

**AGGREGATE CONTRACT MA-280-26011042**

**FOR**

**AIRPORT PLANNING AND PROGRAMMING SERVICES**

**BETWEEN**

**COUNTY OF ORANGE, JOHN WAYNE AIRPORT**

**AND**

**TBD**

**JOHN WAYNE AIRPORT  
ORANGE COUNTY**



**AGGREGATE CONTRACT MA-280-26011042****WITH****(TBD)****FOR****AIRPORT PLANNING AND PROGRAMMING SERVICES**

**THIS AGGREGATE CONTRACT**, hereinafter referred to as “Contract” for purposes of identification hereby numbered MA-280-26011042, by and between the County of Orange, a political subdivision of the State of California, hereinafter referred to as “County” and TBD, a TBD Corporation, hereinafter referred to as “A-E”, or “Contractor” which are sometimes individually referred to as “Party” or collectively referred to as “Parties.”

**RECITALS**

**WHEREAS**, County requires professional services to accomplish projects and/or services (“Projects/Services”) as described in MA-280-26011042 Scope of Work for Airport Planning and Programming Services, hereinafter referred to as “Attachment A,” attached hereto and incorporated herein by reference; and,

**WHEREAS**, A-E is a firm whose principals are, as required by law, registered by the State of California for the practice of specialized A-E services per the attached Scope of Work.

**NOW, THEREFORE, IT IS AGREED** by and between the parties hereto as follows:

**1. GENERAL****1.1. Retainer**

**1.1.1.** County does hereby retain A-E to perform the Projects/Services as required by this Contract.

**1.1.2.** A-E has offered, and County has accepted, the professional services of (A-E TBD) and A-E shall assign him/her to the Projects/Services.

**1.1.3.** A-E may employ special consultants/contractors for the accomplishment of the Projects/Services specified; and only the firms or independent consultants/contractors identified in Attachment C may be employed by A-E to provide these Projects/Services.

**1.1.4.** Consultants/contractors may be substituted and/or added by mutual agreement of A-E and the Director, County of Orange, John Wayne Airport or his designee, hereinafter referred to as “Director.”

**1.1.5.** A-E's employment of independent consultants/contractors shall not relieve A-E from the performance of its own responsibilities pursuant to this Contract. However, all consultants/contractors independently contracting with County shall be independently liable to County for the performance of the work pursuant to their agreements, and A-E shall have no liability for work by contractors independently contracting with County.

**1.2. Projects/Services****1.2.1. Description of Projects/Services**

- a. Project/Services to be performed by A-E shall consist of the work as specified herein and as required in Attachment A, attached hereto and incorporated herein by reference. If in the event Attachment A shall be in conflict with any provision of this Contract, the wording as set forth in Attachment A shall prevail.

- b. A-E shall be responsible for submitting all Projects/Services to County in a form which has been thoroughly reviewed and checked for completeness, accuracy and consistency by the registered professional named in Section 1.1.2 herein; and, any Projects/Services not meeting this requirement will be returned to A-E prior to review by County.

### **1.2.2. Design Criteria and Standards**

All Projects/Services shall be performed in accordance with instructions, criteria and standards set forth by the Director.

### **1.2.3. Scheduling**

- a) Concurrently with the work of the Contract, A-E shall prepare a progress work schedule and within five (5) working days from the date of receipt of individual assignments from County, A-E shall submit to County two (2) copies of a progress work schedule which shall delineate dates of commencement and completion of the various phases of Projects/Services assignments. A-E schedule shall include required County review period(s) set forth herein. An approved copy of the progress schedule will be returned to A-E.
- b) A-E shall allow at least five (5) working days for County review of progress work schedule. In planning work, A-E should anticipate and allow ten (10) working days for County review of each submittal required in Attachment A.
- c) A-E shall meet on an as-needed basis as determined by County or at least once every four (4) weeks with County to review progress of work, adherence to progress schedule, coordination of work, scheduling of seminars, if needed, and to resolve any problems that may develop.
- d) Within five (5) working days of each meeting, A-E shall prepare a brief memorandum summarizing the results of the meeting and shall submit it to County for concurrence.
- e) A-E shall complete all the work of Projects/Services and obtain all approvals by the County within the time frame indicated in Attachment A except A-E shall not be responsible for any delay beyond the control of A-E.
- f) In the event A-E fails to complete the work and obtain the approval of Director in the time allowed, County shall have the option of completing the work by its own forces or by contract with another firm. The time allowed for A-E to complete the Projects/Services pursuant to this Contract shall be extended for delay caused by County in completing its work pursuant to this Contract which delay exceeds the agreed County review and/or approval time periods.

### **1.3. Assistance by County Staff**

**1.3.1.** County shall assign an appropriate staff member to work with A-E in connection with the work of this Contract. Said staff member's duties will consist of the giving of advice and consultations, assisting A-E in negotiations with other public agencies and private parties, miscellaneous items which in the judgment of A-E or County's staff warrant attention, and all other duties as may be described in Attachment A.

**1.3.2.** All of the above activities, however, shall be the primary responsibility of A-E to schedule, initiate and carry through to completion.

### **1.4. Term and Maximum Compensation**

The term of this Aggregate Contract is effective for three (3) years commencing July 23, 2026 through July 22, 2029 upon execution of all necessary signatures, in a total aggregate amount not to exceed of (\$4,500,000), except as permitted in Paragraph 1.6 below.

The County shall have no obligation to pay any sum in excess of the Total Contract Amount specified herein unless authorized by amendment.

**1.5. Aggregate Contract**

This Aggregate Contract included the following Contractors:

Contractor 1: WSP USA Inc.

Contractor 2: HNTB Corporation

Contractor 3: Kimley-Horn and Associates, Inc.

The County shall have no obligation to pay any sum in excess of the Total Contract Aggregate Amount specified herein unless authorized by amendment.

**1.6. A-E Compensation and Extra Work**

**1.6.1.** For the Projects/Services authorized under this Contract, A-E shall be compensated in accordance with the following:

**1.6.2.** For completion and approval of all Projects/Services where “Extra Work” (defined as changes in approved portions of the Project/Services required by and ordered in writing by Director which changes constitute a change in or departure from said approved portions of Projects/Services) is not authorized, compensation including reimbursables shall be described and payable as stipulated in Fee Schedule, herein after referred to as “Attachment B”, attached hereto and incorporated herein by reference.

**1.6.3.** Where Extra Work is authorized for Projects/Services:

- a) The amount for Extra Work shall be determined using Attachment B. Extra Work shall be required by and ordered in writing by Director. If this Contract is not approved by the Board of Supervisors, any change that increases the cumulative Contract price beyond \$200,000 must be approved by the Board. Increases in the Contract amount for services within the existing scope of work may be granted by the Director where the amount does not exceed 25 percent of the existing Contract price or \$200,000, whichever is less.
- b) A-E's billing for the Extra Work shall include but not be limited to names of A-E's staff employed in the Extra Work, classification of employees and number of hours worked.

**1.6.4.** For partial completion of work of Projects/Services followed by default on part of A-E:

- a) For failure to complete and secure approval of the first required submittal, there shall be no compensation.
- b) For failure to complete and secure approval of other authorized phases, A-E shall, upon completion of Projects/Services by others, be entitled to receive compensation based on approved work of Projects/Services not to exceed the amounts specified in Attachment A for that particular submittal, plus the reasonable value as determined by County of the non-approved work; provided, however, that if the cost to County to complete the contract exceeds the amount specified herein, A-E shall be liable to County for such excess costs attributable to A-E's breach of the Contract.

## 2. **LABOR**

### 2.1 **Non-Employment of County Personnel**

- 2.1.1 A-E agrees that it will neither negotiate, offer, or give employment to any full-time, regular employee of County in professional classifications of the same skills required for the performance of this Contract who is involved in this Project in a participatory status during the life of this Contract regardless of the assignments said employee may be given or the days or hours employee may work.
- 2.1.2 Nothing in this Contract shall be deemed to make A-E, or any of A-E's employees or agents, agents or employees of the County. A-E shall be an independent contractor and shall have responsibility for and control over the details and means for performing the work, provided that A-E is in compliance with the terms of this Contract. Anything in the Contract which may appear to give County the right to direct A-E as to the details of the performance of the work or to exercise a measure of control over A-E shall mean that A-E shall follow the desires of County, only in the results of the work.

### 2.2 **Non-Discrimination**

- 2.2.1 In the performance of this contract, A-E agrees that it will comply with the requirements of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons.
- 2.2.2 A-E acknowledges that a violation of this provision shall subject A-E to all the penalties imposed for a violation of the California Labor Code.
- 2.2.3 The A-E shall comply with the regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are incorporated herein by reference in Attachment D and made a part of this Agreement.
- 2.2.4 A-E shall provide all information and reports required by the regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such regulations, orders and instructions.

Where any information required of A-E is in the exclusive possession of another who fails or refuses to furnish this information, A-E shall so certify to the sponsor or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

### 2.3 **Employee Eligibility Verification**

A-E warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens, and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. A-E shall obtain from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations, including but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. § 1324 et seq., as they currently exist and as they may be hereafter amended. A-E shall retain all such documentation for all covered employees for the period prescribed by the law.

### 2.4 **Independent Contractor**

- 2.4.1 As referenced in Section 2.1.2 of this Contract, A-E shall be considered an independent contractor.
- 2.4.2 Neither A-E, its employees nor anyone working under A-E shall qualify for workers' compensation or other fringe benefits of any kind through County.

## **2.5 Conflict of Interest Contractor Personnel**

- 2.5.1 A-E shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of County. This obligation shall apply to A-E, A-E's officers, directors, employees, agents, and subcontractors associated with accomplishing work and services hereunder. A-E's efforts shall include, but not be limited to establishing precautions to prevent its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers from acting in the best interests of County.
- 2.5.2 A-E shall notify County, in writing, of any potential or actual conflicts of interest between A-E and County that may arise prior to, or during the period of, Contract performance, including, but not limited to, whether any known County public officer's child is an officer or director of, or has an ownership interest of ten (10) percent or more in, Contractor A-E. While A-E will be required to provide this information without prompting from County any time there is a change regarding conflict of interest, Contractor must also provide an update to County upon request by County.

## **2.6 Labor Code Notice**

- 2.6.1 All A-E and subcontractors must comply with the requirements of California Labor Code 1770 et seq. if the work performed is considered a "public works" under California Labor Code 1720 et seq. A-E is encouraged to contact the California Department of Industrial Relations for clarification if the A-E is unsure if some or any of the work performed under this Contract qualifies as "public works".

## **3. INSURANCE**

- 3.1 Prior to the provision of services under this Contract, the A-E agrees to carry all required insurance at A-E's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with. A-E agrees to keep such insurance coverage current, provide Certificates of Insurance, and endorsements to the County during the entire term of this Contract. The County reserves the right to request the declarations page showing all endorsements and a complete certified copy of the policy.
- 3.2 A-E shall ensure that all subcontractors performing work on behalf of A-E pursuant to this Contract shall be covered under A-E's insurance as an Additional Insured, or carry insurance subject to the same terms and conditions as set forth herein for A-E. A-E shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from A-E under this Contract. It is the obligation of A-E to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by A-E through the entirety of this Contract for inspection by County representative(s) at any reasonable time.
- 3.3 All self-insured retentions (SIR)'s shall be clearly stated on the Certificate of Insurance. Any SIR in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee. The County reserves the right to require current audited financial reports from A-E. If A-E is self-insured, A-E will indemnify the County for any and all claims resulting or arising from A-E's services in accordance with the indemnity provision stated in this Contract.

- 3.4** If the A-E fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract

A. Qualified Insurer

1. The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**).
2. If the insurance carrier does not have an A.M. Best Rating of A-/VIII, CEO/Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.
3. The policy or policies of insurance maintained by the A-E shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned or scheduled, non-owned, and hired vehicles	\$1,000,000 combined single limit each accident \$5,000,000 combined single limit each accident (Optional coverage to be required when accessing AOA)
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per accident or disease
Professional Liability Insurance	\$1,000,000 per claims-made or occurrence \$2,000,000 aggregate
Pollution Liability (Optional coverage to be required when hazardous materials are involved).	\$1,000,000 per claims-made or occurrence

Increased insurance limits may be satisfied with Excess/Umbrella policies. Excess/Umbrella policies when required must provide Follow Form coverage

B. Required Coverage Forms

1. The Commercial General Liability coverage shall be written on occurrence basis Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.
2. The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing liability coverage at least as broad.

C. Required Endorsements

1. The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:
  - a. An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the ***County of Orange, its elected and appointed officials, officers, employees, and agents*** as Additional Insureds, or provide blanket coverage which shall state As Required by Written Contract.
  - b. A primary non-contributory endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that A-E's insurance is primary, and any insurance or self-insurance maintained by the County shall be excess and non-contributing.
2. The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against ***the County of Orange, its elected officials, officers, employees, and agents***, or provide blanket coverage, which will state ***As Required by Written Contract***.

If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Contract services, A-E must purchase an extended report period for a minimum of three (3) years after the expiration or earlier termination of the Contract.

3. (Optional coverage to be required only when hazardous materials are involved. If required A-E will be notified by County). The Pollution Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:
  - a. An Additional Insured endorsement naming the ***County of Orange, its elected and appointed officials, officers, employees, and agents*** as Additional Insureds.
  - b. A primary non-contributing endorsement evidencing that A-E's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.
4. Pollution Liability insurance must include coverage for bodily injury and property damage, including coverage for loss of use and/or diminution in property value, and for clean-up costs arising out of, pertaining to, or in any way related to the actual or alleged discharge, dispersal, seepage, migration, release or escape of contaminants or pollutants resulting from any services or work performed by, or behalf of, A-E, including the transportation of hazardous waste, hazardous materials, or contaminants.

If the A-E's Professional and/or Pollution Liability policy(ies) is/are a claims-made policy, A-E shall agree to the following:

- a. The retroactive date must be shown and must be before the date of the Contract or the beginning of the Contract services.
- b. Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after expiration or earlier termination of Contract services.

If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Contract services, A-E must purchase an extended reporting period for a minimum of three (3) years after expiration of earlier termination of the Contract.

5. All insurance policies required by this Contract shall waive all rights of subrogation against the *County of Orange, its elected and appointed officials, officers, employees, and agents* when acting within the scope of their appointment or employment.
6. A-E shall provide thirty (30) days prior written notice to the County of any policy cancellation or non-renewal and ten (10) days prior written notice where cancellation is due to non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract
7. The Commercial General Liability policy shall contain a severability of interest's clause (standard in the ISO CG 001 policy).
8. Insurance certificates should be forwarded to the agency/department address listed on the solicitation.
9. If the A-E fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.
10. County expressly retains the right to require A-E to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.
11. County shall notify A-E in writing of changes in the insurance requirements. If A-E does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to A-E, and County shall be entitled to all legal remedies.
12. The procuring of such required policy or policies of insurance shall not be construed to limit A-E's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

#### **4. INDEMNITY/COMPLIANCE**

- 4.1 A-E shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, and its/their agents, officers, and employees from employer sanctions and any other liability which may be assessed against A-E or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
- 4.2 All Projects/Services submitted by A-E shall be complete and shall be carefully checked prior to submission. A-E understands that County's checking is discretionary, and A-E shall not assume that County will discover errors and/or omissions. If County discovers any errors or omissions prior to approving A-E's Projects/Services, the Projects/Services will be returned to A-E for correction. Should County or others discover errors or omissions in the work submitted

by A-E after County's approval thereof, County's approval of A-E's Projects/Services shall not be used as a defense by A-E.

#### 4.3 Indemnification

4.3.1 A-E agrees to, indemnify, defend with counsel approved in writing by County, and hold County of Orange, and their elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the A-E. If judgment is entered against A-E and County by a court of competent jurisdiction because of the concurrent active negligence of A-E and County or County Indemnitees, A-E and County agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment. Notwithstanding anything stated above, nothing contained herein shall relieve A-E of any insurance requirements or obligations created elsewhere in this Contract.

#### 4.4 Bills and Liens

4.4.1 A-E shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. A-E shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, A-E shall promptly procure its release and, in accordance with the requirements of the indemnification paragraph above, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses arising from or related thereto.

#### 4.5 Compliance with Laws

4.5.1 A-E represents and warrants that services to be provided under this Contract shall fully comply, at A-E's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. A-E acknowledges that County is relying on A-E to ensure such compliance, and pursuant to the requirements of the Insurance and Indemnification section, A-E agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

4.5.2 A-E shall remain in compliance and in good standing, maintaining current and active business entity and/or nonprofit registration status, with all applicable federal, state and local registration requirements at the time of execution of the contract through the duration of the term of the Contract, and shall provide annual confirmation of current and active status to County through the term of the Contract.

4.5.3 A-E acknowledges that County is relying on A-E for such compliance, and pursuant to the requirements of the indemnification paragraph above, **A-E agrees that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.**

### 5. TERMINATION

#### 5.1 Termination of Contract for Cause

5.1.1 If A-E breaches any of the covenants or conditions of this Contract, County shall have the right to terminate this Contract upon ten (10) days written notice prior to the effective day of termination.

- 5.1.2** A-E shall have the opportunity to cure the alleged breach prior to termination.
- 5.1.3** In the event the alleged breach is not cured by A-E prior to termination, all work performed by A-E pursuant to this Contract, which work has been reduced to plans or other documents, shall be made available to County.

## **5.2 Termination for Convenience**

- 5.2.1** Notwithstanding any other provision of the Contract, County may at any time, and without cause, terminate this Contract in whole or in part, upon not less than seven (7) calendar days' written notice to the A-E. Such termination shall be effected by delivery to the A-E of a notice of termination specifying the effective date of the termination and the extent of the Work to be terminated.
- 5.2.2** A-E shall immediately stop work in accordance with the notice and comply with any other direction as may be specified in the notice or as provided subsequently by County.
- 5.2.3** County shall pay the A-E for the Work completed prior to the effective date of the termination, and such payment shall be the A-E's sole remedy under this Contract.
- 5.2.4** Under no circumstances will A-E be entitled to anticipatory or unearned profits, consequential damages, or other damages of any sort as a result of a termination or partial termination under this Paragraph.
- 5.2.5** A-E shall insert in all subcontracts that the subcontractor shall stop work on the date of and to the extent specified in a notice of termination and shall require subcontractors to insert the same condition in any lower tier subcontracts.

## **5.3 Breach of Contract**

The failure of the A-E to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event, in addition to any other remedies available at law, in equity, or otherwise specified in this Contract, the County may:

- a. afford the A-E written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
- b. discontinue payment to the A-E for and during the period in which the A-E is in breach; and
- c. offset those monies disallowed pursuant to the above, against any monies billed by the A-E but yet unpaid by the County.

## **5.4 Default**

- 5.4.1** In the event any equipment or service furnished by the A-E in the performance of this Contract should fail to conform to the specifications therein within one (1) calendar year from the County's acceptance of the equipment or service, or any performance period specifically specified within the specifications or Contract, whichever is greater, the County may reject same, and it shall become the duty of the A-E to reclaim and remove the items without expense to the County and to immediately replace all such rejected equipment or service with others conforming to such specifications, provided that should the A-E fail, neglect or refuse to do so within one hundred and twenty (120) calendar days, the County shall have the right to purchase on the open market a corresponding quantity of any such equipment or service and to deduct from any monies due or that may thereafter become due to the A-E the difference between the price specified in this Contract and the actual cost to the County.

- 5.4.2** In the event the A-E shall fail to make prompt delivery as specified of any equipment or service, the same conditions as to the rights of the County to purchase on the open market and to reimbursement set forth above shall apply, except as otherwise provided in this Contract.
- 5.4.3** In the event of the cancellation of this Contract, either in whole or in part, by reason of the default or breach by the A-E, any loss or damage sustained by the County in procuring any equipment or service which the A-E agreed to supply under this Contract shall be borne and paid for by the A-E.
- 5.4.4** Default shall include failure to carry out any of the requirements of this Contract, including, but not limited to not providing enough properly skilled workers or proper materials, persistently disregarding laws and or ordinances, not proceeding with the Projects/Services as agreed to herein, or otherwise substantially violating any provision of this Contract.
- 5.4.5** Upon termination of this Contract with A-E, the County may begin negotiations with a third-party A-E to provide goods and/or Project/Services as specified in this Contract.
- 5.4.6** The right of either Party to terminate this Contract hereunder shall not be affected in any way by its waiver of or failure to take action with respect to any previous default.

## **6. MISCELLANEOUS**

### **6.1 Laws to be Observed**

A-E is assumed to be familiar with and, at all times, shall observe and comply with all federal, state and local laws, ordinances and regulations in any manner affecting the conduct of the Projects/Services.

### **6.2 Award of Construction Contract and Other Future Contracts**

A-E is hereby informed that provisions of the Public Contract Code, the Political Reform Act of 1974, other statutes, regulations, and County policy prohibit, as an impermissible conflict of interest, the award of a contract for the construction of the project(s) on which A-E performed architectural-engineering services under this A-E Contract. A-E is hereby informed that these statutes and regulations could also prohibit the award to A-E of design or other contracts on future phases related to tasks performed by A-E under this Contract. This prohibition applies also to a subcontractor of or parent company of the firm that performed architectural-engineering tasks under this Contract.

### **6.3 Amendments**

No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.

### **6.4 Successors and Assigns**

The terms and provisions of this Contract shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

### **6.5 Entirety**

This Contract contains the entire agreement between the parties with respect to the matters provided for herein.

### **6.6 Severability**

If any part of this Contract is held, determined, or adjudicated to be illegal, void, or unenforceable by a court of competent jurisdiction, the remainder of this Contract shall be given effect to the fullest extent reasonably possible.

## **6.7 Binding Obligation**

The Parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity enforceable in accordance with its terms.

## **6.8 Governing Law and Venue**

**6.8.1** This Contract has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure, Section 394.

**6.8.2** The Parties specifically agree that by soliciting and entering into and performing Projects/Services under this Contract, the A-E shall be deemed to constitute doing business within Orange County from the time of solicitation of work, through the period when all Projects/Services under this Contract is completed and continuing until the expiration of any applicable limitations period.

## **6.9 Intentionally Omitted**

## **6.10 Ownership of Documents**

**6.10.1** All data, including but not limited to letters, reports, files, plans, drawings, specifications, Consultant SOQs, sketches, diagrams and calculations, prepared by A-E and/or anyone acting under the supervision of A-E pursuant to this Contract, shall become the property of County upon preparation by A-E and may be used by the County as it may require without additional cost to the County.

**6.10.2** County shall not be limited in any way to its use thereof at any time, including the release of this data to third parties. A-E shall be held harmless for release of such data as may be prepared or created under this Contract to any third Party. If A-E and/or anyone acting under the supervision of A-E should later desire to use any of the data prepared in connection with this Contract, A-E shall first obtain the written approval of County.

## **6.11 Confidentiality**

**6.11.1** All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, and all written or other information submitted to A-E in connection with the performance of this Contract shall be held confidential by A-E and/or anyone acting under the supervision of A-E and shall not, without the prior written consent of County, be used for any purposes other than the performance of the Projects/Services described in Attachment A, nor be disclosed to any person, partnership, company, corporation or agency, not connected with the performance of the Projects/Services.

**6.11.2** Nothing furnished to A-E which is generally known among counties in Southern California shall be deemed confidential.

**6.11.3** A-E and/or anyone acting under the supervision of A-E shall not use County name or insignia, photographs of the work, or any other publicity pertaining to the work in any magazine, trade paper, newspaper, or other medium without the express written consent of County.

## **6.12 Publication**

- 6.12.1** No copies of sketches, schedules, written documents, computer based data, photographs, maps or graphs, including graphic art work, resulting from performance or prepared in connection with this Contract, are to be released by A-E and/or anyone acting under the supervision of A-E to any person, partnership, company, corporation, or agency, without prior written approval by the County, except as necessary for the performance of the services of this Contract. All press contacts, including graphic display information to be published in newspapers, magazines, etc., are to be administered only after County approval.
- 6.12.2** The A-E agrees that it will not issue any news releases or make any contact with the media in connection with either the award of this Contract or any subsequent amendment of, or effort under this Contract. A-E must first obtain review and approval of said media contact from the County through the County's Project Manager. Any requests for interviews or information received by the media should be referred directly to the County. A-E's are not authorized to serve as a media spokesperson for County projects without first obtaining permission from the County Project Manager.

## **6.13 Records and Audit/Inspections**

- 6.13.1** A-E shall keep an accurate record of time expended by A-E and/or consultants employed by A-E in the performance of this Contract.
- 6.13.2** Within ten (10) days of County's written request, A-E shall allow County or authorized State or Federal agencies or any duly authorized representative to have the right to access, examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, timecards or other records relating to this Contract.
- 6.13.3** A-E shall keep such material, including all pertinent cost accounting, financial records and proprietary data for a period of three (3) years after termination or completion of the Contract or until resolution of any claim or dispute between the Parties, whichever is later.
- 6.13.4** Should A-E cease to exist as a legal entity, records pertaining to this Contract shall be forwarded within a reasonable period of time not to exceed sixty (60) days to its successor in interest or surviving entity in a merger or acquisition, or, in the event of liquidation, to County.

## **6.14 Notices**

- 6.14.1** Any and all notices, requests, demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the Parties' project managers' routine exchange of information and cooperation during the Projects/Services.
- 6.14.2** Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt, or no greater than four (4) calendar days after being mailed by U. S. certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day.
- 6.14.3** All communications shall be addressed to the appropriate Party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

For A-E:           Company  
                           Attn: Name, Project Manager  
                           Company Address

Company City, ST, Zip  
Phone: (###) ###-####  
E-mail: name@domain

For County: JWA/Planning and Development  
Attn: Reynold Tang, Project Manager/Engineer  
3160 Airway Avenue  
Costa Mesa, CA 92626  
Phone: (657) 242-8497  
E-mail: [rwtang@ocair.com](mailto:rwtang@ocair.com)

cc: JWA/Procurement  
Attn: Monica Rodriguez, County DPA  
3160 Airway Avenue  
Costa Mesa, CA 92626  
Phone: (949) 252-5240  
E-mail: [mrodriguez@ocair.com](mailto:mrodriguez@ocair.com)

### **6.15 Attorney's Fees**

In any action or proceeding to enforce or interpret any provision of this Contract, or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorney's fees, costs and expenses.

### **6.16 Interpretation**

**6.16.1** Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract.

**6.16.2** In addition, each Party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite having the opportunity to do so.

**6.16.3** Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both.

**6.16.4** Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived.

**6.16.5** The provisions of this Contract shall be interpreted in a reasonable manner to affect the purpose of the Parties and this Contract.

### **6.17 Headings**

The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.

### **6.18 Acceptance**

Unless otherwise agreed to in writing by County acceptance shall not be deemed complete unless in writing and until all the services have actually been received, inspected, and tested to the satisfaction of County.

### **6.19 Changes**

A-E shall make no changes in the work or perform any additional work without the County's specific written approval.

## **6.20 Assignment**

The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned or sub-contracted by A-E, by any means whatsoever including but not limited to acquisition by merger, without the express written consent of County. Any attempt by A-E to assign or sub-contract the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.

## **6.21 Changes in Ownership**

A-E agrees that if there is a change or transfer in ownership, including but not limited to merger by acquisition, of A-E's business prior to completion of this Contract, the new owners shall be required under terms of sale or other transfer to assume A-E's duties and obligations contained in this Contract and to obtain the written approval of County of such merger or acquisition, and complete the obligations and duties contained in the Contract to the satisfaction of County. A-E agrees to pay, or credit toward future work, County's costs associated with processing the merger or acquisition.

## **6.22 Force Majeure**

A-E shall not be assessed with damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided A-E gives written notice of the cause of the delay to County within thirty-six (36) hours of the start of the delay and A-E avails himself of any available remedies.

## **6.23 Calendar Days**

Any reference to the word "day" or "days" herein means calendar day or calendar days, respectively, unless otherwise expressly provided.

## **6.24 Title to Data**

**6.24.1** All materials, documents, data or information obtained from the County data files or any County medium furnished to the A-E in the performance of this Contract, will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the A-E after completion or termination of this Contract without the express written consent of the County.

**6.24.2** All materials, documents, data or information, including copies furnished by County and loaned to A-E for his temporary use, must be returned to the County at the end of this Contract unless otherwise specified by the Director.

## **6.25 Availability of Funds**

The obligation of County is subject to the availability of funds appropriated for this purpose, and nothing herein shall be construed as obligating the County to expend or as involving the County in any contract or other obligation for future payment of money in excess of appropriations authorized by law.

## **6.26 Contingency of Funding**

A-E acknowledges that funding or portions of funding for this Contract may also be contingent upon receipt of funds from, and/or appropriation of funds by, the State of California or other funding sources to County. If such funding and/or appropriations are not forthcoming, or otherwise limited, County may immediately terminate or modify this Contract without penalty.

#### **6.27 Contract Construction**

The Parties acknowledge that each Party and its counsel have reviewed this Contract and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Contract or any amendment or exhibits hereto.

#### **6.28 Conflicts of Interest**

**6.28.1** A-E or its employees may be subject to the provisions of the California Political Reform Act of 1974 (the "Act"), which (1) requires such persons to disclose any financial interest that may be materially affected by services provided under this Contract, (2) prohibits such persons from making, or participating in making, decisions that could reasonably affect such interest; and (3) may require the filing a Statement of Economic Interest (Form 700).

**6.28.2** If subject to the Act, A-E shall conform to all requirements of the Act. Failure to do so shall constitute a material breach and is grounds for immediate termination of this Contract by County. Pursuant to Section 4.3 "Indemnification", A-E shall indemnify and hold harmless County for any and all claims for damages resulting from Contractor's violation of this Section.

#### **6.29 Usage**

No guarantee is given by the County to A-E regarding usage of this Contract. The A-E agrees to supply services requested, as needed by the County of Orange, at prices listed in the Contract, regardless of quantity requested.

#### **6.30 Wage Rates**

Contractor shall post a copy of the wage rates at the job site and shall pay the adopted prevailing wage rates as a minimum. Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the Board of Supervisors has obtained the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in this locality for each craft, classification, or type of workman needed to execute this Contract from the Director of the Department of Industrial Relations. These rates are on file with the Clerk of the Board of Supervisors. Copies may be obtained at cost at the office of County's OC Public Works/OC Facilities & Asset Management/A&E Project Management or visit the website of the Department of Industrial Relations, Prevailing Wage Unit at [www.dir.ca.gov/DLSR/PWD](http://www.dir.ca.gov/DLSR/PWD). The Contractor shall comply with the provisions of Sections 1774, 1775, 1776 and 1813 of the Labor Code.

#### **6.31 Apprenticeship Requirements**

The Contractor shall comply with Section 230.1(A), California Code of Regulations as required by the Department of Industrial Relations, Division of Apprenticeship Standards by submitting DAS Form to the Joint Apprenticeship Committee of the craft or trade in the area of the site.

#### **6.32 Registration of Contractor**

All contractors and subcontractors must comply with the requirements of Labor Code Section 1771.1(a), pertaining to registration of contractors pursuant to Section 1725.5. Bids cannot be accepted from unregistered contractors except as provided in Section 1771.1. This project is

subject to compliance monitoring and enforcement by the Department of Industrial Relations. After award of the contract, Contractor and each Subcontractor shall furnish electronic payroll records directly to the Labor Commissioner in the manner specified in Labor Code Section 1771.4.

### **6.33 Payroll Records**

**6.33.1** Contractor and any Subcontractor(s) shall comply with the requirements of Labor Code Section 1776. Such compliance includes the obligation to furnish the records specified in Section 1776 directly to the Labor Commissioner in an electronic format, or other format as specified by the Commissioner, in the manner provided by Labor Code Section 1771.4.

**6.33.2** The requirements of Labor Code Section 1776 provide, in summary:

Contractor and any Subcontractor(s) performing any portion of the work under this Contract shall keep an accurate record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by Contractor or any Subcontractor(s) in connection with the work.

**6.33.3** Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

- a. The information contained in the payroll record is true and correct.
- b. The employer has complied with the requirements of Labor Code Sections 1771, 1811, and 1815 for any work performed by his or her employees in connection with the Contract.

**6.33.4** The payroll records shall be certified and shall be available for inspection at the principal office of Contractor on the basis set forth in Labor Code Section 1776.

**6.33.5** Contractor shall inform County of the location of the payroll records, including the street address, city and county, and shall, within five working days, provide a notice of any change of location and address of the records.

**6.33.6** Pursuant to Labor Code Section 1776, Contractor and any Subcontractor(s) shall have 10 days in which to provide a certified copy of the payroll records subsequent to receipt of a written notice requesting the records described herein. In the event that Contractor or any Subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to County, forfeit \$100, or a higher amount as provided by Section 1776, for each calendar day, or portion thereof, for each worker to whom the noncompliance pertains, until strict compliance is effectuated. Contractor acknowledges that, without limitation as to other remedies of enforcement available to County, upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement of the California Department of Industrial Relations, such penalties shall be withheld from progress payments then due Contractor. Contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

**6.33.7** Contractor and any Subcontractor(s) shall comply with the provisions of Labor Code Sections 1771 et seq. and shall pay workers employed on the Contract not less than the general prevailing rates of per diem wages and holiday and overtime wages as determined by the Director of Industrial Relations. Contractor shall post a copy of these wage rates at the job site for each craft, classification, or type of worker needed in the performance of this Contract, as well as any additional job site notices required by Labor Code Section 1771.4(b). Copies of these rates are on file at the principal office of County's representative, or may be obtained from the State Office, Department of Industrial Relations ("DIR") or from the DIR's website at

www.dir.ca.gov. If the Contract is federally funded, Contractor and any Subcontractor(s) shall not pay less than the higher of these rates or the rates determined by the United States Department of Labor.

### **6.34 Work Hour Penalty**

Eight hours of labor constitute a legal day's work, and forty hours constitute a legal week's work. Pursuant to Section 1813 of the Labor Code of the State of California, the Contractor shall forfeit to the County Twenty Five Dollars (\$25) for each worker employed in the execution of this Contract by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than the legal day's or week's work, except that work performed by employees of said Contractor and subcontractors in excess of the legal limit shall be permitted without the foregoing penalty upon the payment of compensation to the workers for all hours worked in excess of eight hours per day of not less than 1-1/2 times the basic rate of pay.

### **6.35 Apprentices**

**6.35.1** The Contractor acknowledges and agrees that, if this Contract involves a dollar amount greater than or a number of working days greater than that specified in Labor Code Section 1777.5, this Contract is governed by the provisions of Labor Code Section 1777.5. It shall be the responsibility of the Contractor to ensure compliance with this Article and with Labor Code Section 1777.5 for all apprenticeable occupations.

Pursuant to Labor Code Section 1777.5 if that Section applies to this Contract as indicated above, the Contractor and any subcontractors under him employing workers in any apprenticeable craft or trade in performing any work under this Contract shall apply to the applicable joint apprenticeship committee for a certificate approving the Contractor or subcontractor under the applicable apprenticeship standards and fixing the ratio of apprentices to journeymen employed in performing the work.

**6.35.2** Pursuant to Labor Code Section 1777.5 if that Section applies to this Contract as indicated above, the Contractor and any subcontractor under him may be required to make contributions to the apprenticeship program.

**6.35.3** The Contractor and all subcontractors under him shall comply with Labor Code Section 1777.6 which Section forbids certain discriminatory practices in the employment of apprentices.

### **6.36 Safety**

A-E shall comply with County's Safety and Loss Prevention Policy and Procedure #306 ("Contractor Safety Responsibilities") and submit a copy of its Injury and Illness Prevention Program (IIPP) and Contractor Safety-Activity Checklist to the designated County Procurement staff as part of the solicitation and/or contract process. A-E will notify County Project Manager of any revisions to the Safety Activity Checklist and will provide a new Safety-Activity Checklist upon County request. The IIPP shall comply with California Code of Regulations, Title 8, Section 1509 or 3203 (whichever applies). A-E shall submit other safety programs that pertain to the type of job that will be performed on site. County reserves the right to conduct inspections and audits as necessary for the purpose of evaluating any aspect of safety performance under this Contract.

### **6.37 Levine Act Requirement**

A-E agrees to comply with Government Code Section 84308. A-E further agrees to disclose to the County any contribution made to any members of the Board of Supervisors or County Agency Officers by A-E, A-E's agent or lobbyist, or, if applicable, any subcontractor(s) for

the twelve (12) months prior to and twelve (12) months following the approval, renewal, or extension of this Contract.

### **6.38 Subcontracting**

No performance of this Contract or any portion thereof may be subcontracted or otherwise delegated by Contractor, in whole or in part, without first obtaining the prior express written consent of County. Any attempt by Contractor to subcontract or delegate any performance of this Contract without the prior express written consent of County shall be invalid and shall constitute a material breach of this Contract, and any attempted assignment or delegation in derogation of this paragraph shall be void.

In the event that Contractor is authorized by County to subcontract, this Contract shall take precedence over the terms of the agreement between Contractor and subcontractor, and any agreement between Contractor and a subcontractor shall incorporate by reference the terms of this Contract. Contractor shall remain responsible for the performance of this Contract and indemnification of County notwithstanding the County's consent to Contractor's request for approval of a subcontractor. Under no circumstances shall County be required to directly monitor the performance of any subcontractor. All work performed by a subcontractor must be monitored by Contractor and must meet the approval of the County of Orange pursuant to the terms of this Contract.

### **6.39 Cooperative Agreement**

The provisions and pricing of this Contract will be extended to other California local or state governmental entities. Governmental entities wishing to use this Contract will be responsible for issuing their own purchase documents/price agreements, providing for their own acceptance, and making any subsequent payments. Contractor shall be required to include in any Contract entered into with another agency or entity that is entered into as an extension of this Contract a Contract clause that will hold harmless the County of Orange from all claims, demands, actions or causes of actions of every kind resulting directly or indirectly, arising out of, or in any way connected with the use of this contract. Failure to do so will be considered a material breach of this Contract and grounds for immediate Contract termination. The cooperative entities are responsible for obtaining all certificates of insurance and bonds required. The Contractor is responsible for providing each cooperative entity a copy of the Contract upon request by the cooperative entity. The County of Orange makes no guarantee of usage by other users of this Contract.

### **6.40 Anti-Idling Policy**

Within six months of Contract execution, Contractor must develop, implement, and submit to the Airport Director for approval a fleet-wide anti-idling policy. At a minimum, the anti-idling policy shall include the requirement that vehicle engines shall be turned off when vehicles are not occupied, and that occupied vehicles be turned off after no more than a five-minute idling period. Contractor's policy shall also include all third-party vehicles that enter Airport property at the direction of Contractor.

### **6.41 Airport Security**

Contractor, Contractor's employees and Contractor's subcontractors complete the following in order to obtain an Airport-Issued Security Identification (ID Badge).

#### **6.41.1 Airport-Issued Badge Acquisition, Retention, and Termination:** Prior to issuance of airport security ID Badge(s), designated Contractor personnel who shall be working on-site in JWA restricted areas, and engaged in the performance of work under this Contract must pass JWA's

security screening requirements, which include fingerprinting to complete an F.B.I. Criminal History Records Check (CHRC) and a Security Threat Assessment (STA). Contractor should anticipate four to six weeks for new employees to receive an airport security ID badge which includes the following general steps:

- a. Company designates at least two representatives as Authorized Signatories by submitting a letter on company letterhead using the airport's template.
- b. Subcontractors and tenant contractors must also have two Authorized Signatories at a minimum.
- c. All company employees requiring unescorted access to restricted airport areas are scheduled for fingerprint appointments.
- d. Background check fees are provided at the first appointment.
- e. Employees must provide two government-issued IDs at the first appointment.
- f. STA and/or CHRC results are received.
- g. All ID Badge applicants successfully passing the STA and/or CHRC are scheduled for required training.
- h. ID Badge related fees are provided and any additional information requested is provided at the training appointment.
- i. Upon successful completion of the required training, employees will receive their ID Badge.
- j. Authorized Signatories are required to maintain the ID Badge process for the onboarding of future employees, employee ID Badge renewals, scheduling, and other actions detailed below.

**6.41.2** Contractor's designated personnel must, at a minimum, complete the following required training based on contractors work to be provided and access areas:

- a. Authorized Signatory Training: All organizations must designate at least two Authorized Signatories by providing a letter on company letterhead using the ID/Access Control Office template. The designated Authorized Signatories will be responsible for the entire ID Badge process for their organization including, but not limited to, the onboarding of new employees, renewing employees, scheduling employees for appointments, payment coordination, ID Badge audits, resolution to safety/security violations caused by the organization's employees, subtenants, or subcontractors. Authorized Signatories must attend this approximate 1 hour course initially and annually.
- b. Security Identification Display Area (SIDA) Training: All employees with an operational need to have unescorted access to the Airport SIDA must complete this approximate 1.5-hour course and pass a written test.
- c. Sterile Area (Elevator) Training: All Non-SIDA employees with an operational need to have unescorted access to the Sterile Area of the terminal must complete an approximate 30-minute training session and pass a written test.
- d. Non-Movement Area or Movement Area Driver Training: All employees with an operational need to drive on airfield service roads and/or ramps must attend the approximate 1-hour Non-Movement Area Driver course and pass a written test. Employees with an operational need to drive on active taxiways and/or active runways must coordinate this training with the Airport Operations Division.

- e. Contractors' designated personnel must successfully complete the badge acquisition within six weeks of Contract execution, unless other arrangements have been coordinated by County Project Manager or designee in writing.
- f. All personnel assigned to this contract must be in possession of a current, valid Airport-Issued ID Badge prior to fulfilling an independent shift assignment.
- g. Contractor is responsible for terminating and retrieving Airport-Issued ID Badges as soon as an employee no longer needs unescorted access to airport restricted areas. Terminated ID Badges must be returned to the ID/Access Control office within three business days. Failure to do so will result in a \$250.00 fee.
- h. Contractor shall be responsible for all cost associated with the Airport-Issued ID Badge process. The ID/Access Control Office maintains the current list of fees. Below is a list of estimated costs for new ID Badge applications and ID Badge renewals:
  - STA Fee: Approximately \$11.00
  - Fingerprint/CHRC Fee: Approximately \$31.00
  - ID Badge Fee: Approximately \$10.00
  - Terminated, Unreturned ID Badge Fee: Approximately \$250.00
- i. Contractor shall abide by all the security requirements set forth by the Transportation Security Agency (TSA) and JWA.

**6.41.3 Airport Driving Endorsement:** In addition to obtaining a JWA access control badge, Contractor's service staff with an operational need to drive on airport service roads and ramps must also take an airport provided training course and pass a test to acquire an airfield driving endorsement.

**6.41.4** Some Air Operations Area projects will require vehicles to be equipped with visible company placards on both sides of the vehicle, an orange/white checkered flag, an amber, rotating beacon, and a two-way radio to monitor FAA Air Traffic Control Tower frequencies; or be escorted by a vehicle with this equipment and markings. Only vehicles, equipment, and personnel who have prior authorization by the ASP may operate on runways, taxiways and movement areas, or cross runways and taxiways. Under no circumstance shall any vehicle operate on or cross a runway, taxiway, or any movement unless permission from the Tower is granted. Vehicles requiring an escort must be escorted by Airport Operations, or authorized company vehicles, equipped with two-way radios, and in constant radio communication with the FAA Tower Control.

**6.41.5 Airport ID Badge Holder Requirements and Responsibilities:** TSA approved security program for JWA requires that each person issued a JWA security badge is made aware of his/her responsibilities regarding the privilege of access to restricted areas of JWA.

- a. All persons within the restricted air operation areas of JWA are required to display, on their person, a JWA security badge; unless they are specifically exempted for safety reasons, or they are under escort by a properly badged individual. Each JWA employee, JWA Contractor, subcontractor or tenant employee who has been issued a JWA security badge is responsible for challenging any individual who is not properly displaying a JWA issued or approved and valid identification badge. Any person who is not properly displaying or who cannot produce a valid JWA security badge must immediately be referred to the Sheriff's Department - Airport Police Services Office for proper handling.
- b. JWA security badge is the property of County and must be returned upon termination of Contractor personnel employment and/or termination, expiration or completion of Contract. The loss of a badge shall be reported within 24 hours to the Sheriff's Department - Airport

Police Services by calling (949) 252-5000. Individuals that lose their badge shall be required to pay a fee before receiving a replacement badge. The charge for lost badge replacement shall be at the current posted rate located in the JWA Administration Office. A report shall be made before a replacement badge shall be issued.

- c. JWA security badge is nontransferable.
- d. In the event that a contractor's badge is not returned to JWA upon termination of Contractor personnel employment and/or termination or expiration of Contract, a fine of \$250.00 per badge shall be charged to Contractor. Contractor's final payment may be held by County or a deduction from contractor's payment(s) may be made to ensure that funding is available to cover the fine in the event that badges are not returned.
- e. Contractor shall submit the names, addresses, and driver's license numbers for all Contractor personnel who shall be engaged in work under this Contract to County Project Manager within seven days after award of the Contract or within seven days after the start of any new Contractor personnel and/or prior to the start of any work.
- f. No worker shall be used in performance of this work that has not passed the background check.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Contract on the dates opposite their respective signatures:

**COMPANY,**  
a TBD Corporation,

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name & Title

*(If a corporation, the document must be signed by two corporate officers. The 1<sup>st</sup> must be either Chairman of the Board, President or any Vice President.)*

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name & Title

*(If a corporation, the 2nd signature must be either the Secretary, an Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer)*

**COUNTY OF ORANGE**, a political subdivision of the State of California; and,  
a body corporate and politic

Date: \_\_\_\_\_

By: \_\_\_\_\_

Print  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM**  
Office of the County Counsel  
Orange County, California

By: \_\_\_\_\_

Deputy

Name: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT A**  
**SCOPE OF WORK**

**I. INTRODUCTION**

John Wayne Airport (“JWA”) on behalf of the County of Orange (“County”) requires supplemental professional services to meet workload demands and project scheduling commitments in relation to Airport Planning and Programming services (Services) for various projects, studies, and/or assignments. To supplement existing resources, County intends to issue “Airport Planning and Programming Services” for use by JWA on an "as-needed" basis.

The consultant and their subconsultant(s) (“Firm” or “Contractor”) providing the Services or working under the task order agreement shall be available on short notice (less than two hours) to respond to any planned/unplanned requests/assignments by JWA that are critical in nature to the airport. As an example, conditions that could impact and/or interrupt the safe operations of the airspace or essential facilities are a major concern of the Federal Aviation Administration (FAA) and JWA.

As a supplement to the Disadvantaged Business Enterprise program, John Wayne Airport is seeking a 25% Small Business Enterprise (SBE) participation goal for the overall contract. The participation is on the total contract basis, and participation is to be demonstrated/reflected on each task order. If participation is not achieved within each task order, then Good Faith Effort (GFE) documentation should be submitted with each task order proposal.

This contract may be funded by various grants from the Federal Aviation Administration throughout the term of the contract. Therefore, the requirements of Title 2 of the Code of Federal Regulations (C.F.R.), part 200 and §§200.317-200.326 of the Federal Aviation Administration (FAA) Airport Improvement Program and 49 CFR Part 26 and/or Part 23, Participation by Disadvantaged Business Enterprises in Department of Transportation Programs, apply to this contract, including Build America, Buy America (BABA) as applicable. The provisions stated within **Attachment D** are mandatory of the Federal Aviation Administration, and it is the responsibility of the Firm to comply.

The project list below reflects the set of projects anticipated to be completed utilizing this contract and by no means should be considered comprehensive nor guaranteed.

<b>Project*</b>	<b>Project Description</b>	<b>Anticipated Fiscal Year (FY) Project Start**</b>	<b>Anticipated Total Project Cost**</b>
Aircraft Rescue and Fire Fighting Stormwater and Material Storage Improvements	The project consists of improvements to the facility to accommodate the storage of fluorine free foam (F3) firefighting foam as well as implement water quality system improvements.	FY 2025-26	\$1,751,000
Airfield Asphalt Pavement Improvements	The project consists of asphalt pavement improvements (i.e. replace and/or rehabilitate) at select areas within the airfield (e.g. area adjacent to the isolation circle, vehicle service road, and west segment of Taxiway L).	FY 2025-26	\$3,355,000
Airfield Pavement Marking Improvements	The project consists of providing shoulder painting enhancements at the taxiway/runway intersections to improve visibility for aircraft operations.	FY 2025-26	\$3,050,000
Airfield Runway 2L/20R Rehabilitation	The project consists of the rehabilitation of Runway 2L-20R along with portions of the connector taxiways, including associated	FY 2025-26	\$27,103,930

	shoulders, blast pads, and safety area at the south end.		
Airport Access Control System Improvements	The project consists of terminal and airfield access control system improvements, which includes the upgrading and/or replacement of existing system equipment, including cabling infrastructure and card readers.	FY 2026-27	\$4,571,000
Airport Power Generation and Distribution Upgrades - Phase 1: Terminal Electrical Distribution Upgrades	The project consists of re-feeding of the 12 kV distribution and the replacement of the medium voltage switchgear, five (5) substations (including automatic transfer switches) and other aging miscellaneous equipment.	FY 2025-26	\$55,421,000
Airport Power Generation and Distribution Upgrades - Phase 2: Central Utility Plant Improvements	The project consists of co-generation plant system improvements, including SCADA, blackstart, battery storage, load shedding capabilities, and water treatment system upgrades.	FY 2025-26	\$73,693,300
Airport Power Generation and Distribution Upgrades - Phase 3: Terminal Electrical Infrastructure Upgrades	The project consists of the replacement of aging electrical equipment in the terminal complex and at other airport facilities.	FY 2025-26	\$14,156,120
Commercial Ramp Ground Service Equipment Electric Vehicle Upgrades - Phase 2	The project consists of electrical infrastructure improvements along or adjacent to the terminal apron across Terminals A, B, and C at Gates 1-2, 5-8, 11-22, North RON, and the South RON.	FY 2025-26	\$6,236,560
Commercial Ramp Stormwater Treatment Improvements	The project consists of the implementation of stormwater improvements for capture, storage, treatment, and discharge at the commercial ramp apron.	FY 2025-26	\$18,470,000
Common Use Passenger Processing System Upgrades (CUPPS)	The project consists of the replacement of the existing CUPPS equipment and its associated infrastructure in all terminals, which includes computer systems, screens, kiosks, and servers.	FY 2025-26	\$10,000,000
Concessions Infrastructure - Phase 2	The project consists of supporting the improvements to the existing utilities and development of new utility infrastructure to accommodate the planned concessions in all terminals.	FY 2025-26	\$1,183,000
Explosive Detection Team Facility Improvements	The project consists of improvements to the existing Orange County Sheriff's Department's Explosive Detection Team facility.	FY 2025-26	\$670,000
Facilities Security Improvements (CCTV)	The project consists of terminal and airfield security improvements, which includes the replacement of security cameras and installation of lighting and motion detectors (i.e. PIDS).	FY 2025-26	\$30,263,810

Facility Accessibility Improvements - Phase 1	The project consists of accessibility improvements in and around the terminal complex, including the restrooms and ingress and egress path of travel elements.	FY 2025-26	\$270,000
Facility Accessibility Improvements - Phase 2	The project consists of accessibility improvements not included in Phases 1 and 3, which includes improvements to signage and accessibility elements.	FY 2025-26	\$2,013,000
Facility Accessibility Improvements - Phase 3	The project consists of accessibility improvements at the TSA screening and checkpoint locations at each terminal.	FY 2030-31	\$43,374,000
Fire Station 33 Vehicle Bay Improvements	The project consists of the replacement of seven (7) vehicle bay doors and modifications to the compressed air and electrical drops at three (3) vehicle bays at Fire Station 33.	FY 2025-26	\$190,000
Main Street Parking Lot Improvement and EV Charging Implementation	The project consists of the installation of EV charging stations for airport shuttle buses and the modification of vehicular pathways and aisles, including the ingress and egress points at Main Street Parking Lot.	FY 2025-26	\$3,043,000
Main Street Parking Lot Improvement - Phase 2	The project consists of the replacement of the existing restroom and storage facilities located at the Main Street Parking Lot.	FY 2025-26	\$1,070,000
Parking Access Revenue Control Systems (PARCS) Replacement	The project consists of the replacement and upgrade of the existing PARCS.	FY 2025-26	\$8,492,740
Parking Structure Assessment and Repair/Remediation - Phase 2	The project consists of performing concrete and masonry repairs in Parking Structures A1, A2, B2, and C and at the GTC.	FY 2025-26	\$592,000
Parking Structure Assessment and Repair/Remediation - Phase 3	The project consists of performing minor concrete repairs and applying a waterproofing membrane at the parking structures (Parking Structures A1, A2, B2, and C) and Ground Transportation Center (GTC)	FY 2030-31	\$7,688,000
Perimeter Fence Security Enhancement - Phase 3	The project consists of implementing vehicular intrusion prevention elements to the fence along the eastern and northern perimeter of the airfield including improvements to the access gates and guard sheds.	FY 2025-26	\$10,996,690
South Fuel Farm and Maintenance Yard Stormwater Management Improvements	The project consists of improving stormwater management at the South Fuel Farm and Maintenance Yard.	FY 2025-26	\$8,767,000
Taxiway B Widening - Service Road Realignment	The project consists of the relocation and realignment of the existing vehicle service road that runs parallel and adjacent to Taxiway B to maintain the required FAA safety clearances.	FY 2025-26	\$1,441,000
Taxiway B Widening - West Infield Restricted Access Road Relocation	The project consists of the relocation of the existing west infield restricted access road to a location that is outside of the runway safety area of Runway 2L-20R.	FY 2025-26	\$7,664,000

Taxiways A, D, and E Reconstruction	The project consists of the reconstruction and realignment of Taxiways A, D, and E, including the relocation of the compass rose and the vehicle service road adjacent to Taxiway A.	FY 2025-26	\$87,460,000
Terminal Apron Improvements - Apron Panel Rehabilitation	The project consists of the rehabilitation of the deteriorated existing Portland Cement Concrete panels along the commercial apron, including replacement and/or restoration of the jet-fuel resistant sealants.	FY 2026-27	\$36,380,000
Terminal Apron Improvements - Biffy Dump Redesign	The project consists of the renovation and/or replacement of the aging biffy dump system.	FY 2026-27	\$2,042,470
Terminal Flooring and Carpet Replacement	The project consists of the replacement of the floor carpet and select stone floor tiles within Terminals A and B.	FY 2027-28	\$6,909,000
Terminal Grease Interceptor Replacement and Improvement	The project consists of the replacement and/or relocation of the existing six (6) grease interceptors within the terminal complex.	FY 2025-26	\$4,580,400
Terminal Roof and Covered Walkway Replacement	The project consists of the replacement of the existing built-up terminal roofing, including the standing seam roof, across all three (3) Terminals and the replacement of the terminal covered walkways at Terminals A and B.	FY 2030-31	\$20,107,500
Terminals A and B Covered Walkway Repair/Rehabilitation	The project consists of the repair/rehabilitation of the terminal covered walkways at Terminals A and B.	FY 2025-26	\$4,109,000
Terminals A and B Baggage Handling System Improvements - Phase 1	The project consists of improvements to the existing BHS that will enhance maintenance access, safety, and security.	FY 2025-26	\$240,000
Terminals A and B Baggage Handling System Improvements - Phase 3	The project consists of the replacement of the existing inbound and outbound BHS at Terminals A and B including features/elements of the BHS in Terminal C.	FY 2025-26	\$111,298,220
Vertical Conveyance Systems Improvements - Phase 1: Terminal Escalators 1-6	The project consists of the replacement of Escalators 1 through 6 in Terminals A and B.	FY 2025-26	\$270,000
Vertical Conveyance Systems Improvements - Phase 2: Terminal Elevators 3-9	The project consists of the replacement of Elevators 3 through 9 in Terminals A, B, and C.	FY 2025-26	\$18,313,940
Vertical Conveyance Systems Improvements - Phase 3: Parking Structure Elevators 13-21	The project consists of the replacement of Elevators 13 through 21 in Parking Structures A1, A2, and B2.	FY 2026-27	\$23,225,220

Vertical Conveyance Systems Improvements - Phase 4: Term C Escalators 7-9 and Elevators 10-12, 22-28	The project consists of the replacement of Escalators 7 through 9 and Elevators 10 through 12 and Elevators 22 through 28 in Terminal C.	FY 2028-29	\$28,165,120
*List is not all inclusive and may change.			
**Project Schedule and Cost Estimate is not finalized and may change.			

## II. DESCRIPTION OF SERVICES

The Firm will be contacted by the County Project Manager on an “as-needed” basis as projects arise that require airport planning and programming services. Requirements will be discussed by both Parties and the Firm shall prepare a written *Scope Statement* that will include the specific work to be performed, including the costs and time required to complete the project/task. The County Project Manager will then review the Firm’s *Scope Statement*, proceed with negotiation of task costs and when satisfied, issue a Contract Task Order (CTO) against this Contract.

The Firm will be working with the County to provide planning and programming services for a variety of airport projects, studies, and/or assignments of varying types and degrees of complexity to further support the overall improvement of and development at JWA. Services shall be performed on an “as-needed” basis and may include, but are not limited to:

1. Managing, reviewing, preparing, and/or performing a variety of airport planning studies/evaluations, which include, but are not limited to airfield geometry studies, terminal and airfield capacity analysis (i.e. gate (including hold-room seating and passenger boarding bridges), fueling, etc.), roadway capacity analysis (i.e. traffic studies), noise impact/mitigation studies, compatible land use evaluations, environmental impact studies and/or determinations (e.g. California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA)), etc. in alignment and compliance with airport industry approaches/standards and regulatory requirements including FAA regulations, policies, standards, and guidance (e.g. FAA Advisory Circulars (ACs), Engineering Briefs (EBs), etc.)
2. Accessing, collecting, and reviewing pertinent data associated with aviation forecasting (i.e. passenger data, commercial operations, general aviation operations, airside/landside ground circulation, etc. and their flow operations (via modeling/simulations as needed)) to establish current conditions/demands and provide accurate projections (i.e. future demands) for constrained and/or unconstrained scenarios.
3. Evaluating and planning various terminal facilities and their components to ensure that they can accommodate the current/future demands while taking into consideration the existing/current condition, age (i.e. design life), and industry standard for those elements (i.e. obsolete or outdated technology and/or antiquated design). These facilities and/or components include, but are not limited to the following:
  - Baggage handling system (including check-in, drop-off, claim carousels, in-bound/out-bound feeds, CBIS (Checked Baggage Inspection System), CBRA (Checked Baggage Resolution Area), etc.);
  - Security screening (i.e. checkpoints and recompose areas), access control, monitoring, and/or camera management system;
  - Utility infrastructure (i.e. gas, water, sewer, power);
  - Office spaces/storages for both staff and tenants (i.e. concessions, airlines, etc.);
  - Public-use facilities/elements (e.g. restrooms, nursing rooms, telephones, pet-relief areas, etc.);
  - Centralized receiving and distribution center;

- Vertical and/or horizontal conveyance systems (e.g. escalators, elevators, moving walkways, etc.);
  - IT data/communication infrastructure;
  - Wayfinding and signage (i.e. methodology, layout, technology, etc.);
  - Common use passenger processing system (CUPPS);
  - Indoor terminal positioning systems for data collection and/or sharing (i.e. heatmaps of passenger circulation patterns, wayfinding, etc.).
4. Performing in-depth analysis and evaluation on the utilization/layout of space within the terminal facilities to determine if the intended use/design is functionally and operationally appropriate and identifying improvements and working strategies of implementation.
  5. Evaluating and planning various parking facilities and transportation centers, which include, but not limited to consolidated rent-a-car (CONRAC), transportation network company (TNC), taxi cab staging areas, airport vehicle fleet depot, valet, cell phone waiting lots, etc. as well as associated payment access and revenue control systems (PARCS).
  6. Performing alternative analyses/assessments for and/or evaluating airfield related operations and support facilities, such as ground support equipment (GSE) circulation, parking, and charging infrastructure; eVTOL (electric vertical takeoff and landing) capability; airfield utilities (e.g. lighting, fueling systems, etc.); fuel farms and/or fueling storages; waste/trash disposal systems/containment (i.e. biffy dump, trash enclosures, etc.); air cargo facility/storage; maintenance and construction staging, storage, and/or laydown yards; etc. to ensure the appropriate planning (i.e. design, location, layout, etc. for operational feasibility and efficiency) of these elements as well as compliance with the required FAA safety clearances, areas, zones, and/or surfaces as stated within the FAA regulations.
  7. Performing a holistic assessment of the airport, including the community/guests/passengers that are served, and using data-driven analytics (e.g. market trends, conditions, and economics) to support the development, planning, and programming of projects/programs at the airport.
  8. Researching, planning, and/or evaluating opportunities to incorporate sustainable design improvements/features to support the airport's environmental sustainability program.
  9. Participating in project coordination/planning meetings or charrettes, stakeholder coordination, and presentations/outreach including supporting County personnel in preparing exhibits, documents, and informational material for internal and external distribution.
  10. Managing, reviewing, preparing, and/or supporting County personnel on the development of airport planning documents (e.g. Airport Layout Plan (ALP)), improvement programs (e.g. non-capital, capital, and maintenance), and/or initiatives, which may include cost estimating, scheduling, etc.
  11. Managing, developing, and/or preparing various planning layouts/considerations (i.e. alternatives) with validation of targeted objectives and goals with cost/benefit/risk analysis and providing final conclusions and recommended improvements that reflect the airport's strategic vision and funding strategy.

In general, the Firm shall provide planning and programming services and other related professional services for various airport related projects, studies, and/or assignments. The following are examples of the airport related tasks associated with these services:

- A. General Aviation Planning Services
  1. Develop targeted area plans that may be focused on airport functional areas such as cargo, general aviation, parking, maintenance, fixed base operators (FBO) etc.
  2. Prepare project cost estimates and conduct financial feasibility in concert with the airport rates and charges consultant.
  3. Conduct needs assessments, efficiency studies, near term and long-term use analysis, programming, and project definition reports/documents.

4. Develop an appropriate project definition or advanced plan for a project.
  5. Consideration for NEPA and CEQA needs during the planning phases and provide exhibits, reports, and documents in support of environmental entitlement as may be necessary.
- B. Airfield Planning Services
1. Prepare forecasts, demand/capacity analysis, airspace analysis, Airport Layout Plan preparation, and other aviation related planning activities, in alignment and compliance with airport industry approaches/standards and regulatory requirements including FAA regulations, policies, standards, and guidance (e.g. FAA Advisory Circulars (ACs), Engineering Briefs (EBs), etc.)
  2. Develop and/or update the Airport Layout Plan package (e.g. Exhibit A, narrative, etc.) as required for submission to the FAA. This also includes performing, preparing, collecting, and/or presenting the aeronautical surveys and updating the AGIS (Airport Geographic Information System) (e.g. safety critical and non-safety critical data) and submitting all pertinent information via ADIP (Airport Data and Information Portal).
  3. Manage and develop planning studies, create reports/exhibits involving airside facilities, airspace, and operational issues.
  4. Identify airfield needs and develop alternative layouts for aircraft parking plan for current and future fleet mix, hangars, cargo facilities, fixed base operators, and other related components.
  5. Perform airfield and airspace modeling, simulation, noise analysis, and obstruction surveys and assessments.
  6. Assist and support JWA in maintaining compliance with Airport Certification (Part 139).
- C. Terminal Planning Services
1. Identify and analyze terminal facility requirements and modifications to terminal for both domestic and international passenger operations.
  2. Perform passenger processing and flow studies.
  3. Assist in terminal space planning and programming.
  4. Review airline and other tenant plans for terminal modifications/improvements.
  5. Collect data concerning terminal operations ranging from curbside utilization, circulation along terminal roadways, security checkpoint processing, and baggage handling systems.
  6. Perform simulations and activity forecasts for terminal facilities.
- D. Landside Planning Services
1. Provide non-terminal landside planning that may include roadways, parking, rental car facilities, and ground transportation facilities.
  2. Analyze and evaluate transportation corridors and site-specific vehicular traffic situations.
  3. Forecast near and long-term traffic, parking and curbside peak demand periods.
  4. Plan short-term and long-term public parking, valet, employee parking, curb front access and allocation and address potential issues and/or opportunities for vehicle electric charging at all locations (i.e. fleet, passenger, staff, etc.)
- E. Special Services

1. Analyze air traffic procedures and conduct any specific reports/studies associated with noise issues.
2. Develop and/or assess land-use plans that may include on- and off-airport property and perform site assessments.
3. Assess and evaluate utility/infrastructure for use in future development.
4. Review, prepare, and update development criteria and design standards/guidelines for both tenant and capital improvements to maintain consistency.
5. Coordinate with parties responsible for market studies, lease negotiations, and utility/infrastructure assessment and planning.
6. Prepare, publish, and maintain data dashboards on airport Key Performance Indicators (KPIs) and operational metrics.
7. Passenger, vehicle, and/or aircraft simulations (including performance and operational efficiency) to validate planning parameters and project definition.
8. Review, analyze, prepare, and/or update airport improvement programs to maintain financial feasibility and operational efficiency in its delivery/execution.

F. Project Coordination

1. Project planning should consider and provide recommendations for traditional or Alternate Project Delivery Methods such as Job Order Contracting (JOC), Construction Manager At- Risk (CMAR), Design-Build (DB), Progressive Design-Build (PDB), and Design-Bid-Build (DBB).
2. Responsible for administrative duties, such as preparing written reports, presenting information to JWA, and when required, Airport Commissioners, Board of Supervisors, and other agencies, provide progress reports, and perform stakeholder/agency coordination.
3. Participate in public information and community involvement activities, if necessary.
4. Provide new and/or update to the Building Information Models (BIM) and modify existing BIM of airport facilities and supporting building systems/components.
5. Provide new and/or update to the Geographical Information Systems (GIS) and modify existing GIS of airport facilities and supporting building systems/components.
6. Coordinate with County personnel and stakeholders on validating/updating airport improvement programs (e.g. scope, schedule, and budget).

G. FAA/Stakeholder Coordination

1. Planners must have experience, knowledge, and familiarity with Airport Capital Improvement Program (CIP) related to Airports. Planner will need to provide technical, administrative, management, and related services to coordinate scheduled activities and responsibilities in support of the CIP. These services shall include but are not limited to assisting with creating Airport Capital Improvement Plan, technical design documents/exhibits, when requested, for airfield and FAA grant projects.
2. Perform project research, identify projects, develop technical documents (e.g. studies and/or reports), and prepare competitive grant applications to help fund environmental, engineering, construction, taxiways and mitigation phases of various Airport projects.
3. Provide technical support in preparing grant reimbursement packages and facilitate grant compliance.
4. Prepare grant amendment request and associated justifications, if applicable.
5. Ensure compliance of grant funded projects with Federal, State and local grant requirements to maintain funding eligibility.

6. Oversee and/or provide consultation on project delivery processes for federal funded projects.
  7. Facilitate negotiations with Regulatory Agencies.
  8. Report on Disadvantaged Business Enterprises (DBE) participation, if applicable.
  9. Perform calculation of project specific Disadvantaged Business Enterprises contract goals and coordinate submittal for review by the State.
  10. Experience with filing Form 7460-1s or FAA regulated reviews via Obstruction Evaluation/Airport Airspace Analysis (OE/AAA).
- H. Deliverables that may be required for each assigned task:
1. Project Definition Documents (PDD).
  2. Conceptual and/or detailed design reports, exhibits, and presentations.
  3. Technical planning studies/reports and alternatives analysis including cost/benefit/risk analysis.
  4. Cost estimates and feasibility studies/evaluations.
  5. Permitting and regulatory compliance guidance and documentation.
  6. Presentations and/or supporting documentation for presentations to user groups, stakeholders, public, or government agencies.

The Firm shall strictly adhere to the *Scope Statement* set forth in the Contract Task Order. Any modification to the *Scope Statement* shall require the County's prior written authorization

### **III. CONTRACT TASK ORDER**

The Firm shall be assigned work via a task order by County which shall subsequently be referred to as the "Contract Task Order" (CTO). A CTO for each project shall be developed by the Firm in conjunction with the County Project Manager. The County Project Manager shall manage all the Firm's work including monitoring the CTO work schedule, quality of deliverables, review of invoiced amounts, adherence to set budget, and internal review of submittal packages. The Firm shall follow all requirements as outlined in the CTO; this general Scope of Work, the project specific Scope Statement, and the current edition of the Architect-Engineer Guide as well as other related airport design/construction guides and/or manuals.

The CTO shall include a detailed Scope Statement, describing tasks to be performed with a specific list of deliverables for each task, schedule of work, and cost to complete the work. The schedule of work shall allow enough time for meetings with the County Management staff to review the work progress, provide technical and policy direction, resolve problems and ensure adherence to the work completion schedule. The CTO shall include a cover sheet provided by the County Project Manager with the appropriate signature blocks and contract information. Once both Parties agree, and all Parties have signed the CTO, the County Project Manager shall provide the Firm with a Notice to Proceed (NTP) to begin work. The Firm shall submit all plans, reports and other documents produced under the CTO to the assigned County Project Manager within the timeframe indicated in the CTO or as directed by the County Project Manager.

### **IV. CALM PROCEDURES**

John Wayne Airport has implemented the CALM program (Coordination and Logistics Management). CALM is a comprehensive logistics management approach to manage and communicate construction impacts through time and space management and provide program-wide tracking and coordination. The CALM team utilizes a Program Master Schedule and GIS database to capture project dates and locations for all projects including CIP (Airside, Landside and Terminals), Tenant, Commercial and Revenue Management, Maintenance, Information Technology, and Operations. As part of this program, contractors are required to submit a project schedule,

project phasing plan and site logistics plan (proposed laydown and/or stockpiling areas, contractor parking, haul routes, batch plants and other miscellaneous logistical items). All contractors will participate in the CALM Shutdown Coordination Center through Utility Shutdown Requests (USRs) and Location Shutdown Requests (LSRs). A Utility Shutdown (USR) is defined as any disruption or disconnection of a utility (including abandonment) of any system, subsystem, or branch for any length of time. A Location Shutdown (LSR) is defined as the closure of an area preventing normal activity for a set period of time. All project logistical information including, but not limited to proposed laydown locations, contractor parking location and proposed labor and vehicle counts, etc. should be provided to the CALM team during the design phase through a submittal registrar in order to pre-plan construction-related impacts and communicate future construction activities to all airport stakeholders. The Firm will be responsible to develop, provide, and/or execute the necessary information and/or support to ensure that the CALM program procedures and requirements are followed.

## V. SCHEDULE REQUIREMENTS

The Firm shall review, develop, and submit a detailed project schedule in Primavera P6 format or other accepted airport project management software (e.g. Microsoft Project (MS Project)) within ten (10) business days of the CTO Notice to Proceed. The schedule shall include all key milestones, deliverables, and critical path activities.

The Firm shall provide monthly updates to the schedule, reflecting actual progress, revised forecasts, and any changes to scope or sequencing. These updated schedules must be submitted no later than the 5th business day of each month for the duration of the contract.

Timely submission of accurate schedule updates is a condition for payment and continued performance.

Furthermore, the more stringent and restrictive requirements and deliverables stated either within the contract and/or task order with regards to scheduling must be followed.

**ATTACHMENT B:  
COST/COMPENSATION**

**I. COMPENSATION:** This is a **time and materials** Aggregate Contract between County and A-E for Airport Planning and Programming Services as set forth in Attachment A, “Scope of Work.”

A-E agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing, labor, vehicles, equipment, tools, materials, overhead, travel, etc. required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by A-E of all its duties and obligations hereunder. A-E shall only be compensated as set forth herein below for work performed in accordance with the Scope of Work. **County shall have no obligation to pay any sum in excess of the amount specified in Article 1.4 of the Contract unless authorized by amendment in accordance with Paragraphs 6.3 and 6.19 of the Contract Terms and Conditions.** No specified amount of work is guaranteed to A-E.

Total Aggregate Contract Amount for Three (3) Years Not to Exceed: \$4,500,000

**II. PRICING:** Payment shall be made in accordance with the provisions of this Contract. Partial progress payments may be allowed at the discretion of the County Project Manager. Payment shall be as follows:

**A. Classification Rates:**

<b>COMPANY</b>	
<u>Classification Titles</u>	<u>Hourly Rate</u>

<b>Subcontractor/Subconsultant (enter project function)</b>	
<u>Classification Titles</u>	<u>Hourly Rate</u>

Note: County will not pay A-E more than the listed amount for Subcontractor/Subconsultant work, regardless of any agreement between the A-E and their Subcontractor/Subconsultant. Subcontractor/Subconsultant rates are listed for convenience only.

Note: Construction-related work performed under A-E service contracts may meet the definition of “public work” under Labor Code § 1720 et seq. “Construction” includes work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work, and work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the jobsite. See, Labor Code § 1720. Contracts for A-E services shall mandate that prevailing wages be paid where mandated by law.

- III. PRICE INCREASES/DECREASES:** No price increases will be permitted during the term of this Contract. All price decreases will automatically be extended to County.
- IV. FIRM DISCOUNT AND PRICING STRUCTURE:** A-E guarantees that prices quoted are equal to or less than prices quoted to any other local, State or Federal government entity for services of equal or lesser scope. A-E agrees that no price increases shall be passed along to County during the term of this Contract not otherwise specified and provided for within this Contract.
- V. A-E'S EXPENSE:** A-E will be responsible for all costs related to photocopying, telephone communications and fax communications while on County sites during the performance of work and services under this Contract.
- VI. REIMBURSABLE ITEMS:** Reimbursable items are non-salary items and/or services necessary for completion of the work and must be authorized in advance by the County Project Manager. A-E may be entitled to reimbursement for the following, upon prior approval by County:
- 1) The actual costs of special equipment to be rented, leased or purchased by A-E for use exclusively in the performance of the Scope of Services, to the extent such rental, lease, purchase and costs have been approved in writing by the County Project Manager.
  - 2) Printing expenses paid to outside contractors; to the extent such contractors and reproduction rates have been approved by the County Project Manager.
  - 3) Other actual costs and/or payments specifically approved and authorized in writing by the County Project Manager and actually incurred by A-E in performance of this Contract.
  - 4) Travel costs shall only be reimbursed if approved in advance in writing by County Project Manager and are subject to the following restrictions:
    - a. Reimbursement of mileage for the business use of a personal vehicle during the conduct of business within the Scope of Services of this Contract shall be based on the Internal Revenue Service Standard Mileage Rate in effect at the time. Mileage between the A-E's "Home Based" office location and County location, as well as mileage within County property will not be reimbursed.
  - 5) Cost of "Home Based" Xerox copies, faxes, and other supplies and materials associated with them will not be reimbursed.
  - 6) Cost of cellular phones, cell phone usage plans and usage minutes, and other mobile communication devices will not be reimbursed.
  - 7) All reimbursable expenses must be itemized on A-E invoice(s) and documented with receipts. Receipts for reimbursable expenses must be submitted with all A-E invoices. Invoices for reimbursable expenses without back-up receipts will not be paid. A-E is responsible for submitting reimbursable invoices in a format that is acceptable to the County. Reimbursable items shall be charged at cost. Any third-party or subcontractor services shall also be charged at cost; no mark-ups will be allowed.
- VII. PAYMENT TERMS:** Invoices are to be submitted in monthly arrears, after services have been completed, to the address specified below. Payment will be net thirty (30) days after receipt of an invoice in a format acceptable to the County, as applicable. Invoices shall be verified and approved by County and subject to routine processing requirements. The responsibility for providing an acceptable invoice to County for payment rests with A-E. Incomplete or incorrect invoices are not acceptable and will be returned to the A-E for correction.

Billing shall cover services and/or goods not previously invoiced. The A-E shall reimburse the County for any monies paid to the A-E for goods or services not provided or when goods or services do not meet the Contract requirements.

Payments made by County shall not preclude the right of County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

**VIII. INVOICING INSTRUCTIONS:** The A-E will provide an invoice on the A-E's letterhead. Each invoice will have a unique number and will include the following information:

- A. A-E's name and address
- B. A-E's remittance address, if different from (A), above
- C. Name of County agency/department
- D. Delivery/service address
- E. Contract number (Both DO and MA/CT)
- F. Service Date (To and From)
- G. Description of Services
- H. Total
- I. Taxpayer ID number

Invoices and support documentation are to be forwarded to **(not both)**:

**Mailed to**        John Wayne Airport  
                         Attention: Accounts Payable  
                         3160 Airway Avenue  
                         Costa Mesa, CA 92626

**OR**

**Emailed to**        [AccountsPayable@ocair.com](mailto:AccountsPayable@ocair.com)

A-E has the option of receiving payment directly to their bank account via an Electronic Fund Transfer (EFT) process in lieu of a check payment. Payment made via EFT will also receive Electronic Remittance Advice with the payment details via email. An email address will need to be provided to the County via an EFT Authorization Form. To request a form, please contact the DPA.



**2. SUBCONSULTANT(S) (IF APPLICABLE)**

Listed below are subconsultant(s) anticipated by A-E to perform services specified in Attachment A. Substitution or addition of A-E's subconsultant(s) in any given project function shall be allowed only with prior written approval of the County Project Manager.

<b>Corporate Name</b>	<b>Corporate Address/ Local Office Address*</b>	<b>Contact Name/Telephone Number</b>	<b>Project Function</b>	<b>Contractor License Number</b>	<b>DIR Registration Number</b>	<b>DBE Certification Number</b>	<b>SBA Certification Number</b>	<b>Gross Receipts Category (Table 1 on following page)</b>

**TABLE 1 - ANNUAL GROSS RECEIPTS CATEGORIES**

<b>Annual Gross Receipt (Most recent fiscal year)</b>	<b>Gross Receipts Category</b>
Less than \$500,000	1
\$500,000 - \$1,000,000	2
\$1,000,000 - \$2,000,000	3
\$2,000,000 - \$5,000,000	4
\$5,000,000 - \$10,000,000	5
\$10,000,000 - \$15,000,000	6
Over \$15,000,000	7

## ATTACHMENT D

### FEDERAL AVIATION ADMINISTRATION REQUIREMENTS

This Contract may be funded by various grants from the Federal Aviation Administration throughout the term of the contract. Therefore, the requirements of Title 2 of the Code of Federal Regulations (C.F.R.), part 200 and §§200.317-200.326 of the Federal Aviation Administration (FAA) Airport Improvement Program and 49 CFR Part 26 and/or Part 23, Participation by Disadvantaged Business Enterprises in Department of Transportation Programs, may apply to this Contract, including Build America, Buy America (BABA) as applicable. The following provisions are mandatory of the Federal Aviation Administration, and it is the responsibility of the consultant and their subconsultant(s) to comply.

Note: The term “contractor” referenced within this provision/section is intended to mean a contractor, subcontractor, consultant, and/or sub-consultant; and means one who participates through this contract.

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

#### II. **Civil Rights and Non-Discrimination:**

1. **General Civil Rights Provisions**

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

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

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

2. **Compliance with Non-Discrimination Requirements:** During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”), agrees as follows:
  - a. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
  - b. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin, creed, sex, age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21 including amendments thereto.

- c. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this Contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- d. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- e. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the nondiscrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - i. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - ii. Cancelling, terminating, or suspending a contract, in whole or in part.
- 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 Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

Upon request by the County, Contractor will provide a copy of each subcontract to demonstrate the above language has been inserted.

- 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 to the extent required by law with the following nondiscrimination statutes and authorities ; including but not limited to:
  - Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
  - 49 CFR part 21 (Nondiscrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964) including amendments thereto;
  - The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
  - Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);

- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, *et seq.*), (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, *et seq.*).

Contractor is required to insert the above Title VI List of Pertinent Nondiscrimination Acts and Authorities into every subcontract at any tier. Upon request by the County, Contractor will provide a copy of each subcontract to demonstrate that the above language has been inserted.

4. **Civil Rights Training:** Upon request by the County, Contractor is required to disseminate and provide training materials and other information related to Title VI Civil Rights to its staff as specified by the County.
5. **Clean Air and Water Pollution Control:** Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

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

### III. **Contract Workhours and Safety Standards Act Requirements:**

#### 1. Overtime Requirements.

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

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

In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$33 for each calendar day on which such individual was required or permitted to work in

excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

### 3. Withholding for Unpaid Wages and Liquidated Damages.

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

### 4. Subcontractors.

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

- IV. **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.

## V. **Davis-Bacon Requirements:**

### 1. Minimum Wages.

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

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

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

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination;
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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

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

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

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

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

2. Withholding. The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or

helper, employed or working on the site of the work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the

Contractor, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

### 3. Payrolls and Basic Records.

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

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

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

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

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

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

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

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

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

#### 4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage

determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be

paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

#### 5. Compliance with Copeland Act Requirements.

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

#### 6. Subcontracts.

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

#### 7. Contract Termination: Debarment.

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

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

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

#### 9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of

the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

#### 10. Certification of Eligibility.

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

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

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

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

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

- 1) Checking the System for Award Management (SAM.gov) to verify that the firm or individual is not listed in SAM.gov as being suspended, debarred, or excluded;
- 2) Collecting a certification from the firm or individual that it is not suspended, debarred, or excluded; and
- 3) Incorporating a clause in the contract that requires lower tier contracts to verify that no suspended, debarred, or excluded firm or individual is included in the project.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered

transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

VII. **Disadvantaged Business Enterprise – Contract Assurance:**

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

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

#### **Prompt Payment (49 CFR § 26.29)**

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than seven (7) days from the receipt of each payment the prime contractor receives from County of Orange, John Wayne Airport. The prime contractor agrees further to return retainage payments to each subcontractor within seven (7) 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 County of Orange, John Wayne Airport. This clause applies to both DBE and non-DBE subcontractors.

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

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

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

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

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

The prime contractor must give the DBE five (5) days to respond to the prime contractor's notice and advise County and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why County should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), County may provide a response period shorter than five days.

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

- VIII. **Texting When Driving:** In accordance with Executive Order 13513, “Federal Leadership on Reducing Text Messaging While Driving”, (10/1/2009) and DOT Order 3902.10, “Text Messaging While Driving”, (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$15,000 that involve driving a motor vehicle in performance of work activities associated with the project.

- IX. **Certification Regarding Domestic Preferences for Procurements:** The Bidder or Offeror certifies by signing and submitting this bid or proposal that, to the greatest extent practicable, the Bidder or Offeror has provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR § 200.322.

- X. **Federal Fair Labor Standards Act (Federal Minimum Wage):** All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, et seq, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The

FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

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

XI. **Trade Restriction Certification:** By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

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

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

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

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

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

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

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country

included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous

certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

**XII. Certification Regarding Lobbying:** The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

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.

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.

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

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

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

**XIV. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment:** Contractor and Subcontractor agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)].

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

1. The contract requires procurement of \$10,000 or more of a designated item during the fiscal year;  
or
2. The contractor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at [www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products](http://www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products).

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

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

XVI. **Seismic Safety:** In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard that provides a level of seismic safety substantially equivalent to standards as 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 the design services, the Consultant agrees to furnish the Owner a “certification of compliance” that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

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

#### **Certifications**

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.

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

#### **Definitions:**

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

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

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

- XIX. **Prohibition of Covered Unmanned Aircraft Systems (UAS):** The Bidder or Offeror certifies that they are aware of and comply with the relevant Federal statutes and regulations, including those from the Federal Aviation Administration (FAA), for operating unmanned aircraft systems (UAS) in accordance, and in compliance with all related requirements in the FAA Reauthorization Act of 2024 (Public Law 118-63), section 936 (49 U.S.C. § 44801 note).

Contractor warrants that all UAS operations will be conducted in full compliance with all applicable Federal Aviation Administration (FAA) regulations, including but not limited to 14 CFR Part 107, and any other applicable local, state, or Federal laws and regulations.

Sponsors and subgrant recipients cannot use AIP grant funds to enter into, extent, or renew a contract related to covered unmanned aircraft systems (UAS). This includes both procurement and operational contracts, as well as contracts with entities that operate such systems.