

**Contract XXXXXXXX between
San Diego County Regional Airport Authority
and
BUSINESS NAME
For
ENTER CONCISE DESCRIPTION OF SERVICES**

TABLE OF CONTENTS

	Page #
1. DEFINITIONS.....	3
2. TERM	4
3. SCOPE OF WORK	4
4. COMPENSATION	4
5. INVOICES	5
6. ACCOUNTING RECORDS	6
7. TIME IS OF THE ESSENCE	6
8. ASSIGNMENT OR TRANSFER PROHIBITED	6
9. TERMINATION	6
10. PROPRIETARY INFORMATION & SSI INFORMATION OF AUTHORITY OR TSA	7
11. AUTHORITY OWNERSHIP OF SERVICES AND WORK PRODUCT.....	8
12. INDEPENDENT CONTRACTOR.....	8
13. SUBCONTRACTORS.....	8
14. INSURANCE REQUIREMENTS.....	8
15. INDEMNIFICATION	10
16. CONFORMANCE WITH RULES AND REGULATIONS.....	11
17. PREVAILING WAGE	11
18. BANKRUPTCY	12
19. LICENSES AND PERMITS.....	12
20. CONFLICT OF INTEREST	12
21. ENTIRE UNDERSTANDING.....	12
22. NON-DISCRIMINATION	12
23. PARTIAL INVALIDITY.....	12
24. NOTICES.....	12
25. INTERPRETATION.....	13
26. JOINT AND SEVERAL LIABILITY.....	13
27. WAIVER	13
28. COST OF LITIGATION AND/OR ADMINISTRATIVE ACTIONS - ATTORNEY FEES.....	14
29. AUTHORITY'S RIGHT TO CONTRACT WITH OTHERS	14
30. EFFECT OF DEBARMENT OF CONTRACTOR ON EXISTING CONTRACTS	14
31. PROHIBITION OF BENEFITS:.....	14
32. FEDERAL AVIATION ADMINISTRATION REGULATIONS . ERROR! BOOKMARK NOT DEFINED.	
33. SIGNATURES:	31
EXHIBIT A – SCOPE OF WORK	33
EXHIBIT B – COMPENSATION & PAYMENT SCHEDULE.....	34
EXHIBIT C – INSURANCE REQUIREMENTS FOR CONTRACTOR	34

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

Contractor Agreement

This Agreement is made by and between the SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY, and **NAME OF CONTRACTOR**, a **TYPE OF BUSINESS ENTITY**. The Parties agree:

1. **DEFINITIONS:** As used within this Agreement, the following terms shall have the meanings as set forth below:

Accounting Records: any and all documents relating to invoices, costs, payment, settlement, or supporting documentation of Contractor relating to this Agreement.

Agreement: this Service and Consulting Agreement including all exhibits and attachments and executed Task Authorizations.

Airport: the San Diego International Airport.

Audit Period: the period of time from commencement of the term of the Agreement to the third anniversary of the Authority's final payment under the terms of this Agreement.

Authority: the San Diego County Regional Airport Authority, a local governmental entity of regional government, acting through its President/CEO for purposes of this Agreement.

Compensation: all monetary consideration provided Contractor pursuant to this Agreement including fees and Reimbursable Expenses.

Contractor: **Name, Type of Business Entity**, and any officers, directors, employees, agents, or volunteers of Contractor.

Design Professional: any of the following professions:

- *Architects* licensed pursuant to Chapter 3 of Division 3 of the Business and Professions Code, and a business entity offering architectural services in accordance with that chapter;

- *Landscape Architects* licensed pursuant to Chapter 3.5 of Division 3 of the Business and Professions Code, and a business entity offering landscape architect services in accordance with that chapter;

- *Professional Engineers* registered pursuant to Chapter 7 of Division 3 of the Business and Professions Code, and a business entity offering professional engineering services in accordance with that chapter; and

- *Professional Land Surveyors* licensed pursuant to Chapter 15 of Division 3 of the Business and Professions Code, and a business entity offering professional land surveying services in accordance with that chapter.

DHS: the U. S. Department of Homeland Security.

Expenses: expenditures made by Contractor in the necessary and reasonable performance of this Agreement. Expenses include costs for travel, facilities, equipment, personnel, tools, and other materials. See "Reimbursable Expenses" below.

FAA: the Federal Aviation Administration.

Non-design Professional: all professions other than Design Professionals as defined above.

Parties: the Authority and Contractor collectively.

President/CEO: the President/CEO of San Diego County Regional Airport Authority or his/her designee.

Proprietary Information: all confidential, personal, proprietary and trade secret information and materials of the Authority, or of its Board, officers, employees, or of its suppliers, vendors or customers. Proprietary Information includes, without limitation, any: (a) information, ideas or materials of a technical or creative nature, such as designs and specifications, computer source and object code, and other materials and concepts relating to the Authority's intellectual property rights; (b) information, ideas or materials of a business nature, such as non-public financial information; information regarding profits, costs, marketing, purchasing, sales, customers, suppliers, contract terms, employees and salaries; development plans; business and financial plans and forecasts; (c) all personal property, including, without limitation, all books, manuals, records, reports, notes, contracts, lists, blueprints and other documents or materials, or copies thereof, received by Contractor in the course of Contractor's rendering of the Services to the Authority, including, without limitation, records and any other materials pertaining to the Work Product; and (d) information, ideas and opinions of a personal nature, such as the thoughts, impressions, personal histories and goals of Authority employees.

Reimbursable Expenses: those Expenses which are identified in "Exhibit B" to this Agreement as reimbursable by the Authority.

Services: all actions, assistance, and deliverables described in "Exhibit A" to this Agreement.

SSI Information: all documents, data, reports, drawings, specifications and other works, whether complete or incomplete, in oral, written, graphic or electronic form related to airport or airline security or contingency plans, security incident response plans, security directives, or any other such documents or materials protected by 49 CFR Part 1520, *et seq.*

TSA: the Transportation Security Administration, or any successor to the TSA.

Work Product: all documents, data, reports, drawings, specifications, and other works, including copies prepared by Contractor pursuant to this Agreement, whether complete or incomplete and whether in oral, written, graphic, or electronic form.

2. **TERM:** The term of this Agreement commences on **DATE** and ends **DATE** (the "Term"), with an option for Two (2) one-year extensions, which may be exercised at the sole discretion of the Authority.
3. **SCOPE OF WORK:** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide the Authority with the Services set forth in "Exhibit A" entitled "Scope of Work", which is attached to and incorporated in this Agreement.
4. **COMPENSATION:**
 - A. **General:** Authority shall pay Contractor for the Services provided in accordance with the terms set forth in "Exhibit B", entitled "Compensation and Payment Schedule", which is attached to and incorporated in this Agreement. Authority shall make good faith efforts to pay Contractor all undisputed amounts within thirty (30) days of Authority's approval of Contractor's invoice submitted in accordance with Section 5 of this Agreement. The payments specified in "Exhibit B" shall be the only compensation to which Contractor shall be entitled under this Agreement. Authority has no obligation to expend the amount of monies designated as Maximum Amount Payable or to pay any amount in excess of the Maximum Amount Payable.
 - B. **No Guarantee of Compensation:** Should this Agreement be an "on-call" agreement, Authority makes no guarantee to Contractor as to the amount of Contractor-provided Services that will be requested by the Authority or the amount of compensation that will be provided Contractor pursuant to this Agreement. Under no circumstances, shall Contractor or any of its subcontractors be entitled to or compensated for any direct or indirect loss

arising from or relating to Authority's failure to authorize performance of Services under this Agreement. Said direct and indirect loss includes, but is not limited to, loss of expected profits, business overhead, loss of productivity, and loss of opportunity to work on other projects.

- C. **Staff Assignments:** Contractor agrees to assign only competent personnel to perform Services according to the reasonable and customary standards of training and experience in the relevant field. Where Services are provided on an hourly rate basis, Contractor agrees to use personnel with the lowest hourly rate to competently provide Services. Failure to assign competent personnel will constitute grounds for immediate termination and/or refusal to compensate Contractor for such Services.
 - D. **Staff Continuity:** Contractor will use its best efforts to ensure continuity of personnel assigned to perform Services. Contractor will obtain Authority's prior approval before reassigning any full-time staff.
 - E. **Expenses:** Unless expressly provided otherwise in "Exhibit B", Contractor shall bear all expenses required to perform Services pursuant to this Agreement.
5. **INVOICES:** Contractor shall submit monthly invoices, or at such other intervals as otherwise directed by Authority, describing the Services and Reimbursable Expenses for which payment is sought in accordance with Sections 3 and 4 of this Agreement. Invoices shall be in a form acceptable to the Authority and include the following:

A. **Documentation of Services:**

- 1) Contractor shall submit monthly invoices that identify by name each person or persons who provided Services during the period covered by the invoice. Unless otherwise agreed to by the Authority, the invoice, below each person's name, will describe with specificity each task the person performed and the date(s) that the person performed the task. Following the description of each task performed, the invoice will list (i) the amount of time by date that the person expended on the task, (ii) the documents associated with the task that the individual prepared, (iii) the compensation requested for the tasks provided by the person, and (iv) the basis of calculation of the compensation. For each identified task, the invoice will identify the authorized Reimbursable Expenses incurred by the individual in performance of each task. Identification of Reimbursable Expenses will include the documentation specified below.
- 2) Contractor shall provide written notice to the Authority when the total compensation expended under the Agreement reaches 75% of the total compensation allowed. If requested in writing by the Authority, each invoice shall state the total compensation and expense for each task billed as of the date of the statement and provide a running total of all compensation and expenses invoiced from the beginning of the Agreement year in which Contractor began providing Services to the date of the current invoice.

B. **Documentation of Reimbursable Expenses:**

- 1) Reimbursable Expenses, if any, for which Contractor may request reimbursement are set forth specifically in "Exhibit B".
- 2) Reimbursable Expenses under \$25.00: Contractor shall attempt in good faith to attach to each invoice all necessary documentation and receipts to support expenses under \$25.00.
- 3) Reimbursable Expenses over \$25.00: Contractor shall attach to each invoice, detailed, itemized receipts to support expenses over \$25.00. In no event will the Authority

reimburse Contractor for expenses over \$25.00 that are not supported by necessary written detailed documentation with itemized receipts.

- C. **Declaration To Accompany Each Invoice:** Invoices submitted shall contain the following signed certification at the end of the billing statement:

“I hereby certify under penalty of perjury that the above bill is just and correct according to the terms of the Agreement between Contractor and the Authority and that payment has not been received.

By: _____”

- D. **Invoice Address:** Unless otherwise agreed by the Parties, all invoices shall be sent to the Authority at the address specified below:

San Diego County Regional Airport Authority
Accounts Payable
P.O. Box 82776
San Diego CA 92138-2776

6. **ACCOUNTING RECORDS:** During the Audit Period, the Contractor shall maintain an acceptable cost accounting system. The Contractor agrees to provide the Authority or any other authorized government entity, including but not limited to the FAA 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 pertinent to this Agreement for the purpose of making audit examination, excerpts and transcriptions. The Authority or any other authorized government entity, including but not limited to the FAA and the Comptroller General of the United States or any of their duly authorized representatives, may audit Contractor’s Accounting Records. Such audit(s) shall be conducted at reasonable times. Contractor shall maintain all Accounting Records for the entire length of the Audit Period, and shall fully cooperate with any such audit(s). Contractor shall maintain all records within the County of San Diego. If Contractor fails to maintain all records within the County of San Diego, Contractor agrees to reimburse Authority for reasonable expenses involved in traveling to the records storage site. Except as provided in this section, the cost of an audit shall be borne by the Authority. However, if the audit reveals a discrepancy of more than two percent (2%) between the Compensation requested by Contractor in accordance with this Agreement and the compensation determined by the audit, Contractor shall pay the cost of the audit as reasonably determined by the Authority.
7. **TIME IS OF THE ESSENCE:** Time is of the essence in this Agreement. If Contractor fails to competently perform Services within the time periods specified in “Exhibit A”, or, if no time periods are specified, within a reasonable time period, Authority may terminate this Agreement pursuant to the terms of this Agreement.
8. **ASSIGNMENT OR TRANSFER PROHIBITED:** This Agreement is a personal services agreement between the Parties. Contractor may not in any manner, by operation of law or otherwise, assign, hypothecate, encumber or transfer this Agreement or any of the rights, duties or obligations under this Agreement, in whole or in part, without the express, prior written consent of the Authority. Any attempted or purported assignment of any right or obligation pursuant to this Agreement, without such consent, shall be voidable at the sole discretion of Authority and grounds for termination pursuant to the terms of this Agreement.
9. **TERMINATION:**
- A. If the President/CEO, in his/her sole discretion, becomes dissatisfied with Contractor’s performance under this Agreement, the President/CEO may terminate this Agreement by giving written notice to Contractor. Such termination shall be effective immediately on delivery of such notice to Contractor.

- B. Any violation or breach of the terms of this Agreement by the Contractor or its subcontractors may result in the suspension or termination of this Agreement or such other action that may be necessary to enforce the rights of the parties to this Agreement. The Authority will provide Contractor written notice that describes the nature of the breach and corrective actions the Contractors must undertake in order to avoid termination of the Agreement. The Authority reserves the right to withhold payments to the Contractor until such time the Contractor corrects the breach or the Authority elects to terminate the Agreement pursuant to section C below. The Authority's notice will identify a specific date by which the Contractor must correct the breach. The Authority may proceed with termination of the Agreement if the Contractor fails to correct the breach by the deadline indicated in the Authority's notice.
- C. In addition to any other rights and remedies allowed by law and this Agreement, either party may terminate this Agreement with or without cause by giving thirty (30) days prior written notice. Such termination shall be effective on the date specified in the written notice.
- D. Contractor shall cease performing Services on the effective date of termination and Contractor shall have no further rights under this Agreement except as expressly provided herein. The Authority shall have all rights and remedies provided by law.
- E. Upon termination of this Agreement, Contractor may be compensated in accordance with "Exhibit B" only for Services actually performed and accepted by Authority. Contractor shall not be entitled to any compensation for contractual damages, including, but not limited to expected lost profits, office overhead, loss of productivity, lost opportunity to work on other projects or any other consequential or incidental damages arising from the termination of this Agreement.
- F. If the termination is due to the failure of the Contractor to fulfill the obligations, the Authority may take over the work and prosecute the same to completion by contract or otherwise. In such case, the Contractor shall be liable to the Authority for any additional cost occasioned to the Authority thereby. If, after notice of termination for failure to fulfill the obligations in this Agreement, it is determined that the Contractor had not so failed, the termination shall be deemed to have been effected for the convenience of the Authority. In such event, compensation to the Contractor shall be determined in accordance with subsection E, above
- G. Upon termination of this Agreement, Contractor shall deliver immediately to the Authority all property belonging to the Authority, whether given to Contractor by the Authority or prepared by Contractor in the course of rendering the Services, including, but not limited to, all Work Product then in progress, including all material in Contractor's possession that contains Proprietary Information or SSI Information and any copies thereof, whether prepared by Contractor or others. Following termination, Contractor shall not retain any written or other tangible (including machine-readable) material containing any Proprietary Information or SSI Information.
- H. The duties and obligations imposed by the terms and conditions of the Agreement and the rights and remedies available thereunder are in addition to, and not limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

10. PROPRIETARY INFORMATION & SSI INFORMATION OF AUTHORITY OR TSA:

- A. **General:** Contractor's Services may involve access to and creation of Proprietary Information or SSI Information.
- B. **Restrictions on Use and Disclosure:** During the term of this Agreement and thereafter, Contractor shall: (a) hold and use Proprietary Information or SSI Information in strict

confidence and solely for the benefit of Authority and not for the benefit of Contractor or any third party; (b) not copy or use any Proprietary Information, except as necessary to perform Services; and (c) not disclose or otherwise make available any Proprietary Information or SSI Information to any third party unless first authorized in writing by the Authority.

C. **Restrictions on References to Authority:** Contractor shall not represent in any way that Authority endorses or supports Contractor or Contractor's activities without the prior written consent of Authority. Contractor is prohibited from making any representations regarding the relationship between Contractor and Authority without the prior written consent of Authority. Contractor shall not make any representations about Authority or use the Authority's name or the name of any of its Board Members, employees, or agents in documents or material generated by Contractor without the Authority's prior written consent.

D. **Indemnity:** Contractor shall hold harmless and indemnify Authority for the payment of any civil penalties assessed Authority by the TSA or DHS because of Contractor's unauthorized release or divulging of any SSI Information.

11. **AUTHORITY OWNERSHIP OF SERVICES AND WORK PRODUCT:** Authority shall own all Services, including, but not limited to Work Product, prepared pursuant to this Agreement. Ownership includes all rights attendant to ownership, including rights of copyright, patent, and intellectual property rights. Contractor, at its own cost and expense, shall deliver all Work Product to Authority when requested by Authority. With prior written consent of Authority, Contractor may retain limited copies of Work Product, but only for purposes expressly authorized in Authority's consent. Work Product, including copies retained by Contractor, may not be shown to any other public or private person or entity unless expressly authorized in writing by Authority.

12. **INDEPENDENT CONTRACTOR:** Contractor is an independent contractor in the performance of this Agreement and shall act in an independent capacity and not as an officer or employee of the Authority. Contractor shall have no authority to act as an agent on behalf of the Authority unless specifically authorized to do so in writing. Authority shall have no liability for Contractor's actions and performance and assumes no responsibility for taxes, bonds, payments, or other commitments, implied or express, that may be made by or for Contractor. Contractor shall purchase all bonds and pay all taxes required for the performance of Services. Nothing contained in this Agreement shall be construed as creating a partnership or joint venture between Contractor and Authority or between Contractor and any other entity or party or cause Authority to be responsible in any way for the debts or obligations of Contractor or any other party or entity.

13. **SUBCONTRACTORS:** Contractor agrees that all of its subcontractors shall be subject to the prior written approval by the Authority. Contractor shall remain responsible to the Authority for any and all Services and obligations required under this Agreement, whether performed by Contractor or its subcontractor(s). Any subcontractor(s) employed by Contractor shall be independent contractors and not agents of the Authority. Contractor shall ensure its subcontracts and other agreements made pursuant to this Agreement with subcontractor(s) include all applicable requirements set forth by this Agreement, including, but not limited to, sections entitled: "Insurance Requirements", "Indemnification", and "Conformance with Rules and Regulations".

14. **INSURANCE REQUIREMENTS:**

A. Contractor shall procure, at its expense, and keep in full force and effect at all times during the term of this Agreement, the types and amounts of insurance specified in "Exhibit C",

entitled "Insurance Requirements for Contractor", which is attached hereto and incorporated by reference herein. The specified insurance shall include and insure Authority, its Board and all its officers, employees, and agents, their successors and assigns, as additional insureds, against the areas of risk associated with the Services as described in "Exhibit A" with respect to Contractor's acts or omissions in the performance of this Agreement, its operations, use, and occupancy of the Airport, and other related functions performed by or on behalf of Contractor in, on or about Airport.

- B. Each specified insurance policy (other than Worker's Compensation and Employers' Liability and fire and extended coverages) shall contain a Severability of Interest (Cross Liability) clause which states, "It is agreed that the insurance afforded by this policy shall apply separately to each insured against whom a claim is made or suit is brought except with respect to the limits of the company's liability," and a Contractual Endorsement which shall state, "Such insurance as is afforded by this policy shall also apply to liability assumed by the insured under insured's Agreement with the Authority."
- C. All such insurance shall be primary and non-contributing with any other insurance held by Authority where liability arises out of or results from the acts or omissions of Contractor, its agents, employees, officers, assigns, or any person or entity acting for or on behalf of Contractor. Such policies may provide for reasonable deductibles and/or retentions acceptable to the President/CEO based upon the nature of Contractor's operations and the type of insurance involved.
- D. Authority shall have no liability for any premiums charged for such coverage(s). The inclusion of Authority, its Board and all its officers, employees, and agents, their successors and assigns, as insureds is not intended to, and shall not, make them, or any of them, a partner or joint venturer with Contractor in Contractor's operations at Airport or in the performance of this Agreement. In the event Contractor fails to furnish Authority with evidence of insurance and maintain the insurance as required, Authority upon ten (10) days prior written notice to comply, may, but shall not be required to, procure such insurance at the cost and expense of Contractor, and Contractor agrees to promptly reimburse Authority for the cost thereof plus fifteen (15%) percent for administrative overhead. Payment shall be made within thirty (30) days of invoice date.
- E. At least ten (10) days prior to the expiration date of the above policies, documentation showing that the insurance coverage has been renewed or extended shall be filed with Authority. If such coverage is canceled or reduced, Contractor shall, within fifteen (15) days of such cancellation or reduction of coverage, file with Authority evidence that the required insurance has been reinstated or provided through another insurance company or companies.
- F. Contractor shall provide proof of all required insurance and related requirements to Authority either by production of: the actual insurance policy(ies); or a Certificate of Insurance in a form acceptable to the Authority; or a broker's letter acceptable to the President/CEO in both form and content in the case of foreign insurance syndicates, or other written evidence of insurance acceptable to the President/CEO. The documents evidencing all required coverages shall be filed with Authority prior to Contractor performing Services or occupying the Airport. The documents shall contain (i) the applicable policy number, (ii) the inclusive dates of policy coverages, (iii) the insurance carrier's name, address and telephone number, (iv) shall bear an original signature of an authorized representative of said carrier, and (v) shall provide that such insurance shall not be subject to cancellation, reduction in coverage, or nonrenewal except after written notice by certified mail, return receipt requested, to the Authority at least thirty (30) days prior to the effective

date thereof. Authority reserves the right to have submitted to it, upon request, all pertinent information about the agent, broker, and carrier providing such insurance.

- G. Authority and Contractor agree that the insurance policy limits specified herein shall be reviewed for adequacy annually throughout the term of this Agreement by the President/CEO who may, thereafter, require Contractor, on thirty (30) days prior written notice, to adjust the amounts of insurance coverage to whatever reasonable amount said President/CEO deems to be adequate.
- H. All insurance policies required herein shall have a minimum Best financial rating of A minus 7.
- I. Submission of insurance from a non-California admitted carrier is subject to the provisions of California Insurance Code §§ 1760 through 1780, and any other regulations and/or directives from the State Department of Insurance or other regulatory board or agency. Contractor agrees, except where exempted, to provide Authority proof of said insurance by and through a surplus line broker licensed by the State of California at the address specified below:

San Diego County Regional Airport Authority
Risk Management Department
P.O. Box 82776
San Diego, CA 92138-2776

15. INDEMNIFICATION:

- A. **Non-Design Professionals:** In addition to the provisions of the preceding section entitled "Insurance Requirements", Contractor shall indemnify, hold harmless and defend the Authority, its Board, officers, directors, employees, agents and volunteers from and against all claims, damages, losses and expenses, including reasonable attorneys' fees and court costs, arising out of, pertaining to, or relating to the performance of the Services described herein, caused by any act or omission of Contractor and/or any of its subcontractors, employees, agents, officers and directors, except where caused by the sole negligence or willful misconduct of the Authority.
- B. **Design Professionals:** Notwithstanding the provisions of the above, the following provision shall apply to Contractors that are Design Professionals when providing "design professional services" (as that term is defined under Civil Code section 2782.8) to the Authority. In addition to the requirements of the section entitled "Insurance Requirements", to the fullest extent permitted by law, Contractor shall defend (with counsel of the Authority's choosing), indemnify and hold the Authority, its Board, officers, directors, employees, agents, and volunteers, free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Contractor's Services, the project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any received by Contractor, the Authority, its officials, officers, employees, agents, or volunteers. To the extent required by Civil Code section 2782.8, which is fully incorporated herein, Contractor's obligations under the above indemnity shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, but shall not otherwise be reduced. If Consultant's obligations to defend, indemnify, and/or hold harmless arise

out of Contractor's performance of "design professional services" (as defined under Civil Code section 2782.8), then upon Contractor obtaining a final adjudication that liability under a claim is caused by the comparative active negligence or willful misconduct of the Authority, Contractor's obligations shall be reduced in proportion to the established comparative liability of the Authority and shall not exceed the Contractor's proportionate percentage of fault.

16. CONFORMANCE WITH RULES AND REGULATIONS:

- 1) Contractor agrees to abide by any and all:
 - 1) Applicable rules, regulations, resolutions, policies, codes, orders and restrictions which are now in force or which may be hereafter adopted by the Authority with respect to the operation of the Airport;
 - 2) Orders, directives, or conditions issued, given or imposed by the President/CEO with respect to the use and operation of the Airport; and
 - 3) Applicable laws, ordinances, statutes, rules, regulations, or orders of any federal, state, county, municipal or other governmental entity, exercising jurisdiction over the Airport.
- 2) Contractor acknowledges that it has reviewed and accepts the SDIA Security Instructions posted on the Authority's website at www.san.org. If TSA imposes a fine or penalty on the Authority for Contractor's non-compliance with federal laws and or TSA rules and regulations, then Contractor shall reimburse and indemnify the Authority for the entire amount of the fine or penalty.

17. PREVAILING WAGE: State prevailing wage rates may apply to work performed under this Agreement. State prevailing wage rates apply to all public works contracts as set forth in California Labor Code, including but not limited to §§1720, 1720.2, 1720.3, 1720.4 and 1771. Contractor is solely responsible to determine if state prevailing wage rates apply and, if applicable, pay such rates in accordance with all laws, ordinances, rules, and regulations.

OR

PREVAILING WAGE: State prevailing wage rates apply to work performed under this Agreement. State prevailing wage rates apply to all public works contracts as set forth in California Labor Code, including but not limited to, §§ 1720, 1720.2, 1720.3, 1720.4 and 1771. Contractor is solely responsible to pay state prevailing wage rates and pay such rates in accordance with all laws, ordinances, rules, and regulations.

- A. No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- B. No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
- C. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- D. The prime contractor must post job site notices prescribed by regulation. (See 8 Calif. Code Reg. §16451(d) for the notice that previously was required for projects monitored by the CMU.)
- E. All contractors and subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner (aka Division of Labor Standards Enforcement). The phase-in

timetable for this requirement and other information related to SB 854 is available at: <http://www.dir.ca.gov/public-works/SB854.html>

18. **BANKRUPTCY**: In the event Contractor commences a proceeding under the Federal Bankruptcy Act or is adjudicated bankrupt or insolvent, or a judicial sale is made of Contractor's interest under this Agreement, this Agreement shall at the option of the Authority immediately terminate and all rights of Contractor hereunder shall immediately cease and terminate. If during the term of this Agreement, Contractor files for bankruptcy protection, it covenants and agrees to serve the Authority with a copy of the court filing documents within five (5) days thereafter.
19. **LICENSES AND PERMITS**: Contractor shall possess all licenses, permits, qualifications, and approvals of whatever nature legally required for Contractor to perform the Services under this Agreement. Contractor represents and warrants that it, at its sole cost and expense, shall keep in effect at all times during the term of this Agreement any and all licenses, permits, and approvals that are required for Contractor to practice its profession and/or perform the Services.
20. **CONFLICT OF INTEREST**: Contractor is not now a party to, and during the term of this Agreement shall not enter into, any contract or agreement that will create a conflict of interest with its duties to the Authority under this Agreement.
21. **ENTIRE UNDERSTANDING**: This Agreement contains the entire agreement of the Parties and supersedes all prior negotiations, discussions, obligations, and rights of the Parties regarding this Agreement. Contractor acknowledges that there is no other written or oral understanding between the Parties. No modification, amendment, or alteration of this Agreement shall be valid or enforceable against the Authority unless it is in writing, properly approved and executed by all Parties.
22. **NON-DISCRIMINATION**: Contractor agrees at all times to fully comply with all laws prohibiting discrimination against any person or class of persons by reason of race, color, gender, religious creed, sex (including pregnancy or child birth), age, national origin, ancestry, sexual orientation, physical or mental disability, medical condition including genetic characteristics, veteran status, marital status, family care status, or any other considerations made unlawful by federal, state or local law in performance of this Agreement. If the use provided for in this Agreement allows Contractor to offer accommodations or services to the public, such accommodations, or services shall be offered on fair and reasonable terms.
23. **PARTIAL INVALIDITY**: If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder shall remain in full force and effect, and shall in no way be affected, impaired or invalidated.
24. **NOTICES**:
- A. **Notice**: Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows with notice deemed given as indicated: (a) by personal delivery on the date that personal delivery is accomplished; (b) by overnight courier upon the date of signature verification of receipt; or (c) by certified or registered mail, return receipt requested, upon signature verification of receipt. Notice shall be sent to the addresses set forth below, or such other address as either party may specify in writing:

If to the Authority: President/CEO
San Diego County Regional Airport Authority
P. O. Box 82776
San Diego, California 92138-2776

If to Contractor: **BUSINESS NAME**

Attn: NAME
ADDRESS
CITY, STATE AND ZIP CODE

- B. **Effectiveness:** Contractor agrees that Notice from the President/CEO shall be effective as to the Contractor as if it were executed by the Board or by Resolution of the Board.

25. INTERPRETATION:

- A. **Section Headings:** Section headings in this Agreement are for the convenience and reference of the Parties, and do not define or limit the scope of any section or provision.
- B. **Fair Meaning:** The language of this Agreement shall be construed according to its fair meaning, and not strictly for or against either Party.
- C. **Two Constructions:** If any provision in this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.
- D. **Governing Law:** This Agreement and all of its terms and conditions shall be construed, interpreted and applied in accordance with, governed by, and enforced under the laws of the State of California.
- E. **Venue:** Notwithstanding applicable provision of 28 U.S.C. § 1391 or of California Code of Civil Procedure § 394, the Parties agree that the venue in all matters arising out of this Agreement shall be the Superior Court of California, County of San Diego.
- F. **Gender:** The use of any gender shall include all genders, and the use of any number shall be construed as the singular or the plural, all as the context may require.
- G. **Integrated Agreement:** The Parties agree that this Agreement and any documents to which it refers contain the whole agreement between the Parties relating to the terms and conditions by which Contractor is to provide Services. The Parties further agree that this Agreement supersedes all previous understandings and agreements between the Parties regarding such terms and conditions. Each party to this Agreement acknowledges that, in agreeing to enter into this Agreement, it has not relied on any representation, warranty, collateral contract or other assurance that is not set out in this Agreement or in any documents to which it refers, that was made before the execution of this Agreement. Each party waives all rights and remedies which, but for this provision, might otherwise be available to it in respect to any such representation, warranty, collateral contract or other assurance. However, nothing in this provision shall limit or exclude any liability for willful misconduct or fraud. The Parties further agree that no alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the Parties.
- H. **Other Agreements Not Affected:** Except as specifically stated herein, this Agreement and its terms, conditions, provisions and covenants shall not in any way change, amend, modify, alter, enlarge, impair or prejudice any of the rights, privileges, duties or obligations of either of the Parties under or by reason of any other agreement between the Parties.

- 26. JOINT AND SEVERAL LIABILITY:** If Contractor is a limited liability company ("LLC"), partnership, or joint venture or is an entity comprised of more than one party or entity, the obligation imposed on Contractor under this Agreement shall be joint and several, and each member, general partner, joint venturer, party or entity of Contractor shall be jointly and severally liable for all obligations.

- 27. WAIVER:** Waiver by either party of any breach by the other party of any one or more of the terms or conditions of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or any other term or condition of this Agreement. Failure on the

part of either party to require full and complete compliance by the other party with any of the terms or conditions of this Agreement shall not be construed as changing the terms or conditions or preventing full enforcement of other provisions to this Agreement.

- 28. COST OF LITIGATION AND/OR ADMINISTRATIVE ACTIONS - ATTORNEY FEES:** If any action, whether an action in litigation or an administrative action, is brought by a party to this Agreement and arises out of or is traceable to any rights, privileges, or obligations bestowed by this Agreement, including but not limited to breach of any provision of this Agreement, the Parties agree that the prevailing party shall be entitled to and the non-prevailing party shall be bound to pay all reasonably incurred costs associated with the action. The Parties agree that all reasonably incurred costs associated with the action include, but are not limited to attorney fees, costs of legal research incurred in preparing documents filed with the court or administrative body, expert witness fees, and exhibits used in presenting the prevailing party's case to the court, jury or administrative body.
- 29. AUTHORITY'S RIGHT TO CONTRACT WITH OTHERS:** The rights granted by the Authority under this Agreement are not exclusive, and Authority reserves the right to enter into other agreements covering the same or similar Services that are described in the Agreement.
- 30. EFFECT OF DEBARMENT OF CONTRACTOR ON EXISTING CONTRACTS:** For the entire term of this Agreement, Authority reserves the right to immediately terminate this Agreement in the event that Contractor or any subcontractor is debarred from contracting or providing services by the Authority, the federal government, or by any other California governmental entity.
- 31. PROHIBITION OF BENEFITS:** Contractor is familiar with the Authority's prohibition against receipt of benefits by Authority personnel as set forth in Authority Code §2.10. The Authority's Code is posted on the Authority website at www.san.org. Contractor agrees not to offer any Authority personnel any benefit prohibited by said Code. The offer or giving of any benefit prohibited by the Authority Code shall constitute a material breach of this Agreement by Contractor. In addition to any other remedies the Authority may have in law or equity, Authority may terminate this Agreement for breach as provided herein.
- 32. FEDERAL AVIATION ADMINISTRATION REGULATIONS:** During the performance of this Agreement, the Consultant, for itself, its assignees, successors in interest and subcontractors (hereinafter referred to as the "Contractor") agrees as follows:
- A. **ACCESS TO RECORDS AND REPORTS** (2 CFR § 200.326, 2 CFR § 200.333). The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Authority, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.
 - B. **BUY AMERICA PREFERENCE** (49 U.S.C. § 50101). The Contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP-funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.
 - C. **CIVIL RIGHTS – GENERAL** (49 U.S.C. § 47123).

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

D. CIVIL RIGHTS – TITLE VI.

- 1) Title VI Solicitation Notice. The Authority, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.
- 2) Title VI Compliance with Nondiscrimination Requirements: During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”) agrees as follows:
 - a) Compliance with Regulations: The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Statutes and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
 - b) Non-discrimination: The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
 - c) Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
 - d) Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Authority or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Authority or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

- e) Sanctions for Noncompliance: In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Authority will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - (a) Withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - (b) Cancelling, terminating, or suspending a contract, in whole or in part.
 - f) Incorporation of Provisions: The Contractor will include the provisions of paragraphs a) through f) 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 Authority 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 Authority to enter into any litigation to protect the interests of the Authority. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.
- 3) Title VI List of Pertinent Nondiscrimination Acts and Authorities: During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:
- a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), prohibits discrimination on the basis of race, color, national origin);
 - b) 49 CFR Part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
 - c) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601), prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects;
 - d) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*, as amended) prohibits discrimination on the basis of disability and 49 CFR Part 27;
 - e) The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et seq.*), prohibits discrimination on the basis of age;
 - f) Airport and Airway Improvement Act of 1982 (49 U.S.C. Chapter 471 § 47123, as amended) prohibits discrimination based on race, creed, color, national origin, or sex;
 - g) The Civil Rights Restoration Act of 1987 (PL 100-209) broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and § 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not;
 - h) Titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131 – 12189 as implemented by Department of Transportation regulations at 49 CFR

parts 37 and 38) which prohibits 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;

- i) The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) prohibits discrimination on the basis of race, color, national origin, and sex;
- j) Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- k) Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency*, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency ("LEP"). To ensure compliance with Title VI, Contractor must take reasonable steps to ensure that LEP persons have meaningful access to your programs. (70 Fed. Reg. at 74087 to 74100); and
- l) Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. §1681, *et seq.*).

E. DISADVANTAGED BUSINESS ENTERPRISES (49 CFR Part 26): The requirements of 49 CFR Part 26 apply to this contract. It is the policy of the Authority to practice nondiscrimination based on race, color sex, or national origin in the award or performance of this contract. The Authority encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

- 1) 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 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:
 - a) Withholding monthly progress payments;
 - b) Assessing sanctions;
 - c) Liquidated damages; and/or
 - d) Disqualifying the Contractor from future bidding as non-responsible.
- 2) Prompt Payment (§ 26.29). The prime Contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime Contractor receives from Authority. The prime Contractor agrees further to return retainage payments to each subcontractor within thirty (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.

F. FEDERAL FAIR LABOR STANDARDS ACT (Federal Minimum Wage, 29 U.S.C. § 201 *et seq.*). All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act ("FLSA"), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time

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

G. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES (49 CFR Part 20, Appendix A).

- 1) The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
 - a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the bidder or offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - c) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.
- 2) 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 31 U.S.C § 1352. 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.

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

I. RIGHTS TO INVENTIONS (2 CFR Part 200 Appendix II(F)). Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Authority in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and

inventions rights as specified within the 37 CFR § 401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental or research work.

J. TRADE RESTRICTION CLAUSE (49 CFR Part 30).

- 1) By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror:
 - a) 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 published by the Office of the United States Trade Representative ("U.S.T.R.");
 - b) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the U.S.T.R.;; and
 - c) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R..
- 2) 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 U.S.C. § 1001.
- 3) The Offeror/Contractor must provide immediate written notice to the Authority 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.
- 4) 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:
 - a) Who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.; or
 - b) Whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list; or
 - c) Who incorporates in the public works project any product of a foreign country on such U.S.T.R. list.
- 5) 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.
- 6) The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that is not a firm from a foreign country included on the list of countries

that discriminate against U.S. firms as published by U.S.T.R., unless the Offeror has knowledge that the certification is erroneous.

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

K. DEBARMENT AND SUSPENSION (2 CFR Part 180 (Subpart C); 2 CFR Part 1200; DOT Order 4200.5 - Suspension & Debarment Procedures & Ineligibility).

1) Certificate Regarding Debarment and Suspension (Bidder or Offeror).

- a) By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that at the time the bidder or offeror 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.

2) Certification Regarding Debarment and Suspension (Successful Bidder Regarding Lower Tier Participants).

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

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

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

L. CLEAN AIR AND WATER POLLUTION CONTROL (2 CFR § 200 Appendix II(G)).

Contractor agrees to comply with all applicable standards, orders and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251-1387 *et seq.*) The Contractor agrees to report any violation to the Authority immediately upon discovery. The Authority assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration. Contractor must include this requirement in all subcontracts that exceed \$150,000.

M. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (2 CFR Part 200 Appendix II(E))

- 1) Overtime Requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics

shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half (1.5) times the basic rate of pay for all hours worked in excess of forty (40) 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) above, 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)) above, in the sum of ten dollars (\$10) for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the clause set forth in paragraph (1) above.
- 3) Withholding for Unpaid Wages and Liquidated Damages. The Federal Aviation Administration or the Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies 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 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)) above.
- 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 section.

N. EQUAL OPPORTUNITY CLAUSE: During the performance of this Agreement, the Contractor agrees as follows:

- 1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- 2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

- 3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

O. ENERGY CONSERVATION REQUIREMENTS: The Contractor and any subcontractor agree to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. §6201, et seq.).

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

Q. TEXTING WHEN DRIVING: In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving", (10/1/2009) and DOT Order 3902.10, "Test 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 Authority 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 \$3500 that involve driving a motor vehicle in performance of work activities associated with the project.

- R. **AIRPORT DEVELOPMENT:** The Authority reserves the right to further develop or improve the landing area as it sees fit, regardless of the desires or views of Contractor and without interference or hindrance.
- S. **REPAIR OF AIRPORT:** The Authority reserves the right, but shall not be obligated to Contractor, to maintain and keep the landing area and all its facilities in repair as well as the right to direct and control all activities of Contractor in this regard.
- T. **SUBORDINATION:** This Agreement shall be subordinate to the provisions and requirements of any existing or future agreement between the Authority and the United States, relative to the development, operation, or maintenance of the Airport.
- U. **RIGHT OF AIR NAVIGATION:** The Authority reserves for itself, its successors, and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises herein covered by this Agreement. This public right of flight shall include the right to cause any noise inherent in the operation of any aircraft used for navigation or flight through the airspace or landing at, taking off from or operation on the Airport.
- V. **14 CFR Part 77:** Contractor agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event future construction, modification or alteration of any present or future building or structure is planned for the premises related to this Agreement.
- W. **OBSTRUCTIONS:** Contractor, by accepting this Agreement, expressly agrees for itself, its successors, and assigns that it will not erect nor permit the erection of any structure or object nor permit the growth of any tree on Authority land above the mean sea level elevation of fifty (50) feet. In the event the aforesaid covenants are breached, the Authority reserves the right to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of Contractor.
- X. **NO INTERFERENCE:** Contractor agrees for itself, its successors and assigns that it will not make use of Authority premises in any manner which might interfere with the landing and taking off of aircraft or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the Authority reserves the right to cause the abatement of such interference at the expense of Contractor.
- Y. **EXCLUSIVE RIGHTS:** It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of § 308a of the Federal Aviation Act of 1958 (49 U.S.C. § 40103; P.L. 103-272; 108 STAT. 1102, and as it may be amended in the future).
- Z. **SEISMIC SAFETY:** In the performance of design services, the Contractor agrees to furnish a building design and associated construction specification that conform to a building code standard which provides a level of seismic safety substantially equivalent to standards established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the

International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of design services, the Contractor agrees to furnish the Authority a “certification of compliance” that attests conformance of the building design and the construction specification with the seismic standards of NEHRP or an equivalent building code.

AA. TAX DELINQUENCY AND FELONY CONVICTION:

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.

BB. PROHIBITION OF SEGREGATED FACILITIES:

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

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

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

DD. DAVIS BACON REQUIREMENTS

1) Minimum Wages

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 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) (2) The classification is utilized in the area by the construction industry;
 - (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.

(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) Payroll 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 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 www.dol.gov/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit them to the applicant, sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

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

- (1) The payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;
- (2) Each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;
- (3) Each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

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

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

(iii) The Contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4) Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, 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 that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

- 5) Compliance with Copeland Act Requirements. The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.
- 6) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 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.

33. SIGNATURES:

- A. **Signature of Parties:** It is an express condition of this Agreement that it shall not be complete or effective until signed by Authority and by Contractor.
- B. **Counterparts:** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument.

APPROVED AS TO FORM _____ General Counsel Date: _____	SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY
	_____ Signature _____ Kimberly J. Becker Name _____ President/CEO Title Date: _____

--

CONTRACTOR: _____

SIGNATURE: _____

NAME: _____

TITLE: _____

DATE: _____

By my signature above, I, hereby certify under penalty of perjury under the laws of the State of California, that I am an officer or employee of the organization with authority to bind and obligate the organization.

If your corporation has a seal, please affix below:

EXHIBIT A – SCOPE OF WORK

- A-1. Purpose:** The Authority is entering into this Agreement to obtain Services needed to **DESCRIPTION**.
- A-2. Scope of Contractor's Responsibilities, Contractor-Provided Services and Contractor-Provided Deliverables.** In accordance with and at the direction and approval of the Authority Contractor shall provide the following Services.
- A. Specified Services:**
- B. Additional Services:** If and when Authority requests Contractor to provide services in addition to those specified above, Contractor shall develop a work plan detailing the specific tasks to be completed and providing a detailed not-to-exceed budget for performing such tasks. Contractor shall not perform any Additional Services until Authority has issued a written notice-to-proceed with the execution of the work plan. Contractor will not be authorized to perform or invoice Authority for any work not specifically authorized in the Authority's notice-to-proceed.
- A-3. Schedule for Delivery of Contractor-Provided Deliverables**
- A-4. Non-Financial Obligations of the Authority**

EXHIBIT B – COMPENSATION & PAYMENT SCHEDULE

B-1. Compensation for Services:

- A. Specified Services:** Contractor shall be compensated for the performance of Specified Services identified in "Exhibit A". Contractor shall be paid upon completion, to Authority's satisfaction, of all Specified Services set forth in "Exhibit A" of this Agreement.
- B. For Additional Services.** Contractor's compensation for Additional Services shall be as mutually agreed to by the Parties prior to Contractor providing Additional Services.

B-2. Reimbursable Expenses: **None.** or In accordance with Sections 4 and 5 of the Agreement, Contractor shall be reimbursed for the following expenses:

- A. Travel-Related Expenses:** All Travel Related Expenses must be pre-approved by Authority. Contractor may be reimbursed for the following travel related expenses:
1. Air Transportation. Contractor may be reimbursed for the price of airline tickets if the expense is actual, reasonable, and directly related to the performance of Services required under this Agreement. Reimbursement shall be limited to the cost of the lowest coach fare available.
 2. Lodging. Contractor may be reimbursed for lodging if the expense is actual, reasonable, and directly related to the performance of Services required by this Agreement.
 3. Other Travel-Related Expenses. Meals shall not exceed the published GSA per diem rates. Contractor may be reimbursed for the cost of other actual, reasonable, and necessary travel expenses subject to the limitations of the prior authorization provided by Authority.
- B. Other Reimbursable Expenses:**
1. Subcontractor Expenses. Authority will reimburse Contractor the actual and necessary compensation plus ten percent (10%) that Contractor pays to a Subcontractor for providing services in accordance with a proposal approved by the Authority. Such reimbursement shall not exceed the line-item budget for Subcontractor-provided services as set forth in the Authority-approved proposal.
 2. Out of Pocket Expenses. When authorized by the Authority in advance, Authority will reimburse Contractor for actual, reasonable, and necessary out-of-pocket expenses incurred in providing Services. The Authority shall not compensate Contractor for out-of-pocket expenses that were not approved in advance by the Authority.

B-3. Total Amount Payable: The total amount payable under this Agreement shall not exceed (\$**TBD**).

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

EXHIBIT C – INSURANCE REQUIREMENTS FOR CONTRACTOR

Contractor shall at all times during the Term of this Agreement maintain, at its expense, the following minimum levels, and types of insurance.

INSERT HERE