult 49 CFR Part 26 and understand the way DBE participation is counted on FAA funded projects such as this project. Only DBE’s certified by the State’s Identified Unified Certification Program shall be considered as DBE’s for this project (refer to Part A – Section 1 of this Special Provision/Supplemental General Provisions for DBE Directory location). DBE firms that are certified in other states and firms that think that they may be eligible to be certified as a DBE in this state are encouraged to contact the Project Locations State Agency/Department to be included in that State’s Unified Certification Program.
- vii. List of Potential Subcontractors and Suppliers: All bidders shall provide information on all firms that they contacted or considered as a potential Subcontractor or Supplier on this project. The Contractor shall provide a copy of Form BC3 – Bidder’s Proposed List of Subcontractors and Suppliers, in addition to the requirements outlined above for DBE subcontractors/suppliers. **This information must be provided with the Contractor’s bid.** Failure to provide this information with the bid may result in the Owner declaring the bid non-responsive and rejecting it.
- viii. Construction Phase Information (Daily Worker List): During the on-site construction work, the Prime Contractor shall instruct all their employees as well as all employees of all subcontractors and other on-site personnel to sign in each day at the Contractor’s office trailer. In addition, the Contractor shall provide the Resident Project Representative with a daily list of workers and equipment on site.

3.2. SMALL BUSINESS PROGRAM:

It is the policy of the **SPONSOR** to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation in federally funded projects,

DIVISION 2 – SPECIAL PROVISION/SUPPLEMENTAL GENERAL PROVISIONS

including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

A Small Business is defined in 49 CFR Part 26.5 and 13 CFR Part 121 and the average annual gross receipts can, in some cases, be over \$19 million.

A DBE is typically also a Small Business and, if they qualify as both, they may be counted toward both the DBE and Small Business participation on this project.

The Contractor shall make all reasonable efforts to eliminate obstacles to small business participation in making portions of their work available to subcontractors. Methods that may be used include unbundling large tasks, using small business and DBE directories to solicit proposals from small businesses, and making all potential subcontractors and suppliers aware of prompt payment clauses contained in this project.

4. SUBLETTING WORK TO SUBCONTRACTORS AND SUPPLIERS OR ASSIGNMENT OF CONTRACT

- 4.1. **GENERAL:** The Contractor shall not sublet, assign, sell, transfer, or otherwise dispose of the Contract or any portion thereof, or of its right, title, or interest therein to any individual, firm, corporation, or other entity without the written consent of the **SPONSOR**. The Contractor must file with the **SPONSOR** copies of all executed subcontracts and other documents. An approved subcontractor shall not in turn sublet or assign any of the work pertaining to the subcontract without the Contractor obtaining further permission from the **SPONSOR**. In no event shall the **SPONSOR** approval release the Contractor from responsibility and liability under the Contract and bonds.

Any work or material supply that costs \$10,000 or more and is included in this project that the Prime Contractor wants to sublet to another firm must be approved by the **SPONSOR** in writing. Any Subcontractors or Suppliers that will be doing work or supplying material that is sublet and approved by the **SPONSOR** must have a signed contract with the Prime Contractor or a lower tier Subcontractor or Supplier before they may begin work or deliver material to the project site. The **SPONSOR** reserves the right to reject the use of any Subcontractor or Supplier that they feel is not in best interests of the **SPONSOR**.

The Contractor must file the Forms outlined in subsection 4.5 of this Section (below) to obtain the SPONSORS' permission to utilize subcontractors and suppliers.

- 4.2. **PERFORMANCE OF THE CONTRACT WORK:** The Contractor shall perform Contract work with its own organization amounting to at least **25 percent** of the total Contract work amount, minus "Specialty Items." The Contractor's own organization includes only workers employed and paid directly by the Contractor and equipment owned, leased, or rented by it from a non-debarred individual or entity, with or without operators. The term "own organization" does not include employees or equipment of a subcontractor, assignee, agent, or supplier of the Contractor. When determining whether the Contractor is in compliance with this requirement, the following shall apply:
- (1) The cost of materials and manufactured products to be purchased or produced under the Contract shall be included in the amount upon which the percent requirement is computed.
 - (2) The percentage of subcontracted work shall be based on the Contract, rather than subcontract, unit prices. If only a part of a Contract item is to be sublet, its proportional value shall be determined on the same basis.

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- (3) When a firm sells materials to a Contractor and performs the work of incorporating the materials into the project, these actions must be considered in combination and as constituting a single subcontract.
- 4.3. **“SPECIALTY” ITEMS:** The cost of “Specialty Items” may be deducted from the total Contract price before computing the amount of work required to be performed by the Contractor’s own organization. Specialty items will be designated, as such in Part A, Section 17 of this Special Provision/Supplemental General Provision and may be performed by subcontract.
- 4.4. **PERFORMANCE REQUIREMENTS:** The Contractor and its subcontractor(s) shall, in the staffing and administration of the Contract, comply with the following performance requirements:
- (1) Commercially Useful Function. The Contractor and all subcontractor(s) must each perform a “commercially useful function”. This means that the Contractor or Subcontractor is responsible for the execution of a distinct element of the work of a Contract and carries out its responsibilities by actually performing, managing, and supervising the work involved. The Contractor or Subcontractor must have the latitude to independently:
- a. Select contracts to be bid;
 - b. Determine prices to be quoted;
 - c. Select material suppliers;
 - d. Hire, fire, supervise, and pay employees; and
 - e. Direct or cause the direction of the management and policies of the firm.
- The Contractor/subcontractor may not broker work for another firm or act as a bidding conduit.
- (2) Contractor to Furnish Competent Representative; Safety Officer; Others. To ensure that any subcontracted work is performed in accordance with the Contract requirements, the Contractor shall be required to furnish:
- a. A competent, reliable, English-speaking representative employed by the Contractor who has full authority to direct performance of the work in accordance with the Contract requirements and who is responsible for all construction operations on the project regardless of who performs the work.
 - b. A competent, reliable, English-speaking employee designated as the safety officer who is authorized to receive orders and to issue binding directions concerning safety to all persons except Sponsor representatives associated with the project, whether employed by the Contractor, subcontractors, or material suppliers.
 - c. Such other individual(s) from the Contractor’s organization as the SPONSOR’s Construction Engineer determines are necessary to ensure the performance of the Contract, e.g., supervisory, managerial and engineering personnel.
- (3) Employees on Payroll. The Contractor/subcontractor is not permitted to place on the payroll the employees of another firm for the purpose of avoiding Federal or State regulations or the provisions of the Contract.
- 4.5. **SUBLETTING WORK TO SUPPLIERS:** Suppliers that the Contractor or a lower tier Subcontractor or Supplier plans to sublet work to must be approved by the **SPONSOR**. The Prime Contractor must submit a package of information to the **SPONSOR** through the Resident

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Project Representative at least fourteen (14) calendar days prior to the date that the supplier will be supplying material to the project site.

The Supplier Sublet package shall include the following correctly filled out and executed forms:

- i. Form 204 – “Transmittal Request for Consent to Sublet”;
- ii. Form 202 – “Contractor Acknowledgement Certification”;
- iii. Form 203 – “EEO Officer Notification and Program Compliance Certification”;
- iv. EEO Appointment Letter;
- v. EEO Policy Statement;
- vi. Form 106 – “Subcontractor/Supplier – DBE/Small Business Reporting Information Form”; and
- vii. Form 108 – “Prohibition of Segregated Facilities”.

- 4.6. **SUBLETTING WORK TO SUBCONTRACTORS:** Subcontractors that the Contractor or a lower tier Subcontractor or Supplier plans to sublet work to must be approved by the **SPONSOR**. The Prime Contractor must submit a package of information to the **SPONSOR** through the Resident Project Representative at least fourteen (14) calendar days prior to the date that the supplier will be supplying material to the project site.

The Subcontractor Sublet package shall include the following correctly filled out and executed forms:

- i. Form 204 – “Transmittal Request for Consent to Sublet”;
- ii. Form 201 – “Annual Contractor Assurances – AIP Funded Contracts”;
- iii. Form 202 – “Contractor Acknowledgement Certification”;
- iv. Form 203 – “EEO Officer Notification and Program Compliance Certification”;
- v. EEO Appointment Letter;
- vi. EEO Policy Statement;
- vii. Form 100 – Affirmative Action Certification - “Equal Employment Opportunity Report Statement as Required by 41 CFR 60-1.7(b)”.
- viii. Form 106 – “Subcontractor/Supplier – DBE/Small Business Reporting Information Form”; and
- ix. Form MJ-108 – “Prohibition of Segregated Facilities”.

Form MJ-201 must be resubmitted by the Prime Contractor and each Subcontractor annually by January 15th.

5. PROOF OF PROMPT PAYMENT

Prompt payment of suppliers and subcontractors is required as outlined in Section 3, Subsection 3.1, paragraph ii. from above in this Part C.

With each Periodic Cost Estimate (PCE), the Prime Contractor shall provide proof of payment of all Subcontractors and Suppliers whose work was included in the previous PCE. Proof of payment shall consist of a copy of a cancelled check or a certificate of payment signed by the Subcontractor or Supplier. The Owner may provide the Contractor with one or more forms to be filled out and returned

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to the Owner to monitor and track payments.

To track work by Subcontractors and Suppliers, the Prime Contractor shall submit copies of Form MJ-208 “Subcontractor / Supplier Disadvantage Business Enterprise (DBE) and Small Business – Project Expenditure Report” for EVERY approved Subcontractor and Supplier with each PCE even if the Subcontractor or Supplier did not do any work on the project or supply any materials to the project during the period covered by the PCE.

If the Contractor is in violation of this prompt payment requirement, the Owner may withhold the amount due to the Subcontractor or Supplier from future payments due to the Contractor until satisfactory proof of payment is received. If the Contractor is in violation of this prompt payment requirement four (4) or more times, the Owner may terminate the Contract for cause and/or may require the Contractor to pay some or all of their Subcontractors or Suppliers and provide proof of payment before the Subcontractor’s or Supplier’s work can be included on a PCE.

6. EQUAL EMPLOYMENT OPPORTUNITY (EEO) / AFFIRMATIVE ACTION (AF) / NON-DISCRIMINATION

The Offeror's or Bidder’s attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth in Division 1 and also referenced in Part B. Section 17, in this Special Provision/Supplemental General Provision. The Contractor and all Subcontractors and Suppliers shall comply with the EEO, AF, and Non-Discrimination requirements in the “Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects” contained in Division 1 documentation, 41 CFR 60-4 (two sections are contained in Division 1 Referenced Documents), and Federal Executive Order 11246. If the federal requirements and the state requirements conflict, the federal requirements shall govern. Requirements include, but are not limited to:

6.1. **SF-100:** The Contractor and all first tier Subcontractors must file SF-100 (EEO-1) by September 30th of each year but in no case later than the start of this project if they employ 50 or more employees at all locations and they have contracts of \$50,000 or more. The Contractor shall confirm these requirements prior to the start of work.

6.2. **MINORITY AND FEMALE EMPLOYEE PARTICIPATION:** The Contractor and all Subcontractors must comply with 41 CFR Part 60-4 and Federal Executive Order 11246 in regards to goals for minority and female employees in federally funded projects. Participating Contractors and Subcontractors must:

- i. Take specific actions as outlined in 41 CFR Part 60-4 to ensure EEO;
- ii. Have an EEO / AF Plan;
- iii. Designate an EEO / AF Officer;
- iv. Periodically notify and train supervisors and others on the Plan;
- v. Recruit minorities and females;
- vi. Maintain EEO / AF records;
- vii. Develop or participate in on-the-job training programs;
- viii. Disseminate their Plan;
- ix. Post their Plan;

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- x. Annually evaluate all minorities for promotion; and
 - xi. Annually review supervisors' adherence to their Plan.
- 6.3. 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 contained in the Invitation for Bids.

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 shall 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.

- 6.4. The Contractor shall provide written notification to the US Department of Labor, Director, 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 subcontract; and the geographical area in which the subcontract is to be performed.
- 6.5. As used in this notice and in the contract resulting from this solicitation, the "covered area" is noted in Division 1 – FAA Required Contract Provisions, Page RCP-3.

7. MATERIALS, SERVICES, AND FACILITIES

It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor shall provide at no cost to the Owner all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete, and deliver the work for the specified item.

Any work to be performed after regular hours, on Sundays or on Legal Holidays, shall be performed without additional expense to the Owner. This includes but is not limited to paying for additional Resident Project Representative time cost incurred by the Owner.

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8. CONTRACTOR'S TITLE TO MATERIALS

No materials or supplies for the work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The Contractor warrants that he /she has good title to all materials and supplies used by him/her in the work free from all liens, claims or encumbrances.

9. LUMP SUM AND UNIT PRICES

Only those items for which unit prices are shown in the Bid Form will be considered for separate payment. Compensation for all other work shall be included in the appropriate Contract items.

Quantities listed in the Bid Form are estimated for Bidding purposes only and do not necessarily represent the exact amount of work to be done. Payment for unit price items will be based on the unit prices specified or Bid and the actual amount of work performed.

10. "OR EQUAL" CLAUSE

Whenever materials are identified on the Plans or in the Specifications by reference to manufacturer's or vendors' names, trade names, catalogue numbers, etc., it is intended merely to establish a standard; and any material of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the materials so proposed are, in the opinion of the Engineer, of equal substance and function. Such materials shall not be purchased or installed by the Contractor without the Engineer's written approvals through the Shop Drawing process.

11. REPRESENTATIONS OF THE CONTRACTOR

The Contractor represents and warrants:

- a. that they are financially solvent and that they are experienced in and competent to perform the type of work or to furnish the plant, materials, supplies or equipment, to be so performed or furnished by him/her; and
- b. that they are familiar with all Federal, State, municipal and Sponsor laws, ordinances and regulations, which may in any way affect the work or those employed therein, including but not limited to, rulings or actions specifically relating to the work or to the project of which it is a part; and
- c. that such temporary and permanent work provided by the Contract Documents as is to be done by them can be satisfactorily constructed and used for the purpose for which it is intended, and that such construction will not injure any person or damage any property; and
- d. that they have carefully examined the Plans, Specifications and site of the work, and that from their own investigations, they have satisfied themselves as to the nature and location of the work, the character, quality and quantity of equipment and other facilities needed for the performance of the work, the general and local conditions and all other materials which may in any way affect the work or its performance.

12. PROTECTION OF WORK AND PROPERTY AND EMERGENCIES

12.1. **PROTECTION OF WORK AND PROPERTY:** The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this Contract. The

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Contractor shall at all times safeguard and protect their own work and adjacent property from damage. The Contractor shall correct any such damage, loss or injury unless such is caused directly by errors contained in the Contract or caused by the Owner, or the Owner's duly authorized representative.

- 12.2. **EMERGENCIES:** In case of an emergency which threatens loss or injury of property, and/or safety of life, the Contractor will be allowed to act, without previous instructions from the Resident Project Representative, in a diligent manner. The Contractor shall notify the Resident Project Representative immediately thereafter. Any claim for compensation by the Contractor due to such extra work shall be promptly submitted to the Resident Project Representative for approval.

The amount of reimbursement claimed by the Contractor on account of any emergency action shall be determined in the manner provided in Division 1, General Provisions, Section 40.

Where the Contractor has not taken action but has notified the Engineer of any emergency threatening injury to persons or damage to the work or any adjoining property, the Contractor shall act as instructed or authorized by the Resident Project Representative.

Where the Contractor has not taken action but has notified the Engineer of any emergency threatening injury to persons or damage to the work or any adjoining property, the Contractor shall act as instructed or authorized by the Resident Project Representative.

Any Contractor whose place of business is located outside of the boundary of the city or town where the airport is located and who does not maintain local headquarters 24 hours a day within that city or town must make satisfactory arrangements with the Engineer for taking care of emergencies or complaints which may occur at night, over the weekend, or when the job is shut down. If they do not, the Owner may make arrangements and the cost will be charged to the Contractor. Before the final estimate is certified for payment, the Contractor shall make similar arrange

- 12.3. **COVID-19 RESTRICTIONS:** The Contractor shall comply with all requirements of the Federal Government, FAA, General State Guidelines, other State Regulations, local regulations, and the **SPONSOR** related to protection of workers and the public from COVID-19. This may include maintaining additional facilities, like hand-washing stations, at the work area and quarantining workers traveling into SPONSOR's work zones. All costs for the Contractor's compliance with COVID-19 requirements shall be considered incidental to the project and shall be the full responsibility of the Contractor.

13. PROTECTION AND RESTORATION OF PROPERTY

- 13.1. **GENERAL:** These requirements are in addition to those contained in Division 1 - FAA General Provisions, Section 70.

The Contractor shall:

- (1) Not enter upon private property for any purpose without obtaining written permission;
- (2) Use every precaution necessary to prevent damage or injury to public and private property;
- (3) Protect all trees, shrubs, and other plants not marked by the Engineer for removal from damage by construction operations.

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- 13.2. **PROTECTION OF EXISTING INFRASTRUCTURE:** The Contractor shall make sure that any portions of the existing airport, roadway and existing structures which are to be retained for public use or travel are left in as good condition as when the Contractor commenced work. The Contractor shall not move or use equipment on any pavement or structure in a manner that may or does cause damage.
- 13.3. **CONTRACTOR'S RESPONSIBILITY:** The Contractor's responsibility shall not be released until the work has been completed and accepted and the applicable statute of limitations has expired.
- 13.4. **RESTORATION OF DAMAGED PROPERTY:** When any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the work or in consequence of the non-execution thereof on the part of the Contractor, such property shall be restored at the Contractor's expense to a condition similar or equal to that existing before such damage or injury was done or the Contractor shall make good such damage or injury in an acceptable manner.
- 13.5. **CLEANING TRAFFIC SIGNALS, STREET LIGHTING, AND AIRFIELD LIGHTING:** When the Contractor's operations compromise the functionality of existing traffic signals and/or street or airfield lighting equipment, the Engineer may require the Contractor to clean said equipment prior to project completion. Cleaning of traffic signals shall include all vehicle and pedestrian signal face lenses (inside and outside). Further, the inside of the controller cabinet shall be vacuumed and any vent filter shall be replaced; cleaning of streetlights shall include both the lens (inside and outside) and the reflector. The cleaning of electrical equipment shall be done by a traffic signal/electrical contractor. Any equipment that is damaged in the cleaning process shall be repaired or replaced at the Contractor's expense. The costs for cleaning will not be paid for directly, but will be considered incidental to other items in the Contract.
- 13.6. **GROUND VIBRATION LIMITS:** The maximum Peak Particle Velocity (PPV) of ground vibration in any of the three mutually perpendicular components of particle velocity for the following structure types shall be limited as follows:

PPV IN MM/S (IN/SEC)

<u>Type of Structure</u>	<u>Frequencies < 40 Hz</u>	<u>Frequencies > or = 40 Hz</u>
Modern Homes (drywall interior)	19 (0.75)	50 (2.0)
Older Homes (plaster on wood or lath)	13 (0.50)	50 (2.0)
Non-Residential Structures Underground Utilities		

The SPONSOR reserves the right to lower the PPV limit in areas where there may be structures or elements with a higher sensitivity to ground vibration. Adherence to this specification does not waive the Contractor's responsibility for damage as specified in this Subsection and in Part B. Section 22 Seismic Safety (as applicable).

14. PUBLIC CONVENIENCE AND SAFETY

- 14.1. **GENERAL:** The Contractor shall conduct all work so as to ensure the least possible

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obstruction to traffic. The safety and convenience of the general public and the residents along the highway within the construction area and the protection of persons and property shall be provided for by the Contractor.

- 14.2. **DUST CONTROL:** The Contractor shall use all necessary dust control on haul road(s) and maintenance yard(s) in the same manner as required for materials sources and disposal areas. Dust control on haul road(s) and maintenance yard(s) shall be performed in accordance with Division 1, General Provisions, and will not be paid for directly, but will be considered incidental to all other Contract items. The Contractor shall perform all dust control directed by the Engineer on the haul road(s) and/or maintenance yard(s); unless otherwise provided, dust control will not be paid for directly, but will be considered incidental to all other Contract items.

The Engineer will direct the use of all necessary dust control within the limits of the construction performed under the Contract. Under those contracts which contain pay items for dust control, the dust control within the construction area shall be performed in accordance with the requirements of Division 1 – General Provisions (and other references herein) and will be paid for under the appropriate Contract item(s). Under those contracts which do not contain pay items for dust control, the necessary dust control shall be performed in accordance with the requirements of Division 1 – General Provisions (and other references herein) and the cost will not be paid for directly, but will be considered incidental to all other Contract items.

- 14.3. **STORED MATERIALS:** Materials stored within the construction area shall be placed so as to cause a minimum obstruction to the facility users, the traveling public and snow removal operations. Materials shall not be store in any areas regulated by State or Federally Environmental Agency or in buffers unless approved by the Resident Project Representative.
- 14.4. **FIRE HYDRANTS:** Fire hydrants located within the construction area shall be kept accessible to fire apparatus at all times and no material or obstruction shall be placed within 15 feet of any such hydrants.
- 14.5. **ADJOINING WAYS:** Sidewalks, gutters, drainage inlets, and portions of highways adjoining the construction shall be obstructed only when necessary. If a sidewalk is obstructed, temporary pedestrian access meeting the requirements of ADA and the MUTCD shall be provided around the obstructed area.
- 14.6. **VEHICLE LANE RESTRICTIONS:** When the total useable width of a traveled way will be decreased to 14 feet or less for a period longer than one working day, the Contractor shall notify the Engineer of the date of the first day and the anticipated period of time such a lane restriction will be in effect. This notification shall be provided at least two weeks prior to the beginning of the lane restriction so that the Engineer may provide proper notification to the Oversized/Overweight Section of the Commercial Vehicle Enforcement Unit of the Department of Motor Vehicle and the Agency's Communications Section. When the date of the removal of the restriction becomes known, the Contractor shall notify the Engineer so that notification can be provided to these entities.

15. USE OF EXPLOSIVES

- 15.1. **GENERAL:** The Contractor shall use the utmost care to protect life and property and, whenever directed by the Engineer, shall reduce the number and size of explosive charges. Blasting mats shall be used when required by regulation or deemed necessary. The Contractor

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- shall notify each person, company, corporation, or public utility that owns, leases, or occupies property or structures near the site of the work of plans to use explosives; notice shall be given sufficiently in advance to enable people to take such steps to protect their property or structure from injury as they may deem necessary. Provision of notice shall not relieve the Contractor of responsibility for any damage resulting from the Contractor's blasting operations. All persons within the danger zone of blasting operations shall be warned, a warning whistle shall be sounded, and the zone cleared just prior to blasting. A sufficient number of flaggers shall be stationed outside the danger zone to stop all approaching traffic during blasting operations. Explosives shall be used only during daylight hours and shall be handled only by competent, trained workers; particular care shall be taken to ensure that no unexploded charges remain in the work area unattended and when constructions operations cease for the day. All explosives shall be stored securely, all storage locations shall be clearly marked "DANGEROUS-EXPLOSIVES," and all storage locations shall be supervised and controlled by a competent, trained person at all times. All explosives and highly flammable materials shall be stored and used in strict conformity with all Federal, State, and local laws, rules, and regulations. Attention is directed to VOSHA *Safety and Health Standards for Construction*, Subpart U, Blasting and the Use of Explosives.
- 15.2. **LIABILITY:** Each of the insurance policies required for a project shall include coverage for injury to persons and injury or destruction of any property arising out of the storage and use of explosives.
- 15.3. **INSURANCE:** The Contractor acknowledges full responsibility and assumes full liability for any and all damage or injury to persons or property caused either directly or indirectly by the Contractor's or a subcontractor's use of explosives. The liability of the Contractor shall apply equally to damages or injury to persons or property whether said injury or damage occurs within or outside of the right-of-way. The cost of all precautionary measures shall not be paid for directly, but all costs therefore shall be included in the bid prices for the pay items under the Contract.
- 15.4. **BLASTING CAP DANGER:** The Contractor and/or the Contractor's agents shall take all precautions necessary to prevent premature explosions of electric blasting caps individually or when they are connected into a circuit.
- 15.5. The Contractor and/or the Contractor's agents acknowledge and are hereby advised of the potential hazard of a premature explosion of electric blasting caps due to propagation of radio frequency energy by transmitters of radio and the related radio services such as television and radar. Mobile and fixed radio, cellular telephone, radar, television, and related transmitters are in general use in the project area, including police departments, fire departments, political subdivisions, utility companies, commercial carriers, private and public enterprises, and individuals.
- 15.6. **WARNING SIGNS; COSTS INCIDENTAL:** Prior to blasting operations the Contractor shall install warning signs in conformance with the MUTCD. Warning signs shall be located in prominent positions at least 1,200 feet from the point of blasting and visible to any person approaching the blasting point. Payment for furnishing, erecting and maintaining warning signs shall be considered incidental to other items in the Contract.
- 15.7. **DOCUMENTATION OF STRUCTURE CONDITION:** It shall be the responsibility of the Contractor to document the existing condition of all structures that have potential for

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damage. This documentation shall be in the form of a video or pictures, with sufficient description, and shall be supplied to the Engineer prior to any blasting on the project. The costs of preparing this documentation will not be paid for directly, but shall be considered incidental to all Contract items.

- 15.8. **BLAST SURVEYS:** The Contractor shall monitor all blasts and provide a report to the Engineer that shall indicate the Peak Particle Velocity (PPV) of the blast. The PPV sensitivity as reported shall range from less than 0.5 mm/s (0.02 in/s) to more than 125 mm/s (5.0 in/s). The Engineer reserves the right to request more than one instrument to monitor the blasting if there is a need for monitoring in more than one direction from the blasting area. The costs of the monitoring and preparing the reports will not be paid for directly, but shall be considered incidental to all Contract items.

16. PROTECTION AND RESTORATION OF UTILITIES AND SERVICES

- 16.1. **GENERAL.** The Contractor shall take proper precaution during construction to avoid damage to public and private services. These services include, but are not limited to gas, water, sewer and drainage pipes, springs, wells, septic tanks, cesspools, telephone, telegraph, television, and other communication and electrical services. Services may be located on or adjacent to the project, above, on, or under the ground, and may not be shown on the Plans.
- 16.2. **DIG-SAFE.** The Contractor shall comply with the requirements of Dig-Safe laws in the state in which the work will take place.
- 16.3. **NOTICE OF WORK.** At commencement or resumption of construction, the Contractor shall notify the owners, operators, occupants, or lessees of all the public or private services of any work to be done on, over, under, adjacent to, or in proximity to said utilities during the construction of the project. Further, the Contractor shall again notify the aforesaid parties seven (7) to fourteen (14) calendar days in advance of starting such work to enable them to take steps as they may deem necessary to protect their property or structures from damage. Provision of notice shall not relieve the Contractor of its responsibility for any damages resulting from the Contractor's work.
- 16.4. **OWNER ACCESS.** Owners, employees, or agents of public or private services located within the project limits shall be allowed free and full access with the tools, materials, and equipment necessary to install, operate, maintain, place, replace, relocate, and remove service facilities. No compensation will be paid to the Contractor for any inconvenience caused by working with these parties or around or with their services.
- 16.5. **SERVICE RELOCATION.** The exact location of any service facility relocated within the project limits shall be as directed by the Engineer.
- 16.6. **COOPERATION.** The Contractor shall cooperate with the owners of any of the aforementioned services in order that the service removal and/or relocation operation will progress in a reasonable manner, that duplication or temporary relocation work may be reduced to a minimum, and that services rendered by the concerned parties will not be unnecessarily interrupted.
- 16.7. **SERVICE INTERRUPTION.** If in connection with the work interruption in service occurs, the Contractor shall promptly notify the owner or the owner's authorized representative and

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cooperate with the owner to promptly restore service. In no case shall interruption to water or sewer service be allowed to exist outside of normal working hours without the substitution of acceptable alternate service.

- 16.8. **FIRE HYDRANTS.** No work shall be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority.
- 16.9. **RESPONSIBILITY FOR DAMAGE.** The Contractor shall be responsible for all damages done to services from the beginning of construction to the satisfactory completion of the project, including all damages to water supplies and sewage systems, including but not limited to damage to springs and wells, septic tanks, cesspools, and underground pipes, whether located within or outside the project area or whether or not shown on the Plans, except as otherwise provided in the Contract.
- 16.10. **WATER; INVESTIGATION OF CLAIMS.** The SPONSOR will receive and investigate all claims relating to damage to springs, wells, and water supply systems. The Contractor will be notified of the results of the investigation. If it is determined that the damage is the responsibility of the State or the SPONSOR, the Contractor will not be liable and will be reimbursed by the State or SPONSOR for expenses incurred in providing temporary water service and repairing the damage.
- 16.11. **RESTORATION OF SERVICE BY AGENCY.** If the Contractor fails to restore a service or to make good on a damage or injury to service(s), the Engineer may proceed to repair, rebuild, or otherwise restore the service as deemed necessary and the cost thereof will be deducted from any monies due, or which may become due, the Contractor under the Contract.

17. RESPONSIBILITY FOR DAMAGE CLAIMS

These requirements are in addition to those contained in Division 1, FAA General Provisions, Section 70-11.

- 17.1. **GENERAL.** The SPONSOR shall notify the Contractor in the event of any claim or suit pursuant to the items listed in Division 1, FAA General Provisions, Section 50-16, and the Contractor shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit.

After a final judgment or settlement the Contractor may request recoupment of specific defense costs and may file suit in the Court having jurisdiction, requesting recoupment. The Contractor shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Contractor.

The Contractor shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Contractor.

- 17.2. **SUBMISSION OF DAMAGE CLAIMS.** With regard to each and every damage claim, the Contractor shall:
- (1) Provide the claimant with a damage claim form for the submission of damage claims to the Contractor and Agency;

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- (2) Pay, settle, or otherwise resolve the claim;
- (3) Submit the claim to the insurance carrier, with a copy to the Agency;
- (4) Treat all claimants with respect.

18. SCHEDULES.

These requirements are in addition to those contained in Division 1, FAA General Provisions, Section 80.

PM PROGRESS SCHEDULE: Within ten (10) calendar days after the Award of the Contract, the Contractor shall submit to the Engineer for approval a CPM progress schedule. The CPM progress schedule shall show the proposed sequence of work and when the Contractor proposes to complete the various items of work within the time(s) established in the Contract. During the progress of the work, the Contractor shall confer with the Engineer concerning performance of the work in accordance with the approved schedule. The approved schedule shall be used as a basis for establishing major construction operations and for checking the progress of the work.

19. CHARACTER OF WORKERS, METHODS, AND EQUIPMENT

ADD the following two (2) paragraphs to the end of Section 80-05 “CHARACTER OF WORKERS, METHODS, AND EQUIPMENT” of the Division 1, FAA General Provisions:

“Electrical Work. All electrical work shall be performed by or under the supervision of a licensed electrician (master or journeyman). Electrical work shall be defined as any work which involves making connections to electrical components or splices in wiring that are, or will be, carrying 100 V or more. “Under the supervision of” means that the licensed electrician employed on the project shall be physically present on the project and must be actively supervising the work.

Removal of Machinery and Equipment. The Contractor shall not remove from the project any item of machinery or equipment after it has been placed on the project without the prior consent of the Engineer, which consent shall not be unreasonably withheld. Reasonableness shall be tested by the needs of the project and not by the needs of any other project in which the Contractor may be engaged.”

20. DEFINITIONS.

The following definitions SHALL REPLACE the definitions of the same name in Division 1, FAA General Provisions, Section 10:

10-16 CONTRACT. A written agreement between the Owner and the Contractor that establishes the obligations of the parties including but not limited to performance of work, furnishing of labor, equipment and materials and the basis of payment.

The Contract includes those documents listed as Contract Documents in the Supplemental General Provisions, and any supplemental agreements that are required to complete the work in an acceptable manner.

10-19 CONTRACTOR. The individual, partnership, firm, or corporation primarily liable for the acceptable performance of the work contracted and for the payment of all legal debts pertaining

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to the work who acts directly or through lawful agents or employees to complete the contract work. The term “Contractor” means the prime Contractor as differentiated from a subcontractor. All Contractors must be registered with the Secretary of State. The Contractor will act in an independent capacity and not as officers or employees of the Owner.

10-60 SURETY. The individual, partnership, firm, or corporation, or any acceptable combination thereof, other than the Contractor, executing the bond or bonds furnished by the Contractor. The Surety Company issuing the bond(s) shall be listed on the current United States Department of the Treasury “Department of the Treasury’s listing of approved Sureties (Department Circular 570)” as authorized to do business in the State in which the project is located.

The following definitions shall be ADDED to the definitions in Division 1, FAA General Provisions, Section 10 in the:

10-67 ACCEPTANCE. All Contracts require proper acceptance of the described goods or services by the Owner. Proper acceptance shall be understood to include inspection of goods and certification of acceptable performance of services by Authorized Representative(s) of the Owner to insure that the goods or services are complete and are as specified in the Contract.

10-68 AIRPORT OPERATOR. The person or entity representing the Owner and having operational responsibility for the Airport.

10-69 CONTRACT DOCUMENTS. All the documents that comprise the awarded Contract as defined in Item 10-13 of this Section.

10-70 GOODS. Hard goods, supplies, or materials.

10-71 HE, SHE, HE/SHE, HER, HERS, HIS/HER, HIM, AND HIS. These terms shall be gender-neutral and shall be applied without regard to gender.

10-72 SUBCONTRACTOR. An individual or legal entity to whom or which the Contractor sublets part of the work. A Supplier can also be considered a Subcontractor.

10-73 SUPPLIER. An individual or legal entity with which the Contractor enters an agreement to provide Goods for use in the Project.

21. CLAIMS FOR ADJUSTMENT

21.1. NOTICE REQUIREMENTS: In order to bring a claim for additional compensation not clearly covered by the Contract for conditions substantially different than represented by the Contract and not ordered by the Engineer as Extra Work as defined herein, the Contractor must provide written notice (“the Notice of Intent to File a Claim” or the “Notice”) to the Engineer before conducting any work or purchasing any materials subject to the claim (the “Claim”). The words “Notice of Intent to File a Claim” must appear in large print at the top of the document. The Notice must specify the basis for the Claim, including the nature of the Claim, the reason why the Contractor believes that the Owner is responsible for payment of the Claim, and a description of the additional compensation, including reference to each activity associated with the work and/or materials, including reference to any impacts to the Contractor’s Progress Schedule (Critical Path). If the Contractor fails to provide the Notice as specified herein, the Contractor waives its right to bring the Claim under the Contract.

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- 21.2. **NOTICE DOCUMENTATION REQUIREMENTS:** Upon providing the Notice of Intent to File a Claim, the Project Superintendent must commence daily records for all labor hours, equipment hours (idle and operating), and materials involved with the work or materials at issue in the Notice. The Contractor must submit such records to the Engineer on a daily basis. Such records must include a written analysis of how the work and/or materials at issue in the Notice impact/s the Critical Path. If the Contractor fails to provide such records to the Engineer as required herein, the Contractor waives its right to bring the Claim.
- 21.3. **CLAIMS PROCEDURE:** The Engineer's written acknowledgement of the Notice and receipt of the Contractor's daily reporting under this Subsection shall not be construed as an approval by the Owner of the merits of the Claim. Claims are evaluated by the Resident Project Representative, the Owner, the FAA, and any other agency contributing funding to the project. If the Owner decides in favor of the Contractor, the Claim will be allowed, in whole or in part, and paid as provided in the Contract. If the Owner denies the Claim, in whole or in part, the Contractor may appeal to the Owner one time for review of the decision. Notwithstanding any other provision of law, case law, regulation, or the Contract, an appeal from the decision of the Engineer shall be made within 30 calendar days of denial, and not thereafter.
- 21.4. **CLAIMS DOCUMENTATION REQUIREMENTS:** The Contractor must provide the Engineer with the following documentation in support of the Claim:
- (1) A detailed statement of the Claim, including all necessary dates, location, and work and material items at issue in the Claim;
 - (2) The date on which the Contractor first became aware of the actions or conditions giving rise to the Claim;
 - (3) A copy of the Notice of Intent to File a Claim;
 - (4) A list of the names of all Owner employees and agents, including consultants, the Contractor believes have knowledge or information concerning the facts giving rise to the Claim;
 - (5) A list of the names of all Contractor employees and agents, including subcontractors, whom the Contractor believes have knowledge or information concerning the facts giving rise to the Claim;
 - (6) A list of the specific provisions of the Contract that the Contractor believes support the Claim, and a description of why the Contractor believes those provisions support the Claim;
 - (7) A list of all documents and all oral statements that the Contractor believes support the Claim;
 - (8) A statement as to whether additional compensation and/or a time extension are being requested in the Claim;
 - (9) If a time extension is being requested in the Claim, a statement as to the specific number of days being requested, supported with reference to how the facts underlying the Claim affected the Contractor's performance schedule, including how such facts affected the Critical Path;
 - (10) A description of the amount of additional compensation being sought, itemized by category of work, including delays associated with performing the work, work items,

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materials costs, and any and all other costs at issue in the Claim. Such documentation includes, but is not limited to, invoices for rented equipment, a Blue Book analysis for owned equipment; and subcontractor agreements.

- (11) If additional compensation for delays associated with performing the work is included in the Claim, the Contractor must provide a description of the operations that were delayed, the reasons for the delay, the impact of the delay on the operations, and how the delay impacted the Contractor's progress schedule, including the Critical Path. The Contractor must review the Contract for the project as claims for delays must be in accordance with the Contract terms.
- (12) For every claim seeking additional compensation in excess of \$50,000, the Contractor must provide a separate document certifying that the documentation provided in support of the Claim and that the amount of additional compensation sought in the Claim is accurate and that the Contractor has a good faith basis for believing that the Owner is responsible for payment of the Claim (the "Claims Certification"). The Claims Certification shall be notarized and executed by a senior officer of the Contractor with legal authority to bind the Contractor, or if the Contractor is a sole proprietor, by the proprietor. The Claims Certification may be used in any proceeding under the False Claims Act, 18 U.S.C. 1020, and/or 23 CFR 635.119.

21.5. APPEAL TO THE OWNER (SPONSOR): Appeals will be judged by the SPONSOR (Owner), in accordance with their policies. Should an appeal be judged in favor of the Contractor, it will be allowed and paid as provided for in the Contract. Should an appeal be denied by the SPONSOR (Owner), the Contractor may not appeal this claim again.

21.6. TIME FOR CLAIMS; APPEALS. Notwithstanding any other provision of law, case law, regulation, or the Contract, all claims by the Contractor shall be submitted in writing within thirty (30) calendar days after the Acceptance Date of the project or within thirty (30) calendar days of the Notice of Intent to File a Claim, whichever occurs first, and not thereafter (the "Claim Filing Period"). Such claims must meet the requirements set forth above, including but not limited to complete documentation supporting the Claim. If the Contractor fails to meet these requirements, the Owner may grant the Contractor additional time to meet the requirements. Any additional time granted for such purpose shall not be the subject of any demand for interest payments or for attorneys' fees and/or other costs. If the Contractor fails to file the Claim within the Claim Filing Period, the Contractor waives its right to bring the Claim. If the disputed work continues to be performed beyond the Claim Filing Period, the Contractor must submit a written request to extend the Claim Filing Period prior to the expiration of the Claim Filing Period. The Contractor shall submit such requests for extension of the Claims Filing Period every thirty (30) calendar days until the disputed work is completed.

22. INSPECTION BY OWNER AND PUBLIC AGENCIES

The authorized representatives and agents of the Owner (SPONSOR) shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records. Representatives of the Owner (SPONSOR) shall have access to the work wherever it is in preparation or progress and the Contractor shall provide facilities for such access and inspection.

23. REPORTS, RECORDS AND DATA

The Contractor shall submit to the Owner such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data, as the Owner may request concerning work

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performed or to be performed under this Contract.

24. GENERAL GUARANTEE

Neither the final certificate of payment nor any provision in the Contract Documents nor partial or entire occupancy of the premises by the Owner shall constitute an acceptance of work not done in accordance with the Contract Documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall remedy any defects in the work and pay for any damage to other work resulting there from, which shall appear within a period of one year of the date of final acceptance of the work unless a longer period is specified. The Owner will give notice of observed defects with reasonable promptness.

25. NOTICE AND SERVICE THEREOF

Any notice to any Contractor from the Owner relative to any part of this Contract shall be in writing and considered delivered and the service thereof completed when said notice is posted, by certified or registered mail, or by documented express packaging (UPS, Fed-Ex or other express shipping) to the said Contractor at their last given address, or delivered in person to said Contractor or their authorized representative.

26. PRE-CONSTRUCTION CONFERENCE

A Pre-construction Conference shall be held. The purpose of this conference is to go over the Contractor's proposed job organization, equipment and preliminary work schedule and to review Specification requirements. The order of construction shall be discussed with the Engineer and shall meet with their approval. The Contractor, prior to starting work, shall submit to the Engineer a written description of the methods they plan to use in doing the work.

A pre-construction conference for permitting may also be required by the Owner or the project permits. This may be concurrent with the regular pre-construction conference or separate at the discretion of the Owner.

27. REQUIRED PROVISIONS DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion or correction.

28. RECORD "AS BUILT" PLANS

In addition to any other requirements in the Plans and Specifications pertaining to "As-Built" Plans and surveys:

- 1) The Contractor shall, during the progress of the work, keep a master set of prints on the job site, on which they shall keep a careful and neat record of all deviations from the Contract Plans prepared by the Engineer which are made during the course of the work.
- 2) Upon completion of the project, these "as built" prints shall be certified as to their correctness by the signature of the Contractor and turned over to the Engineer for use in the preparation of a permanent set of "As Built" Plans.

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29. AIRPORT OPERATIONS AND SAFETY REQUIREMENTS DURING CONSTRUCTION

The Contractor's attention is directed to the FAA Advisory Circular (AC) 150/5370-2G, OPERATIONAL SAFETY ON AIRPORTS DURING CONSTRUCTION, or version as amended or superseded. Refer to Division 2, Special Provision 2 for instructions on obtaining a copy.

As applicable, the Contractor has been provided with a copy of the Construction Safety and Phasing Plan (CSPP) as part of the Division 2 documents. If no CSPP is provided, at a minimum, there will be construction safety and phasing notes and details in the plan set. For all contracts, the Contractor must review the CSPP (AND plan notes and details) and file a Safety Plan Compliance Document Certification (Form 200) indicating that they understand the safety plan provisions and will comply with it throughout construction.

30. PERMITS AND APPROVALS

Refer to Division 2, Permits for any project specific permits that have been obtained. If there other permits to be obtained, it is the Contractor's responsibility to secure, obtain and pay for any Permits, Licenses, Approvals and all other legal or administrative prerequisites to their performance of the Contract.

31. LIABILITY OF PUBLIC OFFICIALS

To the full extent permitted by law, no official, employee, agent or representative of the Owner shall be individually or personally liable on any obligation of the Owner under this Contract.

32. OSHA TRAINING

All employees to be employed at the job site shall have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration (OSHA) that is ten (10) hours in duration at the time the employee begins work.

The Contractor shall furnish documentation of successful completion of said course by either a copy of the OSHA card or a letter or certificate of completion from the person or company that administered the course. OSHA documentation shall be provided prior to any person beginning work on the site. It is recommended that Contractors and Subcontractors provide a copy of OSHA documentation for all employees prior to the start of work.

Periodic Cost Estimates will not be accepted for payment unless all OSHA documentation has been received. Final payment for the Project will not be made until all Project OSHA cards have been submitted to and approved by the Engineer.

PART D – STATE / AGENCY / AIRPORT SPECIFIC CLAUSES

1. RESPONSIBILITY FOR DAMAGE TO WORK

Except as caused by uncontrollable events, the Contractor shall bear all risk of loss relating to the Work until Final Acceptance, regardless of cause, including completed Work, temporary Structures, and all other items or Materials not yet incorporated into the Work.

The Contractor shall, at its sole expense, rebuild, repair, restore, or replace such damaged Work or otherwise make good any losses that arise from such damage ("rebuilding, etc."). If the Contractor fails to promptly commence and continue such rebuilding, etc., the SPONSOR or the SPONSOR's Airport may, upon forty-eight (48) hours advance written notice, commence rebuilding, etc. of the damaged property without liability to the SPONSOR or the SPONSOR's Airport with its own forces or with contracted forces and all costs will be deducted from amounts otherwise due the Contractor.

2. NO DAMAGES FOR DELAY CLAUSE

Pursuant to the following Subsections of Division 1, FAA General Provisions of the Contract Documents:

50-15 "Claims for Adjustment and Disputes";

70-11 "Responsibility for Damage Claims/Indemnity/Limitation of Damages";

80-06 "Temporary Suspension of the Work"

The **SPONSOR** further amends the language of those Subsections to include the following clause and shall be in effect for this project:

Notwithstanding anything to the contrary in the Contract Documents, an extension of the Contract Time shall be the Contractor's sole remedy for:

- (1) any delay in the commencement, prosecution or completion of the Work,
- (2) any hindrance or obstruction in the performance of the Work,
- (3) any loss of productivity, or
- (4) any other similar conduct (collectively "Delays") whether or not these Delays are foreseeable, contemplated or unanticipated, unless a Delay is caused by acts or omissions of the Owner or any of its representatives or agents that constitute bad faith or constitute willful, malicious or grossly negligent conduct and then only to the extent that such acts or omissions continue after the Contractor notifies the Owner in writing that it is engaged in conduct of this nature.

In no event shall the Contractor be entitled to any compensation or recovery of any monetary damages in connection with any Delay, including, without limitation, consequential damages, lost opportunity cost, impact damages or other similar remuneration. The Owner's exercise of any of its rights or remedies under the Contract Documents (including, without limitation, ordering changes in the Work, or directing suspension, rescheduling or correction of the Work), regardless of the extent or frequency of the Owner's exercise of these rights or remedies, shall not be construed as bad faith or willful, malicious or grossly negligent conduct on the part of the Owner or any of its representatives or agents.

END OF SPECIAL PROVISION/SUPPLEMENTAL GENERAL PROVISIONS

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DIVISION 2 – SPECIAL PROVISIONS

SP-1

Construction Safety and Phasing Plan (CSPP)

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**SPECIAL PROVISION 1
CONSTRUCTION SAFETY AND PHASING PLAN
(SP-1)**

A. GENERAL

Construction Safety and Phasing Plan as submitted to FAA is attached as part of the Project Documents in Special Provisions.

The Contractor shall be responsible for controlling access to the work area and that airport security is maintained at all times. The FAA can impose fines of \$10,000 or more for security violations and incursions into active aircraft operations areas. The Contractor shall pay all fines assessed against the Airport due to violations caused by the Contractor and his/her personnel, subcontractors and vendors.

CONSTRUCTION SAFETY AND PHASING PLAN NARRATIVE

This Construction Safety and Phasing Plan (CSPP) Narrative is for the Aircraft Rescue and Firefighting (ARFF) Facility Renovations Project at the Tweed-New Haven Airport in New Haven, Connecticut.

1. COORDINATION. This section includes descriptions of design coordination efforts to date and proposed efforts during construction.

a) Scoping and Predesign Meeting: A Scoping and Predesign meeting was held. Attending this meeting were representatives from the Airport and Langan. During this meeting the general project description, planning and impacts were discussed as follows:

- Engineer's Contract
- Planning Considerations
- Design Parameters
- Document Deadlines

b) Construction Safety Phasing Plan (CSPP): A Construction Safety Phasing Plan (CSPP) was discussed with representatives from the Airport and Langan. Specific operational requirements, impacts and mitigation measures were discussed as follows:

- Anticipated Construction Season
- Construction Duration
- Construction Impacts and Operational changes
- Phasing
- Haul routes, stockpile areas, and staging areas for contractor use.

c) Pre-Bid Meeting: The CSPP will be reviewed in general with potential bidders during the pre-bid meeting.

d) Pre-Construction Conference: The CSPP will be reviewed with the contractor in detail at the pre-construction conference for the project. The contractor will be reminded to prepare and submit the required Safety Plan Compliance Document (SPCD) prior to beginning construction.

e) Contractor Progress Meetings: Progress construction meetings will be held during the duration of the construction activities. The CSPP and SPCD will be standing agenda items for these meetings. Daily coordination with the Airport Operations Manager will be mandatory and include a morning briefing of the proposed work for the day with an anticipated end time.

f) Scope or Schedule Changes: Changes in the scope or duration of the project will include a review of the Construction Safety Phasing Plan (CSPP). This review may necessitate revisions to the CSPP that will require review and approval by the Airport.

g) Phase of Work: The phasing of the work will be included with the bid documents.

2. CONSTRUCTION PHASING

To enhance safety during construction and minimize the impacts on Airport operations caused by the construction, the project is shown as three (3) Phases. CSPP drawings for each phase (Sheets KT101 through KT103) can be found attached to the end of this narrative.

Phase 1: - Expansion Bay and Driveway

- a) Duration: Eight (8) months
- b) Description: This phase includes utility installations and relocations, construction of the expansion bay, and construction of asphalt driveways and concrete aprons.
- c) Operational Impacts: Lighted barrels installed along eastern edge of existing driveway. Fire truck access to taxiway maintained at all times. Temporary closure (2 days) of the northern overhead door for utility work. Work schedule to be coordinated with Airport.
- d) Work Areas: This work area includes Phase 1 shown on sheet KT101.

Phase 2: - Driveway Connection to Taxiway

- a) Duration: Two (2) Days
- b) Description: This phase includes 2,300 sf extension of the asphalt driveway to connect to the taxiway. Work will occur within the taxiway safety area and require temporary closure of the taxiway. Work schedule to be coordinated with Airport.
- c) Operational Impacts: Temporary closure (2 days) of the taxiway for installation of encased electrical conduit and asphalt driveway. Excavation, loading and paving equipment temporarily operating within the taxiway safety area during work.
- d) Work Areas: This work area includes Phase 2 shown on sheet KT102.

Phase 3: - Utility Installations

- a) Duration: Two (2) Months
- b) Description: This phase includes installation of utility piping and equipment on the west side of the ARFF building.
- c) Operational Impacts: Temporary closure (2 days) of the existing driveway for utility piping installation. Airport to temporarily relocate fire truck outside of the project area. Crossing area to be protected with lighted barrels. Work schedule to be coordinated with Airport.
- d) Work Areas: This work area includes Phase 3 shown on sheet KT103.

3. AREAS AND OPERATIONS AFFECTED BY THE CONSTRUCTION ACTIVITY

- a) The following Areas will be affected during construction: Existing ARFF facility and operations as various phases outline above.
- b) Identification of Affected Areas: The CSPP drawings show the areas and operations affected by the construction activity.

c) Mitigation of Effects: To enhance safety and to minimize the impacts to Airport Operations:

- If the contractor wishes to have multiple crews working simultaneously in separate work areas, each work crew must be accompanied by a dedicated badged escort.
- Airport Management will coordinate the closure periods and times of affected operation areas with the Airport users to minimize the impact.
- All utilities within the work area will be maintained in a fully functional state unless otherwise specified in this CSPP. Temporary drainage will be installed, as required, to maintain existing flow patterns and prevent standing water.

4. **PROTECTION OF NAVIGATIONAL AIDS (NAVAIDS):** There will be no impact to NAVAIDS on this project.

5. **CONTRACTOR ACCESS:** The following describes the locations of stockpiles, site access, escorts, airfield driving, radio communications, and other procedures:

Stockpile and Equipment Parking Locations: The material stockpile locations and the equipment parking locations are as shown on Sheet CE101.

Site Access: The contractor will only be able to access the site through the vehicle gate as identified on Sheet CS101.

Driving on the Airfield: The contractor will be required to explicitly follow the directions of the approved escort while driving in the Airport Operations Area (AOA). The AOA is defined as the area inside of the defined perimeter fencing surrounding the Airport. Additionally, the contractor must follow the directions of Airport Air Traffic Control Tower and any Airport personnel. All movement of vehicles, outside of designated work areas must be approved by the escort or other approved personnel.

Conclusion of Work Daily: The contractor cannot leave the site until the work area has been inspected and accepted by the Airport Operator for safety compliance.

Escorts: The Contractor will be required to provide all escorts. The contractor's escort's sole responsibility will be the safety of the airfield operations and will have NO OTHER ASSIGNED DUTIES. The escorts will receive training from Airport Operations. No more than three (3) vehicles can be under the supervision of a single escort. All vehicles under the supervision of an escort must be in direct visual communication with the escort. It shall be the Contractor's responsibility to hire, have trained and have approved additional escorts if needed for this project.

Radio Communications: The Contractor, the escorts and the crossing guard will be required to monitor the tower ground radio frequency at all times during construction and will communicate directly with the ground controller for movement within the AOA which is outside of the designated work area(s).

Marking and Lighting of Vehicles: The marking and lighting of vehicles shall be in accordance with Federal Aviation Administration (FAA) Advisory Circular (AC) 150/5210-5 ("Painting, Marking, and Lighting of Vehicles Used on an Airport"). The contractor will be required to provide the following for every vehicle:

- Each vehicle/equipment must be equipped with a construction flag.
 - 3' by 3' minimum overall dimensions.
 - checked with international orange and white squares.
 - square sizes 1' minimum; and
 - corner squares shall be international orange.
- Each vehicle must be equipped with a flashing yellow beacon.
 - must be on the tallest point of the vehicle; and
 - viewable from all directions.
- Each vehicle/equipment must be equipped with a placard with the company name on both sides of the vehicle/equipment.
 - must be easily recognizable; and
 - minimum of 200 square inches.

Vehicle and Personnel Operations: No person shall enter the AOA or any other restricted area without an appropriately badged escort. For this project, there will be visual boundaries installed for each phase, unless otherwise directed by Airport Operations. If nighttime visual boundaries are required, they will be low-profile barricades. The barricades will be provided by the airport. The contractor will be required to assist Airport Operations in the placement and removal of all barricades or other visual boundaries. Only vehicles essential in completing the work will be allowed access to the AOA. The Contractor will maintain a daily log of all personnel entering and leaving the site. The contractor shall provide personnel to become badged by ACK.

Employee Parking Area: The contractor (including subcontractors) may only park in areas designated by the owner. The contractor will be required to provide transportation for all employees from the employee parking area to the work area. No employee cars may be parked within the AOA for any reason and at any time.

Haul Routes: The haul route for the work is Thompson Avenue to the vehicle gate shown on Sheet CS101.

Rules of Vehicle Operations: The following are the rules of operation and must be followed at all times.

- Prior to entry onto the Airfield, vehicles shall be inspected by the driver. All dirt and debris shall be removed from the tires that can be tracked into the Airfield. Each operator must possess a valid license for operation of the particular vehicle and may be required to furnish the license for access to the AOA.
- Motor vehicles must not be operated in a reckless and/or negligent manner, a manner that may endanger other people or property, and/or in excess of 15 miles per hour unless the posted speed limit is less.
- Aircraft always have the right-of-way. Vehicles and equipment shall always pass behind aircraft.
- All appropriate signaling devices must be used at all times and obey all traffic signs, markings, and lanes.
- Each operator must not be under the influence of drugs or alcohol.
- No cell phone use is allowed while operating any vehicle or equipment.
- Escorts are required to drive from one work area to another.

- All vehicles must have the required and proper license plates and inspection stickers.
- All vehicles must have working head and taillights which are required to be used from one hour prior to dusk and one hour after sunrise, as required by Airport Operations, times of low visibility, and/or during Instrument Flight Rules (IFR) conditions.

6. WILDLIFE MANAGEMENT: Wildlife hazards will be mitigated during construction as follows:

Trash: All construction personnel will dispose of food scraps in the appropriate containers provided by the contractor. The contractor will be required to keep a closable trash receptacle in the back of a truck with each crew.

Standing Water: No pools of standing water shall be created during construction that may attract wildlife. Any such standing water shall be immediately corrected by the contractor.

Wildlife Sightings: The contractor will be responsible for reporting any wildlife sightings to Airport Operations immediately. Airport Operations will immediately notify pilots and the air traffic control tower via the appropriate airfield frequency.

7. FOREIGN OBJECT DEBRIS (FOD) MANAGEMENT: FOD will be mitigated during construction as follows:

Training: The contractor shall provide training to all employees working within the AOA on effective FOD management. Training shall be documented and include information on the definition of FOD, consequences of FOD, FOD awareness, who is responsible for mitigating FOD, and housekeeping procedures.

Housekeeping: Prevention of FOD is the most effective form of FOD management. The contractor must monitor construction activities and proactively develop a plan to prevent FOD from occurring. Typical FOD prevention measures include the use of covered trash receptacles, covering of loads, zero tolerance of littering, no smoking in the AOA, unwrapping construction materials in a controlled environment, not opening both doors of equipment/vehicles at the same time, awareness of jet blast and propwash, and tying down items that can easily become windblown.

Trash: All construction personnel will dispose of food scraps, construction waste, boxes, paper, and other items in the appropriate containers provided by the contractor. The contractor will be required to keep a closable trash receptacle in the back of a truck with each crew.

Airfield Access: The contractor will be responsible for checking and removing dirt and debris from all tires and tracks from vehicles and equipment, including equipment on flat beds prior to entering the AOA. Additionally, flat beds shall be adequately cleaned. All materials removed shall be placed in an appropriate container and disposed of by the contractor. The contractor shall have all appropriate devices to clean any FOD from the pavement including sweepers and shop vacuums.

Smoking: Smoking will not be permitted while within the AOA.

8. **HAZARDOUS MATERIALS (HAZMAT) MANAGEMENT:** HAZMAT will be mitigated during construction as follows:

Spills: The contractor is required to have adequate spill kits capable of containing and removing leaked or spilled fuels. The contractor is required to immediately contact Airport Operations regarding all spills. The contractor will be required to pay any fines (including cleaning costs) levied against the Airport for any spill caused by the contractor.

Fueling: The contractor will only be allowed to fuel vehicles in the designated Contractor Staging area, unless authorized by the owner.

Airport Emergency Plan: In the event of an emergency event involving an aircraft the Contractor shall be required to stop work and vacate the area while following all Airport directions.

9. **NOTIFICATION OF CONSTRUCTION ACTIVITIES:** The following is the method of communication for the project.

Emergency: 911

General Contact List: The following is contact list of Airport personnel and relevant contacts:

• Airport Operations	_____
• Airport Maintenance	_____
• CT State Police (Troop I)	1-800-956-8818
• Local FAA Control Tower	_____
• Poison Control	_____
• Resident Engineer	TBD
• Contractor	TBD

FAA Notification:

7460-1 forms have been submitted for the construction of this project.

Project: _____

Aeronautical Study Numbers: _____

Notice to Airmen (NOTAMs): Airport Operations will issue all NOTAMs.

Emergency Notification: In the case of a life-threatening situation, dial **911** and then contact the Airport immediately. The Airport will coordinate any emergency response as outlined in the Airport Emergency Plan (AEP).

10. **INSPECTION REQUIREMENTS:** The following are the inspection requirements:

Airport Requirements: Airport Operations will be responsible for inspecting all areas prior to reopening to aircraft operations as well as conducting a final inspection at the completion of the project.

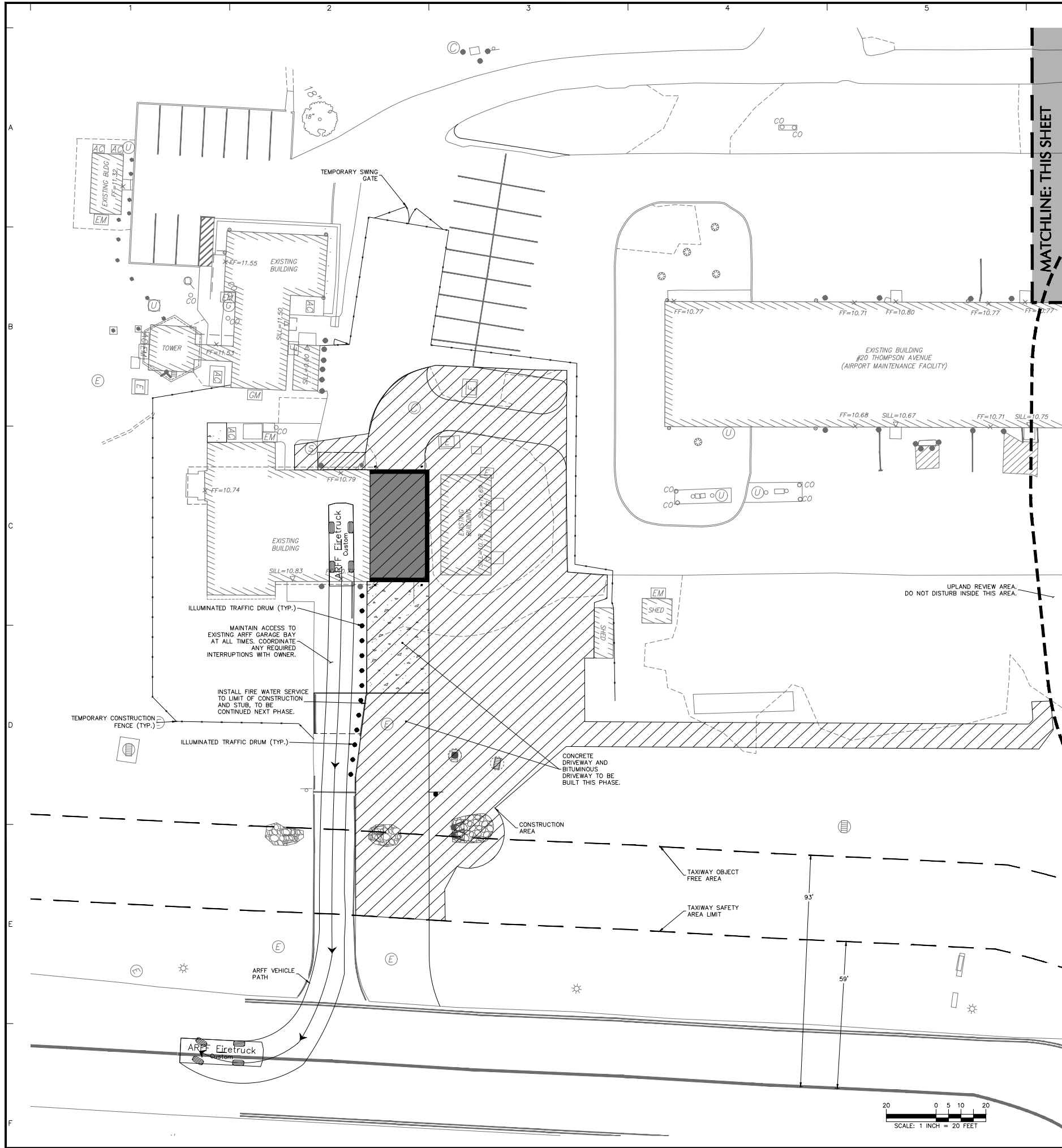
Resident Engineer Requirements: The resident engineer will conduct inspections at the end of each shift or when work progresses from one location to another location. The resident engineer will contact Airport Operations to conduct inspections as noted above. The resident engineer will attend the final inspection. In the event of any emergency the resident engineer will contact Airport Operations.

Contractor Requirements: The contractor will be required to conduct routine inspections of the work areas. The contractor may not leave the site for the day until the work areas have been approved by resident engineer.

11. **UNDERGROUND UTILITIES:** The contractor will be required to coordinate with Airport Operations, the Local FAA SSC, and Call-Before-You-Dig to determine if any underground cables exist in the work areas. The contractor shall make provisions to protect any cables identified by Airport Operations, the Local FAA SSC, or Call-Before-You-Dig. Any damage to cables identified by Airport Operations, the Local FAA SSC, or Call-Before-You-Dig shall be the responsibility of the Contractor to repair to the requirements of the Owner of the damaged utility. The Contractor shall locate or hire an experienced company to locate all utilities within each of the work areas.
12. **PENALTIES:** The following are a list of penalties for violations while working on the project:

Construction Suspension: Airport Operations will suspend all construction if a Contractor enters the AOA without the appropriate escort and approval from the CSPP.

Expulsion of Employees: The Airport may permanently prohibit any Contractor employee acting in violation of Airport rules and regulations.
13. **SPECIAL CONDITIONS:** None.
14. **RUNWAY AND TAXIWAY VISUAL AIDS:** Runway and taxiway visual aids will not be required as part of this project.
15. **MARKING AND SIGNS FOR ACCESS ROUTES:** Markings or signage will be installed as needed to delineate the access routes and all movements in the AOA by the Contractor will be under the supervision of an approved escort.
16. **HAZARD MARKING AND LIGHTING:** Vehicle marking, signage, and lighting will be as specified in Section 5.
17. **PROTECTION OF AREAS, ZONES, AND SURFACES:** No equipment will be allowed to penetrate any protected safety areas, object free zone or approach surfaces. The Contractor will be required to meet any additional requirements set by the Airport.



GENERAL NOTES

1. BOUNDARY AND TOPOGRAPHIC INFORMATION WAS OBTAINED FROM A PLAN TITLED "TOPOGRAPHIC SURVEY" FOR TWEED AIRPORT ARFF FACILITY RENOVATIONS BY LANGAN, DATED APRIL 15, 2025. COORDINATES REFERENCED TO NAD83 AND NAVD88 IN COMBINATION WITH TWEED AIRPORT PRIMARY AIRPORT CONTROLS AND SECONDARY AIRPORT CONTROLS.

2. THE SITE IS LOCATED IN A COASTAL ZONE AE (SHADED), AN AREA SUBJECT TO COASTAL FLOODING WITH MODERATE WAVE ACTION PER FIRM MAP 09009C0444J, EFFECTIVE DATE JULY 8, 2013. BASE FLOOD ELEVATION IS 12' NAVD88.

WORK AREA NOTES

PROJECT DURATION:

- ALL WORK MUST BE COMPLETED WITHIN THE 9 MONTH PROJECT DURATION

WORK ITEMS:

- INSTALL SAFETY EQUIPMENT FOR AREA CLOSURE AND MOBILIZE
- INSTALL TEMPORARY CONSTRUCTION FENCE, SWING GATE, BARRICADES, AND LOW PROFILE BARRICADES FOR PHASE 1 OF CONSTRUCTION.
- CONSTRUCT ARFF FACILITY EXPANSION. EXPAND CONCRETE DRIVEWAY, EXPAND BITUMINOUS DRIVEWAY. STRIPE AND SIGN EXPANDED DRIVEWAY, INSTALL FIRE WATER SERVICE LINE TO EXTENTS OF EXISTING PAVEMENT.
- REMOVE BARRIERS AND LOW PROFILE BARRICADES FOR PHASE 1.
- INSTALL BARRIERS FOR PHASE 2
- TRENCH REMAINDER OF FIRE WATER SERVICE LINE UNDER THE EXISTING DRIVEWAY.
- REMOVE SAFETY EQUIPMENT, TEMPORARY CONSTRUCTION FENCE, SWING GATE, AND BARRIERS.

OPERATIONAL IMPACTS:

- NONE

WORK AREA VISUAL AIDS:

- LOW PROFILE CONSTRUCTION BARRICADES WITH SOLAR POWERED RED FLASHING WARNING LIGHTS.
- BARRICADE FENCE MOUNTED, SOLAR POWERED RED FLASHING WARNING LIGHTS.

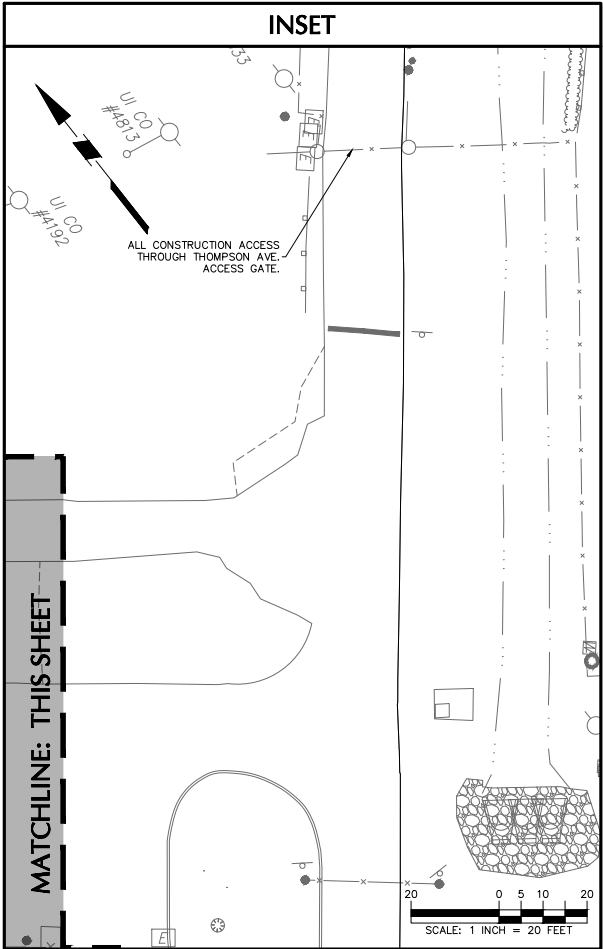
WORK HOURS:

- THE CONTRACTOR IS PERMITTED TO WORK BETWEEN 7 AM AND 5 PM UNLESS EXTENDED HOURS ARE AUTHORIZED BY THE AIRPORT.

PHASING NOTES:

- CONTRACTOR ESCORT SHALL REMAIN WITH CONSTRUCTION CREW AT ALL TIMES.
- CONTRACTOR SHALL COMMUNICATE WITH ESCORT PRIOR TO CROSSING ANY AREAS OPEN TO AIRCRAFT OPERATIONS.
- DRIVEWAY ACCESS TO THE EXISTING ARFF GARAGE BAY MUST BE MAINTAINED AT ALL TIMES.
- THOMPSON AVE. ACCESS GATE MUST REMAIN CLEAR AT ALL TIMES FOR EMERGENCY VEHICLE ACCESS.
- CONTRACTOR SHALL PROVIDE GATE GUARD TO BE STATIONED AT THOMPSON AVE. ACCESS GATE DURING WORKING HOURS.

LEGEND		
	EXISTING	PROPOSED
BUILDING LINE		
EDGE OF PAVEMENT		
CATCH BASIN		
UTILITY MANHOLE		
FIRE HYDRANT		
CONSTRUCTION AREA THIS PHASE		
LOW PROFILE BARRICADE		
CONSTRUCTION BARRIER		
TEMPORARY CONSTRUCTION FENCE		
AREAS OPEN TO AIRCRAFT		



Date	Description	No.
Revisions		
Signature		Date
Christopher Cardany PEN. 21995		
LANGAN		
Langan CT, Inc. 555 Long Wharf Drive, 9th Floor New Haven, CT 06511		
T: 203.562.5771 F: 203.789.6142 www.langan.com		
Project		
TWEED-NEW HAVEN AIRPORT ARFF FACILITY RENOVATIONS		
EAST HAVEN CONNECTICUT		
Drawing Title		
CONSTRUCTION SAFETY AND PHASING PLAN PHASE 1		
Project No.		Drawing No.
140318901		
Date		
4/30/2025		
Drawn By		
BTM		KT101
Checked By		
JDD		

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SPECIAL PROVISION 2

**FAA ADVISORY CIRCULAR 150/5370-2G
OPERATIONAL SAFETY ON AIRPORTS DURING CONSTRUCTION
(SP-2)**

**INFORMATION PROVIDED FOR REFERENCE ONLY
DOCUMENT NOT INCLUDED**

DOCUMENT AVAILABLE AT:

https://www.faa.gov/documentLibrary/media/Advisory_Circular/150-5370-2G.pdf

Contractor shall be familiar with the provisions of this document.

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