SARASOTA
BRADENTON
INTERNATIONAL

October 2, 2026

Sent Electronic Mail to christian.young@deangelisdiamond.com
and Overnight Courier to:

Christian Young, Esq.
General Counsel
DeAngelis Diamond Construction, LLC
6635 Willow Park Drive
Naples, Florida 34109

Re: Design-Build Contract Documents for the Inbound Baggage Claim System

Dear Mr. Young,

Enclosed is one fully executed copy of the Design-Build Contract Documents for the Inbound Baggage Claim System (IBCS) RFQ No. 01-2026-IBCS with the Sarasota Manatee Airport Authority (this "Contract").

This letter is not a notice to proceed with any Work.

This Contract is provided only as necessary for DeAngelis Diamond to produce all subconsultant agreements required for review and approval by the Sarasota Manatee Airport Authority (the "Authority"), as defined in this Contract, before commencing any Work.

Upon approval of said subconsultant agreements by the Authority, the Authority will promptly issue DeAngelis Diamond a notice to proceed with the Work defined in this Contract.

Thank you for your coordination and assistance.

Sincerely,

Paul L. Hoback, Jr.
President and Chief Executive Officer

cc: Raymond D. Anderson, Esq., SVP, Legal Affairs & Compliance
Robert L. Furr, RA, SVP, Engineering, Planning & Facilities
Douglas E. Walker, Esq., Williams Parker

Enclosure: Design-Build Contract Documents for the Inbound Baggage Claim System
dated October 2, 2026



SARASOTA MANATEE AIRPORT AUTHORITY

By:_____
Chief Executive Officer
Date: 10/6/26

Approved as to Form and Legality (for the benefit of SMAA only)

this day of 8/24/2026

By: Dan Bailey
Legal Counsel for Airport Authority
Charles D. (Dan) Bailey

CONTRACTOR: DEANGELIS DIAMOND CONSTRUCTION, LLC

By:_____
Print Name: Scott Beck
Title: VP & Division Manager
Date: 8-7-2026

DESIGN BUILD CONTRACT DOCUMENTS

for

INBOUND BAGGAGE CLAIM SYSTEM (IBCS)
RFQ-01-2026-IBCS

SARASOTA MANATEE AIRPORT AUTHORITY

PROGRESSIVE DESIGN/BUILD VERSION
DIVISION 0 – TABLE OF CONTENTS

DIV 00 PROCUREMENT AND CONTRACTING REQUIREMENTS

Project Directory
Contract Agreement Form for Preconstruction and Design Phase Services (Part 1)
Attachments:
Attachment A Contractor's Statement of Qualifications
Attachment B Contractor's Proposal for Design and Preconstruction Services and Proposed Schedule
Attachment C Owner's Authorization Documents (Public Advertisement and Award Memoranda). The Solicitation was provided electronically and is incorporated herein by reference.

Performance/Payment Bond Cover Sheet
Performance Bond Form
Payment Bond Form
Performance and Payment Bond Certification Form
Certificate of Insurance Form
Partial Release and Waiver of Claims (including for Reduction of Retainage)
Nongovernmental Entity Declaration Regarding Use of Coercion
Construction Administration Forms
Final Release Form
Subcontractor Final, Conditional Release Form
General Conditions of the Design/Build Contract

Hazardous Materials
Special Conditions Regarding Construction at Airport Facilities
Security and Badging at Airports
Special Project Procedures for Sensitive Security Information
Special Provisions for federally-funded contracts

DIV 01	*DIVISION 01 GENERAL REQUIREMENTS* ***provided electronically and the most current version is incorporated herein by reference***
01 00 00	General Requirements
01 13 15	Phasing of Work
01 25 00	Substitution Procedures
01 25 01	Substitution Request Form
01 26 00	Contract Modification Procedures
01 29 00	Payment Procedures
01 31 13	Project Coordination
01 32 13	Scheduling of Work
01 32 14	Project Acceleration and Inefficiency Claims
01 32 33	Photographic Documentation
01 33 23(00)	Shop Drawings, Product Data and Samples
01 35 13.53	Special Project Procedures for Sensitive Security Information

01 3513.53a	Special Project Procedures for Sensitive Security Information (Attachments)
01 35 16	Alteration Project Procedures
01 35 17	Interim Life Safety Measures
01 40 00	Quality Requirements
01 42 16	Definitions
01 45 19	Uncovering & correcting of work
01 50 00	Temporary Facilities and Controls
01 51 00	Temporary Utilities
01 52 13	Field Offices and Sheds
01 55 00	Vehicular Access and Parking
01 58 13	Temporary Project Signage
01 60 00	Product Requirements
01 70 00	Execution and Closeout Requirements
01 71 23	Field Engineering
01 74 19	Construction Waste Management and Disposal
01 76 10	Temporary Protective Coverings
01 77 00	Closeout Procedures
01 78 23	Operation and Maintenance Data
01 79 00	Demonstrations and Training

PROJECT DIRECTORY

OWNER

SARASOTA MANATEE AIRPORT AUTHORITY
c/o Engineering & Planning Department
6000 Rick Piccolo Circle
Sarasota, Florida 34243-2105

CONTRACTOR

DEANGELIS DIAMOND CONSTRUCTION, LLC
6635 Willow Park Drive
Naples, Florida 34109

OWNER'S AUTHORIZED REPRESENTATIVE

Robert Furr
SARASOTA MANATEE AIRPORT AUTHORITY
c/o Engineering & Planning Department
6000 Rick Piccolo Circle
Sarasota, Florida 34243-2105

END OF SECTION

CONTRACT AGREEMENT FORM (PART 1)

THIS CONTRACT made and entered into on the date last signed, by and between the **SARASOTA MANATEE AIRPORT AUTHORITY**, hereinafter called the Owner, and **DEANGELIS DIAMOND CONSTRUCTION, LLC,** hereinafter called the Contractor.

The Contractor, for and in consideration of the Total Contract Price, agrees to furnish all labor, equipment, material(s) , supplies and services, to develop the design and submit a Guaranteed Maximum Price (GMP) proposal that is acceptable to the Owner, all in conformity with the Contract Documents for **INBOUND BAGGAGE CLAIM SYSTEM (IBCS) RFQ-01-2026-IBCS.** The Contractor shall be responsible for paying to the appropriate governmental entity all applicable taxes enacted as of the contract date (for Part 1) or the date the applicable GMP Proposal is received, whether or not yet effective or merely scheduled to go into effect, and whether or not included in any GMP Proposal (for Part 2).

The Contractor agrees to make payment of all proper charges for labor, equipment, materials, supplies and services, and to indemnify, and hold harmless the Owner in accordance with the Contract Documents. If the Contractor fails to comply with any of the terms of the Contract Documents, the Owner may avail itself of any or all remedies provided in the Contract Documents or in law or equity. The acceptance of final payment by the Contractor shall be considered as a release in full of all claims against the Owner or any of its members, officers, agents, employees or servants, directly or indirectly relating to, arising out of, or by reason of, this Contract, except for those Claims that have been properly raised in accordance with the Contract Documents and specifically identified by the Contractor as unsettled in the final Application for Payment.

The Owner will pay the Contractor for satisfactory performance of the Work, according to the terms set forth in the Contract Documents, the Total Contract Price, which is the sum of all Contract Addenda and Amendments and Contract Modifications.

The Contractor hereby certifies it will utilize the U.S. Department of Homeland Security's Employment Eligibility Verification System, in accordance with the terms governing the use of the system, to confirm the employment eligibility of persons employed by the Contractor, during the term of the Contract, to perform employment duties within Florida. The Contractor specifically represents that it will not discontinue use of the System until every Contract with the Owner has reached Final Completion. The Contractor further certifies that it will include this provision in each Subcontract that involves work for the Owner.

IN WITNESS WHEREOF, the SARASOTA MANATEE AIRPORT AUTHORITY has caused this Contract to be executed in its name by its Chief Executive Officer or designee, and the Contractor has caused this Contract to be executed in its name by its authorized representative.

SIGNATURES ON NEXT PAGE

PERFORMANCE/PAYMENT BOND COVER SHEET

This cover sheet is an integral part of the attached bonds and must not be separated from them.

SARASOTA MANATEE AIRPORT AUTHORITY
(Public Work)
In Compliance with Florida Statutes, Section 255.05(1)(a)

PERFORMANCE BOND NO.:		108439551
PAYMENT BOND NO.:		108439551
CONTRACTOR INFORMATION:	Name:	DEANGELIS DIAMOND CONSTRUCTION, LLC
	Address:	5635 Willow Park Dr.
		Naples,FL 34109
	Phone:	
SURETY PRINCIPAL: BUSINESS INFORMATION	Name:	Travelers Casualty & Surety Company of America
	Address:	One Tower Square Hartford, CT 06183
	Phone:	239-542-1533
OWNER INFORMATION:	Name:	SARASOTA MANATEE AIRPORT AUTHORITY
	Address:	6000 Rick Piccolo Circle
		Sarasota, Florida 34243-2105
	Phone:	941-359-2770 Ext. 4271
BOND AMOUNT:		$ 2,369,779.00
CONTRACT NO. (*if applicable*):		RFQ-01-2026-IBCS
DESCRIPTION OF WORK:		DESIGN BUILD INBOUND BAGGAGE CLAIM SYSTEM (IBCS)
PROJECT LOCATION:		Sarasota, Florida
AGENT INFORMATION:	Name:	Matthew D. Bevins Attorney-In-Fact
	Address:	3501 Del Prado Blvd., Suite 200 Cape Coral, FL 33904
	Phone:	239-542-1533

PAYMENT BOND FORM BOND NO.: 108439551

SARASOTA MANATEE AIRPORT AUTHORITY

The cover page that lists the contact information for the entities involved in this bond is considered the front page of this bond and is an integral part of this bond and, therefore, must not be separated from this bond.

KNOW ALL PERSONS BY THESE PRESENTS that DEANGELIS DIAMOND CONSTRUCTION, LLC, hereinafter called Principal, and Travelers Casualty & Surety Company of America, a corporation organized under the laws of the State of CT, having its home office in the City of Hartford and licensed to do business in the State of Florida, hereinafter called Surety, are held and firmly bound unto the Sarasota Manatee Airport Authority, hereinafter called Owner, for the use and benefit of claimants as herein below defined, in the Penal Sum of Two Million Three Hundred Sixty Nine Thousand Seven Hundred Seventy Nine and 00/100 Dollars ($2,369,779.00) for the payment of which sum well and truly to be made, Principal and Surety bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated September 15, 2026, contracted with Owner for **INBOUND BAGGAGE CLAIM SYSTEM (IBCS) RFQ-01-2026-IBCS** in accordance with the Contract Documents which are incorporated herein by reference and made a part hereof, and are herein referred to as the Contract.

WHEREAS, Surety is authorized to do business in the State of Florida.

NOW, THEREFORE, the condition of this obligation is such that if Principal shall promptly make payments to all claimants as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the Contract, then this obligation shall be void; otherwise, it shall remain in full force and effect subject, however, to the following conditions: requirement

1. **This bond is given to comply with Section 255.05, Florida Statutes, and any action instituted by a claimant under this bond for payment must be in accordance with Sections 255.05(2) and 255.05(10), Florida Statutes, as amended, including, but not limited to, the notice and time limitation provisions therein.**

2. Therefore, a claimant, except a laborer, who is not in privity with the Contractor shall, before commencing or not later than 45 days after commencing to furnish labor, services or materials for the prosecution of the work, serve the Contractor with a written notice that he or she intends to look to the bond for protection. A claimant who is not in privity with the Contractor and who has not received payment for furnishing his or her labor, services, or materials shall, serve a written notice of nonpayment on the Contractor and on the Surety. Notices must be served in accordance with Section 255.05(2), as amended. The notice of non-payment shall be under oath and served during the progress of the work or thereafter, but may not be served earlier than forty-five (45) days after the first furnishing of the labor, services or materials by the claimant or later than ninety (90) days after the final furnishing of the labor, services or materials by the claimant, or, with respect to rental equipment, later than 90 days after the date that the rental equipment was last on the job site available for use. Any notice of nonpayment served by a claimant who is not in privity with the contractor which includes sums for retainage must specify the portion of the amount claimed for retainage. No action for the labor, services, or materials may be instituted against the Contractor or the Surety unless both notices have been served. No action shall be instituted against the Contractor or the Surety on the bond after one (1) year from the performance of the labor or completion of the delivery of the materials or supplies.

3. The Surety's obligations hereunder shall remain in full force and effect notwithstanding (i) amendments or modifications to the Contract entered into by Owner and Principal without the Surety's knowledge or consent, (ii) waivers of compliance with or any default under the Contract granted by Owner to Principal without the Surety's knowledge or consent, (iii) the discharge of Principal from its obligations under the Contract as a result of any proceeding initiated under The Bankruptcy Code of 1978, as the same may be amended, or any similar state or federal law, or any limitation of the liability of Principal or its estate as a result of any such proceeding, or (iv) any other action taken by Owner or Principal that would, in the absence of this clause, result in the release or discharge by operation of law of the Surety from its obligations hereunder.

4. Any changes in or under the Contract Documents (which include the, Drawings and Specifications) and compliance or noncompliance with any formalities connected with the Contract or the changes therein shall not affect Surety's obligations under this Bond and Surety hereby waives notice of any such changes. Further, Principal and Surety acknowledge that the Penal Sum of this Bond shall increase or decrease in accordance with the approved changes or other modifications to the Contract Documents.

IN WITNESS WHEREOF, the Principal and Surety have executed this instrument under their several seals on this 14th day of September, 2026, to be effective as of the date of the Contract, the name and corporate seal of each corporate party being hereto affixed and these presents fully signed by its undersigned representative, pursuant to authority of its governing body.

Signed, sealed and delivered

Principal: DEANGELIS DIAMOND CONSTRUCTION, LLC

Christian Young, General Counsel

(SEAL)

By: DAVID DIAMOND CEO

Name and Title

(SEAL)

Travelers Casualty & Surety Company of America

Surety

By:

Matthew D. Bevins Attorney-In-Fact

Name and Title

Gallagher Risk Management Services

Agency

3501 Del Prado Blvd., Suite 200 Cape Coral, FL 33904

Address

(Countersignature by a Florida Licensed Agent)

Name and Title

Agency

Address

NOTE: If Principal or Surety are corporations, the respective corporate seals should be affixed. Additionally, a certified copy of a Power-of-Attorney appointing the individual Attorney-in-Fact for the Surety, as well as the Power-of-Attorney appointing the Florida licensed agent, should be attached.

PERFORMANCE/PAYMENT BOND CERTIFICATION FORM

SARASOTA MANATEE AIRPORT AUTHORITY

I, Christian Young, certify that I am the Secretary of the Limited Partnership , named as Principal in the foregoing Performance and Payment Bonds; that DeAngelis Diamond Const. who signed the said Bonds on behalf of the Principal was then CEO of the Limited Partnership; that I know his signature, and his, signature thereto is genuine, and that said Bonds were duly signed, sealed and attested for and in behalf of said Principal by authority of its governing body or is otherwise authorized by the Principal to enter into this Contract and the Performance and Payment Bonds.

Secretary Signature

Christian Young
Secretary Printed Name

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA

HARTFORD, CONNECTICUT 06183

FINANCIAL STATEMENT AS OF DECEMBER 31, 2025

CAPITAL STOCK $ 6,480,000

ASSETS		LIABILITIES & SURPLUS	
BONDS	$ 5,600,841,058	LOSSES	$ 1,735,139,597
STOCKS	117,961,887	LOSS ADJUSTMENT EXPENSES	175,170,609
CASH AND INVESTED CASH	107,398,185	COMMISSIONS	65,061,380
OTHER INVESTED ASSETS	10,607,862	OTHER EXPENSES	72,968,024
SECURITIES LENDING REINVESTED COLLATERAL ASSETS	12,318,369	TAXES, LICENSES AND FEES	15,442,211
INVESTMENT INCOME DUE AND ACCRUED	51,295,419	CURRENT FEDERAL AND FOREIGN INCOME TAXES	7,061,861
PREMIUM BALANCES	354,898,997	UNEARNED PREMIUMS	1,749,236,242
REINSURANCE RECOVERABLE	50,418,933	ADVANCE PREMIUM	4,095,228
NET DEFERRED TAX ASSET	85,064,699	POLICYHOLDER DIVIDENDS	31,470,690
UNDISTRIBUTED PAYMENTS	14,917,791	CEDED REINSURANCE NET PREMIUMS PAYABLE	44,765,710
GUARANTY FUNDS RECEIVABLE OR ON DEPOSIT	2,299,856	AMOUNTS WITHHELD / RETAINED BY COMPANY FOR OTHERS	15,640,946
OTHER ASSETS	349,353	REMITTANCES AND ITEMS NOT ALLOCATED	5,777,183
		PROVISION FOR REINSURANCE	12,100,593
		PAYABLE TO PARENTS, SUBSIDIARIES AND AFFILIATES	90,391,293
		PAYABLE FOR SECURITIES LENDING	12,318,369
		OTHER ACCRUED EXPENSES AND LIABILITIES	842,673
		TOTAL LIABILITIES	$ 4,037,482,608
		CAPITAL STOCK	$ 6,480,000
		PAID IN SURPLUS	433,803,760
		OTHER SURPLUS	1,930,606,041
		TOTAL SURPLUS TO POLICYHOLDERS	$ 2,370,889,801
TOTAL ASSETS	$ 6,408,372,409	TOTAL LIABILITIES & SURPLUS	$ 6,408,372,409

STATE OF CONNECTICUT)

COUNTY OF HARTFORD) SS.

CITY OF HARTFORD)

PETER GAMER, BEING DULY SWORN, SAYS THAT HE IS VICE PRESIDENT – CORPORATE FINANCE, OF TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, AND THAT TO THE BEST OF HIS KNOWLEDGE AND BELIEF, THE FOREGOING IS A TRUE AND CORRECT STATEMENT OF THE FINANCIAL CONDITION OF SAID COMPANY AS OF THE 31ST DAY OF DECEMBER, 2025.

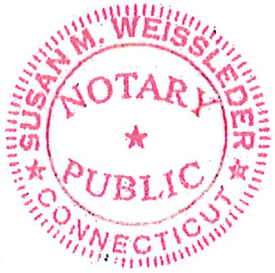
Peter Gamer

VICE PRESIDENT – CORPORATE FINANCE

SUBSCRIBED AND SWORN TO BEFORE ME THIS
16TH DAY OF MARCH, 2026

NOTARY PUBLIC

SUSAN M. WEISSLEDER
Notary Public
My Commission Expires November 30, 2027



TRAVELERS

Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **MATTHEW D BEVINS** of **CAPE CORAL**, **Florida**, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **21st** day of **April, 2021.**

State of Connecticut

By: _____
Robert L. Raney, Senior Vice President

City of Hartford ss.

On this the **21st** day of **April, 2021**, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June, 2026**

_____
Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this day of ,

_____
Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.

CERTIFICATE OF INSURANCE FORM

The Contractor shall provide evidence of insurance reflecting compliance with the insurance requirements as listed in the Solicitation and Article 11 of the General Conditions. Certificate(s) of Insurance shall be remitted using an ACORD form, or in a form acceptable to the Owner and submitted to the Owner's Contracts and Grants Manager prior to contract execution and each policy renewal for the duration of the contract term and statute of repose.

The Certificate of Insurance shall state the following as certificate holder:

The Sarasota Manatee Airport Authority

The Certificate of Insurance shall include the Sarasota Manatee Airport Authority, RPR and their members, employees, contractors and as additional insured for all policies except workers compensation and professional liability. The "Additional Insured" endorsements shall provide coverage on a primary basis. "Additional Insured" endorsements shall read "**Sarasota Manatee Airport Authority Board, an Independent Special District of the State of Florida, its Members, Employees, Contractors and Agents, c/o Sarasota Manatee Airport Authority, 6000 Rick Piccolo Circle, Third Floor, Sarasota, Florida 34243-2105**" , The Owner may elect to utilize a third party for the collection and monitoring of Contractor's insurance. The Contractor will promptly respond to all requests for information, including, without limitation, requests for copies of insurance policies and Certificate(s) of Insurance evidencing renewal policy periods.

All certificates of insurance shall include a minimum of thirty (30) days' notice due to cancellation or non-renewal of coverage. In the event coverage is cancelled or is not renewed during the Term of this Agreement, or any extension thereto, Lessee shall provide Authority with a new certificate of insurance or certificates of insurance evidencing replacement coverage not later than thirty (30) days prior to the expiration or cancellation of the coverage to Risk Management, Sarasota Manatee Airport Authority, 6000 Rick Piccolo Circle, Third Floor, Sarasota, Florida 34243-2105

All certificates of insurance shall include a Waiver of Subrogation in favor of the Authority. When required by the insurer or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, Lessee shall notify the insurer and request the policy be endorsed with a "Waiver of Transfer of Rights of Recovery Against Others", or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, a condition to which the policy specifically prohibits such endorsement, or voids coverage should Lessee enter into such an agreement on a pre-loss basis.

All certificates of insurance shall list the Authority as a "Loss Payee" on All Risk insurance policies. "Loss Payee" endorsements shall provide coverage on a primary basis and shall read "Sarasota Manatee Airport Authority Board, c/o Sarasota Manatee Airport Authority, an Independent Special District of the State of Florida c/o 6000 Rick Piccolo Circle, Third Floor, Sarasota, Florida 34243-2105".

END OF SECTION

DHS Form 11000-6 (08-04) – Department of Homeland Security Non- Disclosure Agreement

DEPARTMENT OF HOMELAND SECURITY

NON-DISCLOSURE AGREEMENT

I, Scott Beck, an individual official, employee, consultant, or subcontractor of or to DeAngelis Diamond Construction, LLC (the Authorized Entity), intending to be legally bound, hereby consent to the terms in this Agreement in consideration of my being granted conditional access to certain information, specified below, that is owned by, produced by, or in the possession of the United States Government.

(Signer will acknowledge the category or categories of information that he or she may have access to, and the signer's willingness to comply with the standards for protection by placing his or her initials in front of the applicable category or categories.)

Initials: SB **Protected Critical Infrastructure Information (PCII)**

I attest that I am familiar with, and I will comply with all requirements of the PCII program set out in the Critical Infrastructure Information Act of 2002 (CII Act) (Title II, Subtitle B, of the Homeland Security Act of 2002, Public Law 107-296, 196 Stat. 2135, 6 USC 101 et seq.), as amended, the implementing regulations thereto (6 CFR Part 29), as amended, and the applicable PCII Procedures Manual, as amended, and with any such requirements that may be officially communicated to me by the PCII Program Manager or the PCII Program Manager's designee.

Initials: SB **Sensitive Security Information (SSI)**

I attest that I am familiar with, and I will comply with the standards for access, dissemination, handling, and safeguarding of SSI information as cited in this Agreement and in accordance with 49 CFR Part 1520, "Protection of Sensitive Security Information," "Policies and Procedures for Safeguarding and Control of SSI," as amended, and any supplementary guidance issued by an authorized official of the Department of Homeland Security.

Initials: SB **Other Sensitive but Unclassified (SBU)**

As used in this Agreement, sensitive but unclassified information is an over-arching term that covers any information, not otherwise indicated above, which the loss of, misuse of, or unauthorized access to or modification of could adversely affect the national interest or the conduct of Federal programs, or the privacy to which individuals are entitled under Section 552a of Title 5, as amended, but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy. This includes information categorized by DHS or other government agencies as: For Official Use Only (FOUO); Official Use Only (OUO); Sensitive Homeland Security Information (SHSI); Limited Official Use (LOU); Law Enforcement Sensitive (LES); Safeguarding Information (SGI); Unclassified Controlled Nuclear Information (UCNI); and any other identifier used by other government agencies to categorize information as sensitive but unclassified.

I attest that I am familiar with, and I will comply with the standards for access, dissemination, handling, and safeguarding of the information to which I am granted access as cited in this Agreement and in accordance with the guidance provided to me relative to the specific category of information.

I understand and agree to the following terms and conditions of my access to the information indicated above:

1. I hereby acknowledge that I have received a security indoctrination concerning the nature and protection of information to which I have been provided conditional access, including the procedures to be followed in ascertaining whether other persons to whom I contemplate disclosing this information have been approved for access to it, and that I understand these procedures.

2. By being granted conditional access to the information indicated above, the United States Government has placed special confidence and trust in me and I am obligated to protect this information from unauthorized disclosure, in accordance with the terms of this Agreement and the laws, regulations, and directives applicable to the specific categories of information to which I am granted access.

3. I attest that I understand my responsibilities and that I am familiar with and will comply with the standards for protecting such information that I may have access to in accordance with the terms of this Agreement and the laws, regulations, and/or directives applicable to the specific categories of information to which I am granted access. I understand that the United States Government may conduct inspections, at any time or place, for the purpose of ensuring compliance with the conditions for access, dissemination, handling and safeguarding information under this Agreement.

DHS Form 11000-6 (08-04) Page 1

4. I will not disclose or release any information provided to me pursuant to this Agreement without proper authority or authorization. Should situations arise that warrant the disclosure or release of such information I will do so only under approved circumstances and in accordance with the laws, regulations, or directives applicable to the specific categories of information. I will honor and comply with any and all dissemination restrictions cited or verbally relayed to me by the proper authority.

5. (a) For PCII - (1) Upon the completion of my engagement as an employee, consultant, or subcontractor under the contract, or the completion of my work on the PCII Program, whichever occurs first, I will surrender promptly to the PCII Program Manager or his designee, or to the appropriate PCII officer, PCII of any type whatsoever that is in my possession.
(2) If the Authorized Entity is a United States Government contractor performing services in support of the PCII Program, I will not request, obtain, maintain, or use PCII unless the PCII Program Manager or Program Manager's designee has first made in writing, with respect to the contractor, the certification as provided for in Section 29.8(c) of the implementing regulations to the CII Act, as amended.
(b) For SSI and SBU - I hereby agree that material which I have in my possession and containing information covered by this Agreement, will be handled and safeguarded in a manner that affords sufficient protection to prevent the unauthorized disclosure of or inadvertent access to such information, consistent with the laws, regulations, or directives applicable to the specific categories of information. I agree that I shall return all information to which I have had access or which is in my possession 1) upon demand by an authorized individual; and/or 2) upon the conclusion of my duties, association, or support to DHS; and/or 3) upon the determination that my official duties do not require further access to such information.

6. I hereby agree that I will not alter or remove markings, which indicate a category of information or require specific handling instructions, from any material I may come in contact with, in the case of SSI or SBU, unless such alteration or removal is consistent with the requirements set forth in the laws, regulations, or directives applicable to the specific category of information or, in the case of PCII, unless such alteration or removal is authorized by the PCII Program Manager or the PCII Program Manager's designee. I agree that if I use information from a sensitive document or other medium, I will carry forward any markings or other required restrictions to derivative products, and will protect them in the same matter as the original.

7. I hereby agree that I shall promptly report to the appropriate official, in accordance with the guidance issued for the applicable category of information, any loss, theft, misuse, misplacement, unauthorized disclosure, or other security violation, I have knowledge of and whether or not I am personally involved. I also understand that my anonymity will be kept to the extent possible when reporting security violations.

8. If I violate the terms and conditions of this Agreement, such violation may result in the cancellation of my conditional access to the information covered by this Agreement. This may serve as a basis for denying me conditional access to other types of information, to include classified national security information.

9. (a) With respect to SSI and SBU, I hereby assign to the United States Government all royalties, remunerations, and emoluments that have resulted, will result, or may result from any disclosure, publication, or revelation of the information not consistent with the terms of this Agreement.
(b) With respect to PCII I hereby assign to the entity owning the PCII and the United States Government, all royalties, remunerations, and emoluments that have resulted, will result, or may result from any disclosure, publication, or revelation of PCII not consistent with the terms of this Agreement.

10. This Agreement is made and intended for the benefit of the United States Government and may be enforced by the United States Government or the Authorized Entity. By granting me conditional access to information in this context, the United States Government and, with respect to PCII, the Authorized Entity, may seek any remedy available to it to enforce this Agreement including, but not limited to, application for a court order prohibiting disclosure of information in breach of this Agreement. I understand that if I violate the terms and conditions of this Agreement, I could be subjected to administrative, disciplinary, civil, or criminal action, as appropriate, under the laws, regulations, or directives applicable to the category of information involved and neither the United States Government nor the Authorized Entity have waived any statutory or common law evidentiary privileges or protections that they may assert in any administrative or court proceeding to protect any sensitive information to which I have been given conditional access under the terms of this Agreement.

11. Unless and until I am released in writing by an authorized representative of the Department of Homeland Security (if permissible for the particular category of information), I understand that all conditions and obligations imposed upon me by this Agreement apply during the time that I am granted conditional access, and at all times thereafter.

12. Each provision of this Agreement is severable. If a court should find any provision of this Agreement to be unenforceable, all other provisions shall remain in full force and effect.

13. My execution of this Agreement shall not nullify or affect in any manner any other secrecy or non-disclosure Agreement which I have executed or may execute with the United States Government or any of its departments or agencies.

14. These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958, as amended; Section 7211 of Title 5, United States Code (governing disclosures to Congress); Section 1034 of Title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); Section 2302(b)(8) of Title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 USC 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including Sections 641, 793, 794, 798, and 952 of Title 18, United States Code, and Section 4(h) of the Subversive Activities Act of 1950 (50 USC 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive Order and listed statutes are incorporated into this agreement and are controlling.

15. Signing this Agreement does not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

16. I represent and warrant that I have the authority to enter into this Agreement.

17. I have read this Agreement carefully and my questions, if any, have been answered. I acknowledge that the briefing officer has made available to me any laws, regulations, or directives referenced in this document so that I may read them at this time, if I so choose.

DEPARTMENT OF HOMELAND SECURITY
NON-DISCLOSURE AGREEMENT
Acknowledgement

Typed/Printed Name:	Government/Department/Agency/Business Address	Telephone Number:
SCOTT BECK	DEANGELIS DIAMOND 6635 WILLOW PARK DR. NAPLES, FL 34109	239-594-1994

I make this Agreement in good faith, without mental reservation or purpose of evasion.

Signature: [signature]

WITNESS:

Typed/Printed Name:	Government/Department/Agency/Business Address	Telephone Number:
Lucinda Bingham	DeAngelis Diamond 6635 Willow Park Dr Naples, FL 34109	239-594-1994

Signature: [signature]

This form is not subject to the requirements of P.L. 104-13, "Paperwork Reduction Act of 1995," 44 USC, Chapter 35

END OF ATTACHMENT SECTION

SPECIAL PROJECT PROCEDURES FOR SENSITIVE SECURITY INFORMATION

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

A. 49 CFR parts 15 and 1520

B. Florida Statutes sections 331.22, 119.071, and/or 281.301

C. DHS Fm 11000_6 [Non-disclosure Agreement (NDA)]

1.2 DEFINITIONS

A. SSI: Sensitive Security Information – also noted as (SSI) – is information that, if publicly released, would be detrimental to transportation security, as defined by Federal regulation 49 C.F.R. part 1520. Although SSI is not classified information, there are specific procedures for recognizing, marking, protecting, safely sharing, and destroying SSI. Persons receiving SSI are considered "covered persons" under the SSI regulation in order to carry out responsibilities related to transportation security and are obligated to protect this information from unauthorized disclosure.

1.3 DESCRIPTION

A. General: The following information indicates requirements for access to, control of, and/or distribution of Project Documents Marked as Sensitive Security Information or SSI.

1. You Must – Lock All SSI: Store SSI in a secure container such as a locked file cabinet or drawer (as defined by Federal regulation 49 C.F.R. part 1520.9 (a)(1)).
2. You Must – When No Longer Needed, Destroy SSI: Destruction of SSI must be complete to preclude recognition or reconstruction of the information (as defined by Federal regulation 49 C.F.R. part 1520.19).
3. You Must – Mark SSI: The regulation requires that even when only a small portion of a paper document contains SSI, every page of the document must be marked with the SSI header and footer shown at left (as defined by Federal regulation 49 C.F.R. part 1520.13). Alteration of the footer is not authorized.

B. Reasonable steps must be taken to safeguard SSI. While the regulation does not define reasonable steps, the TSA SSI Branch offers the following best practices as examples of reasonable steps:

1. Use an SSI cover sheet on all SSI materials.

2. Electronic presentations (e.g., PowerPoint) should be marked with the SSI header on all pages and the SSI footer on the first and last pages of the presentation.
3. Spreadsheets should be marked with the SSI header on every page and the SSI footer on every page or at the end of the document.
4. Video and audio should be marked with the SSI header and footer on the protective cover when able and the header and footer should be shown and/or read at the beginning and end of the program.
5. CDs/DVDs should be encrypted or password-protected and the header and footer should be affixed to the CD/DVD.
6. Portable drives including "flash" or "thumb" drives should not themselves be marked, but the drive itself should be encrypted or all SSI documents stored on it should be password protected.
7. When leaving your computer or desk you must lock all SSI and you should lock or turn off your computer.
8. Taking SSI home is not recommended. If necessary, get permission from a supervisor and lock all SSI at home.
9. Do not handle SSI on computers that have peer-to-peer software installed on them or on your home computer.
10. Transmit SSI via email only in a password protected attachment, not in the body of the email. Send the password without identifying information in a separate email or by phone.
11. Passwords for SSI documents should contain at least eight characters, have at least one uppercase and one lowercase letter, contain at least one number, one special character and not be a word in the dictionary.
12. Faxing of SSI should be done by first verifying the fax number and that the intended recipient will be available promptly to retrieve the SSI.
13. SSI should be mailed by U.S. First Class mail or other traceable delivery service using an opaque envelope or wrapping. The outside wrapping (i.e. box or envelope) should not be marked as SSI.
14. Interoffice mail should be sent using an unmarked, opaque, sealed envelope so that the SSI cannot be read through the envelope.
15. SSI stored in network folders should either require a password to open or the network should limit access to the folder to only those with a need to know.
16. Properly destroy SSI using a cross-cut shredder or by cutting manually into less than ½ inch squares.
17. Properly destroy electronic records using any method that will preclude recognition or reconstruction.
18. Maintain an up-to-date record of all SSI Documents and list of persons with access to SSI Documents.

1.4 TRANSMISSION

A. When transmitting SSI, the SSI marking must be applied to the transmittal document (letter, memorandum, or fax). The transmittal document must contain, if applicable, a disclaimer noting that it is no longer SSI when it is detached from the SSI it is transmitting (transmittal e-mails do not need to contain this disclaimer), and a

warning that if received by an unintended or different recipient, the sender must be notified immediately.

B. When discussing or transmitting SSI to another individual(s), DHS Covered Persons must ensure that the individual with whom the discussion is to be held or the information is to be transferred has a valid Need-to-know. In addition, DHS Covered Persons must ensure that precautions are taken to prevent unauthorized individuals from overhearing the conversation, observing the materials, or otherwise accessing the information.

C. SSI shall be mailed in a manner that offers reasonable protection of the sent materials and sealed in such a manner as to prevent inadvertent opening and show evidence of tampering.

D. SSI may be mailed by U.S. Postal Service First Class Mail or an authorized commercial delivery service such as DHL or Federal Express.

E. SSI may be entered into an inter-office mail system provided it is afforded sufficient protection to prevent unauthorized access, e.g., sealed envelope.

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION

3.1 ACKNOWLEDGEMENT OF SENSITIVE SECURITY INFORMATION

A. The Owner has deemed components of this project to be of critical concern due to said component scope. As one of the bidders, you must execute this document to acknowledge the Security Sensitive Information (SSI) requirements and the proper Safeguarding of Sensitive but Unclassified Information.

B. Below is the SSI language from 49 CFR Part 15.13 that will be incorporated into the all construction drawing sheets and on the project manual components that are SSI:

WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520 or that may be otherwise exempt from public disclosure pursuant to Florida Statutes sections 331.22, 119.071, and/or 281.301. No part of this record may be disclosed to persons without a "need to know", as defined in 49 CFR parts 15 and 1520, except with the written permission of both the Sarasota Manatee Airport Authority and either the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action.

C. Attached for your use and records is 49 CFR parts 15 and 1520. By execution of

this document you are agreeing to the following:

1. This agreement is completed for the release of both electronic and hard copy bid documents, and any SSI documents related to SMAA airports.

2. I am the duly authorized representative for:

SCOTT BECK, VP & DIVISION MANAGER

Print Name and Title

DEANGELIS DIAMOND CONSTRUCTION, LLC

Print Authorized Entity

6635 WILLOW PARK DRIVE, NAPLES, FL 34109

Print Address

3. I have the express authority to sign this agreement and hereby consent to all conditions stated herein, in consideration of my being granted conditional access to certain information, specified in paragraph (1) above, that, is owned by, produced by, or in the possession of the Sarasota Manatee Airport Authority.
4. Sensitive Security Information. I attest that I am familiar with, and I will comply with the standards for access, dissemination, handling, and safeguarding of SSI information as cited in this Agreement and in accordance with 49 CFR Part 1520, "Protection of Sensitive Security Information," "Policies and Procedures for Safeguarding and Control of SSI," as amended, and any supplementary guidance issued by an authorized official of the Department of Homeland Security.
5. By being granted conditional access to the information in paragraph (1), indicated above, I am obligated to protect this information from unauthorized disclosure. I will not disclose or release any information provided to me pursuant to this Agreement without proper authority or authorization. Only those persons who have a need to know may handle this information, and I will ensure that they will comply with all maintenance, safeguarding, dissemination, and handling requirements provided in 49 CFR Part 1520.
6. Neither the execution of this agreement nor the release of the records indicated in paragraph (1) above operates as a waiver of the confidential and exempt status of the records.
7. Violation of this nondisclosure agreement or of the attached federal regulations is grounds for a civil penalty and other enforcement or corrective action by DOT and DHS and, if awarded the contract, will be cause for termination.

Signature

8/28/2026

Date

NONGOVERNMENTAL ENTITY DECLARATION REGARDING THE USE OF COERCION FOR LABOR AND SERVICES

Nongovernmental Entity's Name: DeAngelis Diamond Construction, LLC

Nongovernmental Entity's FEIN: 65-0634426

Authorized Officer or Representative Name and Title: Scott Beck, VP & Division Manager

Nongovernmental Entity's Address: 6635 Willow Park Dr., Naples, FL 34109

Section 787.06(13), Florida Statutes, requires all nongovernmental entities executing, renewing, or extending a contract with a governmental entity, as defined in section 287.138(1), Florida Statutes, to provide an affidavit signed by an officer or a representative of the nongovernmental entity under penalty of perjury that the nongovernmental entity does not use coercion for labor or services as defined in that statute. The Sarasota Manatee Airport Authority is a governmental entity as defined by and for purposes of section 787.06(13).

The nongovernmental entity identified above does not, pursuant to section 787.06(2)(a):

- Use or threaten to use physical force against any person;
- Restrain, isolate, or confine, or threaten to restrain, isolate, or confine any person without lawful authority and against her or his will;
- Use lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
- Destroy, conceal, remove, confiscate, withhold, or possess any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
- Cause or threaten to cause financial harm to any person;
- Entice or lure any person by fraud or deceit; or
- Provide a controlled substance as outlined in Schedule I or Schedule II of section 893.03, Florida Statutes, to any person for the purpose of exploitation of that person.

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true

By: _____

Authorized Officer or Representative

8/28/2026

Date

CONSTRUCTION ADMINISTRATION FORMS

PART 1 - GENERAL
The following forms are available electronically upon request and are hereby incorporated into the Construction Documents.

PART 2 - PRODUCT

Index of Construction Administration Forms for Contractor – provided electronically and incorporated herein by reference

Form #	Description	
007	Certificate of Substantial Completion (CoSC)	
008	Substantial Completion List and Final Completion Form	
010	Application for Payment Forms:	
	010-Cover	Cover Sheet
	010-Bkdwn	Breakdown
	010-SM	Stored Materials
	010-DISB	Contractor Disbursements to Subcontractors/Suppliers

PART 3 - EXECUTION

3.1. During the administration of the Contract, the Contractor will be required to complete various construction administration forms as a part of the Sarasota Manatee Airport Authority's Management System. These forms are identified in the "Index of Construction Forms" and will be issued at the Pre-Construction Conference. These forms may be revised during the construction period and the Contractor will be required to comply with these revisions.

END OF SECTION

Table of Contents

ARTICLE 1 GENERAL PROVISIONS 1
1.1 BASIC DEFINITIONS 1
1.2 EXECUTION AND INTENT 5
1.3 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS AND DATA 5
1.4 CAPITALIZATION 6
1.5 INTERPRETATION 6
1.6 ORDER OF PRECEDENCE 6
1.7 STANDARD FORMS 6
1.8 OWNER FURNISHED ELECTRONIC DOCUMENTS: 8

ARTICLE 2 OWNER'S RESPONSIBILITIES 8
2.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER 8
2.2 OWNER'S RIGHT TO STOP OR SUSPEND THE WORK 8
2.3 OWNER'S RIGHT TO CARRY OUT THE WORK 9

ARTICLE 3 CONTRACTOR'S RESPONSIBILITIES 10
3.1 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR 10
3.2 ARCHITECTURAL AND ENGINEERING DESIGN SERVICES, GENERALLY 11
3.3 PRE-CONSTRUCTION AND DESIGN SERVICES 13
3.4 THE GMP PROPOSAL 15
3.5 CONSTRUCTION SUPERVISION AND OBLIGATIONS 17
3.6 LABOR, SERVICES AND MATERIALS 19
3.7 WARRANTY 19
3.8 TAXES 19
3.9 PERMITS, FEES, INSPECTIONS, AND NOTICES 20
3.10 ALLOWANCES 20
3.11 CONTRACTOR'S KEY PERSONNEL 21
3.12 CONTRACTOR'S DESIGN AND CONSTRUCTION SCHEDULES 21
3.13 DOCUMENTS AND SAMPLES AT THE PROJECT SITE; AS-BUILT AND RECORD DOCUMENTS 22
3.14 SUBMITTALS: DESIGN DOCUMENTS, DRAWINGS, AND SPECIFICATIONS; SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES 23
3.15 USE OF SITE AND COORDINATION 26
3.16 CUTTING AND PATCHING 26
3.17 CLEANING UP 27
3.18 ACCESS TO WORK 27
3.19 ROYALTIES AND PATENTS 27

ARTICLE 4 ADMINISTRATION OF THE CONTRACT 28
4.1 ROLE OF THE DESIGN CRITERIA CONSULTANT (DCC) – NOT USED 28
4.2 ROLE OF THE OWNER'S AUTHORIZED REPRESENTATIVE (RPR) 28

ARTICLE 5 SUBCONTRACTORS AND SUBCONSULTANTS 29
5.1 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK 29
5.2 SUBCONTRACTUAL RELATIONS 29

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS 30
6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS ... 30
6.2 MUTUAL RESPONSIBILITY 30
6.3 OWNER'S RIGHT TO CLEAN UP 31
6.4 MULTIPLE CONTRACTS WITH CONTRACTOR SETOFF .....

ARTICLE 7 CHANGES IN THE WORK 31
7.1 CHANGES 31
7.2 CHANGE ORDERS (CO) 37
7.3 CONSTRUCTION CHANGE DIRECTIVES (CCD) 38
7.4 FIELD CHANGE ORDERS (FCO) 38
7.5 FORCE ACCOUNT WORK 38
7.6 MINOR CHANGES IN THE WORK 39

ARTICLE 8 TIME 39
8.1 PROGRESS AND COMPLETION 39
8.2 TIME OF COMPLETION, DELAYS AND EXTENSIONS OF TIME 39
8.3 LIQUIDATED DAMAGES 40
8.4 COMPUTATION OF TIME 40

ARTICLE 9 PAYMENTS AND COMPLETION 42
9.1 TOTAL CONTRACT PRICE 42
2. COST OF THE WORK ..... **ERROR! BOOKMARK NOT DEFINED.**
2.7 COSTS NOT TO BE REIMBURSED AS PART OF THIS CONTRACT 46
2.8 DISCOUNTS, REBATES, AND REFUNDS 46
2.9 OWNER-REJECTED SUBCONTRACT AWARDS 46
2.10 NO COST-PLUS SUBCONTRACTS 47
9.2 SCHEDULE OF VALUES 49
9.3 APPLICATION AND CERTIFICATE FOR PAYMENT 50
9.4 STORED MATERIALS 52
9.5 PROGRESS PAYMENTS AND RETAINAGE 54
9.6 CONTINUED PERFORMANCE PENDING PAYMENT 56
9.7 SUBSTANTIAL COMPLETION 56
9.8 PARTIAL OCCUPANCY OR USE 57
9.9 FINAL COMPLETION AND FINAL PAYMENT 58
9.10 PAYMENT OF LIQUIDATED DAMAGES AND BACKCHARGES 58
9.11 OWNER'S RECORDS REVIEW AND AUDIT RIGHTS 59

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY 60
10.1 SAFETY PRECAUTIONS AND PROGRAMS 60
10.2 SAFETY OF PERSONS AND PROPERTY 60
10.3 HAZARDOUS MATERIALS 62
10.4 EMERGENCIES 62

ARTICLE 11 INSURANCE AND BONDS 62

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK 68

12.1 UNCOVERING WORK 68
12.2 CORRECTION OF WORK 68
12.3 ACCEPTANCE OF NONCONFORMING WORK 69

ARTICLE 13 MISCELLANEOUS PROVISIONS 69
13.1 GOVERNING LAW 69
13.2 SUCCESSORS AND ASSIGNS 69
13.3 WRITTEN NOTICE 70
13.4 RIGHTS AND REMEDIES 70
13.5 TESTS, EXAMINATIONS, AND INSPECTIONS 70
13.6 INTEREST 71
13.7 REPRESENTATIONS AND WARRANTIES 71
13.8 COMPLIANCE WITH NON-DISCRIMINATION REQUIREMENTS 71
13.9 PUBLIC RECORDS 73
13.10 NO WAIVER 74
13.11 SURVIVAL OF PROVISIONS 74
13.12 CONSULTATION WITH COUNSEL 74

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT 75
14.1 TERMINATION BY THE CONTRACTOR 75
14.2 TERMINATION BY THE OWNER FOR CAUSE 75
14.3 SUSPENSION OR TERMINATION BY THE OWNER FOR CONVENIENCE 76

ARTICLE 15 CLAIMS AND DISPUTES

ARTICLE 16 E-VERIFY

GENERAL CONDITIONS OF THE DESIGN/BUILD CONTRACT

ARTICLE 1 GENERAL PROVISIONS

1.1 BASIC DEFINITIONS

1.1.1 CLAIM

A Claim is a demand or assertion, made by written notice and quantified pursuant to Article 15, by the Owner or Contractor seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract Documents.

1.1.2 CONTRACT

The phrase "Contract" or "Agreement" may be used as an abbreviation for Contract Documents, which together form the Design Build Contract.

1.1.3 CONTRACT DOCUMENTS

The Contract Documents consist of the executed Contract Agreement between the Owner and Contractor, the Design Criteria, the Owner's Design Guidelines, the Request for Statements of Qualifications (Solicitation), Contractor's Statement of Qualifications, Contractor's Proposal(s), General Conditions of the Design Build Contract, all contract administration forms, GMP Amendment, and Contract Modifications.

1.1.4 CONTRACT MODIFICATIONS

A Contract Modification is issued after execution of the Design Build Contract in the form of: (1) a Change Order, (2) a Construction Change Directive, or (3) a Field Change Order. A GMP Amendment may be amended by a Contract Modification. Changes within a GMP Amendment may be made in any format required by the Owner.

1.1.5 CONTRACT TIME

Unless otherwise provided, Contract Time is the period of time, including adjustments authorized by a Contract Modification, to achieve Substantial Completion of the Work and is measured by actual calendar days.

1.1.6 CONTRACTOR

The term "Contractor" as used throughout the Contract Documents shall mean "Contactor". Contactor means a partnership, corporation, or other legal entity that: is certified under Fla. Stat. s. 489.119 to engage in contracting through a certified or registered general contractor or a certified or registered building contractor as the qualifying agent; or is certified under Fla. Stat. s. 471.023 to practice or to offer to practice engineering; certified under s. 481.219 to practice or to offer to practice architecture; or certified under s. 481.319 to practice or to offer to practice landscape architecture.

1.1.7 CONTRACTOR'S DRAWINGS

The Contractor's Drawings are the graphic and pictorial portions of the Contract Documents prepared by the Contractor to depict the Contractor's design, location and dimensions of the Work, generally including, plans, elevations, sections, details, schedules and diagrams, prepared in accordance with the Owner's minimum CAD, BIM and Drawing Standards. The content of the Contractor's Drawings shall not supersede the requirements of the Owner's Design Guidelines unless establishing a higher level of standard.

1.1.8 CONTRACTOR'S PROJECT MANUAL

The Contractor's Project Manual consists of one or more volumes of bound documents assembled for the Work by the Contractor which may include the specifications and other requirements prepared and issued for construction by the Contractor during the design phase of the Work for construction of the Work. The content of the Contractor's Project Manual shall not supersede the requirements of the Owner's Design Guidelines unless establishing a higher level of standard.

1.1.9 CONTRACTOR'S SPECIFICATIONS

The Contractor's Specifications are those portions of the Contract Documents prepared by the Contractor in compliance with the Owner's Design Guidelines, consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services. The content of the Contractor's Specifications shall not supersede the requirements of the Owner's Design Guidelines unless establishing a higher level of standard. The Owner's Design Guidelines and Division 01 specifications have been provided to the Contractor electronically and are incorporated into the Contractor's Specifications by reference.

1.1.10 DAY

The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specified. When any contractual obligation is measured by the number of days and the deadline date falls on a legal holiday or weekend when the Owner's office is closed, the obligation will be allowed to be completed on the next business day without penalty.

1.1.11 DESIGN CRITERIA

The Design Criteria is information provided by the Owner that describes the Work to be performed under this Contract and includes the Owner Design Guidelines, the preliminary studies, design intent reports, performance and scope drawings, if any, the quantity and quality requirements of the Work, if any, and the location of the Work.

1.1.12 DESIGNER

The Designer is the Contractor's person or entity lawfully licensed in Florida to provide architectural or engineering services in connection with the Project and is referred to throughout the Contract Documents as if singular in number. The term "Designer" means the Designer or the Designer's authorized representative and is the entity responsible for signing and sealing the Plans and Specifications prepared by Contractor for construction of the Work. The Designer is part of Contractor's design-build team and includes subconsultants if applicable.

1.1.13 FINAL COMPLETION

Final Completion is the date when final acceptance of the Work in accordance with the Contract Documents is achieved and all other Contract requirements have been fully performed, including the delivery of all required close-out documentation.

1.1.14 GUARANTEED MAXIMUM PRICE or "GMP"

Guaranteed Maximum Price or GMP means the amount proposed by the Contractor and accepted by the Owner as the maximum cost to the Owner for the Work in accordance with the Contract Documents.

1.1.15 LIQUIDATED DAMAGES

Liquidated Damages are those damages identified in Article 8.3 that the Owner may assess against the Contractor or its Surety for the Contractor's tardy Substantial or Final Completion of the Work.

1.1.16 PROJECT

The Project is the total Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner or by separate contractors.

1.1.17 PROPOSAL

The Proposal consists of the Contractor's Statement of Qualifications, including any Proposal Forms, documents, reports and information referenced in the Request for Statements of Qualifications, Solicitation/RFQ Addenda, and the Contractor's proposal for preconstruction and design phase services. The Proposal shall not lessen the minimum quality standards of the Owner's Design Guidelines by omission, modification or revision. The quantity requirements, unless specifically listed as a minimum, are provided for guidance to the Proposer for development of its own approach, concept and final design. Written and verbal statements made by the Contractor during the solicitation process are deemed to be part of and included in the Proposal.

1.1.18 OWNER

The Owner is the Sarasota Manatee Airport Authority.

1.1.19 OWNER'S REPRESENTATIVE (RPR)

The RPR is the person or entity that is selected by the Owner to perform the RPR's responsibilities of the Contract Documents.

1.1.20 RECORD DOCUMENTS

The Record Documents consist of those documents assembled by the Contractor at the conclusion of the Contractor's performance of construction or service. Record Documents are developed from as-built drawings, as-built specifications and any other documents required to be submitted by the Contractor for closing out the Project. The Record Documents shall accurately document the Work as constructed, including all Contract Modifications and Changes.

1.1.21 SUBCONTRACTOR OR SUBCONSULTANT

A Subcontractor or Subconsultant is a person or entity who has a direct contract with the Contractor to furnish labor, material, or services for the Work. The term "Subcontractor" or "Subconsultant" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or Subconsultant or an authorized representative of the Subcontractor.

1.1.22 SUB-SUBCONTRACTOR OR SUB-SUBCONSULTANT

A Sub-subcontractor or Sub-subconsultant is a person or entity who has a direct or indirect contract with a Subcontractor or Subconsultant to furnish labor, material, or services for the Work. The term "Sub-subcontractor" or "Sub-subconsultant" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or Sub-subconsultant or an authorized representative of the Sub-subcontractor or Sub-subconsultant.

1.1.23 SUBSTANTIAL COMPLETION

Substantial Completion is the date when the Work is deemed by the RPR to be sufficiently complete in accordance with the requirements of the Contract Documents, agreed to by the Owner, and includes, but is not limited to, the requirements of Article 9 and Division 1 Specifications (if any) being fulfilled.

1.1.24 WORK

The "Work" means the labor, materials, equipment and other services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

1.2.25 FORCE MAJEURE EVENT

"Force Majeure Event" is an event that (i) in fact causes a critical path schedule delay in the performance of a Party's obligations under the Contract Documents, and (ii) is beyond the reasonable control of either Party, and (iii) is not due, in whole or in part, to any error, omission, negligence, or intentional act of such Party, and (iv) could not have reasonably been foreseen and prepared for by such Party at any time prior to the occurrence of the event. Force Majeure Events may include (a) acts of God; (b) flood, fire, earthquake or explosion; (c) war, invasion, hostilities, (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) actions, embargos, or blockades in effect after the date of this Contract, (e) governmental order, law, or other action by a governmental authority; (f) national or regional emergencies; (g) strikes or labor stoppages; (h) epidemic or pandemic (which is defined by the United States Center for Disease Control as virulent human influenza or infection that may cause global outbreak, or pandemic, or serious illness); (i) regionwide power outage; and (j) other similar events beyond the reasonable control of a party to this Contract.

Force Majeure events are limited to those occurring after the date of this Contract.

Force Majeure shall not include failure of equipment, labor or materials supplied by the Contractor, delays related to the COVID-19 pandemic (except in the case of a declaration of a new national emergency by the federal government or other governmental orders affecting the Work not in place on the effective date of this Contract), failure to maintain the Work in good repair during the Contract, receipt of and incorporation of defective materials into the Work, increases in the cost of labor or materials, changes in the general economic or market conditions, failure of suppliers to deliver equipment and materials except where such failure is itself the result of a Force Majeure

event, failure of the Contractor to secure the required permits for prosecution of the Work, any strikes, boycotts, lockouts or like obstructive actions by labor organizations that are caused by or alleged to have been caused by the Contractor, its subcontractors or other laborers or materialmen [redacted] roject, or other abnormal inclement weather conditions.

1.2 [redacted]

1.2. [redacted] uments shall be signed by the Owner and Contractor.

1.2. [redacted] Documents is to include all information necessary for the proper [redacted] of the Work by the Contractor. The Contract Documents are complementary, and what is required by one portion shall be as binding as if required by all. Performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable as being necessary to produce the intended results. The Drawings indicate arrangements and results to be accomplished, and the Contractor shall provide such necessary fastenings and accessories. If a conflict exists between the Contract Documents, the Order of Preference provision contained in Articles1.6.1 and 1.6.2 shall apply.

1.3 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS AND DATA

1.3.1 All Drawings, Specifications and other documents and electronic data prepared by the Contractor are and shall remain the property of the Owner, and the Owner shall retain all common law, statutory and other reserved rights with respect thereto. The Contractor, Subcontractors, Subconsultants, and material and equipment Suppliers are granted a limited license to use and reproduce applicable portions of the Drawings, Specifications and other documents appropriate to and for use in the execution of their Work under the Contract Documents. Submittals or distributions necessary to meet official regulatory requirements or for other purposes relating to completion of the Project are not to be construed as a publication in derogation of the Owner's copyright or other reserved rights.

1.3.2 The Contractor acknowledges and agrees that all records, documents, drawings, notes, tracings, plans, specifications, maps, evaluations, reports and other technical data and electronic data, instruments of service (other than working papers), including but not limited to, all Architectural Works as defined by the federal Architectural Works Copyright Protection Act (whether hard copy or electronically stored), prepared, developed or furnished by Contactor or the design professional(s) employed or retained by the Contactor under this Contract (Project Documents) will be and remain the property of the Owner. Project Documents will be deemed to be works made for hire, and all right, title and interest in and to the Project Documents will be vested in Owner. Contactor will take all actions necessary to secure for Owner all such right, title and interest. Contactor warrants that all materials comprising the Project Documents are original with the Contactor and have not been copied or derived from any other material without the express written consent of the owner, proprietor and/or copyright holder of that other material and are not subject to any other claim of copyright by any other person. The Contactor will obtain any and all licenses necessary for the production and preparation of the Project Documents including, without limitation, licenses for the use of any material subject to copyright by other parties. The Contactor will assign to Owner any and all rights, including any copyrights, in the Project Documents that Contactor or the design professional(s) employed or retained by the Contactor on this Project may possess now or in the future, and Contactor and its design professional(s) will claim no rights adverse to Owner in the Project Documents. The Project as designed by the Contractor under this Contract, may be reused or repeated by the Owner at the Owner's option or discretion at any time or times, for the

completion, addition, renovation, maintenance, reconstruction or remodeling of the Project. The Contractor hereby grants its consent to reuse of the Project Documents by Owner for such purposes.

1.3.3 The Contractor shall retain its rights to all standard elements contained within the design, including standard details, specifications, or other design materials generated and authorized by the Contractor for its repeated, regular and ongoing use in plans, specifications, reports or other instruments of service for its clients. The Contractor will incorporate the terms of this Article 1.3 in all contracts with design professionals employed or retained by the Contractor to perform services on the Work covered by this Contract.

1.4 CAPITALIZATION

1.4.1 Terms capitalized in these General Conditions include those which are (1) specifically defined, and (2) the titles of numbered articles and identified references to Articles in the document.

1.5 INTERPRETATION

1.5.1 In the interest of brevity, the Contract Documents frequently omit modifying words such as "all" and "any," and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

1.5.2 Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

1.6 ORDER OF PRECEDENCE

1.6.1 The order of precedence for the Contract Documents shall be as follows:

1. Contract Modifications
2. GMP Amendment (except unit price schedules)
3. Contract Agreement between Owner and Contractor
4. Addenda issued during procurement process
5. Special Conditions
6. General Conditions of the Design/Build Contract
7. Design Criteria including Owner's Standards, Design Guidelines and Specifications
8. Contractor's Specifications and Drawings: Drawings take precedence over Specifications as to quantity and location. Specifications take precedence over Drawings as to quality of materials and workmanship.
9. Unit Price Schedules contained in the GMP
10. Request for Statement of Qualifications
11. Statement of Qualifications
12. Measurements by Scale

1.6.2 The more stringent requirements shall apply in the event any conflicts cannot be resolved by applying the Order of Precedence. The Owner's Standards, Design Guidelines, Specifications, quantity and quality requirements represent the minimum standards and may not be lessened by omission, modification or revision.

1.7 STANDARD FORMS

1.7.1 The following forms shall be utilized in the execution of the Work:

A. REQUEST FOR INFORMATION (RFI): A RFI shall be utilized in the field to present any questions or interpretations requested by the Contractor. The RPR shall, upon receipt, secure a response from an appropriate source. The RPR will provide the Contractor with a written response to the RFI with reasonable promptness to avoid or minimize delay in the progress of the Work.

B. POTENTIAL CHANGE ORDER (PCO): A PCO is the Contractor's written notification of a potential change impact to the Total Contract Price or Contract Time. The PCO shall justify the basis for Contractor's entitlement to the change, if any, and shall include preliminary information in accordance with Article 7. The Contractor may submit its Request for Change Order (RCO) as described in this Article without having first submitted a PCO. The PCO does not constitute a formal request for change order and does not require the Owner or RPR to respond.

C. REQUEST FOR CHANGE ORDER (RCO): A RCO shall be utilized by the Contractor to present a written request for an adjustment to the Contract Price, the Contract Time, or a term or condition of the Contract. The RCO shall provide justification for entitlement to the change and shall be substantiated in accordance with Article 7. The Contractor shall submit a Request for Change Order (RCO) for all proposed Contract Modifications.

D. SUPPLEMENTAL INSTRUCTION (SI): An SI shall be utilized by the Owner/DCC to provide clarifications or supplemental information to the Contractor. An SI may not modify the scope of Work.

E. BULLETIN: A Bulletin is utilized by the Owner or RPR to indicate proposed modifications to the drawings or specifications after the Designer issues 100% Construction Documents. Upon receipt of a Bulletin, the Contractor shall submit a detailed breakdown of costs (additions or credits), if any, in the form of a written Request for Change Order (RCO) for review by the Owner and RPR.

F. CHANGE ORDER (CO): A CO is a Contract Modification that details the changes to the scope of the Work and, if any, to the Contract Price and the Construction Schedule and is signed by the Owner and Contractor in accordance with Paragraph 7.2.

G. CONSTRUCTION CHANGE DIRECTIVE (CCD): A CCD is a written order from the Owner absent agreement on a CO directing a change in the Work in accordance with Paragraph 7.3.

H. FIELD CHANGE ORDER (FCO): A FCO may be utilized with emergency or urgent justification for immediate direction and authorization to proceed with a change in the Work in accordance with Paragraph 7.4.

I. JOB MEMORANDUM (JM): A JM shall be utilized by the RPR as written notice to the Contractor regarding a deficiency or defect in the Work or other action required of the Contractor. The Contractor shall provide a written response to the RPR with reasonable promptness.

1.8 OWNER FURNISHED ELECTRONIC DOCUMENTS:

The Contractor shall ensure that it receives from the Owner the most current electronic files of the Owner's Design Guidelines and Specifications and the existing Record Documents of previous projects relevant to the Project, to the extent available. All Owner Design Guidelines and Specifications that are provided electronically are incorporated into this contract by reference. The Contractor shall utilize the AIA's MasterSpecs software and resources as the Owner Design Guidelines, to the extent the Owner has not yet established Design Guidelines or Specifications.

ARTICLE 2 OWNER'S RESPONSIBILITIES

2.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER

2.1.1 The Owner shall furnish the Contractor with the name of the person or firm who shall be the RPR for the purpose of all communication required between the Owner and the Contractor. The Owner reserves the right to act as the RPR.

2.1.2 The Owner furnished to the Contractor a description of the Project site, and made available existing records for the Work. The Owner shall not be responsible for furnishing surveys or other information as to the physical characteristics of the site or utility locations for the Project site beyond the information provided. The Contractor shall make available to the Owner and RPR all its survey and utility locations data.

2.1.3 The Owner furnished to the Contractor available subsurface conditions of the Project site, and made available existing records for the Work to assist the Contractor in completing adequate investigations. The Contractor shall perform its own adequate investigations of the existing site conditions prior to completion of the design phase. The Owner disclaims all responsibility whatsoever with respect to the sufficiency or accuracy of test borings made, or of the logs of test borings, or of other investigations or records of subsurface conditions (including but not limited to, underground utility locations, or of the interpretations made thereof), and there is no warranty or guaranty, expressed or implied, that the conditions indicated by such test borings, logs, investigations, records, or information are representative of conditions existing throughout the Work site, or any part thereof, or that unforeseen developments may not occur. At the Owner's request, the Contractor shall make available to the Owner the results of any surface or subsurface investigations of the site, test borings, analyses, studies or other tests conducted by or in possession of the Contractor or any of its agents.

2.1.4 The Owner shall secure and pay for any easements, transportation and sewer benefit fees, Utilities system development charges and threshold inspections associated with the Work. The Contractor shall secure and pay for all other permits, inspections, fees, and notices, as set forth more particularly in Article 3.

2.2 OWNER'S RIGHT TO STOP OR SUSPEND THE WORK

2.2.1 If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents or fails to carry out Work in accordance with the Contract Documents within seven (7) days from the receipt of the RPR's written notice to the Contractor describing such failure, the Owner may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated. The right of the Owner to stop the Work shall not give rise to

a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity. This right shall be in addition to, and not in restriction of, the Owner's other rights arising from the Contract Documents or law.

2.2.2 The Owner may suspend the Work, in whole or in part, for such period of time as it may deem necessary, due to abnormal inclement weather, or any other circumstances which, in the Owner's discretion, requires a suspension of the Work. An order by the Owner to suspend the Work shall be in writing except in cases of bona fide emergencies. In the event the Work is suspended under this Article or delayed for a Force Majeure Event or other reasons beyond the Contractor's control or for unforeseen circumstances not otherwise provided for in the Contract Documents which could not have reasonably been anticipated or avoided by the Contractor, the Contractor shall be granted an appropriate extension of Contract Time for the period of suspension, which shall not exceed the day-for-day period of suspension, and an equitable adjustment to the Total Contract Price for the increased direct costs of maintaining and securing the Project during the suspension period, subject to the limitations of Article 7.

2.2.3 The Contractor shall not be entitled to receive any increase in the Contract Time or the Total Contract Price for work stopped or suspended by the Owner under Article 2.2.1 or for suspensions under Article 2.2.2 which are either: (1) made at the request of the Contractor for its own convenience; (2) attributable to circumstances caused by the Contractor or those for which the Contractor is responsible; (3) attributable to circumstances which reasonably could have been anticipated or avoided by the Contractor; (4) attributable to inclement weather conditions usually experienced at the project site during the relevant time period (as defined in Article 7); or (5) attributable to circumstances otherwise anticipated in the Contract Documents.

2.3 OWNER'S RIGHT TO CARRY OUT THE WORK

2.3.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, commence and continue to carry out the Work or any portion thereof. In such case, an appropriate Change Order or Construction Change Directive shall be issued deducting from payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the RPR's additional services and expenses made necessary by such default, neglect or failure and all damages, costs, expenses or losses caused by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts owed to the Owner, the Contractor shall pay the difference to the Owner. The right of the Owner to carry out the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

2.3.2 The Owner may carry out the Work, in whole or in part, for such period of time as it may deem necessary in its sole discretion, due to abnormal inclement weather, or any other circumstances which, in the Owner's discretion, requires the Owner to immediately commence additional, substitute, or corrective Work. The Owner shall endeavor to give reasonably prompt notice under the circumstances (whether written or oral) to the Contractor of its intention to carry out the Work except in cases of emergencies, in which case reasonably prompt notice under the circumstances after the fact is permitted. If the Work performed under this Article 2.3.2 arises out of or relates to default, neglect, errors, or other causes attributable to Contractor, then an appropriate Change Order or Construction Change Directive shall be issued deducting from payment then or thereafter due to the Contractor the cost of such Work, including compensation for the RPR's additional

services and for all other expenses made necessary by the Contractor's default, neglect or failure, and all damages, costs, expenses or losses caused by the Contractor's default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts owed to the Owner, the Contractor shall pay the difference to the Owner within thirty (30) days after receiving a demand for payment pursuant to a Contract Modification. The right of the Owner to carry out the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

2.4 PROJECT MANAGEMENT INFORMATION SYSTEM (PMIS).

2.4.1 Commencing immediately upon the Effective Date of this Design Build Contract, the Contractor shall implement and utilize, throughout the life of this Contract, the Project Management Information System (PMIS) as identified or provided by the Owner. The Contractor shall ensure that all reports, documents, and data to be provided under the PMIS represent, at all times, an accurate assessment of the current status of the Project and its components and of the Work remaining to be accomplished. The PMIS shall provide a sound basis for identifying variances and problems and shall serve as a resource for making management decisions. All data within the PMIS shall be accessible electronically (via internet) by the RPR and Owner. The Owner will conduct a training workshop for participants, as required, to facilitate each participant's use and understanding of the PMIS. The workshop shall establish the procedures and protocols for the use of PMIS.

The PMIS shall be utilized for the following major elements, and others as determined by the Owner:

- Narrative Reports,
- Schedules,
- Cost Control Reports and Estimates, including Estimated Cost at Completion, in a format acceptable to the Owner
- Project Accounting,
- Project Management Plans, and
- Contract and Field Administration, Document Management and Standard Forms.

The Contractor shall utilize and maintain the PMIS for use by the Owner and ensure that it remains accessible (via website) by the members of the Project Team.

ARTICLE 3 CONTRACTOR'S RESPONSIBILITIES

3.1 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

3.1.1 The Contractor has carefully examined the site of the Work, the Contract Documents, and the existing Owner records for the Work contemplated. The Contractor acknowledges that the Total Contract Price is inclusive of services for performing adequate investigations of the existing site conditions and the existing records to sufficiently develop the design documents. The Contractor further acknowledges that any information provided by the Owner was to assist the Contractor in completing adequate investigations. In addition the Contractor represents that, prior to submitting

its GMP Proposal, it has investigated and is fully informed of the conditions to be encountered, is fully informed of the character, quality and extent of Work to be performed, and has included in the GMP Proposal and the Contract Documents all items necessary for the proper execution and completion of the Work in accordance with the requisite time frame, applicable laws, statutes, building codes, regulations, or as otherwise required by the Contract Documents. The Contractor shall not take advantage of any apparent error or omission in the Contract Documents. In addition, if the Contractor performs any construction activity which the Contractor knows or should have known contains an inconsistency or omission from the Design Guidelines; the Contractor shall be responsible for such performance and shall bear the cost for correction.

3.1.2 The Contractor shall take field measurements, verify field conditions and carefully compare such field measurements and conditions and other information known to the Contractor with the Contract Documents before commencing activities. The Contractor is responsible for the survey of baseline and benchmarks for laying out its Work. Errors, inconsistencies or omissions discovered shall be the responsibility of the Contractor and shall be reported in writing to the RPR no later than seven (7) days after discovery by the Contractor.

3.1.3 The Contractor represents that it is familiar with the Project site and has received all information it needs concerning the conditions of the Project site. The Contractor represents that it has inspected the location of the Work and has satisfied itself as to the location and condition thereof, including, without limitation, the location and condition of all structures, utilities, and surface and subsurface conditions. In addition the Contractor has investigated and is fully informed of the conditions to be encountered, of the character, quality and quantities of Work to be performed and materials to be furnished and included in its Proposal and Contract all items necessary for the proper execution and completion of the Work. The Contractor shall undertake all investigations and studies as may be necessary or useful to determine the location and condition of structures, utilities, surface and subsurface conditions as a reimbursable pre-construction service or by Change Order. The Contractor shall exercise special care in executing Work in proximity of known utilities, improvements, and easements. The Contractor shall be solely responsible for the location of any existing utilities. The Contractor shall be entitled to rely on the accuracy and completeness of record documents, surveys, geotechnical reports, and other technical data furnished by the Owner, subject to the Contractor's review in accordance with its standard of care. Based upon the foregoing inspections, understandings, agreements and acknowledgments, the Contractor agrees and acknowledges: (i) that the Total Contract Price is just and reasonable compensation for all the Work, including all reasonably foreseen and foreseeable risks, hazards, and difficulties in connection therewith; (ii) that the Contract Time is adequate for the performance of the Work; and (iii) that the Work shall not result in any unintended lateral or vertical movement of any existing structure. The Contractor shall have no claims for surface or subsurface conditions except as described in Article 4.3.5.

3.2 ARCHITECTURAL AND ENGINEERING DESIGN SERVICES, GENERALLY

3.2.1 The Contractor shall provide all professional architectural and engineering design services (either on its own or using Subconsultants) required to complete the Work, which may include, but are not limited to, customary architectural design services; customary civil, structural, mechanical, systems, lighting, and electrical engineering services; geotechnical and surveying services; project and construction management and administration services; and all other professional services which may be required. All design and engineering services must be performed by qualified professionals. Owner approval is required to substitute any individual that was named in the Contractor's Statement of Qualifications.

3.2.2 The Contractor shall prepare detailed design documents, drawings, and specifications which are consistent with the standard of care and intent of the Contract Documents, that adequately define the information required by the construction trades to properly perform the Work, and that include all information required for permitting and approval of the Project by the appropriate regulatory agencies. All design documents shall be prepared in accordance with the Owner's Design Guidelines including, without limitation, the Owner's Building Information Modeling and AutoCAD standards, and all additional detailing requested by the Owner and RPR. The Design Guidelines and all standards have been provided electronically to the Contractor and are incorporated into the Contract Documents by reference.

3.2.3 The Contractor shall be responsible for the professional quality, technical adequacy, accuracy, timely completion, and coordination of all data, designs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents and instruments, and all other services furnished by the Contractor. The Contractor shall, without additional costs or expense to the Owner, correct or revise any errors, omissions, or other deficiencies resulting from Contractor's failure to perform in accordance with the standard of care set forth in Article 3.3.9.

3.2.4 All design work, including delegated design, shall be performed, signed, and sealed by professional engineering and architectural firm(s) or individuals licensed and registered to practice in the State of Florida.

3.2.5 All design work shall comply with all applicable federal, state, and local codes, including the Florida Energy Code, the Florida Accessibility Code for Building Construction (FACBC), and the Americans with Disabilities Act Accessibility Guidelines (ADAAG).

3.2.6 The Contractor shall use its best efforts to perform all design and design-related services and shall provide all services in accordance with the professional skill and care ordinarily provided by architects, engineers, and interior designers practicing in the same or similar locality under the same or similar circumstances on a project of the same sale or similar type, scale, and complexity as the Project and in accordance with the Contract Documents. Any comments, revisions, or interim decisions made by Owner shall not relieve the Contractor of its responsibility to prepare a design strictly in compliance with the Contract Documents and the standard of care.

3.2.7 The Contractor shall provide design and engineering services as necessary during the construction phase.

3.2.8 The Contractor agrees to perform such additional professional services for the Owner as are contained in any additional scope of work established by the Owner in a Contract Modification. The Contract Modification for such additional professional services may establish a lump sum amount, per diem, or hourly rates for such work and may provide an upper limit on the payments to be made by the Owner to the Contractor for such work as well as the amount of time necessary to accomplish such additional services. It is expressly understood, however, that the Owner shall have no obligation to authorize the Contractor to perform any additional professional services under this Contract.

3.2.9 The requirements for design work by the Contractor are further defined in the Contract Documents, including the Owner's Design Guidelines.

3.2.10 All documents prepared or accumulated by the Contractor in rendering design services shall be the sole property of the Owner and the Owner shall be vested with all rights therein of whatever kind

and however created; provided, however, that the Contractor shall have no liability to the Owner for the Owner's use of the Contractor's work product on any project other than the Project for which the Contractor's design services were rendered, or for the Owner's use of the work product of the Contractor which is delivered to the Owner in incomplete form, accompanied by written notice to the Owner that such work is incomplete describing in sufficient detail why the documents are incomplete. No reports, maps, drawings, specifications, or other documents produced in whole or in part under this Contract shall be the subject of any application for copyright by or on behalf of the Contractor or any of its Subcontractors.

3.3 PRE-CONSTRUCTION AND DESIGN SERVICES

3.3.1 General Intent. Contractor shall perform all planning, design, and architectural and engineering services required to develop design documents and shall perform all other pre-construction services necessary for the construction of the Project in accordance with the Contract Documents.

3.3.2 Work Prior to Execution of a GMP Amendment

a. General. Any information submitted by the Contractor, and any interim decisions made by the Owner, shall be for the purpose of facilitating the design process and shall not modify the Contract Documents in the absence of a Contract Modification.

b. The Contractor shall advise the Owner on proposed site use and improvements, selection of materials, and building systems and equipment. The Contractor shall also provide the Owner with recommendations on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

c. Evaluation of the Project, Owner's reports, and concepts if any. The Contractor shall schedule and conduct meetings with the Owner and any other necessary individuals or entities to discuss and review the scope, schedule and budget for the Project. The Contractor shall thereafter again meet with the Owner to discuss its preliminary evaluation. The preliminary evaluation shall address possible alternative approaches to design and construction of the Work and include the Contractor's recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall consider cost information, constructability, and procurement and construction scheduling issues.

d. After the Contractor meets with the Owner and presents the preliminary evaluation, the Contractor shall provide a written report to the Owner, summarizing the Contractor's evaluation, including any recommendations of the Contractor and at a minimum include:

a. allocations of program functions, detailing each function and their square foot areas;

b. a preliminary estimate of the Cost of the Work, and, if necessary, recommendations to adjust the scope to conform to the Owner's budget;

c. a Preliminary Schedule in accordance with Article 3.13; and

d. a risk register, in a format acceptable to the Owner that includes the following minimum elements: risk name, description, category, likelihood, risk analysis,

mitigation, priority: risk ownership and status. Throughout the design phases, the Contractor shall maintain, update and submit, at least monthly the risk register and review with the Owner at regular intervals.

e. The Owner shall review the Contractor's written report and, if acceptable, provide the Contractor with written consent to proceed to the development of the Schematic Design as described in the next paragraph. If the Owner has comments or revisions to the written report, the Contractor shall incorporate the comments or revisions without additional compensation and resubmit the written report to the Owner. The consent to proceed shall not modify the Contract Documents unless the Owner and Contractor execute a Contract Modification.

f. Schematic Design (30% Construction Documents). Upon the Owner's issuance of a written consent to proceed under preceding paragraph, the Contractor shall prepare and submit a Schematic Design (development of 30% Construction Documents) to the Owner. The Schematic Design may include some combination of physical study models, perspective sketches, or digital modeling. The Schematic Design (30% Construction Documents) shall include a report identifying any deviations from the Contract Documents, and shall include all of the elements identified and comply with all requirements and processes for the "Schematic Design Submittal" identified in the Owner's Design Guidelines, and include an estimate of the Cost of the Work, and, if necessary, recommendations to adjust the scope to conform to the Owner's budget. The Owner shall review the Schematic Design and, if acceptable, provide the Contractor with written consent to proceed to development of the 60% Construction Documents. If the Owner has comments or revisions to the Schematic Design, Contractor shall incorporate the comments or revisions into the 60% Construction Documents without additional compensation. The Schematic Design shall not modify the requirements set forth in the Contract without the Owner's written concurrence.

g. 60% Construction Documents. Upon the Owner's issuance of a written consent to proceed, the Contractor shall prepare and submit 60% Construction Documents to the Owner. The 60% Construction Documents may include some combination of physical study models, perspective sketches, or digital modeling. The 60% Construction Documents shall include a report identifying any deviations from the Contract Documents, and shall include all of the elements identified and comply with all requirements and processes for the "60% Construction Documents Phase" identified in the Owner's Design Guidelines, and an estimate of the Cost of the Work, and, if necessary, recommendations to adjust the scope to conform to the Owner's budget. The Owner shall review the 60% Construction Documents and, if acceptable, provide the Contractor with written consent to proceed to development of the 95% Construction Documents. If the Owner has comments or revisions to the 60% Construction Documents, Contractor shall incorporate the comments or revisions into the 95% Construction Documents without additional compensation. The 60% Construction Documents shall not modify the requirements set forth in the Contract without the Owner's written concurrence.

h. 95% Construction Documents. Upon Owner's issuance of a written consent to proceed, the Contractor shall prepare and submit 95% Construction Documents to the Owner. The 95% Construction Documents may include some combination of physical study models, perspective sketches, or digital modeling. The 95% Construction Documents shall include a report identifying any deviations from the Contract Documents, and shall include all of the elements identified and comply with all requirements and processes for the "95% Construction Documents Phase" identified in the Contract Documents, and

include an estimate of the Cost of the Work, and, if necessary, recommendations to adjust the scope to conform to the Owner's budget. The 95% Construction Documents shall not modify the requirements set forth in the Contract without the Owner's written concurrence. If the Owner has comments or revisions to the 95% Construction Documents, Contractor shall incorporate the comments or revisions into the 100% Construction Documents without additional compensation.

i. 100% Construction Documents: Upon Owner's issuance of a written consent to proceed, the Contractor shall prepare and submit 100% Construction Documents and a GMP Proposal that includes recommendations of competitive subcontractor bids based upon the 100% Construction Documents. The Contractor shall develop Invitation to Bid documents (ITBs) and submit for Owner approval, the procurement plan that includes, but is not limited to, dates of subcontractor pre-bid meetings, bid submittal dates, analysis process of bids after receipt, subcontractors bid sheets by bid packages, determination of bids to be included in the GMP proposal and the dates the Contractor will meet with the Owner to review the subcontractor bids. **All ITB packages shall include all federally required contract terms**. The Contractor's GMP Proposal shall include recommendations of award of subcontracts for the work based upon the lowest, qualified and responsive bidder or best value in accordance with the ITBs or other basis of award set forth in the solicitation documents.

j. All work not subcontracted through ITBs may be designed and constructed by the Contractor, if approved by the Owner after a detailed scope and price analysis. The Contractor shall submit to the Owner, for Owner's approval, the plan for all self-performed Work on specific bid packages. The plan shall detail how the Contractor will obtain competitive bids in addition to its own bid and detail the process for analyzing its bid versus the subcontractor bids to ensure fairness and transparency.

k. The Owner may require the Contractor to perform value engineering analyses or propose design modifications, at no additional cost to the Owner, to reduce the estimated costs of the Work to align with the Owner's budget as established at the scope verification stage of the Project, while preserving the required scope of work.

3.4 THE GMP PROPOSAL

3.4.1 Upon the Owner's acceptance of the One Hundred Percent (100%) Construction Documents, or as otherwise directed by the Owner in writing, the Contractor shall prepare and deliver to the Owner, a Guaranteed Maximum Price Proposal ("GMP Proposal"). The Contractor shall, at a minimum, include in the GMP Proposal:

a. a listing of the specific Construction Documents, including drawings and specifications, upon which the GMP Proposal is based;

b. the elements of the Guaranteed Maximum Price:

1) Cost of the Work, detailed by each subcontract, trade, or bid division, and including construction administration fees for the design team;
2) the Contractor's Contingency for the Work, in an amount agreed by the Owner;
3) Contractor's Staffing Cost, detailed by expense category and listing all proposed positions and billable rates for each;

4) The Owner's Contingency, in an amount that has been established by the Owner in its sole discretion;
5) General Requirements Cost (includes bond & insurance costs), detailed by expense category; and
6) Fee for Contractor's overhead and profit.

c. a draft schedule of values, using the excel format provided by the Owner;

d. unit prices, if any, to be used for payment, Contract Modifications or other changes within a GMP;

e. alternates, if any;

f. a description of allowances, if any;

g. all assumptions and clarifications, including a description of all exclusions from the GMP, if any, and a description of all deviations from the Contract Documents, if any;

h. the Baseline Construction Schedule that includes Guaranteed Substantial and Final Completion dates that is acceptable to the Owner;

i. the value established for Liquidated Damages;

j. DBE Participation Plan and certifications for each firm, if applicable; and

k. Subcontractor bid tabulations and copy of bids.

3.4.2 The Contractor acknowledges that the Construction Documents may be incomplete at the time the Contractor delivers the GMP Proposal, and that the Construction Documents may not be completed until after commencement of the Work. Nevertheless, the GMP Proposal shall include all costs for the Work required by the completed Construction Documents, and if the GMP Proposal is accepted by the Owner, the Contractor shall not be entitled to any increase in the GMP if the Work required by the completed Construction Documents: (i) is required by the Contract Documents, (ii) is reasonably inferable from the incomplete documents, (iii) is reasonably inferable from the listed GMP basis documents, (iv) is consistent with the Owner's Design Guidelines and the general industry standards for completion of the Work, or (v) substantially conforms to the nature, type, kind or quality of Work depicted in the incomplete documents.

3.4.3 Once a GMP is agreed to by the Owner and Contractor, the Contractor is at risk and responsible for the Project cost, Project schedule, Subcontracts, and all Work set forth in the Contract Documents.

3.4.4 Concurrent with the submission of the GMP Proposal, the Contractor shall submit to the Owner a draft Application for Payment with an updated schedule of values with all items of work and calculation formulas included for the amounts set forth in the GMP Proposal, along with an updated risk register.

3.4.5 If the GMP Proposal is unacceptable to the Owner, the Owner shall promptly notify the Contractor in writing. Within fourteen (14) calendar days of such notification, the Owner, and Contractor shall meet to discuss and resolve any differences, inconsistencies, or misunderstandings and to negotiate recommended adjustments to the Work and/or to the GMP.

3.4.6 The Owner may, at its sole discretion and based upon its sole judgment, (i) indicate its acceptance of a GMP Proposal; (ii) reject a GMP Proposal; (iii) terminate the Project; or (iv) proceed to construct the Project using a party or parties other than the Contractor.

3.4.7 If the Owner rejects a GMP Proposal, Owner may terminate the Contract in accordance with Article 14. Notwithstanding anything herein to the contrary, the Owner reserves the absolute right, in its sole discretion, to reject the GMP Proposal and not execute the GMP for any or no reason whatsoever. If the Owner rejects the GMP proposal, the existing compensation arrangements may continue at the mutual agreement of the Owner and the Contractor and the Owner shall have a nonexclusive, perpetual, irrevocable license to use, reproduce, modify, and distribute the Contractor's design documents and other instruments of service solely for the purposes of constructing, operating, maintaining, repairing, renovating, altering, and expanding the Project. Such license shall become effective upon the Owner's payment for the applicable instruments of service. The Owner may use such instruments of service with other design professionals, contractors, or consultants in connection with the Project. The Owner's right to use the Contractor's design documents and other instruments of service is conditioned upon payment of all amounts due to the Contractor, and any use of such documents on this or any other project without the continued involvement of the Contractor shall be at the Owner's sole risk, and the Owner shall, to the extent permitted by law, release the Contractor from all claims arising from such use.

3.4.8 If the Owner accepts a GMP Proposal, the parties shall complete and execute a GMP Amendment, in the form established by the Owner, and the Owner shall issue a written Notice to Proceed with Construction to the Contractor establishing the date construction is to commence. The Contractor shall not expend any monies for construction prior to receipt of such Notice to Proceed with Construction without the written approval of the Owner. By executing a GMP Amendment, Owner does not relieve Contractor of any responsibility or liability for any requirement of the Contract Documents, or any error or omission in any design prepared by Contractor whether before or after execution of the GMP Amendment.

3.4.9 Upon execution of a GMP Amendment, the Contractor guarantees that the sum to be paid by the Owner for construction phase services shall not exceed the Guaranteed Maximum Price set forth in the GMP, as adjusted by Contract Modifications. All costs or expenses that would cause this sum to exceed the Guaranteed Maximum Price shall be borne by the Contractor and Contractor shall perform such Work at its own cost.

3.4.10 Construction shall not commence prior to execution of a GMP Amendment and issuance by Owner of a Notice to Proceed with Construction.

3.4.11 Owner and Contractor agree that Contractor may implement a phased GMP approach incorporating multiple GMPs to mitigate cost escalation and potential tariff impacts.

3.5 CONSTRUCTION SUPERVISION AND OBLIGATIONS

3.5.1 The Contractor shall perform all Work and construction administration services necessary to construct the Project in accordance with the Contract Documents and to render the Project and all of its components operational and functionally and legally usable.

3.5.2 The Contractor shall supervise and direct all portions of the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over the design of the Work, including all Drawings, Specifications and other documents consistent with the Contract

Documents; for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract including coordination of the duties of all Subconsultants, Subcontractors and Suppliers, unless the Contract Documents give other specific instructions concerning these matters.

3.5.3 The Contractor shall control its operations and those of its Subconsultants, Subcontractors, and Suppliers to assure the least inconvenience to the traveling public. Under all circumstances, safety shall be the most important consideration.

3.5.4 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subconsultants, Subcontractors, and their agents and employees, and all other persons performing portions of the Work for which the Contractor is responsible.

3.5.5 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the RPR in the RPR's administration of the Contract, or by tests, inspections, or approvals required or performed by persons other than the Contractor.

3.5.6 The Contractor shall be responsible for inspection or examination of portions of Work already performed under this Contract to determine that such portions are in proper condition to receive subsequent Work. The Contractor shall keep full detailed written records of all inspection or examination efforts. These written records shall include dates, subject matter, persons present, results of inspections or examinations and shall be made available to the Owner, if requested.

3.5.7 If any of the Work is required to be inspected or approved by the Contract Documents or by any laws, ordinances, rules, regulations or orders of public authorities, the Contractor shall cause such inspection or approval to be performed. No test, inspection or examination performed or failed to be performed by the Owner, shall be a waiver of the enforcement of any of the Contractor's obligations.

3.5.8 The Contractor is fully responsible to provide a sufficient number of design professionals, skilled workers, supervision, and project management personnel to prosecute the Work and insure that the Work is completed within the Contract Time. Failure to fully staff the Project with skilled workers, supervision, or project management personnel shall be cause for termination of the Contract in accordance with Article 14 or such other remedies as set forth in the Contract Documents. The Contractor assumes all risks of delays or extra costs which may be associated with labor disputes involving the Contractor, its Subconsultants, Subcontractors or Suppliers and in no event shall the Contractor be entitled to additional compensation or an extension of Contract Time due to any such labor disputes.

3.5.9 The Contractor is required to carefully examine the site of the Work, the Contract Documents, and existing Owner records relating to the Work. The Contractor understands that any information that has been provided by the Owner is to assist the Contractor in completing adequate investigations. The Contractor certifies that it has investigated and is fully informed of the conditions to be encountered, of the character, quality and quantities of Work to be performed and materials to be furnished and has included in its Proposal all items necessary for the proper execution and completion of the Work. The Contractor shall not be relieved of its obligation to furnish all material, equipment, labor, and services necessary to complete the Work by reason of having failed to inform itself with respect to those matters.

3.6 LABOR, SERVICES AND MATERIALS

3.6.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, services, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and all other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. The Contractor shall not be entitled, under any circumstances, to any increased cost of doing business, including but not limited to, increased costs of materials, trucking, and fuel.

3.6.2 The Contractor shall enforce strict discipline and good order among the Contractor's employees, Subconsultants, Subcontractors, and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

3.6.3 The Contractor shall give preference to the employment of state residents in the performance of the Work on the Project if state residents have substantially equal qualifications to those of nonresidents.

3.6.4 The Contractor shall be responsible for all loss or damage to the Contractor's equipment and tools on the job site including, but not limited to, loss or damage from theft, malicious mischief or vandalism. The Contractor shall be responsible for all loss or damage, including but not limited to, loss or damage arising from theft, malicious mischief or vandalism, of stored materials or equipment located on the Owner's property until the Work reaches Final Completion.

3.7 WARRANTY

3.7.1 The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents and that the Work will conform to the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly authorized by the Owner, may be considered defective. If required by the RPR or Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment provided in the Work. Warranties required by the Contract Documents shall commence on the Date of Substantial Completion, unless otherwise provided in the Contract Documents. The Contractor shall deliver all required warranty documents before submitting the Final Application for Payment. When the specifications require that a warranty shall be for longer than one year, the Contractor shall ensure that the warranty is issued directly to the Owner as the original purchaser warrantee. Any breach of any warranty will be a breach of this Contract.

3.8 TAXES

3.8.1 The Contractor shall pay all sales, consumer, use or similar taxes for the Work or portions thereof provided by the Contractor, unless otherwise specifically provided in the Contract Documents. The Contract Price shall be equitably adjusted by Change Order for additional costs resulting from any changes in taxes enacted after the date a GMP Proposal is received.

3.8.2 Contractor covenants and agrees that the Work is owned by the Sarasota Manatee Airport Authority and neither Contractor nor any successors in interest shall or have any right to claim depreciation deductions or investment tax credits for federal income tax purposes with regard to the Work.

3.9 PERMITS, FEES, INSPECTIONS, AND NOTICES

3.9.1 Pursuant to Florida Statute 218.70, the "Public Bid Disclosure Act," the Owner gives notice to the Contractor that the Owner does not issue permits for the Work and accordingly there is no fee assessed by the Owner. However, other governmental entities may require fees for building and other permits for the Work. The Contractor shall secure and pay for all required permits that are necessary for the proper execution and completion of the Work, including, but not limited to, all applicable site permits, building permits, engineering, dewatering, National Pollution Discharge Elimination System (NPDES) stormwater management and all other permits required to complete the Work. In addition, except as defined under Owner's responsibilities in Article 2, the Contractor shall procure all required certificates of inspection, use, occupancy and completion. The Contractor shall be responsible for coordinating and scheduling all such permitting agencies' tests and inspections. All required certificates of inspection, use, occupancy and completion shall be delivered to the Owner by the Contractor in sufficient time for occupancy of the Project in accordance with the current accepted schedule for the Work. All costs incurred in connection with obtaining any permit, license, test or inspection, including any required overtime in connection therewith, shall be included within the Total Contract Price.

3.9.2 The Contractor shall comply with all laws, ordinances, rules, regulations and lawful orders of public authorities governing the Work and shall give all notices required in connection therewith. In addition, the Contractor shall not knowingly violate any zoning or setback requirement or any provision of any recorded covenant.

3.9.3 The Contractor shall notify the Owner and RPR of any discrepancy or potential conflict between the Contract Documents and any building codes or other law or regulations of which the Contractor has knowledge of or should be reasonably able to determine and if the resolution of the conflict actually impacts the Total Contract Price or Contract Time, a Contract Modification shall be issued in accordance with Article 7. If the Contractor performs Work contrary to laws, statutes, ordinances, building codes, rules or regulations, the Contractor shall correct the Work and be responsible for all costs associated therewith.

3.9.4 The Contractor is responsible for all permit fees for all permits required to complete the Work.

3.10 ALLOWANCES

3.10.1 Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct.

3.10.2 Unless otherwise provided in the Contract Documents:

A. materials and equipment under an allowance shall be selected by the Owner within the time frames required by the current accepted schedule;

B. allowances shall cover the cost to the Contractor of materials, supplies and equipment delivered at the site and all required taxes, plus mark-up in accordance with Article 7.1.13, less applicable trade discounts;

C. whenever allowances are used, the costs shall be calculated in accordance with Article 7 and be supported by appropriate substantiating data.

3.10.3 Contractor shall not perform any Work under an allowance without Owner written approval. Additional requirements for allowances are contained in Division 1, Specifications if any.

3.11 CONTRACTOR'S KEY PERSONNEL

3.11.1 The Contractor shall employ a competent Project Manager, Design Manager, Construction Manager and Superintendent during the performance of the Work. The Contractor's Superintendent shall be on the site at all times during the performance of the Work. The Project Manager shall represent the Contractor, and communications given to the Project Manager shall be binding on the Contractor.

3.11.2 The Owner shall have the right but not an obligation to require the Contractor to dismiss from the Project any of the Contractor's project personnel whose performance is not satisfactory to the Owner, and, in such event, the Contractor shall replace such personnel with personnel satisfactory to the Owner. Removal and replacement of personnel pursuant to this Section shall not give rise to entitlement by the Contractor to additional time or money, nor shall it constitute intentional interference or active interference by the Owner.

3.11.3 The resumes of the Contractor's key personnel, including but not limited to the Project Manager and Superintendent that the Contractor intends to use on the Project and an organizational chart shall be submitted to the RPR prior to the commencement of Work.

3.12 CONTRACTOR'S DESIGN AND CONSTRUCTION SCHEDULES

3.12.1 Preliminary Schedule. The Contractor shall submit to the RPR a Preliminary Schedule within thirty (30) days after Notice to Proceed. The Preliminary Schedule shall be consistent with the Proposal and in a bar chart format covering all major items of the Work including design activities, pre-construction activities, construction activities, milestone dates, dates for receiving additional information from, or for work to be completed by, the Owner; dates of periodic design review sessions with the Owner, anticipated date for the Contractor's GMP Proposal; and dates for the procurement of long lead materials and equipment (the construction activities and procurement of materials and equipment are included to assist with planning services beyond design and pre-construction activities; Contractor shall only perform these activities if Owner and Contractor execute a GMP). The Preliminary Schedule shall identify approximate start and finish dates and the sequence in which the Contractor proposes to carry out the Work. The Preliminary Schedule shall be based upon the proposal schedule unless otherwise agreed by the Owner. Until the Baseline Schedule is accepted by the RPR, the Contractor shall proceed with the Work in accordance with the Preliminary Schedule.

3.12.2 Baseline Schedule. With the GMP Proposal, the Contractor shall submit to the RPR a proposed Baseline Schedule which shall be in the format as required by the Specifications and Drawings. The RPR will review the proposed Baseline Schedule and present the Contractor with any comments. The Contractor shall resubmit the proposed Baseline Schedule for review within fourteen (14) days after receipt of comments, or as otherwise required to comply with the timeline for submission and review of the GMP Proposal. Upon the RPR's acceptance of the Baseline Schedule, the Baseline Schedule shall be included in the GMP Proposal and upon execution of the GMP, the Contractor shall proceed with the work in accordance with the accepted Baseline Schedule. The RPR's acceptance of the Baseline Schedule shall not impose on the Owner any responsibility to the Contractor for the accuracy or reasonableness of the Baseline Schedule nor

shall the review and acceptance relieve the Contractor from full responsibility. Upon acceptance by the RPR, the Baseline Schedule shall be the basis for evaluation of all time related issues, unless and until a Progress Schedule is accepted which supersedes the Baseline Schedule logic. The Owner shall have no obligation to process or issue payment for an Application for Payment until the Contractor's Baseline Schedule has been accepted by the RPR.

3.12.3 Progress Schedules. Each month the Contractor shall submit a Progress Schedule to update the progress of the Work. Progress Schedules shall be submitted with each Contractor's Application for Payment and the data contained in the Progress Schedule shall be consistent in all material respects with the progress of the Work information contained in the Contractor's Application for Payment. The Contractor's Progress Schedule shall reflect the actual progress of the Work as well as any revisions to the logic, sequence, durations of work activities, or level of detail of the number, description, or division of the work activities. If an Application for Payment does not include a current, updated Progress Schedule, the RPR shall notify the Contractor in writing within five (5) business days of receipt of the Application for Payment, identifying the specific deficiency, and the Contractor shall have five (5) business days from receipt of such notice to submit the updated Progress Schedule or correct the identified deficiency. If the Contractor fails to cure within the foregoing cure period, the Owner may withhold payment for that portion of the Application for Payment reasonably attributable to the deficiency, which the parties agree shall be 20% of the amount otherwise due for an omitted updated Progress Schedule;. The RPR may specify the format of the Progress Schedules to be delivered by the Contractor, provided such format may be changed by mutual written agreement. The Contractor's submission of, or failure to submit, a Progress Schedule shall not constitute a waiver, release, or forfeiture of any Claim, including Claims for time extensions or delay-related costs, and the Contractor's entitlement to time extensions or delay related costs shall be governed by the Change Order and Claims provisions of the Contract Documents.

3.12.4 If the Contractor's Progress Schedule reflects that completion of the Contract or a Contract Milestone date is not within the Contract Time, then the Contractor must submit with the Progress Schedule the Contractor's proposed recovery plan for completing the Work within the Contract Time. In the event the Contractor claims entitlement to a time extension which is disputed by the Owner, the Contractor's recovery plan shall not be based upon receiving disputed time extensions.

3.12.5 The Contractor shall fully comply with all time and other requirements of the Contract Documents. The Owner's approval and payment of an Application for Payment, without the submission of a current, accurate Baseline, Progress or Recovery Schedule, shall not constitute a waiver of either the requirement for such updates or the Owner's right to withhold payment, and the Contractor shall not be relieved from the obligation to complete the Work within the Contract Time.

3.13 DOCUMENTS AND SAMPLES AT THE PROJECT SITE; AS-BUILT AND RECORD DOCUMENTS

3.13.1 The Contractor shall maintain at the Project site all approved Drawings, Specifications, Permits, Permit Drawings, Shop Drawings, Product Data, Samples, and other required submittals and make such documents available to the Owner and RPR, at all times.

3.13.2 The Contractor shall maintain at the Project site As-Built Documents comprised of one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to accurately reflect all as-built conditions, including, but not limited to, all locations of utilities as actually determined or installed and all changes to the Work. These As-Built Documents shall be available to the Owner and RPR, at all times. All As-Built Documents shall be delivered to the RPR for review and acceptance upon completion of the Work, signed by the

Contractor to certify that they show complete and exact as-built conditions, stating dimensions, sizes, kinds of materials, and similar matters (including, but not limited to, piping and conduit locations). The Contractor shall be responsible for all damages arising directly or indirectly out of the Contractor's failure to prepare or maintain complete and accurate As-Built Documents and other information.

3.13.3 Prior to Final Completion of the Work, the Contractor shall prepare a complete set of Record Documents based on the As-Built Documents and deliver them to the RPR for review and acceptance. The Record Drawings shall be signed by the Contractor's Florida registered design professional to certify that they show complete and exact as-built conditions, stating dimensions, sizes, kinds of materials, and similar matters (including, but not limited to piping and conduit locations). The Contractor shall be responsible for all damages arising directly or indirectly out of Contractor's failure to maintain complete and accurate Record Documents and other information.

3.13.4 The Contractor shall maintain at the Project site all permit Drawings in a manner so as to make them accessible to governmental inspectors and other authorized agencies, at all times. All final updated permit Drawings shall be delivered to the RPR prior to Final Completion, unless another timeframe has been established by the RPR, in writing.

3.14 SUBMITTALS: DESIGN DOCUMENTS, DRAWINGS, AND SPECIFICATIONS; SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES

3.14.1 Design Documents, Drawings, and Specifications include all Drawings, Specifications, and other documents and electronic data prepared by the Contractor setting forth in detail the requirements for construction of the Work.

3.14.2 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Subconsultant, manufacturer, Supplier, or distributor to illustrate some portion of the Work.

3.14.3 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

3.14.4 Samples are physical examples which illustrate materials, equipment, or workmanship and establish standards by which the Work will be accepted.

3.14.5 Design Documents, Drawings, and Specifications, shall be referred to as "Design Submittals" and Shop Drawings, Product Data, Samples, shall be referred to as "Construction Submittals." Design Submittals, Construction Submittals, and all other similar submittals shall all be referred to collectively as "Submittals." Submittals do not change the requirements of the Contract Documents, unless incorporated by a Contract Modification. The purpose of Submittals is to demonstrate, for those portions of the Work for which Submittals are required, the manner in which the Contractor proposes to conform to the Contract Documents. Construction Submittals shall demonstrate the Contractor's compliance with the Design Submittals and the Contract Documents; shall set forth in detail the requirements for construction of the Work; and shall include, but not be limited to, information customarily required for governmental agency approval and as required by the Contract Documents.

3.14.6 Submittals by the Contractor may be accepted as noted or rejected by the RPR if they fail in any way to achieve the results intended by the Contract Documents or are not in accordance with sound

and prudent architectural and/or engineering principles, or are aesthetically unacceptable. The RPR may request that the Contractor submit Shop Drawings, Samples, and/or catalog cuts containing or reflecting aesthetic or other design aspects for the purposes of determining whether such designs achieve the results intended in the Contract Documents. If the design or any portion thereof is rejected, the Contractor shall forthwith revise the design, and re-submit the design to the RPR until it meets with such approval.

3.14.7 The Contractor shall remain solely and exclusively responsible for the adequacy and sufficiency of the Submittals, and in no event shall the RPR, by accepting, rejecting, or reviewing Submittals, be considered to have warranted the adequacy or sufficiency of the Submittals or otherwise be held responsible for any deficiencies in the Submittals or any portion of the Work.

3.14.8 Unless the Contract Documents provide otherwise, the Contractor and its Designer shall review, approve, and submit to the RPR all Submittals required by the Contract Documents in accordance with the Baseline Schedule, with reasonable promptness, and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. The Contractor shall furnish the Submittals in the format and quantity required by the Specifications. By approving and submitting such Submittals, the Contractor and its Designer represent that they have determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and have checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Contract Documents. Submittals that have not been approved by the Contractor and its Designer shall be considered refused by the RPR.

3.14.9 The Contractor shall perform no portion of the Work nor purchase any materials requiring review of Submittals until the relevant Submittal has been reviewed in the manner set forth in the Contract Documents. All Work shall be performed in accordance with Submittals which have been returned by the RPR in accordance with the Contract Documents. Review and return of the Submittal does not constitute acceptance by the Owner of any modification to the Contract Documents. When Submittals are not fully accepted through no fault of the Owner, the Contractor shall revise and resubmit Submittals at no additional cost to the Owner and no Contract Time extensions shall be allowed for revisions and resubmission of Submittals.

3.14.10 If the Contractor proposes to deviate from the requirements of the Contract Documents, the Contractor shall separately submit, and identify prominently on the transmittal cover sheet(s) for the Submittal, all proposed deviations from the requirements of the Contract Documents. The Contractor shall provide detailed justification for any deviation request. The Contractor's transmittal cover sheet(s) shall direct, in writing, attention to the specific proposed deviations, and the Submittal shall contain all required data and supporting documentation necessary for evaluation of the proposed deviation. The Owner will make all final determinations for acceptance of the proposed deviation. Any Submittal containing deviations not identified as previously described shall be deemed rejected and require resubmission. When requesting a deviation, the Contractor and its Designer shall review, sign, and affirm whether the deviation has been "Accepted," "Accepted as Noted," or is "For Information Only."

3.14.11 By approving and submitting Submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements, and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Contract Documents.

3.14.12 The Contractor shall direct specific attention, in writing, to any revision(s) on resubmitted Submittals that were not requested in response to a previous Submittal.

3.14.13 Informational Submittals identified in the Contract Documents do not require responsive action.

3.14.14 When the Contract Documents require the Contractor to submit professional certification of performance capabilities of materials, connections, assemblies, systems, equipment, or other aspects of the Work, the Owner shall be entitled to rely upon the accuracy and completeness of such calculations and certifications. Review or acceptance of Submittals or any related documents by Owner or RPR (or those at their direction) shall not in any way relieve the Contractor of the technical adequacy and accuracy of the Work, nor shall it be construed as a waiver of any of the Contractor's obligations or liability that may arise under the Contract or out of performance of the Work.

3.14.15 If the Contractor proposes to use a design, method or type of material or equipment other than specified in the Contract Documents, a written request therefor shall be made to the RPR along with an estimate of the credit for cost and time, if any; the Owner will receive as a result of the change(s). If approval is given by the Owner, the Contractor will not be excused from producing Work in conformity with the Contract Documents. If a trial use establishes the Work does not meet the requirements of the Contract Documents, the Contractor shall take such action as the RPR determines necessary. By making a request for such a substitution, the Contractor:

1. represents that it has thoroughly investigated the proposed substitution and determined that the proposed substitution is equal to or superior in all respects to the specified materials, method, or equipment;
2. represents that it will provide a warranty for the substitution identical in all respects to the warranty for the specified materials, method, or equipment;
3. certifies that the cost data presented is complete and includes all related, incidental and consequential costs;
4. waives all claims for any additional costs related to the substitution; and
5. represents that it will coordinate the installation of the accepted substitute, making changes as may be required for the Work to be complete in all respects, at no additional cost to the Owner, nor additional time to perform the Work.

3.14.16 Final Design Submittals and Construction Submittals shall be signed and sealed by a responsible design professional, registered in the State of Florida, in accordance with the State of Florida regulations.

3.14.17 Prior to submitting any Submittals to the RPR, the Contractor shall demonstrate that the Contractor and its Designer have performed an internal review and checked the Submittal as part of the Contractor's established Quality Assurance Program. All submittals shall have been reviewed, signed and be noted "Approved", "Approved as Noted" or "For Information Only" by the Contractor's Designer prior to submittal to the RPR.

3.14.18 The Design Submittal shall be in the general format of a Project Manual, which contains all specifications, special provisions, report, data, etc. that define the requirements for the Work, and a complete set of plans, which contain all design drawings applicable to the Work. The 95% and 100% Design Submittals shall include all plans and specifications applicable to the Work. The Design Submittal shall be in conformance with the Owner's Guidelines and Standards.

3.14.19 In the event that portions of the Work are to be designed and constructed before final design of the remaining portions of the Work is completed, the initial Design Submittal shall be complete for the component of the Work to be constructed first. As the design for the remaining portions of the Work are completed, the Design Submittal for these successive portions of the Work shall be in the form

of additions and/or revisions, as appropriate, to the originally approved Project Manual and Drawings.

3.14.20 The Owner's approval is required for all Design Submittals representing the final 100% design of any aspect of the Work, to be evidenced by the signature of the Owner on such documents, prior to commencement by the Contractor of any construction activities associated with that Submittal.

3.14.21 The Contractor shall submit a minimum of two (2) complete sets of each 100% Design Submittal to the RPR prior to the start of any construction work covered by the Design Submittal. Also, the Contractor shall submit electronic files of the 100% Design Submittal in DWG and PDF formats. Upon signature by the Owner, the Design Submittal shall become part of the Contract Documents.

3.14.22 Acceptance, review, or approval by the Owner of Submittals, including data, designs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents, and incidental design work or materials furnished by the Contractor shall not in any way relieve the Contractor of full responsibility for the technical adequacy and accuracy of the Work. Neither the Owner's review, approval, acceptance of, nor payment for, any of the Work shall be construed as a waiver of any of the Owner's rights under this Contract or of any cause of action it may have arising out of the performance of this Contract.

3.14.23 When Submittals, Product Data or Physical Samples are returned to the Contractor stamped REJECTED, NOT APPROVED, RETURNED FOR CORRECTIONS or otherwise not accepted through no fault of the Owner and after two (2) submittal efforts by Contractor for any given submittal, product data, or sample, the Contractor may be required to reimburse the Owner for its additional expenses incurred as a result of the Contractor's failure to comply with submittal requirements up to a maximum of:

Drawing Sheets	-	$40.00/Drawing Sheet
Product Data	-	$10.00/Cut Sheet
Physical Samples	-	$20.00/Sample

Such sums reflect the damages suffered by the Owner as a result of the Contractor's deficient performance, the actual amount of which cannot be accurately determined as of the time this Contract is awarded, and not as a penalty. The foregoing amounts may be withheld (cumulatively) from the Contractor's Application for Payment each month, as applicable. At or before final completion, a deductive Contract Modification may be issued to the Contractor by the Owner to reflect all such deductions.

3.15 USE OF SITE AND COORDINATION

3.15.1 The Contractor shall confine operations at the site to the limits of construction shown on the Drawings and shall not unreasonably clutter the site with materials or equipment. The Contractor shall not dispose of debris or waste material on the Owner's property. Hazardous materials shall be disposed of pursuant to applicable state and federal statutes, and in accordance with Article 10.3 below. At no additional cost to the Owner, the Contractor shall take all actions necessary to coordinate the Work with existing conditions and other activities at the Project, including, but not limited to, the ongoing operations of the Owner, and users of the Owner's facilities.

3.16 CUTTING AND PATCHING

3.16.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

3.16.2 The Contractor shall not damage, in whole or in part, the Work; other Work of the Owner; or work of separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

3.17 CLEANING UP

The Contractor, on a daily basis, shall keep the Project site and surrounding area free from the accumulation of waste materials or rubbish caused by operations under the Contract. At the completion of the Work, the Contractor shall remove from and about the Project site all waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials caused by operations under the Contract. The Contractor shall not dispose of debris or waste material on the Owner's property or in waste containers (dumpsters) leased by the Owner without prior written approval of the Owner.

3.17.1 If the Contractor fails to keep the Project site clean as provided in the Contract Documents, then, following the Owner's two (2) business days written notice to the Contractor, the Owner may take appropriate action to clean the Project site, or any portion thereof, and charge such costs to the Contractor.

3.17.2 If a dispute arises among the Contractor, separate contractors, and the Owner as to the responsibility under their respective contracts for maintaining the Project site and surrounding area free from waste materials, debris, and rubbish, the Owner may clean the Project site, or any portion thereof, and allocate the cost among those responsible, in a manner the RPR determines, in its sole discretion, to be just, subject to the dispute resolution provisions of the Design Build Contract.

3.18 ACCESS TO WORK

3.18.1 At all times, the Contractor shall, at no additional cost, provide the Owner and RPR access to the Work subject to the safety rules and insurance requirements of the particular work area. This access shall include the Contractor's providing reasonable assistance; including, but not limited to, providing ladders, equipment, and workers to provide access to the Work or remove/replace heavy objects.

3.19 ROYALTIES AND PATENTS

3.19.1 The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of patent rights and shall hold the Owner and Designer harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents. However, if the Contractor has reason to believe that the required design, process, or product is an infringement of a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the RPR in writing.

ARTICLE 4 ADMINISTRATION OF THE CONTRACT

4.1 ROLE OF THE DESIGN CRITERIA CONSULTANT (DCC) – Not Used

4.2 ROLE OF THE OWNER'S AUTHORIZED REPRESENTATIVE (RPR)

4.2.1 The RPR shall provide administration of the Contract as described in the Contract Documents and shall be selected by the Owner. The specific person or entity which will perform the RPR's responsibilities shall be identified by the Owner. The Owner may be the RPR and the Owner has authority to perform any of the actions that the RPR may perform.

4.2.2 The RPR is the party through whom all communications shall be transmitted to and from the Contractor unless otherwise provided in the Contract Documents. However, the Owner and Contractor are not precluded from direct communications. The Contractor shall copy the RPR on all communications between the Owner and the Contractor if such direct communication occurs. Communications by and with Subcontractors, Subconsultants and material Suppliers shall be through the Contractor. The Contractor's communications with separate contractors shall be through the RPR.

4.2.3 The RPR will receive and process the Contractor's Submittals and return the review comments or acceptance to the Contractor with such reasonable promptness as to avoid or minimize delay in the Work or the activities of the Owner, Contractor, or separate contractors, while allowing sufficient time for the RPR's adequate review of the Submittals. The RPR's processing and review of the Submittals shall not relieve the Contractor of its obligations under the Contract Documents, and shall not constitute approval of safety precautions or any means, methods, techniques, sequences, or procedures.

4.2.4 The RPR is authorized to reject Work which does not conform to the Contract Documents. Whenever the RPR considers it necessary or advisable, the RPR is authorized to require additional inspection, examination or testing of the Work regardless of the stage of completion or delivery of the Work. However, neither this authority of the RPR nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the RPR to the Contractor, Subcontractors, Subconsultants, material and equipment Suppliers, their agents or employees, or other persons performing portions of the Work.

4.2.5 The RPR will prepare or assist the Owner in preparing Change Orders, Construction Change Directives, and Field Change Orders. The RPR may authorize minor changes in the Work as provided in Article 7.

4.2.6 The RPR, in conjunction with the Contractor, will conduct inspections to determine the date or dates of Substantial Completion and the date of Final Completion, will receive and forward to the Owner, for the Owner's review and records, written warranties and other documents required by the Contract Documents and assembled by the Contractor, and will issue a final Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents. Receipt by the RPR or Owner of warranties and other documents at variance with the requirements of the Contract Documents shall not be deemed acceptance of a modification to the Contract Documents or a waiver of any requirement of the Contract Documents.

4.2.7 The RPR will not have control over, charge of, or be responsible for, construction means, methods, techniques, or procedures, or for safety precautions and programs in connection with the Work.

These are solely the Contractor's responsibility. However, in the event the Contract Documents expressly require the Contractor to use specific means, methods, techniques, or procedures, the Contractor shall perform the Work in accordance with those express requirements.

ARTICLE 5 SUBCONTRACTORS AND SUBCONSULTANTS

5.1 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.1.1 The Owner shall have the right, but not the obligation, to investigate and object, on a reasonable basis, to any such proposed person or entity. The RPR shall promptly notify the Contractor if any such objection exists.

5.1.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or RPR has made reasonable and timely objection.

5.1.3 If the Owner has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner has no reasonable objection. The Total Contract Price shall not be increased by the difference in cost occasioned by such change if the Owner's objection arises from the failure of such person or entity to conform to the requirements of the Contract Documents (including poor performance on prior projects, lack of experience, capacity or financial viability). If the Owner's objection is for some other reason, then the Contractor may be allowed an increase in the Total Contract Price provided that the Contractor has acted promptly and responsively in submitting substitute subcontractors or subconsultants.

5.1.4 Once the Contractor enters into a subcontract, the Contractor may only replace a Subcontractor or Subconsultant when required by the Owner or when the Contractor can demonstrate to the Owner's satisfaction that the Subcontractor or Subconsultant lacks financial viability, cannot meet construction schedules, or produces inferior or substandard work. If the replacement results in a decrease in the Contractor's costs, Owner shall receive a deductive Change Order. If, however, the replacement results in an increase in the Contractor's costs, increase in the Total Contract Price will only be allowed if the replacement is required by the Owner.

5.1.5 The agreements between the Contractor and its Designer and other subconsultants shall be in writing. These agreements shall be promptly provided to the Owner upon the Owner's written request and shall designate the Owner as a third-party beneficiary of those agreements.

5.2 SUBCONTRACTUAL RELATIONS

5.2.1 The Contractor shall make available to each proposed Subcontractor and Subconsultant, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor and Subconsultant will be bound, and, upon written request of the Subcontractor or Subconsultant, identify to the Subcontractor and Subconsultant terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors and Subconsultants shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors and Sub-subconsultants.

5.2.2 All work performed for the Contractor by a Subcontractor or Subconsultant shall be pursuant to an appropriate written agreement between the Contractor and the Subcontractor or Subconsultant.

The Contractor shall provide to the Owner or RPR, if requested, copies of all Subcontracts within five (5) days following the Owner's or RPR's request.

5.2.3 The Owner shall have no contractual liability or obligation to any Subcontractor or Subconsultant for Work performed pursuant to their agreement with the Contractor. The Contractor shall be liable to the Owner for all acts and omissions of the Subcontractors and the Contractor shall be solely responsible for scheduling and coordinating the Work of all Subcontractors, suppliers, and any other person performing work on the Project.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces or to award separate contracts in connection with portions of the Project or other construction or operations on the Owner's property.

6.1.2 The RPR shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing related construction schedules when directed to do so. The Contractor shall make any revisions to the Progress Schedule deemed necessary after a joint review and mutual agreement. The Progress Schedules shall then be used by the Contractor, separate contractors, and the Owner until subsequently revised.

6.1.3 The RPR will be responsible for coordinating the Work of all contractors on the Project when the Project involves more than one contractor. The RPR and Owner have the right to make changes in the Contractor's sequence of operations if, in their judgment and sole discretion, changing Project conditions require changes in sequence. The Contractor shall modify its sequence of operations and procedures, as required by the RPR and Owner.

6.2 MUTUAL RESPONSIBILITY

6.2.1 The Contractor shall promptly afford the Owner and separate contractors reasonable opportunity for storage of their materials and equipment and performance of their activities and shall coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

6.2.2 If the proper execution of the Contractor's Work depends upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with the affected portion of the Work, promptly report to the RPR, with a copy to the Owner, apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution. Failure of the Contractor to report discrepancies or defects shall constitute an acknowledgment that the Owner's or separate contractors' completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects which are not discoverable at that time through the exercise of reasonable diligence.

6.2.3 The Contractor shall promptly remedy and repair damage caused by the Contractor to completed or partially completed construction, including, without limitation, the Work, or to property of the

Owner or separate contractors as provided in Article 10. Such remedies and repairs shall be at the Contractor's sole expense.

6.2.4 Claims and other disputes and matters in question between the Contractor and a separate contractor shall be subject to the provisions of this Contract with respect to entitlement and recoverable costs. If a separate contractor initiates legal or any other proceedings against the Owner on account of any damage alleged to have been solely caused by the Contractor, the Owner shall notify the Contractor, who shall defend and indemnify the Owner in such proceedings solely at its own expense (including, without limitation, attorneys' fees and costs), or at the Owner's option, pay all defense costs of the Owner including attorney's fees and costs, and if any judgment or award against the Owner arises therefrom, the Contractor shall pay or satisfy it and shall reimburse the Owner for all attorneys' fees and court or other costs which the Owner has incurred over and above those paid directly by the Contractor.

6.2.5 When separate contracts are performed within overlapping limits of construction, or areas which might result in congestion or interference, each contractor shall conduct its work so as not to interfere with or hinder the progress or completion of the work being performed by separate contractors.

6.2.6 Any difference or conflict which may arise between the Contractor and separate contractors shall be referred to the RPR for resolution, unless otherwise stated in the Contract Documents. If the Work of the Contractor is delayed because of any Work, acts, or omissions of any separate contractor, then only an extension of Contract Time sufficient to compensate for the delay, as determined by the RPR, shall be granted to the Contractor as its sole and exclusive remedy. In the event of a delay, project schedule adjustments are to be evaluated and agreed to by Owner and Contractor. In no event shall the extension of Contract Time exceed the day-for-day period of delay experienced by the Contractor, unless otherwise agreed in writing by the Owner. The Contractor's entitlement to an extension of Contract Time for such delays shall be conditioned upon timely receipt by the RPR of proper written notice from the Contractor of the cause of the delay, indicating what measures, if any, the Contractor has employed to minimize the effect of the delay.

6.2.7 The Contractor shall be responsible for controlling all labor employed by it and its Subcontractors for performance of the Work so as to avoid any disruption of or disharmony with other labor being used by separate contractors now or hereafter working on the Owner's property. The Contractor further agrees that this provision will be included in all of its subcontracts.

6.3 OWNER'S RIGHT TO CLEAN UP

6.3.1 If a dispute arises among the Contractor, separate contractors, and the Owner as to the responsibility under their respective contracts for maintaining the Project site and surrounding area free from waste materials, debris, and rubbish as described in Article 3, the Owner may clean up and allocate the cost among those responsible as the RPR determines, in its sole discretion, to be just.

ARTICLE 7 CHANGES IN THE WORK

7.1 CONTRACT MODIFICATIONS

7.1.1 A Contract Modification may be made by (1) written Change Order ("CO"), (2) written Construction Change Directive ("CCD"), or (3) written Field Change Order ("FCO"). Both COs and CCDs must be approved by the Owner's Construction Committee or the Sarasota Manatee Airport Authority Board in accordance with the Owner's Policies.

7.1.2 When the Contractor and Owner do not agree to the terms of a proposed CO, the Owner may unilaterally issue a CCD. Once issued by the Owner, a CCD changes the Work and the Contractor has a contractual obligation to complete the Work identified in the CCD.

7.1.3 The Owner may issue an FCO as necessary in accordance with the Owner's Policies. An oral directive shall not constitute a Contract Modification.

7.1.4 Changes in the Work shall be performed in accordance with the applicable provisions of the Contract Documents.

7.1.5 For an FCO, CO or CCD to modify the Total Contract Price, the amount of the change shall be based upon one of the following methods to be selected by the Owner:

1. a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation which data shall include, at a minimum, copies of such books and records of the Contractor and its Subcontractors to verify actual material and equipment costs, labor costs, actual bond premiums, other allowable costs as defined in Article 7, and any estimates, work sheets, quotes, proposals or other data used by the Contractor in estimating the value of the changed Work; or
3. unit prices stated in the Contract Documents or subsequently agreed upon; or
4. in a manner otherwise agreed upon by the Owner and the Contractor; or
4. in accordance with the Force Account provisions of paragraph 7.5.

7.1.6 If unit prices are included in the Contract Documents, the Owner may authorize by FCO, CO or CCD increases or decreases in quantities of any Work Item without any change in the applicable unit price, provided that the aggregate change does not increase or decrease the aggregate quantity of a Work Item by an amount greater than twenty-five percent (25%). If the aggregate quantity of a Work Item changes (either increases or decreases) by more than twenty-five percent (25%), then the Owner and Contractor shall negotiate an agreement to an increase, decrease, or no change in the unit price for the Work Item.

7.1.7 **Notice of Potential Change**. When the Contractor believes an event has occurred or a condition exists that could result in a change in the Work, the Contractor shall serve written notice of the event or condition by submitting a Potential Change Order (PCO) to the RPR within seven (7) days after the event or condition. If a proper RCO can be submitted within seven (7) days, a PCO is not necessary.

7.1.8 Each PCO shall include the basis for the potential change in contract, the preliminary estimated cost and schedule impact information. A PCO does not constitute a formal request for change order and does not require the Owner or RPR to respond. The Contractor shall maintain a report that tracks all submitted PCOs.

7.1.9 **Request for Change Order.** For all proposed Contract Modifications, the Contractor shall submit a RCO to the RPR, with a copy to the Owner's Project Manager, within thirty (30) days of the initiating condition, change document issuance, or impact event.

7.1.10 To be considered a proper RCO, for a Change Order the RCO must:

a. explain the initiating event or condition, including reference to the initiating change document, if any,
b. include a justification of entitlement to a proposed change to the Contract Price and/or Contract Time with citations to the Contract Documents, as applicable,
c. include a detailed breakdown of all proposed costs with supporting documentation,
d. include a schedule analysis in accordance with this Article 7 and the scheduling specifications,
e. expressly state that it resolves all costs and time relating directly or indirectly to the changed Work that is the subject of the RCO or specifically explain any exclusions.

7.1.11 The RPR will deny a RCO that is not timely or that fails to include all required information and documentation The Contractor's failure to timely submit a proper RCO shall result in the Contractor's waiver of all Claims related to the subject of the RCO or that should have been submitted as a RCO.

7.1.12 Upon RPR receipt of a proper, timely, and complete RCO, if the RPR determines that there is no justification of entitlement to the proposed change in contract cost and contract time, the RPR will send to the Contractor written notice of the denial of the RCO with an explanation of the basis for denial. Following the RPR's preliminary determination of entitlement, if the RCO is not aligned with the RPR independent cost estimate or independent schedule analysis, or if any required substantiation documentation is not in compliance with the Contract, the RPR will provide written notice of the denial to the Contractor and explain the deficiencies. If the Contractor cures the deficiencies, the Contractor may submit a revised RCO. A revised RCO will be evaluated for compliance as a new submission.

7.1.13 Each RCO shall include the proposed equipment rates for major equipment owned or leased by the Contractor or by its Subcontractors and the proposed labor rates, excluding burden, for all major trades anticipated to be required on the Contract Modification, including those supplied by Subcontractors and Subconsultants. This shall include written confirmation by the Contractor or Subcontractor or Subconsultant, where applicable, that the labor rates reflect actual compensation, excluding those items defined below to comprise labor burden. If the Contractor intends to request a labor burden rate greater than allowed by the Contract Documents, the complete substantiation for this request must also be submitted with the labor rates. The Contractor shall also provide, if requested by the RPR, actual payroll records to support the labor rates. After review and approval by the RPR, these approved labor and Contractor owned and leased equipment rates shall be used on subsequent change orders requiring work by these same trades and equipment. In the event that additional trades or equipment are required for a Contract Modification, the Contractor shall provide the same information defined above for these additional trades and equipment to the RPR for approval.

7.1.14 The RCO for a proposed change in contract cost must include a detailed breakdown of the allowable direct costs by Contractor, Subcontractors and Suppliers. The following allowable direct costs include direct labor, labor burden, equipment, material, sales taxes, additional bond costs and other costs further defined as follows:

1. Direct labor is all the labor required to perform the Work. Unless allowed in Article 7.1.9.9, direct labor does not include salaried employees on site, supervision (project manager, design manager, construction manager, project engineer, superintendent) and home office costs, all of which are compensated as part of Contractor's mark-up. Each RCO shall include a complete breakdown for proposed direct labor by position with the proposed number of work hours for each position.
2. Contractor's burden on direct labor costs shall be limited to a maximum of 42% of labor costs for straight time and 30% for overtime, unless the Contractor justifies to the satisfaction of the

Owner that the Contractor's actual costs for such items exceed these limits. Labor burden items are the net costs actually incurred by the Contractor for the following items: social security taxes (FICA); unemployment taxes (FUTA, SUTA); worker's compensation, medical, and dental insurance premiums; pension, 401k and other types of retirement benefits and profit sharing plans; and paid time off, if applicable. For union labor, the burden rate shall be the actual amount defined by the union agreement in effect when the change order is negotiated. If the Contractor requests Owner's consideration of a burden rate exceeding these limits, the Contractor shall submit complete documentation of its higher costs to the RPR for approval.

3. Equipment costs shall comply with the following:

   a. If the equipment is owned or leased by the Contractor or Subcontractor (of any tier), the equipment rates shall not be more than fifty percent (50%) of the properly adjusted rates indicated in the most recent Rental Rate Blue Book by Dataquest Inc. ("Blue Book"), applicable to the date additional work activity was approved, for the period of actual use of such equipment. Maximum rates for equipment not listed in the Blue Book shall be established by capacity comparisons to other listed equipment. No overtime charges shall be made for equipment operating longer than 8 hours per day and only daily or prorated weekly or monthly rates per day shall be allowed depending on the actual rental period. The Contractor's equipment daily rates shall be based on 1/30th of the monthly rates, and hourly rates (not to exceed a total of 8 hours per day) shall be based on 1/176th of the monthly rate. Operating costs, if not included in the Blue Book rates, shall be no greater than fifteen percent (15%) of the rental rate for actual operating hours.
   b. For rental equipment, the Contractor shall provide copies of the rental agreement for each item of equipment required for the Work. Compensation will be made for the anticipated amount of time required for the Work, rounded to the next lowest minimum rental duration (typically per day).
   c. No payment will be made for repairs or repair down time.
   d. No payment will be made for the use of hand tools and other small equipment normally available at the Project site, which are compensated by Contractor's mark-up.

4. Material cost shall correspond to actual quantities of materials required to complete the Work. Invoices, prorated to these actual quantities, including freight to site, if not transported by trucks paid for otherwise, plus applicable sales tax, shall constitute the only reimbursable materials expenses. Material prices shall be consistent with or under values established by industry guides recording the lowest prices for Central Florida.
5. Actual increases in its performance and payment bond costs for the Project, but only to the extent supported by actual invoices which show the difference in cost resulting from the overall change in Total Contract Price. These additional costs are not included in Change Orders prior to the final Change Order for the Project. Contractor will be compensated for additional bonding costs such as subcontractor default insurance or other similar bonding services, or for bonding costs for any Subcontractor or Supplier of any tier, but not both.
6. Actual increases in the cost of general liability insurance, but only to the extent supported by actual invoices which show the difference in cost resulting from any increase in insurance limits or other insurance-related requests by the Owner. No payment will be made without this specific documentation.
7. Transportation and living expenses for specialized personnel required to complete the Contract Modification that are based more than fifty (50) miles from the Project site. Costs for transportation by private or rented vehicles shall not exceed the mileage costs established by the U.S. Internal Revenue Service. Public air and ground transportation costs must not exceed coach class fares documented by actual receipts. Living expenses (room and meals) shall not exceed the Per Diem rates established by the U.S. General Services Administration for the location in which the Work is located.

8. In those cases where the Contract Documents allow for compensation related to the extension of Contract Time, or avoidance of time impact, and Contractor has provided a substantiated time impact analysis, the allowable costs are strictly limited to the following:

    a. Extended general conditions consisting of the cost for Contractor to maintain its site operations for the duration of the delay event;
    b. Demobilization and re-mobilization of equipment that is required for continuation of the Work after the delay event or reimbursement at the agreed equipment rates as defined above, whichever results in the lowest cost;
    c. Additional direct costs, if any, as defined above;
    d. Additional site supervision (project manager, construction manager, project engineer, superintendent) direct labor costs, but only for supervision of any additional Work during the period of extended Contract Time (if no additional Work is performed, compensation for site supervision will not be allowed); and,
    e. Acceleration costs, but only if agreed to in advance, in writing, by the Owner.

7.1.15 RCOs that include a proposed adjustment of Contract Time shall comply with the following:

1. The Contractor's RCO for an adjustment of Contract Time must be substantiated by an analysis of the critical path method schedules in use on the Project. For the delay event, the Contractor must utilize the accepted Progress Schedule with a data date immediately prior to the date that the alleged delay event occurred (or utilize the schedule update with a data date immediately prior to the date that the alleged delay event occurred), and compare the Project critical path to the critical path of the accepted Project schedule with a data date immediately after the date the alleged delay event ended (or the schedule update with a Progress Schedule data date immediately after the date the alleged delay event ended). The comparison of these two accepted project schedules, or schedule updates, must show that the Project completion date was delayed by the delay event and the number of days of delay caused by the delay event.

    a. If the analysis shows that a delay has occurred to the Project completion date due to the delay event, the Contractor must identify from this analysis the specific critical activities that have been delayed and the magnitude in calendar days of each delay.
    b. For all delays identified as described above, the Contractor must identify the activities that the Contractor believes were delayed by the Owner and the reasons why it believes the Owner should be considered responsible for the delay. All other delays identified in the analysis will be considered the responsibility of the Contractor. The Contractor must also identify any delays that the Contractor believes are concurrent and describe how the Owner and the Contractor concurrently caused the delay.
    c. In addition to the requirements set forth above, if abnormal inclement weather conditions are the basis for a request for an adjustment of Contract Time, such Claim shall be documented by National Weather Service data for Sarasota Regional Airport substantiating that weather conditions were abnormal for the period of time as compared to the average weather conditions for SRQ (Sarasota Bradenton International Airport) over the preceding ten (10) years and could not have been reasonably anticipated. For rainfall, fog, or temperature conditions, the calendar month will be used as the period of time over which these effects are evaluated. Adjustments of Contract Time will not be allowed for recorded rainfall, fog, or temperature conditions less than or equal to the monthly ten (10) year historical mean conditions. Significant rainfall accumulations, fog, or temperature conditions recorded above the historical monthly mean may be considered as a basis for a day-for-day adjustment of time due to abnormal inclement weather. All Claims for adjustments of time based on weather must be substantiated by showing the adverse effect on critical path construction activities.

2. If the Contractor is delayed in performance of the Work by any act or omission of the Owner, RPR, or by any member, officer, employee, agent, servant, or representative of the Owner or RPR, or by any separate contractor or consultant engaged by the Owner or RPR, or by changes in the Work ordered by the Owner (as reflected in COs, CCDs, or FCOs), or by fire, or any unforeseen cause which the Contractor lacked any ability to control or manage, all of which occurred without any responsibility, fault, or negligence on the part of the Contractor and, in the opinion of the Owner, neither could have been anticipated nor avoided by the Contractor, then the Contract Time shall be extended for an appropriate period of time to compensate the Contractor for the delay; provided that the Contractor has complied with the notice requirements of Article 4.3 and submitted full documentation supporting the request. Labor disputes involving the Contractor, its Subcontractors, Subconsultants or any other laborers or materialmen performing the Work, shall not be considered to be unforeseeable, unavoidable, or unanticipated. An extension of the Contract Time shall be the Contractor's sole and exclusive remedy for any delay of any kind or nature, except to the extent the delays were solely caused by: (1) material acts or material omissions of the Owner, RPR, separate contractors or consultants engaged by the Owner or parties for whom the Owner bears responsibility, including Owner directed changes and suspensions constituting active interference; or, (2) concealed or unknown conditions as set forth in Article 4.3.5. For these two types of delays, the Contractor may only be entitled to the reasonable actual costs that are caused directly and solely by the delay and allowed for Contract Modifications as set forth in Article 7.1.9.9. The Owner's exercise of any of its rights or remedies, including, without limitation, ordering changes in the Work or suspending, rescheduling or ordering correction of the Work, regardless of the extent or frequency of Owner's exercise of such rights or remedies, shall not be construed as active interference.

7.1.16 The Contractor, on behalf of itself and its Subcontractors, Subconsultants and Suppliers, represents that all allowable costs furnished by the Contractor to the Owner for any CO, CCD, FCO, or Force Account Work shall be fair, reasonable, accurate, complete, and current at the time of submission. In addition to any other rights and remedies provided to the Owner by the Contract Documents, the Owner shall have the right to adjust the Total Contract Price to: (1) exclude any amounts by which the Owner determines any CO, CCD, FCO, or Force Account Work was increased due to inaccurate information; and, (2) recover interest on all excess amounts paid to the Contractor at the legal rate of interest. The Contractor and its Subcontractors and Subconsultants shall be required to include these provisions in any Subcontracts entered into for this Project.

7.1.17 Mark-up shall be an amount equal to the Contractor's Fee percentage times the cost of the change, which may include costs for additional staff by Contractor at the stipulated rate set forth in Section 9.1.4.2 below, if additional staff is required as a result of the changed Work, and included in the Contract Modification as compensation for the Contractor's overhead and profit, including all compensation for all costs associated with general conditions, all home office costs, supervision (home office, project managers, design managers, construction managers, project engineers and superintendents and all salaried employees of the Contractor that have been assigned to the Project), cost estimating services, consumables, small tools valued under $1,000, layout, coordination, as-built drawings, and all other costs not specifically allowed in Article 7.1.9. No separate payment shall be allowed for any expense that is included in the mark-up.

7.1.18 Unless otherwise agreed by the parties, the amount of mark-up shall be determined separately for each work item and is calculated as a percentage of the costs that are specifically allowed in Article 7.1.9. The amount of mark-up shall not exceed the following percentages:

Cost of Work Item	(A) Contractor's Mark-up on Work by Contractor's Own Forces	(B) Contractor's Mark-up on Work Performed by Subcontractors, Subconsultants or Suppliers	(C) First Tier Subcontractors' or Subconsultants' Mark-up on All Work
$1 to $25,000	20%	12%	15%
$25,001 to $500,000	12%	8%	12%
$500,001 and above	10%	6%	10%

1. No mark-up is allowed for work items when the change in quantity is within the limits allowed by Article 7.1.6. If, pursuant to Article 7.1.6, it is necessary to revise the unit price, the mark-up included in the revised unit price shall not exceed the limits in the foregoing table.
2. The mark-up payable to the Contractor for administration of Work performed by its own forces shall not exceed the appropriate percentage in Column A. This mark-up does not apply to any Subcontractors, Subconsultants or Suppliers of any tier.
3. The mark-up payable to the Contractor for administration of Work performed by Subcontractors, Subconsultants or Suppliers shall not exceed the appropriate percentage in Column B. This mark-up shall be applied one time only by the Contractor on the total value of Work performed by all Subcontractors and Suppliers of any tier. Distribution of this markup to Subcontractors, Subconsultants and Suppliers, regardless of tier, is the responsibility of the Contractor.
4. The markup allowed for each first tier Subcontractor or Subconsultant shall not exceed the appropriate percentage in Column C. This mark-up shall be applied one time only by each first tier Subcontractor or Subconsultant on the total value of all Work performed by the Subcontractor, Subconsultant and all its lower tier Sub-subcontractors, Sub-subconsultants or suppliers. The first tier Subcontractor or Subconsultant is responsible for distribution of its mark-up among all lower-tier firms. No lower tier Sub-subcontractor or Sub-subconsultant is allowed to mark-up their own work since their mark-up is to be distributed by the first tier Subcontractor or Subconsultant.
5. For deductive changes, the amount of the credit shall be the net amount of the change plus a mark-up in the same amount as allowed by Article 7.1.13 for additive changes
6. There shall be no mark-up allowed on the cost of bonds, insurance, permitting, or transportation and living expenses.

7.2 CHANGE ORDERS (CO)

7.2.1 A CO is a written Contract Modification signed by the Owner and Contractor stating their agreement upon all of the following:

1. a change in the Work or the Contract Documents; and
2. the amount of the adjustment in the Guaranteed Maximum Price, if any; and
3. the extent of the adjustment in the Contract Time, if any.

7.2.2 Provided the Contractor executes the CO, the Owner may issue a CO Notice to Proceed in accordance with the Owner's Policies. The CO Notice to Proceed authorizes the CO Work pending the Owner's execution of the CO.

7.3 CONSTRUCTION CHANGE DIRECTIVES (CCD)

7.3.1 A CCD is a written order prepared and signed by the Owner directing a change in the Work or stating a proposed basis for adjustment, if any, in the Total Contract Price or Contract Time, or both. The Owner may, by CCD, without invalidating the Contract, order changes in the Work within the general scope of the Contract which the Contractor is required to complete, consisting of additions, deletions or other revisions, the Total Contract Price or Contract Time being adjusted accordingly.

7.3.2 A CCD shall be used in the absence of total agreement on the terms of a CO.

7.3.3 If the CCD provides for an adjustment of the Total Contract Price, the amount of the adjustment shall be based upon the Force Account provisions set forth below or the Owner's best estimate of the actual cost of the Work. Under no circumstances shall the Contractor be entitled to any time or money for the Work provided by the CCD in excess of that which is otherwise allowable for RCOs.

7.3.4 Upon receipt of an Owner-executed CCD, the Contractor shall promptly proceed with the change involved and advise the RPR in writing of the Contractor's agreement or disagreement with the method, if any, provided in the CCD for determining the proposed adjustment in the Total Contract Price or Contract Time.

7.3.5 The Owner shall pay the Contractor for reasonable costs of the actual work performed by the Contractor on the basis of the CCD, pending final resolution of the changes in Total Contract Price and Contract Time. Any payments or adjustment hereunder, made in the Owner's discretion, shall not constitute an admission by the Owner of liability for those payments or adjustment and shall not constitute a waiver of any of the Owner's or Contractor's rights under the Contract Documents.

7.4 FIELD CHANGE ORDERS (FCO)

7.4.1 A FCO may be issued in accordance with the Owner's Policies, and is a written Contract Modification signed by the Owner and Contractor stating their agreement upon all of the following:

1. A change in the Work or the Contract Documents; and
2. The method intended for and the estimated amount of the adjustment in the Total Contract Price and Contract Time, if any.

7.4.2 A fully executed FCO authorizes the Contractor to immediately proceed with the changed Work. Within ten (10) days from completion of the FCO Work, the Contractor shall submit a proper RCO to convert the FCO to a CO.

7.5 FORCE ACCOUNT WORK

7.5.1 When a Contract Modification authorizes Force Account work, Contractor shall be compensated for the Force Account Work on the basis of actual time, material and equipment used, subject to the limits allowed by Article 7.1.9. All such Force Account charges shall be documented daily by the Contractor and signed off by the RPR. The Contractor bears the responsibility for obtaining the RPR's daily approval of all allowable Force Account charges, as further described below. The Contractor shall not be paid for Force Account charges that were not timely approved by the RPR or for claims arising from unapproved charges. The Contractor shall provide the following documentation for all Force Account Work including but not limited to:

1. Time sheets, which shall be approved daily by the RPR (or other Owner authorized site representative, designated for this purpose) for the actual hours spent for manpower and equipment listed.
2. Labor cost accounting records that evidence the net direct cost of the Contractor's labor and foremen while directly performing the Force Account Work activity, but excluding any costs associated with any of the Contractor's superintendents, project engineers, construction managers, project managers and other supervisory personnel.
3. Equipment cost accounting records that evidence the cost of both rented equipment and the Contractor's equipment used specifically for the Force Account Work activity.
4. Material cost accounting records that evidence the net costs of materials for the Force Account Work activity.

7.5.2 Within seven (7) days of the completion of the Force Account Work, the Contractor shall compile and submit to the RPR a Force Account RCO that contains the backup documentation for each element of the Force Account Work. A Force Account RCO shall set forth all impacts associated with the Force Account Work, and shall comply with Article 7. The Contractor's final mark-up for overhead and profit shall be determined according to the cumulative cost of the Force Account Work in accordance with Article 7.1.13.

7.5.3 If the Project includes multiple changes that are to be paid by Force Account, each Force Account RCO shall be documented and processed separately.

7.6 MINOR CHANGES IN THE WORK

7.6.1 A minor change in the Work may be issued by the RPR when there is no cost for the change and when no adjustment to the Contract Time will be made. A minor change may be issued as a Supplemental Instruction, as a written response to a Request for Information, or in any other manner that the RPR deems appropriate.

ARTICLE 8 TIME

8.1 PROGRESS AND COMPLETION

8.1.1 The date of commencement of the construction phase Work is the effective date of the Notice To Proceed (NTP) with Construction. The date shall not be postponed by the Contractor's failure to act or by such failures of persons or entities for which the Contractor is responsible. Time limits stated in the Contract Documents are of the essence of the Contract. The Contractor, by executing the Design Build Contract, confirms that the Contract Time is a reasonable period for performing the Work.

8.1.2 The Contractor shall not commence construction on the Owner's property prior to the effective date of a NTP with Construction and prior to the effective date of the Contractor's compliance with Article 11.

8.1.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion and Final Completion within the time frames established by the Contract Documents.

8.2 TIME OF COMPLETION, DELAYS AND EXTENSIONS OF TIME

The time of completion is of the essence of the Contract. The Contractor shall proceed with the Work in accordance with the approved schedule and within the Contract time periods specified in the Contract Documents. In the event of failure to complete the Work within the time specified, the Owner may assess damages as provided by law or the Contract Documents, unless an appropriate extension of time has been approved in a Contract Modification.

The completion of the design and preconstruction phase services shall be achieved by the date set forth in the Contractor's Proposal. The schedule for construction services will be developed during the design phase and finalized in the GMP. Final Completion shall be achieved within 90 calendar days from the date of Substantial Completion.

8.3 LIQUIDATED DAMAGES

It is agreed that if Substantial Completion or Final Completion, as defined in the GMP Amendment, is not achieved within the established time frames, as adjusted by Contract Modifications, if any, the Contractor and the Contractor's surety shall be liable to the Owner for Liquidated Damages, and not as a penalty for such delay, in the amount of Liquidated Damages to be established in the GMP Amendment as Three Thousand Five Hundred Dollars ($3,500.00) per calendar day for each and every consecutive calendar day elapsing between the date fixed for Substantial Completion of the Work and the date Substantial Completion is actually achieved and the amount of Liquidated Damages to be established in the GMP Amendment as Five Hundred Dollars ($500.00) per calendar day for each and every consecutive calendar day beyond the calendar days fixed for Final Completion of the Work and the date Final Completion is actually achieved. The Owner's receipt of payment for such Liquidated Damages does not preclude the Owner from pursuing any other rights or remedies available to it under the Contract or Florida law on damages for reasons other than Contractor delay. The parties further acknowledge and agree that the Liquidated Damages are only intended as the Owner's sole and exclusive remedy for same to compensate the Owner for the Contractor's failure to complete timely those portions of the Work as set forth in this Contract and shall not be construed as liquidated damages for any other breach of the Contractor's performance. The parties agree that the amount established in the GMP Amendment is reasonable.

There shall be a grace period during which no liquidated damages will be assessed for the first thirty (30) days of delay.

8.4 COMPUTATION OF TIME

8.4.1 Unless otherwise specified in the Contract Documents, the term "days" shall refer to calendar days. When any obligation or deadline is measured by the number of days and the deadline date falls on a legal holiday or weekend when the Owner's office is closed, the obligation will be allowed to be completed on the next business day without penalty.

8.4.2 The Contract Time shall be adjusted only by CO, CCD, or FCO in accordance with the limitations of the Owner's Policies.

8.4.3 RCOs and Claims relating to Contract Time shall be made in accordance with applicable provisions of Article 4.3 and Article 7.

8.4.4 If any portion of the Work remains uncompleted after the expiration of the Contract Time, as

adjusted by Contract Modifications, if any, the Owner will incur substantial injury, including loss of use of facilities and inconvenience to the public. Damages arising from such injuries cannot be calculated with any degree of certainty. It is agreed that if Substantial or Final Completion is not achieved within the established Contract Time as adjusted by Contract Modifications, if any, the Contractor and the Contractor's Surety shall be liable to the Owner for Liquidated Damages as identified in the Instructions to Proposers. Allowing the Contractor to finish the Work after the expiration of the Contract Time established by the Contract Documents shall in no way operate as a waiver by the Owner of any of its rights under this Contract or allowed by law.

8.4.5 The Work under this Contract is only a part of the Owner's construction program. As a result, Work under this Contract may be required to be completed by certain milestone dates set forth in the Contract Documents ("milestone dates") in order to interface with the work on other components of the Owner's construction program. The schedule for the Owner's construction program or the specification of milestone dates is not intended to take the place of complete Work scheduling by the Contractor, but is provided to show certain critical milestone dates for various phases of the Work on which the Contractor's Baseline Schedule or Progress Schedules must be based. There shall be no changes in the milestone dates, except by CO, FCO or CCD. In the event that the Contractor fails to complete any required portions of the Work by the milestone dates that results in a delay to the Substantial Completion of the Project, the Contractor and its Surety (for the avoidance of doubt, reference to obligation of the Surety, in addition to that of the Contractor, whether in this, or any other, provision of this Contract, shall not be read to limit the obligations of the Surety in any instance where it is not expressly referenced) shall be liable to the Owner for the Liquidated Damages as set forth in Article 8.4.4. In the event that the Contractor completes any required portions of the Work ahead of the milestone dates or is precluded from doing so by acts of the Owner or third parties, the Contractor shall not be entitled to damages against the Owner for completing or failing to complete the Work earlier.

8.4.6 The Contractor shall cooperate with the RPR in order to maintain the progress of the Work in accordance with the Contractor's current accepted schedule and Contract Time requirements. In addition to the requirements of Article 3.13 regarding Progress Schedule updates, if the Owner or RPR determines that the Contractor is failing to maintain the progress of the Work, through no fault of the Owner, the Contractor must, within three (3) business days of written request of the RPR, submit a written response detailing the Contractor's plan of action to recover lost time in order to maintain the progress of the Work in accordance with the Contractor's current accepted schedule or Contract Time requirements. In such event, the Contractor shall comply with the RPR's written orders to take whatever steps are necessary to recover lost time and maintain the progress of the Work. These steps may include, but are not limited to, re-sequencing the Work activities; increasing the number of Contractor's shifts, workforce, supervision, work days, overtime operations, equipment resources; or expediting delivery of materials or equipment. Regardless of the manner in which the schedule is recovered, the Contractor shall not be entitled to additional compensation, such as for acceleration, for actions that relate to the recovery of the schedule, except that recovery efforts directed by the Owner or RPR to recover delay caused by the Owner shall be compensable as a Change Order.

8.4.7 In addition to other remedies available to the Owner, if the Contractor fails to maintain the progress of the Work in accordance with the Contractor's current accepted schedule or Contract Time requirements, the Owner may, following a declared default under Article 14.2 that remains uncured after the notice and cure period provided therein upon seven (7) days written notice to the Contractor and its Surety, order the Contractor to suspend or cease all or a portion of the Work and the Owner may demand that the Contractor's Surety prosecute all or a portion of the Work in accordance with the Contract Documents. Failure of the Surety to so perform within seven (7) days of receipt of such notice shall be grounds for the Owner to prosecute the Work at Surety's and Contractor's expense. The right of the Owner to issue notice under this Article 8.4.7 to insist on

prosecution of the Work by the Contractor's surety, and for Owner to prosecute the Work itself shall not give rise to any duty on the party of the Owner to exercise those, or any other, rights for the Contractor, the Surety, or any other person or entity.

ARTICLE 9 PAYMENTS AND COMPLETION

9.1 TOTAL CONTRACT PRICE

9.1.1 Prior to the execution of a GMP Amendment, the Total Contract Price is the amount stated in the Contract Agreement Form, plus any adjustments included in a Contract Modification and is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

9.1.2 After execution of a GMP Amendment, the Total Contract Price is the amount stated in the Contract Agreement Form, plus the total of all GMP Amendment, plus any adjustments included in a Contract Modification and is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents. The Owner will track the Total Contract Price in each GMP Amendment and Contract Modification.

9.1.3 PRE-CONSTRUCTION AND DESIGN SERVICES PHASE FEE.

1. The Pre-Construction and Design Services Phase Fee is the total compensation payable to the Contractor for the performance of all design and preconstruction services set forth in this Contract, the public advertisement and the Solicitation in the e-procurement platform (if any), including, but not limited to all work related to developing the drawings, specifications, GMP Proposal and other Contract Documents. The Pre-Construction and Design Services Phase Fee shall be paid in proportion to the percentage of the Pre-Construction and Design Services completed during the period covered by the Application for Payment.

2. The Contractor shall not be entitled to any increase in the Pre-Construction and Design Services Phase Fee for any costs, expenses, liabilities or other obligations arising from the performance of Pre-Construction and Design Services, unless the scope of the Pre-Construction or Design Services is changed materially. In that case, the Pre-Construction and Design Services Phase Fee shall be equitably adjusted in accordance with the Contract Documents. There shall be no adjustments in the Pre-Construction and Design Services Phase Fee following full execution of the GMP Amendment.

3. The following costs shall be included in the Pre-Construction and Design Services Phase Fee: (i) items included in the billable rate: profit and profit sharing; general overhead; salaries and labor; travel; information management systems and software; contract administration; office expenses; printing and copying; legal and accounting fees; cost of money; taxes; insurance premiums and deductibles; purchase or rental of equipment; utilities, and (ii) items separately identified as reimbursable expenses: payments to professional service providers hired by the Contractor to perform the Design or Pre-Construction Services, such as estimating, scheduling, and consulting; permits; relocation and housing.

4. As part of the Contractor's proposal for the Pre-Construction and Design Services Phase Fee, the Contractor shall submit, in Excel format, a spreadsheet listing the employee's name, employee's classification/position and employee's raw rate. Once the rate for each position is approved by the Owner, all changes must be approved by the Owner. If there are new

employees, new classifications/positions or promotions, an updated spreadsheet in Excel format shall be submitted. New classifications/positions and promotions must have prior authorization by the Owner prior to the work being performed under the class/position/promotion/rate. The spreadsheet shall include a separate tab for projected construction administration costs for the design team for the duration of the Project. This estimate of fees for the construction administration phase will be validated by the Contractor as part of the GMP Proposal and any request to increase the projected construction administration phase fee will require justification to the satisfaction of the Owner.

5. Services that were performed more than 90 days before the submission date of the invoice will not be reimbursed.

6. Timesheets are required as supporting backup for all professional service invoice amounts. Hours billed must be clearly identified.

7. Overtime must be pre-approved by the Owner.

8. Service tasks must be organized using standard separators to identify the basic services being billed.

9. Rebalancing between tasks or fees must be approved by the Owner before billing. The request to rebalance shall include an explanation for the overage and a confirmation that the Total Contract Price amount will not be exceeded.

9.1.4 CONSTRUCTION SERVICES PHASE PRICE.

1. The Owner shall pay, and the Contractor shall accept, as full and complete payment for the Work, the sum of the following items, which sum shall not exceed the GMP:

   a. the aggregate costs directly paid by the Contractor to Subcontractors pursuant to written Subcontracts or purchase orders to perform the Work or costs for self-performed work (the "Cost of the Work"), including any construction phase professional service costs;

   b. compensation for the Contractor's provision of management services (the "Contractor's Staffing Costs");

   c. the aggregate net cost of the Contractor's General Requirements (the "General Requirements Cost"); and

   d. Contractor's Fee.

   e. Allowances and contingencies must be converted to Cost of Work, Contractor's Staffing Costs, General Requirements Costs and/or Contractor's Fee (as applicable) before payment will be made.

2. Labor Costs

   a. Wages and salaries of the Contractor's management, professional, supervisory or administrative personnel regardless of where they are stationed, but only for that portion of their time required for the Work in accordance with the Contract Documents, at stipulated rates set forth in Attachment B.
   b. Costs paid or incurred by the Contractor for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and,

for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are included in Attachment B and are based on wages and salaries included in the Cost of the Work under this subsection.

3. Subcontract Costs. Aggregate net cost directly paid by the Contractor to its Subcontractors and suppliers in accordance with the requirements of their subcontracts to perform the Work.

4. Costs of Materials and Equipment Incorporated in the Completed Construction

a. Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.
b. Costs of materials described in the preceding paragraph in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Contractor. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

5. Costs of Other Materials and Equipment, Temporary Facilities and Related Items

a. Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Contractor at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Contractor shall mean fair market value. Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Contractor at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Contractor-owned item may not exceed the purchase price of any comparable item. Rates of Contractor-owned equipment and quantities of equipment shall be subject to the Owner's prior approval.

b. Costs of removal of debris from the site of the Work and its proper and legal disposal.

c. Costs of document reproductions, electronic communications, postage and parcel delivery charges, dedicated data and communications services, teleconferences, Project websites, extranets and reasonable petty cash expenses of the site office. Costs of materials and equipment suitably stored off the site at a mutually acceptable location, with the Owner's prior approval.

6. Miscellaneous Costs

a. Contractor's cost for insurances, excluding Subcontractor Default Insurance ("SDI") or property insurance shall be charged as a Cost of the Work at an agreed-upon stipulated rate of One and One Quarter Percent (1.25%) of the GMP. Contractor's cost of SDI shall be charge separately as a Cost of the Work at the stipulated rate of One and Four Tenths Percent (1.4%) of all Cost of the Work attributable to Subcontractors, excluding the costs of any Subcontractor required to purchase a performance and payment bond at the Contractor's direction and discretion. All the percentages set forth in this Section shall apply

to all scope changes and be fully payable in the Application for Payment following the issuance of the change. In the event that the Contractor is required to obtain property insurance or payment and performance bond in accordance with the terms and conditions of the Contract Documents, such insurance or bonds shall be reimbursed as a separate Cost of the Work and shall not be considered to be included in the stipulated rates set forth in this Section.

b. Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Contractor is liable.
c. Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 12.2 of the Contract or by other provisions of the Contract Documents.
d. Royalties and license fees paid for the use of a particular design, process or product required by the Contract Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the Contract Documents; and payments made in accordance with legal judgments against the Contractor resulting from such suits or claims and payments of settlements made with the Owner's consent.
e. With the Owner's prior approval, costs for electronic equipment and software directly related to the Work.
f. Deposits lost for causes other than the Contractor's negligence or failure to fulfill a specific responsibility in the Contract Documents.
g. With the Owner's prior approval, which shall not be unreasonably withheld, legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Contractor, reasonably incurred by the Contractor after the execution of the Contract and in the performance of the Work.
h. With the Owner's prior approval, expenses incurred in accordance with the Contractor's standard written personnel policy for relocation, and temporary living allowances of, the Contractor's personnel required for the Work.
i. That portion of the reasonable expenses of the Contractor's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.
j. Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.
k. Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.
l. Costs of repairing or correcting damaged or nonconforming Work executed by the Contractor, Contractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Contractor and only to the extent that the cost of repair or correction is not recovered by the Contractor from insurance, sureties, Contractors, suppliers, or others.
m. Cost for Liability Insurance, Subcontractor Default Insurance (SDI) and Builder's Risk will be established based on rates agreed to by the Owner and Contractor, and will be one or more line items in the GMP at fixed rates, and the GMP will identify whether the rates are subject to audit of incurred costs.
n. Costs associated with any Force Majeure Event.

7. Related Party Transactions

a. The term Related Party shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Contractor; any entity in which any stockholder in, or management employee of, the Contractor owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Contractor. The term "related party" includes any member of the immediate family of any person identified above. For the purposes of Sections 2.6 (a) and

(b), HonorBylt, LLC and FutureBylt, LLC are both a "related party" and notice and authorization required in 2.6 (b) is hereby fulfilled and granted.

b. If any of the costs to be reimbursed arise from a transaction between the Contractor and a related party, the Contractor shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed. If the Owner fails to authorize the transaction, the Contractor shall procure the Work, equipment, goods or service from some person or entity other than a related party.

8. Costs Not to Be Reimbursed as Part of this Contract

The Cost of the Work shall not include the items listed below:

1. Salaries and other compensation of the Contractor's personnel stationed at the Contractor's principal office or offices other than the Jobsite office, except as specifically approved in a GMP;
2. Expenses of the Contractor's principal office and offices other than the Jobsite office;
3. Overhead and general expenses, other than those included in the billable rates;
4. The Contractor's capital expenses, including interest on the Contractor's capital employed for the Work;
5. Costs to correct defective work, or revise any errors, omissions, or other deficiencies in the Work or costs due to the negligence or failure to fulfill a specific responsibility of the Contract by the Contractor, subcontractor or supplier or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
6. Any cost not specifically and expressly identified in the Contract as reimbursable, including, but not limited to, any fines, penalties, damage awards, legal costs, attorney's fees and court costs; and
7. Costs that would cause the Guaranteed Maximum Price, as amended, to be exceeded.

9. Discounts, Rebates, and Refunds

Cash discounts obtained on payments made by the Contractor shall accrue to the Owner if (1) before making the payment, the Contractor included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Contractor with which to make payments; otherwise, cash discounts shall accrue to the Contractor. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Contractor shall make provisions so that they can be obtained. Amounts that accrue to the Owner shall be credited to the Owner as a deduction from the Cost of the Work.

10. Owner-rejected subcontract awards

When the Contractor has provided a Guaranteed Maximum Price, and a specific bidder (1) is recommended to the Owner by the Contractor; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Contractor may require that a GMP Amendment be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Contractor and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

11. No cost-plus subcontracts

Agreements between the Contractor and subcontractors shall conform to the applicable payment provisions of the Contract Documents, and shall not be awarded on the basis of cost plus a fee without the prior written consent of the Owner. If an agreement is awarded on a cost plus a fee basis, the Contractor shall provide in the agreement for the Owner to have the full audit rights in accordance with the terms of this Contract.

12. **Contractor's Staffing Costs**. Contractor's Staffing Costs include and are limited to actual reasonable expenditures or negotiated amounts for the following items as authorized in a GMP:

a. The cost of the Contractor's supervisory, technical, administrative and clerical personnel engaged in supervision and management of the Work on the Project site, at rates approved by the Owner based upon payroll and general overhead documentation;

b. The cost of periodic site visits for supervisory, inspection, oversight, or management of the Project by specific "home office" personnel as agreed upon and identified in the GMP proposal, at rates approved by the Owner based upon payroll and general overhead documentation;

c. The cost of the Contractor's personnel incurred while traveling in discharge of duties directly connected with the Work, subject to compliance with the Owner's Travel Policy or as otherwise agreed;

d. Costs incurred for relocation and temporary living allowances of personnel required for the Work, if required by the Project; and

e. Any other costs incurred by the Contractor for provision of management services necessary to complete the Project in an expeditious and economical manner consistent with this Contract and the best interests of Owner that are not otherwise included in the General Requirements or Cost of the Work.

13. **General Requirements Costs**. General Requirements costs include and are limited to actual, documented, reasonable expenditures or negotiated amounts for the following items, up to the value indicated in a GMP:

a) Costs, including transportation and storage, installation, maintenance, dismantling and removal, of materials, supplies, temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers, that are provided by the Contractor at the site and fully consumed in the performance of the Work; and cost (less salvage value) of such items if not fully consumed, whether sold to others or retained by the Contractor. Cost for items previously used by the Contractor shall mean fair market value;

b) Costs to provide site safety;

c) Costs of removal of debris from the site;

d) Costs of postage and parcel delivery charges, and reasonable petty cash expenses of the jobsite office;

e) Costs for jobsite vehicles (as justified by a lease/purchase analysis upon request of the Owner);

f) Costs for cellular telephones, ipads and other technology or communication costs;

g) That portion of insurance and bond premiums directly attributable to this Contract. Premiums shall be net of trade discounts, volume discounts, dividends and other adjustments;

h) Sales, use or similar taxes imposed by a governmental authority and paid by the Contractor, and directly related to the Work;

i) Fees and assessments for the building permit and for other permits and inspections for which the Contractor is required by this Contract to pay, including deposits lost for causes other than Contractor's fault, but expressly excluding any legal costs and expenses, including attorney's fees and costs associated with the Project;

j) Costs of obtaining and using all utility services required for the Work;

k) Costs of crossing or protecting any public utility, if required, and as directed by the Owner;

l) Costs necessary for the operation of the Jobsite office, such as stationary, supplies, furniture, fixtures, office equipment and field computer services provided that quantity and rates are subject to Owner's prior written approval;

m) Costs of secure off-site storage space or facilities approved in advance by Owner;

n) Costs for printing and reproduction of the Construction Documents;

o) Costs or rental charges for temporary facilities, and for machinery, equipment, and tools not customarily owned by construction workers; however any rental charge shall not exceed the purchase price of such facilities, machinery, equipment or tools (as documented by a lease/purchase analysis upon request of the Owner);

p) Costs of surveys, measurements and layout work reasonably required for the execution of the Work or by the Construction Documents; and

q) Other costs properly incurred in the prosecution of the Work, with the prior written approval of the Owner, but specifically excluding non-reimbursable costs set forth in subsection 2.7 above.

14. **Contractor's Fee**. The Contractor's Fee shall be equal to Six and Twenty-Five Hundredths percent (6.25%) times the Cost of the Work, subject to adjustment in accordance with the Contract Documents, and will be set forth in the GMP Amendment. The Fee covers the costs of all of Contractor's overhead and expenses related to the Work, including, but not limited to, home or branch office employees and consultants that are not itemized in Article 9.1.4.12 "Staffing Costs," above and the general operating expenses of the Contractor's principal and branch offices related to the Work (non-field offices) that are not itemized in Article 9.1.4.13 "General Requirements Costs" above.

15. **Contractor's Design and Construction Contingency** ("Contractor's Contingency"). The Contractor's Contingency will be established in a GMP. The Contractor shall track the utilization of the Contractor's Contingency and submit monthly reports to the Owner for approval, along with an updated risk register, both in a format acceptable to the Owner. The Contractor must receive the Owner's prior written concurrence to utilize the Contractor's Contingency, which will not be

unreasonably withheld. Upon achievement of Substantial Completion, all remaining Contingency, buy out savings, and unspent funds shall revert to the Owner via a deductive GMP Amendment. The Contractor's Contingency may be utilized for the following reasons:

1. Design progression or evolution

2. Errors or omissions in the Contractor's design, estimating, bidding or procurement processes, as long as the additional work adds previously excluded value to the Project (but expressly excluding any demolition or other costs related to the substitution of such work for previously installed work and associated design fees);

3. Reasonable schedule recovery, acceleration, or mitigation of potential schedule impacts;

4. Means, methods, and materials and coordination reasonably inferred from the Construction Documents that are otherwise not accounted for in the GMP components;

5. General Conditions and staffing required to achieve established Project Schedule milestones and/or completion dates.

6. Unanticipated events, such as subcontractor non-performance, default, or repairs of unassignable damaged work;

7. Work not included in the Construction Documents which is necessary to cause the Project to conform to applicable building codes but was not identified as missing during the review of Construction Documents (through no fault of the Contractor); and

8. Costs incurred by the Contractor for additional services or resources that are otherwise not accounted for in the GMP components, but are necessary to complete the Project in an expeditious and economical manner and in the best interests of the Owner.

16. TRUTH IN NEGOTIATIONS AND PROHIBITION AGAINST CONTINGENT FEES

The Contractor certifies that the wage rates and other factual unit costs supporting the compensation described herein are accurate, complete and current as of the date of this Design Build Contract, and that the original compensation and any additions thereto will be adjusted to exclude any significant sums where the Owner determines the lump sum amount was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such adjustments must be made within one year following the end of this Design Build Contract.

The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Contract, and that the Contractor has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or other consideration, contingent upon or resulting from the award or making of this Contract. If the Owner finds that Contractor violates this provision, the Owner may terminate this Contract without liability and, at its discretion, deduct from this Contract, or otherwise recover from the Contractor, the full amount of any fee, commission, percentage, gift, or consideration.

9.2 SCHEDULE OF VALUES

9.2.1 Before the first Application for Payment, the Contractor shall submit to the Owner and RPR for approval a Schedule of Values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy and reasonableness (in relationship to actual costs) as the Owner and RPR may require. For the avoidance of doubt, Contractor shall submit a Schedule of Values allocating the Pre-Construction and Design Services Phase Fee to various portions of those services; and upon execution of a GMP, Contractor shall submit an updated Schedule of Values allocating the Guaranteed Maximum Price to various portions of the Work. The Schedule of Values shall be prepared in such a manner that each major item of Work and each subcontracted item of Work is shown as a separate line item on the Owner's form of AIA Document G702, Application and Certificate for Payment, Continuation Sheet, or other form acceptable to the Owner.

9.2.2 Payment for General Requirements may be prorated according to the work-in-place (excluding stored materials) reported in the approved Application for Payment or may be based on evidence of incurred costs.

9.2.3 Insurance and bond costs may be paid in full for the on the first payment application following the full execution of a GMP.

9.2.4 The Contractor's Schedule of Values must contain separate line items for the design effort divided up per design submittal and a separate line item for preparation of the record documents as required in Division 1 Specifications if any.

9.3 APPLICATION AND CERTIFICATE FOR PAYMENT

9.3.1 Prior to submittal of an Application for Payment, and no later than the 25th of each month, the Contractor shall coordinate a meeting and site tour, if applicable, with the RPR and Owner's Project Manager, to review a draft "pencil copy" of the Application for Payment, to review a draft of the Progress Schedule Update which is to be submitted with the Application, and to agree upon the Work completed in accordance with the approved Schedule of Values or unit price schedule. The Contractor shall ensure that all relevant individuals attend the review meeting, to include, without limitation the project manager, scheduler, superintendent and billing manager, as applicable, and the parties shall cooperate and use best efforts to resolve any matter raised at the meeting.

9.3.2 The Contractor shall submit to the RPR an Application and Certificate for Payment for Work completed, as agreed at the meeting to review the pencil copy. Each Application and Certificate for Payment shall be submitted no later than the 5th of the month or as otherwise agreed in writing by the Owner. Each Application and Certificate for Payment shall include only Work completed and/or costs incurred pursuant to the Contract through the period ending date identified on the Application and Certificate for Payment, but not previously invoiced. No payment will be made for Work not yet completed. Each Application and Certificate for Payment must clearly identify the period ending date. To constitute a proper request for payment, each Application and Certificate for Payment shall be supported by such data required by the Contract Documents substantiating the Contractor's right to payment ((including but not limited to a partial waiver, progress schedule, other documents required by Article 9.3.13, and copies of requisitions from Subcontractors, Subconsultants and material Suppliers) and reflecting the amount of retainage in accordance with Article 9.5.2, unless otherwise provided in the Contract Documents or agreed to, in writing, by the Owner at its sole discretion. The RPR shall be deemed the Authority's agent for purposes of Chapter 218, Florida Statutes. If an RPR is not assigned to this Project, the Owner's agent or employee responsible for receiving and processing payment applications will be identified, in writing.

9.3.3 Each Application and Certificate for Payment shall contain unmodified Certifications stating the

following:

> "Contractor hereby certifies that, except as indicated on the attached documents, there are no Claims of Contractor, its Subcontractors, Subconsultants or Suppliers as of the date of this Application and Certificate for Payment that have not been completely resolved, that the Contractor has no knowledge of any unsolved Claims by Subcontractors, Subconsultants or Suppliers, that all Subcontractors, Subconsultants and Suppliers have been paid to date from funds received for previous Applications for Payment, that there is no known basis for the filing of any Claim on the Work and Contractor, and upon receipt of funds due in this Application and Certificate for Payment, hereby releases the Owner from any claims arising from the Work through the period covered by this Application, except for retainage, Claims and RCOs previously noticed and pending, and claims not known to the Contractor as of the date of this certification. Contractor further certifies that the amounts contained in the Application and Certificate for Payment have been verified and are correct."

9.3.4 The Contractor warrants that title to all Work covered by an Application and Certificate for Payment will pass to the Owner no later than the time of payment on such Application and Certificate for Payment by the Owner to the Contractor. The Contractor further warrants that, upon submission of an Application and Certificate for Payment, all Work for which previous Applications and Certificates for Payment have been certified by the RPR and all Work for which payments have been received from the Owner shall be free and clear of liens, claims, security interests, or encumbrances in favor of the Contractor, Subcontractors, Subconsultants, material Suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work. With each submitted Application for Payment, the Contractor shall execute and submit a partial release and waiver of claims in the form contained herein. Upon request by the Owner, the Contractor shall submit waivers of lien/bond rights and any requested documentation from Subcontractors, Subconsultants and Suppliers to evidence the status of payments.

9.3.5 Applications and Certificates for Payment may not include requests for payment of amounts the Contractor does not intend to pay to a Subcontractor, Subconsultant or material Supplier because of a dispute or other reason.

9.3.6 Applications and Certificates for Payment may include requests for payment on account of changes in the Work which have been included in fully executed CCDs or FCOs and properly authorized COs that have been executed by the Contractor.

9.3.7 The failure to comply with the requirements of this Article may result in the withholding of approval of the Application and Certificate for Payment until compliance is achieved.

9.3.8 Within fifteen (15) business days after the RPR's receipt of the Contractor's Application and Certificate for Payment, the Owner and RPR shall either: (1) approve the Application and Certificate for Payment by signing the Application and Certificate for Payment in the appropriate places; or, (2) the RPR shall notify the Contractor in writing of reasons for withholding approval, in whole or in part, and the action necessary to make Application and Certificate for Payment acceptable.

9.3.9 The RPR may withhold approval, in whole or in part, to the extent reasonably necessary to protect the Owner, if the RPR cannot certify that the Work has progressed to the point indicated and that the quality of the Work is not in accordance with the Contract Documents, or reasonably inferable therefrom. In addition, notwithstanding anything to the contrary contained in the Contract Documents, the Owner may withhold any payment to the Contractor, if, and for so long as, a good faith dispute exists, which may include

the Contractor's failure to perform any of its obligations hereunder; the Owner's assessment of Liquidated Damages; the Contractor's default under any of the Contract Documents; or if there is reasonable evidence indicating that the Work will not be completed within the Contract Time, as may be adjusted by Contract Modifications, and the unpaid balance would be insufficient to cover the anticipated Liquidated Damages; provided, however, that any such holdback shall be limited to an amount sufficient in the reasonable opinion of the Owner to cure any such default or failure of performance by the Contractor. The RPR may also withhold approval, in whole or in part, to the extent reasonably necessary to pay any expense or cost, or remedy any injury incurred by Owner arising out of any default or neglect by Contractor, or otherwise attributable to the Contractor ("Backcharge"). Any such Backcharge (after processing an appropriate Change Order, Construction Change Directive, or other appropriate process determined by Owner) may be deducted by Owner from payments then or thereafter due the Contractor, or from the final payment otherwise due the Contractor. In addition, if the Owner or RPR subsequently discovers that an Application and Certificate for Payment was improperly paid, the Owner or RPR may withhold payment on any future Applications and Certificates for Payment, in whole or in part, to the extent necessary to recover the funds improperly paid. If the Owner determines that the reasons for withholding payment no longer exist, the Owner will so notify the Contractor and will make payment for the amount of the holdback within ten (10) business days.

9.3.10 Upon notification that an Application and Certificate for Payment is not approved, the Contractor shall provide justification for payment or other information requested by the RPR or Owner and shall conduct discussions with the RPR to determine whether a revised Application and Certificate for Payment can be agreed upon. If no agreement is reached within three (3) business days after the initial notification, the RPR or Owner will adjust the original Application and certificate for Payment to delete the disputed amounts and will then approve payment for the undisputed amount and send a copy of the adjusted Application and Certificate for Payment to the Contractor. In that case, either party can submit a written request for final resolution of the dispute to the immediate supervisor of the other party's project manager. Final resolution of the dispute shall be made in accordance with the timeframe required by Florida Statutes Section 218.76. If an agreement can be reached on the disputed portions of the Application and Certificate for Payment within three (3) business days of the initial notification, the Contractor will submit a revised and signed Application and Certificate for Payment for the agreed amount, if any, to the RPR. Payment will be made within ten (10) business days after the Owner's approval of the revised Application and Certificate for Payment.

9.3.11 Neither the RPR's nor the Owner's signature on the Application and Certificate for Payment constitutes approval and acceptance of the Work.

9.3.12 At all times during the processing of an Application and Certificate for Payment, including resolution of any related disputes, the Contractor shall continue to expeditiously prosecute the Work.

9.3.13 Concurrent with the Contractor's submission of an Application and Certificate for Payment, the Contractor shall submit all applicable monthly reporting listed on the payment application checklist form, including an updated Progress Schedule, prepared in accordance with the Contract Documents, and make available for review and inspection by the Owner or RPR an updated version of the As-built Drawings, prepared in accordance with the Contract Documents, reflecting all items of Work for which the Contractor is seeking payment. Failure to have the updated As-built Drawings available for review or to reflect items of Work on the updated As-built Drawings for which payment is sought may result in the Owner's withholding payment or partial payment from the Contractor until such time as properly updated As-built Drawings are prepared.

9.4 STORED MATERIALS

9.4.1 At the Owner's sole discretion, payment may be made for the net cost of materials and equipment delivered and suitably stored at a location approved by Owner, in its sole discretion, for subsequent incorporation in the Work. In order for stored material to qualify for early payment hereunder, the value of the materials must exceed Ten-Thousand Dollars ($10,000) and the stored material must not be scheduled to be incorporated into the Work within sixty (60) days, unless otherwise allowed by Owner. Payment for such stored items shall not relieve the Contractor of its obligations to furnish and install the items in accordance with the Contract Documents. Payment for such stored items shall be conditioned upon the following information and documentation being obtained by Contractor and provided to Owner:

1. Inventory schedule detailing the specific type of stored materials for which payment is requested, including but not limited to, quantities, types and sizes;
2. Invoices evidencing the costs of such stored materials, attached as back-up documentation to the Application for Payment under which payment for stored materials is sought;
3. A bill of sale, invoice, or other documentation evidencing that the Owner has received the stored items free and clear of all claims and liens. This evidence shall be submitted to the Owner in Contractor's Application and Certificate for Payment; Failure to comply with this requirement may result in the Owner withholding payment until the evidence is furnished;
4. A consent of surety for the Owner's payment for such stored items which must be included with Contractor's Application and Certificate for Payment;
5. A certificate of insurance evidencing that stored materials not located on the Owner's property, are insured for the full replacement value of the stored materials for which payment is requested. Failure of the Contractor to obtain and maintain insurance coverages required herein shall give rise to a breach of this Contract, thereby allowing Owner all recourse permitted by law, including recovery under the payment and performance bonds posted for this Project.

9.4.2 Contractor agrees to separately mark and identify the stored materials with the Project name and name of the Contractor. All such stored materials shall be made available for RPR's periodic inspections. Contractor assumes all risk of transit with respect to such stored materials.

9.4.3 The Contractor shall submit, within thirty (30) days after the date of the initial Notice to Proceed and thereafter as the Owner requires, material delivery schedules for each category or subcontract for which Application and Certificate for Payment for stored materials will be made. These material delivery schedules shall include items, quantities, value or unit prices with extensions, and the month in which an Application and Certificate for Payment with respect thereto is expected to occur. Schedules shall be updated on a monthly basis and submitted as an attachment to the Contractor's Application and Certificate for Payment. The Owner has no obligation to pay the Contractor if the updated monthly schedule is not provided.

9.4.4 The Contractor warrants that title to all Work covered by an Application and Certificate for Payment will pass to the Owner no later than the time of payment on such Application and Certificate for Payment by the Owner to the Contractor. The Contractor shall be responsible for adequately securing and protecting all materials and equipment stored on the Owner's property, including, but not limited to, adequately securing and protecting from weather damage, theft, malicious mischief, and vandalism, regardless of whether such materials or equipment have been paid for pursuant this Article 9.4. The Contractor further warrants that, upon submission of an Application and Certificate for Payment, all Work for which Applications and Certificates for Payment have been previously issued and all Work for which payments have been received from the Owner shall be free and clear of liens, claims, security interests, or encumbrances in favor of the Contractor, Subcontractors, Subconsultants, material Suppliers, or other persons or entities making a claim by reason of having provided labor, materials, and equipment relating to the Work.

9.5 PROGRESS PAYMENTS AND RETAINAGE

9.5.1 Throughout the Project, until the Substantial Completion List (Construction Administration Form 008) is distributed, the Owner shall make payment to the Contractor of the amount specified in the approved Application for Payment (which shall provide for all applicable retentions, including, but not limited to the proper amount of retainage on all progress payments as provided for in the following paragraph), within the time required by Section 218.735, Florida Statutes, from the date that a proper Application for Payment is stamped as received by the RPR. If the payment has not been made within that time, Contractor may deliver an overdue notice to the Owner. Pursuant to Florida Statute Section 218.735, if the application for payment is not rejected within 4 business days after delivery of the overdue notice, the payment request shall be deemed accepted, except for any portion of the payment request or invoice that is fraudulent or misleading. Payment by the Owner shall not constitute approval or acceptance of any item of cost in the Application for Payment. No partial payment made hereunder shall be or be construed to be final acceptance or approval of that portion of the Work to which such partial payment relates or relieve the Contractor of any of its obligations hereunder.

9.5.2 Retainage

1. Retainage will not be withheld on the design and preconstruction phase. For the construction phase, the Owner may withhold retainage in an amount up to five percent (5%) of the payment certified as due to the Contractor minus the amount for construction administration fees of the subconsultant(s)

2. No later than the next business day following the date of the Substantial Completion List, the Contractor shall submit an Application for Payment for the remaining contract balance that includes all retainage; provided, however, the Owner shall continue to retain an amount equal to 150% of the estimated cost of completion of the Substantial Completion List, in addition to any anticipated Backcharges, anticipated Liquidated Damages, and any other changes to the Work, as deemed necessary by the Owner it its sole discretion. This Application for Payment must include a Consent of Surety if requested by the Owner. The Owner shall make payment on this Application for Payment within 20 business days from the date of the Substantial Completion List or other such additional time as may be allowed by Florida Statutes Section 218.735.

3. The RPR may withhold approval of the Application and Certificate for Payment for the release of the contract balance including retainage, if there is a good faith dispute, claim, or demand that exceeds the amount being withheld, as long as it complies with the notice requirement contained in Article 9.3

9.5.3 Subcontractor Payments

1. The Contractor shall pay each Subcontractor, Subconsultant and Supplier, within ten (10) calendar days following receipt of payment from the Owner, out of the amount paid to the Contractor on account of each Subcontractor's, Subconsultant's and Supplier's portion of the Work, the amount to which each Subcontractor, Subconsultant and Supplier is entitled, subject to amounts actually retained from payments to the Contractor on account of each Subcontractor's, Subconsultant's and Supplier's portion of the Work.
2. The Contractor shall, by appropriate agreement with each Subcontractor, Subconsultant and Supplier require each Subcontractor, Subconsultant and Supplier to make payments to Sub-subcontractors and Sub-subconsultant's within seven (7) calendar days after receipt of payment from the Subcontractor and Subconsultant.
3. Neither Owner, nor RPR shall have any obligation to pay or cause the payment of money to a Subcontractor, Subconsultant or Supplier for Work on the Project. If required by the Owner,

within fifteen (15) business days of receipt of payment from the Owner, the Contractor shall send to the Owner copies of checks paid for all items of the Contractor's costs listed in the Application and Certificate for Payment that were not paid prior to the date on which the Application and Certificate for Payment was submitted.

4. If the Contractor fails to pay a Subcontractor, Subconsultant or Supplier within ten (10) calendar days of receipt of funds from the Owner, then the Owner may, at its option, following a request from the unpaid Subcontractor, Subconsultant or Supplier, pay such Subcontractor, Subconsultant or Supplier the applicable sums paid the Contractor on account of the Subcontractor's or Subconsultant's work or Supplier's materials, and deduct such sums from any monies due the Contractor in the future unless the Contractor can furnish information satisfactory to the Owner that the payment should not be made and Contractor is actively taking steps to resolve a dispute, if applicable. The Owner may, but is under no obligation to, communicate with a Subcontractor, Subconsultant or Supplier in attempts to resolve allegations of delayed payments. The Owner's options in this Article 9.5.3 are in addition to any other rights set forth in the Contract.
5. **Prompt Payment** (49 CFR § 26.29): The Contractor shall make retainage payments to each Subcontractor within 30 days after the Subcontractor's work is satisfactorily completed. For purposes of this subsection, a Subcontractor's work is satisfactorily completed when all the contractual requirements for Substantial Completion have been accomplished for the Subcontractor's work and documented as required by the Owner, including, without limitation, all closeout documentation. The Owner has no obligation to release retainage for any Subcontractor until the Contractor has documented, to the satisfaction of the Owner, that all such subcontractor work has been completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Owner. This clause applies to both DBE and non-DBE subcontractors.
6. Any early reduction of a portion of retainage shall have no effect on Contractor's warranty and other obligations that are preliminary to Substantial Completion or Final Completion. Contractor shall remain liable to Owner for all items of Work in accordance with the Contract Documents notwithstanding any early release of Contractor's retainage.

9.5.4 Sub-subcontractor and Sub-subconsultant Payments

1. If any Subcontractor or Subconsultant fails to pay any Sub-subcontractor or Sub-subconsultant within seven (7) calendar days of receipt of funds from the Contractor, then the Owner may, at its option, following a request from the unpaid Sub-subcontractor or Sub-subconsultant, pay such Sub-subcontractor or Sub-subconsultant, the applicable sums paid the Contractor on account of the Sub-subcontractor's or Sub-subconsultant's work, and deduct such sums from any monies due the Contractor in the future unless the Contractor can furnish information satisfactory to the Owner that the payment should not be made and Contractor is actively taking steps to resolve a dispute, if applicable. The Owner's options in this Article 9.5.4 are in addition to any other rights set forth in the Contract.
2. Any early reduction of a portion of retainage shall have no effect on Contractor's warranty and other obligations that are preliminary to Substantial Completion or Final Completion. Contractor shall remain liable to Owner for all items of Work in accordance with the Contract Documents notwithstanding any early release of Contractor's retainage. Approval of the release of retainage is within the Owner's sole discretion.
3. Neither the Owner, nor RPR shall have any obligation to pay or to assure the payment of money to a Subcontractor or Subconsultant for Work on the Project. The Owner may, however, demand sworn statements of accounts from Subcontractors, Subconsultants or Suppliers and, at the Owner's sole discretion, pay Subcontractors, Subconsultants or Suppliers by joint checks or directly for those amounts agreed by the Contractor as due and owing. In such event, the

Contractor agrees any such payments shall be treated as a direct payment to the Contractor's account.

4. Contractor shall include in all subcontracts language providing that Contractor and Subcontractor and Subconsultant will resolve payment disputes by alternative dispute resolution mechanisms. Contractor shall promptly take the initiative to commence such resolution process if Contractor has withheld a payment to a Subcontractor or Subconsultant for cause that is disputed by Subcontractor. Contractor shall make every effort to resolve such payment disputes with its Subcontractors and Subconsultants quickly and in a reasonable manner, so as not to delay the Work. The Contractor shall also require all Subcontractors and Subconsultants include in the Sub-subcontractor and Sub-subconsultant agreements language providing that payment disputes will be resolved through alternative dispute resolution mechanisms and that every effort to resolve such payment disputes will be resolved quickly and in a reasonable manner, so as not to delay the Work.

9.6 CONTINUED PERFORMANCE PENDING PAYMENT

9.6.1 The Owner's obligation to make timely payments and the Contractor's obligations to diligently prosecute the Work shall continue uninterrupted during the resolution of any dispute between the Owner and the Contractor.

9.7 SUBSTANTIAL COMPLETION

9.7.1 The Substantial Completion date is the point at which, as certified in writing by the Contractor and agreed to by the Owner that the Work is at the level of completion and in conformance with the requirements of the Contract Documents, where:

1. The Certificate of Occupancy or Completion has been issued by the Authorities Having Jurisdiction (AHJ) and other public regulatory authorities has been given, including all permits finalized and closed. The date of the Certificate of Occupancy or Completion does not establish the date of Substantial Completion.
2. The Owner has received all required warranties (draft form), Operation & Maintenance Manuals, As-built drawings, and other documentation required by the Contract Documents; and
3. The Owner will have complete use or occupancy and may use, operate, and maintain the Work in all respects, for its intended purpose and without undue interference by the Contractor's Final Completion efforts and all training has been provided so that the Owner is able to properly use, operate or maintain the Work.

9.7.2 When the Contractor considers that the Work is Substantially Complete and all three prerequisites listed in the above paragraph are anticipated by the date of Substantial Completion as set forth in 9.71, the Contractor shall prepare and submit to the RPR a comprehensive list of items to be completed or corrected and the schedule to complete each item, in the format required by the Owner. The list shall be transmitted to the RPR a minimum of 15 business days prior to Contractor's anticipated date of achieving Substantial Completion. The Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on the list does not alter the responsibility of the Contractor to complete all Work in accordance with the requirements of the Contract Documents.

9.7.3 Upon notice to the RPR by the Contractor that its list has been completed and the Work is ready for the Substantial Completion Inspection, the RPR will conduct a preliminary inspection to determine whether the Work is Substantially Complete. If the RPR's preliminary inspection discloses that Substantial

Completion has not been achieved, the RPR will inform the Contractor of the outstanding issues. If the RPR determines that the Work is ready for Substantial Completion inspection, the RPR will schedule the Substantial Completion Inspection with the Contractor and Owner Departments with a minimum of 10 business days notice of the inspection date and time, and will notify the Contractor of any item that is not in accordance with the requirements of the Contract Documents, whether or not included on the Contractor's list, and the Contractor shall add the items to its list. The Contractor shall proceed to complete or correct every item on the revised list and request re-inspection from the RPR.

9.7.4 When the Work is Substantially Complete, the RPR shall prepare a Certificate of Substantial Completion (Construction Administration Form 007), obtain signatures of the Contractor, RPR and Owner. Upon the signature of the Owner's Vice President of Construction, or higher position as indicated on the form, the Certificate establishes the date of Substantial Completion, the responsibilities of the Owner and Contractor for security, maintenance, operations, cleaning and housekeeping, heating and cooling, utilities, protection of the Work, and insurance, and establishes the time within which the Contractor shall finish all items on the Substantial Completion List (Form 008). Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Contract Documents.

9.7.5 The RPR, Owner and others, during and after the Substantial Completion Inspection, will develop the Owner's Substantial Completion List of all remaining Work to be completed or corrected. The RPR shall combine the items from all parties into one Substantial Completion List, include an estimate of the cost of completion of the Substantial Completion list, and distribute the list to the Contractor within 30 days of the Substantial Completion date or other such time as may be set forth in Florida Statutes Section 218.735, that is in effect on the effective date of the contract, whichever is least stringent. Failure to include an item on the Substantial Completion list does not alter the responsibility of the Contractor to complete all Work in accordance with the requirements of the Contract Documents. All items on the Substantial Completion list must be completed prior to the date of Final Completion. Further, if items not compliant with the Contract Documents are discovered after the initial delivery of the Substantial Completion punch list to the Contractor, the RPR shall add these items to the punch list and Contractor shall complete all such items prior to Final Completion.

9.8 PARTIAL OCCUPANCY OR USE

9.8.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage and, if the Owner chooses such partial occupancy or use, the Contractor and Owner shall designate by an agreement the conditions of such partial occupancy or use in a Partial Occupancy/Use Agreement, using the Owner's form ("POUA"), provided such occupancy or use is consented to by the Owner's insurer as required under Article 11 and authorized by the Authorities Having Jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is Substantially Complete, provided the Owner and Contractor have accepted, in the POUA, the responsibilities assigned to each of them for payments, retainage if any, security, maintenance, operations, cleaning and housekeeping, heating and cooling, utilities, damage to the Work, and insurance, and have agreed in the POUA the period for correction of the Work and commencement of warranties required by the Contract Documents.

9.8.2 Immediately prior to such partial occupancy or use, the Owner, RPR and Contractor shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

9.8.3 Partial occupancy or use of a portion or portions of the Work shall not constitute Substantial

Completion. Even if a POUA is reached, the parties shall still comply with the requirements for Substantial Completion under the Contract Documents for that portion of the Work. Consent of the Contractor to partial occupancy or use by the Owner shall not be unreasonably withheld.

9.9 FINAL COMPLETION AND FINAL PAYMENT

9.9.1 Final Completion shall be achieved by the Contractor within ninety calendar (90) days of Substantial Completion unless otherwise required in the Contract Documents. Upon receipt of written notice from the Contractor that the Work is ready for final inspection and acceptance and upon receipt of a final Application and Certificate for Payment, the RPR will promptly make such inspection with the Contractor and, when the RPR finds the Work acceptable under the Contract Documents and the Contract fully performed, including the delivery of all close-out documentation required in Article 9.9.2, the RPR will certify on Part II of the Substantial Completion List and Project Completion Form indicating that all of the contractual requirements have been completed in accordance with the terms and conditions of the Contract Documents. The RPR will obtain all other signatures that are required by this Form. The RPR's signature on the final Application and Certificate for Payment will constitute a further representation that the conditions precedent to the Contractor's being entitled to final payment have been fulfilled.

9.9.2 Neither final payment nor final retainage shall become due until the Contractor submits to the RPR all close-out documentation, which is defined as all of the following: (1) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least thirty (30) calendar days prior written notice has been given to the Owner; (2) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents; (3) consent of surety, if any, to final payment; (4) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner, which may include a certified statement signed by each DBE Subcontractor, indicating actual amounts paid to the DBE Subcontractor; (5) all required As-built and Record Drawings, operating and maintenance instructions and manuals, and acceptable warranty/guaranty documents; (6) Subcontractor and Subconsultant Final Release Forms; and (7) Final Release Form. If a Subcontractor or Subconsultant refuses to furnish the release required by the Owner, the Owner may retain all money that the Owner may be compelled to pay in discharging such claim, including all costs and reasonable attorneys' fees. However, the Owner may elect not to retain any monies if the Contractor certifies that it is proceeding diligently and in good faith to resolve its dispute with the Subcontractor or Subconsultant in accordance with the Subcontract Dispute Resolution Process and the Contractor's Surety consents to the Owner's payment to the Contractor despite such claim.

9.9.3 Acceptance of final payment shall constitute a waiver of all claims by the Contractor, Subcontractors, Subconsultants, and Suppliers, except those Claims previously made in accordance with Article 4 and identified by the Contractor as unsettled on the final Application and Certificate for Payment and Final Release.

9.10 PAYMENT OF LIQUIDATED DAMAGES AND BACKCHARGES

9.10.1 If the Owner, in its sole discretion, determines that Liquidated Damages or Backcharges are due in accordance with the Contract, the amount of Liquidated Damages and Backcharges shall be subtracted from the amount of retainage on the final Application and Certificate for Payment. If there is insufficient

retainage to compensate the Owner for the Liquidated Damages and Backcharges, the Contractor and its Surety shall pay to the Owner the amount due within ten (10) business days of receiving written notification of the shortage. Failure to make the required payment to the Owner will result in the Owner's enforcement of its right to receive the payment in any manner allowed by law and Contractor may be prohibited from bidding on future projects with the Owner as a result.

9.11 OWNER'S RECORDS REVIEW AND AUDIT RIGHTS

9.11.1 The Contractor's records, including both electronic and traditional paper files, shall be open to inspection and subject to audit or reproduction by the Owner or its authorized representative to the extent necessary to adequately permit examination, evaluation and verification of the Cost of the Work, and any invoices, Change Orders, Construction Change Directives, Field Change Orders, Force Account payments or Claims submitted by the Contractor or any of its Subcontractors or Suppliers pursuant to the execution of the Contract. The Contractor's records include but are not limited to the following: accounting records (including monthly job cost detail, detailed job cost history, monthly labor distribution detail, total job labor distribution, daily foreman reports, daily superintendent reports, detailed subcontract status reports, executed subcontracts, subcontract change orders and all documentation supporting all job costs, such as subcontractor payment applications, vendor invoices, internal cost charges), written policies and procedures, time sheets, payroll registers, payroll records (to the extent required for Davis Bacon compliance), cancelled payroll checks, subcontract files (including proposals of successful and unsuccessful bidders, bid recaps and negotiation notes), original estimates, estimating work sheets, correspondence, change order files (including documentation covering negotiated settlements), backcharge logs and supporting documentation, the general ledger for the project along with all supporting data, information detailing cash and trade discounts and rebates earned, insurance policies, payments and all documents that relate to any insurance claim, documents described in Article 7 and any other data or evidence deemed necessary by the Owner or that may have a bearing on matters of interest to the Owner (all foregoing hereinafter referred to as "Contractor's Records"). Notwithstanding the foregoing or anything contained in the Contract Documents to the contrary, the Owner's audit rights shall not extend to any unit prices, rates, lump sums, lump sum change orders or fixed percentages or multipliers agreed to or stipulated by the parties in writing, except to confirm that the required services or items were provided and that such agreed rates were correctly applied and charged The Contractor's records described above shall be maintained and made available to the Owner or its authorized representative for not less than three (3) years after date of final payment or longer if required by law. Owner or its authorized representative may (without limitation) conduct verifications such as counting employees on the Project witnessing the distribution of payroll, verifying information and amounts through interviews and written confirmations with Contractor employees, field and agency labor, Subcontractors, and vendors.

9.11.2 The review or records and audits may require inspection, scanning and copying from time to time and at reasonable times and places of any and all information, materials and data of every kind and character, including without limitation, the Contractor's Records listed in the preceding Article, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, superintendent reports, drawings, receipts, vouchers and memoranda, electronic correspondence, and any and all other agreements, sources of information and matters that may in the Owner's judgment have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Contract Document. Such Contractor's Records subject to the Owner's review and audit shall also include, but not be limited to, those Contractor's Records necessary to evaluate and verify direct and indirect costs (including overhead allocations) or Claims, as they may apply to costs associated with this Contract.

9.11.3 The Owner or its authorized representative shall be afforded access to all of the Contractor's Records, and shall be allowed to interview any and all of the Contractor's current or former employees,

pursuant to the provisions of this article throughout the term of this Contract and for a period of ten (10) years after final payment.

9.11.4 The Contractor shall require all Subcontractors and Suppliers to comply with the provisions of this article by insertion of the requirements hereof in a written contract agreement between the Contractor and its Subcontractors and Suppliers. Such requirements will also apply to Sub-subcontractors and Subcontractors' Suppliers. The Contractor will cooperate fully and will cause all of the Contractor's Subcontractors (including those entering into lump sum Subcontracts) to cooperate fully in furnishing or in making available to Owner from time to time whenever requested in an expeditious manner any and all such information, materials and data.

9.11.5 The Owner and RPR, or their authorized representative shall have access to the Contractor's facilities, shall have access to all necessary Contractors' Records, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with this Article.

9.11.6 If an audit inspection or examination in accordance with this Article discloses overcharges (of any nature) by the Contractor to the Owner in excess of three percent (3%) of the total Contract billings, the actual cost of the Owner's audit shall be reimbursed to the Owner by the Contractor. Any adjustments or payments which must be made as a result of any such audit or inspection of the Contractor's Records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of the Owner's finding to the Contractor. Any overpayments to the Contractor by the Owner shall include the legal rate of interest from the date such additional amounts were overpaid by the Owner.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and implementing and monitoring a safety program in connection with the performance of the Work including but not limited to those requirements in this Article 10. The Contractor shall submit to the Owner a copy of its safety plan within ten (10) business days of issuance of the initial Notice to Proceed. The Contractor's Safety Plan shall, at a minimum, meet the requirements of the latest edition of ANSI/ASSE A10.38.

10.1.2 In the event the Contractor fails to initiate, maintain, supervise, or monitor the safety of its operations during the performance of the Work, including the operations of its Subcontractors, Subconsultants, Suppliers, and any others for whom the Contractor is responsible, then the Owner may, without reservation, pursue any rights or remedies against the Contractor that are available, under this Contract or by law, including withholding of payment.

10.2 SAFETY OF PERSONS AND PROPERTY

10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

1. employees and other persons who may be affected thereby;
2. the Work, materials, and equipment to be incorporated therein, whether in storage, on or off the site, that is under the care, custody or control of the Contractor or the Contractor's

Subcontractors, Subconsultants and Suppliers regardless of whether such Work, materials and equipment have been paid for pursuant to Article 9.4; and

3. other property at the Project site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation or replacement in the course of construction.

10.2.2 The Contractor shall comply with applicable laws, ordinances, codes, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury, or loss.

10.2.3 The Contractor shall erect and maintain, as required by existing conditions and the Contract Documents, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying the owners and users of adjacent sites and utilities of hazardous or dangerous conditions.

10.2.4 When use or storage of hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

10.2.5 The Contractor shall, at its sole cost and expense, promptly pay for, repair, or remedy all damage, injury, and loss to property or persons referred to in Articles 10.2.1, caused in whole or in part by the Contractor, a Subcontractor, a Subconsultant, or anyone directly or indirectly employed by any of them; by a defect in the Work or any element of the Work; or by anyone for whose acts they may be responsible for, to the extent the damage or loss is not attributable to acts or omissions of the Owner, RPR, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The foregoing obligations of the Contractor are in addition to the Contractor's other obligations under this Contract, including, without limitation, Article 11. The Owner, at its option and in its sole discretion, may repair or remedy damages to property caused by the Contractor, or for which the Contract is otherwise responsible, and charge the Contractor all cost for such repair or remedy as a Backcharge.

10.2.6 The Contractor shall designate a responsible member of the Contractor's organization as the onsite safety representative whose duty shall be the safety of persons and property. This person shall be the Contractor's Superintendent unless otherwise designated by the Contractor in writing to the Owner and RPR. The Contractor shall notify the Owner and RPR immediately when a serious injury occurs on the Project and shall provide written notice of the injury on the same business day of the occurrence, if at all possible. The notice shall provide a description of the incident, including the location and time of the incident, the names of the people involved and the names of witnesses, if any. The Contractor shall cooperate with any investigation of the incident.

10.2.7 The Contractor shall not load (for example, by delivery of materials, structural or physical loads) or permit any part of the construction or Project site to be loaded so as to endanger the safety of the traveling public, the airlines, tenants, or other airport users, the Owner, RPR, Contractor or their agents, representatives or employees.

10.2.8 The Contractor shall protect adjoining private or municipal property and shall provide barricades, temporary fences, and covered walkways required to protect the safety of passers-by, as required by prudent construction practices, local building codes, ordinances or other laws, or the Contract Documents.

10.2.9 The Contractor shall take all reasonable precautions to protect and keep the Work, materials and equipment free from injury or damage from inclement weather conditions, such as but not limited to rain, wind, storms, frost or heat. If extreme adverse weather conditions arise, preventing the Contractor from continuing operations safely in spite of having implemented weather precautions, the Contractor shall

coordinate approval from the Owner and the RPR for cessation of Work until deemed safe to resume operations. The Contractor shall not permit open fires on the Project site.

10.2.10 The Contractor shall, at its sole cost and expense, promptly repair any damage or disturbance to walls, utilities, sidewalks, curbs and the property of the Owner or any other person (including municipalities) resulting from the performance of the Work, whether by it or by its Subcontractors at any tier. The Contractor shall maintain streets and working roads within the project site and areas which it or its subcontractors may use to access the project site, in good repair and in an acceptable and usable condition. The Contractor shall not permit open fires on the Project site.

10.2.11 The Contractor shall maintain streets and working roads in good repair and in an acceptable and usable condition.

10.3 HAZARDOUS MATERIALS

10.3.1 In the event the Contractor encounters on the site any material reasonably believed to be hazardous material, such as asbestos or polychlorinated biphenyl (PCB), the Contractor shall immediately stop work in the area affected and verbally report the condition to the Owner and RPR, followed by notification in writing. The Contractor shall not resume Work in the affected area until written agreement between the Owner and Contractor, after the material has been determined by an independent laboratory or consultant to be not hazardous, or the Contractor has agreed to remove and or remediate the hazardous material, as applicable, in a Contract Modification.

10.3.2 The Contractor shall not be required to perform without its consent any Work relating to hazardous material.

10.4 EMERGENCIES

10.4.1 In an emergency affecting the safety of persons or property, the Contractor shall act so as to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined in accordance with Article 4 and Article 7. In addition to any other right under the Contract (see Article 2.3.2), in an emergency affecting the safety of persons or property, the Owner may take any action that, in its sole discretion, it deems necessary to prevent threatened damage, injury, or loss.

ARTICLE 11 INSURANCE AND BONDS

11.1 CONTRACTOR'S INSURANCE

11.1.1 At its sole expense, Contractor shall maintain the following insurance and bonds throughout the term of this Design Build Contract, including any extensions or renewals, and such insurance requirements shall provide coverage for the Contractor, its subcontractors, representatives, and anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

11.1.2 Contractor shall provide evidence of insurance reflecting compliance with the insurance requirements as listed in the Solicitation and the Contract Documents. Certificate(s) of Insurance shall be remitted using an ACORD form, or in a form acceptable to the Owner and submitted to the Owner's Contracts and Grants Manager prior to contract execution. Any deductible or self-insurance retention must be indicated on the Certificate of Insurance.

11.1.3 Owner may elect to utilize a third party for the collection and monitoring of Contractor's insurance. Contractor shall respond to all correspondence from this third party in a timely manner.

11.1.4 Upon written request, Contractor shall provide or obligate its insurer to provide a copy of its insurance policies, including all Owner-required forms and endorsements.

The minimum insurance requirements are set forth in the Solicitation Appendix L

Performance Bond
100% of the total contract price (including all subs)

Payment Bond
100% of the total contract price (including all subs)

Additional Requirements
a) SMAA Requires Copies of All Policies
b) SMAA Certificates and Insurance for All Policies
c) All Policies/Certificates, Subject to SMAA Approval
d) All Policies/Certificates, Primary Non-Contributory
e) All Policies/Certificates, SMAA Named as Additional Insured **and** Certificate Holder (except for workers compensation and professional liability)
f) All Policies/Certificates, Waiver of Subrogation in Favor of SMAA
g) All Policies/Certificates, 30 Day Notice Required for all revisions, replacements, termination
h) All Policies/Certificates, List all deductibles & self-insurance retentions
i) All Policies/Certificates, List All Action Over Exclusions

11.2 LIABILITY INSURANCE

11.2.1 Commercial General Liability insurance covering property damage and bodily injury (including death), which shall include, but not be limited to, premises, products and completed operations, contractual liability with limits as set forth in the Solicitation for this Contract. Completed Operations coverage for the entire period of repose under Chapter 95 of the Florida Statutes is required. This insurance shall be written on an occurrence basis.

11.2.2 Automobile Liability insurance covering all motor vehicles, including, but not limited to owned, non-owned, or hired vehicles, used in conjunction with the performance of the Work, resulting in property damage or bodily injury (including death) with limits of liability as set forth in the Solicitation for this Contract.

11.2.3 The Sarasota Manatee Airport Authority and its members (including without limitation, members of the Owner's Board, officers and employees and the DCC) shall be named as additional insured under the coverage required in paragraphs 11.2.1 and 11.2.2 above.

11.2.4 Professional Liability insurance covering the Contractor for claims, losses and expenses resulting from wrongful acts, errors or omissions committed in the performance of, or failure to perform, all Services and Work under this Design Build Contract with limits of liability in the amount as set forth in the Solicitation.

11.2.5 Workers' Compensation in statutory limits in accordance with Florida law and Employer's Liability insurance covering all Contractor's employees or persons acting at the direction of the Contractor in the

performance of the Work with policy limits as set forth in the Solicitation for this Contract. If Contractor is self-insured, Contractor shall provide evidence of authorization from State of Florida to be self-insured. Owner does not accept State of Florida exemptions. Contractor agrees that any insurance or self-insurance shall include a waiver of any rights to subrogation against Owner.

11.2.6 If required by the Solicitation for this Contract, Pollution Liability insurance covering any liability including clean-up expenses, resulting from any pollution or environmental impairment, which arises out of or in connection with the performance of the Work with a limit of liability as set forth in the Solicitation for this Contract. If coverage is provided on a claims-made basis, such insurance shall be maintained or include tail coverage for three (3) years from the date the Design Build Contract is terminated or expired or from the date of Final Completion. The Owner and its members (including, without limitation, members of the Owner's Board, officers and employees) shall be named as additional insured without limitations.

11.2.7 If required by the Solicitation for this Contract, Privacy Liability Insurance covering Contractor for claims, losses, and expenses resulting from the compromise, breach, or release of confidential information or security information, whether in electronic or physical form, due to wrongful act or failure to secure such data in the care, custody and control of Contractor with limits as set forth in the Solicitation for this Contract.

11.2.8 Contractor hereby agrees to the following as it relates to the above-required insurance:

11.2.8.1 Insurance shall be carried with an insurance company (or companies) authorized to do business in the State of Florida and have a current financial rating by A.M. Best of A- VII or better and written on forms and endorsements acceptable to Owner.

11.2.8.2 Insurance shall be primary and not contributory to any other insurance (or self-insurance) maintained by the Owner, including any deductibles or self-insured retentions and that any other insurance shall be considered excess insurance only.

11.2.8.3 The policy limits required herein may be met by the combination of a primary liability insurance policy and an Umbrella or Excess Liability insurance policy, which will be written on a follow-form basis.

11.2.8.4 Contractor shall immediately notify Owner, in writing, of any adverse material change in Contractor's required insurance. For the purpose of this section, adverse material change shall mean any reduction in the limits of the insurer's liability, any reduction of any insurance coverage, any increase in Contractor's deductible or self-insured retention, or any non-renewal or cancellation of required insurance.

11.2.8.5 Self-insured retentions and deductibles shall not exceed the requirements set forth in the Solicitation for this Contract.

11.2.8.6 Costs of insurance premiums, deductibles, or self-insured retentions shall not be charged back to Owner unless included in an approved Contract Modification. Owner shall have the right to alter the monetary limits or the coverages required during the term of this Contract, and Contractor shall comply with all reasonable requests with respect thereto. Any additional insurance premium to Contractor for the mid-term change in insurance requirement must be justified as specific to the Project, before Owner considers changes in Total Contract Price for chargeback to Owner.

11.2.8.7 The Owner may at its sole discretion suspend or terminate all Work pursuant to Article 14 pending Contractor's inability to meet insurance requirements herein this Design Build Contract or Contractor's failure to renew or replace insurance. Owner's acceptance of Contractor's proof of insurance shall not be deemed a waiver of the insurance requirements herein.

11.3 PERFORMANCE BOND

11.3.1 A Performance Bond and a Payment Bond in the exact forms attached hereto, each in an initial amount of not less than a GMP will be required of the Contractor, and Contractor shall be required to increase the amounts of the Performance Bond and Payment Bond to an amount not less than the total GMP value, as amended: (a) to guarantee faithful performance of the requirements of the Contract Documents, including all applicable warranties; and (b) to guarantee the payment of all labor, materials, or supplies used directly or indirectly in the prosecution of the Work provided for in the Contract. A certified copy of the power-of-attorney appointing the attorney-in-fact for the surety and appointing the Florida licensed agent shall be attached. All bonds must be countersigned by an agent appointed by the Surety and licensed by the State of Florida, with proof of agency attached.

11.3.1.1 The Penal Sum of the Performance Bond and the Payment Bond shall be increased or decreased automatically during the course of the Work in the event that Contract Modifications increase or decrease the Guaranteed Maximum Price so that the Penal Sum of each bond shall be in an amount equal to the Guaranteed Maximum Price at the completion of the Work.

11.3.1.2 The Bonds shall be written through a licensed Florida agent on behalf of a surety company licensed to do business in Florida with a financial rating by A.M. Best of not less than A-VIII.

11.3.1.3 The Contractor shall, before commencing with the Work, record a copy of the Performance and Payment Bonds in the County clerk's office pursuant to Florida Statute 255.05. Upon request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the applicable bond or shall permit a copy to be made.

11.3.1.4 If the Surety on any bond furnished by the Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated or suspended in any state or it ceases to meet the requirements defined in Article 11.3.1, or any such bond is otherwise void or defective for any reason, the Contractor shall within ten (10) business days thereafter substitute Performance and Payment Bonds from a different Surety that fulfills the requirements of the Contract Documents. The Owner may at its sole discretion suspend all Work pursuant to Article 14.3 pending Contractor procuring substitute bonds.

11.4 PROPERTY INSURANCE

11.4.1 Unless otherwise addressed in the Contract Documents, the Owner shall, on behalf of itself, Contractor, and subcontractors, procure and maintain an "All Risk" property insurance policy, including builder's risk coverage and equipment breakdown, resulting in damages or loss to real and personal property, including materials procured related to Work at the Project.

11.4.2 Coverage under the Owner's property insurance program does not include any coverage for any equipment or tools of the Contractor, its Subcontractors or suppliers of any tier. Contractor agrees to inform its Subcontractors and suppliers that the Owner shall not be responsible for damages or loss (or theft) to tools and equipment while on Owner's property, whether at the Project jobsite or otherwise.

11.4.3 Coverage under the Owner's property insurance program does not include any coverage for the Contractor's or its Subcontractors loss of income, business interruptions, extra expense or other time element loss, including, without limitation, any such loss arising from a covered claim.

11.4.4 Coverage under the Owner's property insurance program does not include coverage for any materials stored off-site, including in transit, for which the Contractor or its Subcontractors or Suppliers has responsibility for care, custody and control. Contractor shall ensure it or any party with whom materials are

in its care, custody and control, shall be responsible for the full replacement cost arising from any damages or loss (including theft). Any insurance on such stored materials or materials in transit shall be evidenced to Authority (or designated RPR) upon request.

11.4.5 Contractor shall be responsible for the first Twenty-five Thousand Dollars ($25,000) deductible for each occurrence for any claim under Owner's Property Insurance Program that is caused by its negligence or the negligence of anyone for whom it is responsible with a total aggregate cap not to exceed $100,000 for all deductibles., for damages or loss (including theft, malicious mischief, or vandalism).

11.4.6 Property insurance coverage, including equipment breakdown, shall remain in effect from the commencement date of the Work and shall terminate at the earliest of the following dates: (i) as to the Work covered by the fully executed Partial Occupancy and Use Agreement (POUA), the effective date set forth in the POUA; (ii) upon any portion of Work permanently abandoned or terminated by Contractor prior to Substantial Completion; (iii) upon termination of this Contract by Owner; or (iv) upon date of Substantial Completion as certified in accordance with Article 9.7.

11.4.7 Any damage or loss (including theft) to Owner's property, including Work at Project site, materials, appurtenant property, arising from the actions, errors, omission or improper performance by Contractor or its Subcontractors of any tier shall not prohibit Owner from making a claim under the Property Insurance Program. Any claim covered by this Property insurance program shall not absolve Contractor or its subcontractors from any responsibility or liability of claim, damages, or loss. Owner or its insurer, on its behalf, does not waive any right to recover from Contractor, its Subcontractors, or each of its insurers for such damages or loss.

11.4.8 If Contractor requests in writing that this insurance extend to the Contractor and its subcontractors for portions noted above as not covered or for other special hazards not described herein; then Contractor agrees to reimburse Owner for premiums paid at current market rate for such increase in coverage and accepts responsibility for deductibles.

11.4.9 Owner shall notify Contractor in writing, prior to the Commencement of Work, if the Owner does not intend to provide property insurance. In that event, Contractor shall then procure such insurance as will protect the interests of the Owner, Contractor and Subcontractors, and by appropriate Change Order, shall be reimbursed for the actual cost of such insurance.

11.4.10 All proceeds paid by the Owner's property insurance shall be payable to Owner, as fiduciary for the insureds, as their interest may appear. Any portion of such proceeds (less applicable deductible) allotted to insured(s), other than Owner, shall be paid to Contractor. Contractor shall be responsible for distribution of any proportion of proceeds in similar manner to its Subcontractors.

11.5 CONTRACTOR'S PROPERTY

11.5.1 Contractor shall maintain insurance or require a third party to maintain insurance coverage for any real or personal property used in conjunction with the Work and materials stored or in transit in preparation for the Work. Such coverage shall be on a replacement cost basis. Any failure to respond to Owner's claim for recovery for damages or loss by repair or replacement, Contractor shall be deemed in breach in contract for which the Contractor shall be held liable. Contractor shall be responsible for first dollar of claim for damages, regardless of deductible, self-insured retention, failure to insure, or self-insurance by Contractor, Subcontractor, suppliers, or storage/warehouse provider.

11.6 REPORTING INCIDENTS THAT MAY GIVE RISE TO AN INSURANCE CLAIM

11.6.1 Contactor shall notify the Owner, within three business days, and document in detail any incident occurring during the performance of Work or arising directly or indirectly from the Project that may give rise

to a claim by a third party against Owner, Contractor, and/or Subcontractors of any tier shall be documented in detail.

11.6.2 Contractor shall provide written notice, no less than quarterly, to Owner and RPR of any claims and incidents that may give rise to a claim. Contractor shall retain this documentation in accordance with Article 9.10.

11.6.3 Contractor shall cooperate with Owner and its agents or representative, in the investigation and resolution of any incident that may give rise to a claim or actual claim made against Owner, Contractor or Subcontractor of any tier arising directly or indirectly from the Project. Any action taken by Contractor, Subcontractor, or its insurer to resolve, settle or release itself from a claim shall be coordinated with Owner and RPR. No release shall be executed without final approval from Owner, which shall not be unreasonably withheld.

11.6.4 Upon written request and at completion of the Work, Contractor agrees to provide a detailed claims history of incidents and claims arising directly or indirectly from the Project.

11.7 INDEMNIFICATION

11.7.1 Nothing in this Contract shall be deemed a waiver by Owner of its sovereign immunity rights under the laws of the State of Florida, other than those specifically waived by virtue of this Contract.

11.7.2 To the fullest extent permitted by law, Contractor shall indemnify and hold completely harmless the Owner, including, without limitation, their officers, agents, employees and all members of the governing board), as well as the RPR, State of Florida, Department of Transportation, and the officers, and employees of each of them (the "Indemnified Parties") from and against any and all claims, suits, demands, judgments, losses, costs, fines and penalties (including any assessed by the FAA or TSA, and any required or recommended investigation and security training, incurred as a result of any violation of federal regulations, including the Airport Security Plan), damages, expenses, liabilities (including statutory liabilities under Workers Compensation laws) and reasonable expenses (including, but not limited to, fees for attorneys, expert witnesses, scene recreations, legal support expenses) ("Damages"), which may be incurred by or charged to Indemnified Parties, to the extent caused by the negligence, reckless or intentional misconduct by the Contractor, any Subcontractor, or any of their officers, directors, partners, employees, or suppliers, or anyone directly or indirectly employed by any of them or anyone for whose acts they may be liable, arising directly or indirectly from the Work or Project or this Contract. With respect to design and other professional services, the Contractor's indemnification obligation shall be limited to liabilities, damages, losses, and costs, including reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Contractor and other persons employed or utilized by the Contractor in the performance of the Contract, consistent with Section 725.08, Florida Statutes.

11.7.3 This indemnification obligation shall apply and not be limited by any limitation on the amount or type of compensation or benefits under worker's compensation laws, disability benefits, or other employee benefits. The obligations of this paragraph shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist under law or this Contract. Nothing in this Contract shall be deemed a waiver by Owner of its sovereign immunity rights under the laws of the State of Florida, other than those specifically waived by virtue of this Contract.

11.7.4 The indemnification obligations of this Contract shall not be limited or reduced by Liquidated Damages that may be assessed against the Contractor.

11.7.5 If the above indemnity provisions are deemed void in whole or in part under Florida law, then the following indemnification obligations shall apply to the extent such provisions are deemed void: Contractor shall indemnify and hold harmless the Owner, the State of Florida Department of

Transportation, its officers and employees, from liabilities, damages, losses and costs, including but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of the Contract.

11.7.6 The indemnification provisions shall survive the expiration or termination of this Contract. The Owner's right to indemnification is in addition to and not in lieu of any other right, obligation, or remedy under the Contract or applicable law, including, without limitation, the Owner's ability to assess Backcharges and Liquidated Damages. The Owner may seek indemnification at any time.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

12.1 UNCOVERING WORK

12.1.1 If any portion of the Work is covered contrary to the RPR's request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the RPR, Owner or any governmental authority, be uncovered for their observation and be recovered or be corrected at the Contractor's expense without change in the Contract Time.

12.1.2 If a portion of the Work has been covered which the RPR, Owner or any applicable governmental authority has not specifically requested to observe prior to its being covered, the RPR may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Owner will approve a Contract Modification in accordance with Article 7 for the direct costs of uncovering and restoring the Work. If such Work is not in accordance with the Contract Documents, the Contractor shall pay such costs unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

12.2 CORRECTION OF WORK

12.2.1 The Contractor shall promptly correct Work rejected by the RPR, Owner or any governmental authority that fails to conform to the requirements of the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected Work, including additional testing, inspections, certification of the Work by engineers or other professionals if required by the Owner, and compensation for the RPR's services and expenses incurred by the Owner. In addition, Contractor shall not be entitled to any compensation or adjustment in the Guaranteed Maximum Price ("GMP") for additional work required as a result thereof, provided, upon Owner's written approval, Contractor may use contingency funds to pay for Work not included in the Contract Documents which add value to the Project (but expressly excluding any demolition or other costs related to the substitution of such Work for previously installed Work and associated design fees).

12.2.2 If, within one (1) year after the date of Substantial Completion of the Work or designated portion thereof, or after the date for commencement of warranties or by terms of an applicable special warranty required by the Contract Documents, any of the work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall, at its sole cost, correct it promptly after receipt of written notice from the Owner or RPR to do so unless the Owner has previously given the Contractor a written acceptance of that specific condition. This period of one year shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion

and the Final Completion of the Work. The obligations under this paragraph shall survive acceptance of the Work under the Contract and termination of the Contract.

12.2.3 The Contractor shall remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

12.2.4 If the Contractor does not correct such nonconforming Work within the reasonable time set forth in the written notice, the Owner may correct or remove such nonconforming work and all costs for such corrections or removals shall be assessed against the Contractor.

12.2.5 The Contractor shall bear the cost of correcting destroyed or damaged Work, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's performing correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

12.2.6 Nothing contained in Article 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the time period of one (1) year as described in Article 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability and damages with respect to the Contractor's obligations other than specifically to correct the Work. Nor shall anything contained in this subsection be construed to limit any other remedies available to the Owner under the Contract or Florida law.

12.3 ACCEPTANCE OF NONCONFORMING WORK

12.3.1 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal or correction. If the Owner accepts the Work under such circumstances, the Guaranteed Maximum Price will be reduced in an equitable manner through a Contract Modification, before final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

13.1 GOVERNING LAW

13.1.1 The Contract shall be governed by the laws of Florida.

13.2 SUCCESSORS AND ASSIGNS

13.2.1 The Contractor binds itself, its successors, assigns and legal representatives to the Owner and the Owner's successors, assigns and legal representatives in respect to covenants, agreements and obligations contained in the Contract Documents. The Contractor shall not assign the Contract in whole or in part without written consent of the Owner, which consent may be granted or withheld in the Owner's sole discretion.

13.2.2 Any transfer of this Contract by merger, consolidation or liquidation or (unless the stock of the Contractor is traded on a national stock exchange or in a generally recognized over the counter securities market) any change in ownership of or power to vote a majority of the outstanding voting stock or ownership

interests of the Contractor shall constitute an assignment of this Contract for the purposes of this Contract. In the event the Contractor assigns or attempts to assign any right or obligation arising under this Contract without the Owner's prior written consent, the Owner shall be entitled to terminate this Contract, in the Owner's sole discretion.

13.3 WRITTEN NOTICE

13.3.1 Written notice shall be deemed to have been duly served to the other party if delivered in person, by certified mail, or regular mail, with a duplicate copy via electronic mail sent the same day, to those persons identified in the Project Directory, unless changed through an acceptable means of written notice. Any written notice shall be deemed duly served upon the date of receipt.

13.4 RIGHTS AND REMEDIES

13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to duties, obligations, rights and remedies otherwise imposed or available by law.

13.4.2 The invalidity or unenforceability of any portion or provision of this Contract shall in no way affect the validity or enforceability of any other portion or provision thereof. Any invalid or unenforceable portion or provision shall be deemed severed from this Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain such invalid or unenforceable portion or provision. In the event any such portion or provision of this Contract is declared invalid, the Parties shall promptly negotiate in good faith new provisions to eliminate such invalidity and to restore this Contract as near as possible to its original intent and effect.

13.5 TESTS, EXAMINATIONS, AND INSPECTIONS

13.5.1 The Contractor shall give the RPR timely notice of when each portion of the Work shall be ready and available for tests, examinations and inspections. All materials and each part or detail of the Work shall be subject to inspection by the RPR. The RPR shall be allowed access to all parts of the Work and shall be furnished with such information and assistance by the Contractor, at no additional cost, as is required to make a complete and detailed inspection. If requested at any time by the Owner or RPR, the Contractor shall furnish satisfactory evidence as to the kind and quality of material and equipment provided in the Work.

13.5.2 Any Work done or materials used without supervision or inspection by an authorized representative of the Owner may be ordered removed and replaced at the Contractor's expense unless the RPR failed to inspect after having been given reasonable notice in writing that the Work was to be performed.

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

13.5.4 The Owner or RPR may make arrangements for any tests, examinations, and inspections with any testing laboratories or entities. The Owner shall bear the costs of such tests, examinations and inspections that the Owner so arranges, unless the testing, examination, inspection or approval procedure reveal that the Work fails to meet the requirements of the Contract Documents. In that case, the Contractor shall bear

all costs arising from the failure, including, but not limited to, the costs to correct the Work and the costs of tests, examinations, inspections and services performed by the RPR and Owner in connection with such tests, examinations, inspections, or approval procedures necessary to establish that the Contractor's work conforms with the requirements of the Contract Documents.

13.5.5 Tests, inspections or approval procedures conducted pursuant to the Contract Documents shall be performed to avoid unreasonable delay in the Work.

13.6 INTEREST

13.6.1 All interest due and payable by the Owner to the Contractor or by the Contractor to the Owner shall be at the statutory legal rate of interest.

13.7 REPRESENTATIONS AND WARRANTIES

The Contractor and Owner represent and warrant to the other that (1) the execution and delivery of the Contract Documents and the performance of the acts and obligations to be performed by each of them have been duly authorized by all necessary corporate (or, if appropriate, partnership) resolutions or actions; and (2) the Contract Documents do not conflict with or violate any agreements to which either party is bound, or any judgment, decree or order of any court against or affecting such party. Each party shall comply with the Owner's Code of Ethics and Business Conduct.

13.8 COMPLIANCE WITH NON-DISCRIMINATION REQUIREMENTS

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

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

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

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

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

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

    a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or

    b. Cancelling, terminating, or suspending a contract, in whole or in part.

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

Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);

- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- 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).

13.9 PUBLIC RECORDS

13.9.1 When the Contractor receives any request to inspect or copy any records that relate to this Contract, it shall promptly provide the Owner with a copy of the request. The Owner will respond to each such request on behalf of itself and the Contractor and the Contractor agrees to fully cooperate with the Owner with regard to all records requests and comply with all decisions made by the Owner regarding the production/disclosure. The Contractor shall:

1. Keep and maintain public records that ordinarily and necessarily would be required by the Owner in order to perform the services being performed by the Contractor.
2. Upon request from the Owner's custodian of public records, provide the public with access to public records on the same terms and conditions that the Owner would provide the records and at a cost that does not exceed the cost provided in chapter 119, Florida Statutes, as amended, or as otherwise provided by law.
3. Except as authorized by law, ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed for the duration of the Contract term as well as following completion or termination of the Contract if the Contractor does not transfer the records to the Owner.
4. Upon completion or termination of the Contract, transfer, at no cost, to the Owner all public records in possession of the Contractor or keep and maintain the public records required by the Owner and the law to perform the service. If the Contractor transfers all public records to the Owner upon completion or termination of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion

or termination of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Owner in a format that is compatible with the information technology systems of the Owner.

5. Failure to grant such public access or otherwise comply with the Owner's request for records will be grounds for immediate termination of this Contract by the Owner. In the event of such failure, the Owner shall also enforce the Contract provisions in accordance with this Contract.
6. Failure to provide the public records to the Owner within a reasonable time may also subject the Contractor to penalties under section 119.10, Florida Statutes.
7. If a civil action is filed against Contractor to compel production of public records relating to this Contract, Contractor will be solely responsible and liable for its attorney's fees and any resulting damages.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, THE CONTRACTOR MUST CONTACT THE OWNER'S CUSTODIAN OF PUBLIC RECORDS, WHO CAN BE REACHED AT: donald.farr@flysrq.com or (941)759-4233.

13.10 NO WAIVER

13.10.1 No waiver of any breach or failure to enforce, at any time or for a period of time, any of the terms, covenants, conditions, or other provisions of this Design Build Contract by the Owner shall in any way affect, limit, modify or waive the Owner's right thereafter to enforce or compel strict compliance with every term, covenant, condition or other provision hereof, without regard to any purported course of dealing, custom of the trade, or otherwise.

13.11 SURVIVAL OF PROVISIONS

13.11.1 In order that the Parties to this Contract may fully exercise their rights and perform their obligations hereunder arising from the performance of the Work, any provisions of this Contract that are required to ensure exercise of such rights or performance shall survive termination of this Contract regardless of the cause for such termination and regardless of whether such termination applies to all or only part of the Contract. Without limitation, all audit provisions shall survive termination of this Contract and all indemnification provisions shall survive the expiration of this Contract with respect to any acts or omissions occurring during the term of this Contract and shall not be affected or reduced by any information with which the Owner has been provided or may otherwise obtain in the future. No provision of the Contract Documents shall be construed to limit the Contractor's liability for, without limitations, defects (latent or patent) in the Work, warranty claims, or to limit recourse to the Contractor's surety.

13.12 CONSULTATION WITH COUNSEL

13.12.1 The Parties represent and acknowledge that they have been provided with the opportunity to discuss and review the terms of this Contract with their respective attorneys before signing it and that they are freely and voluntarily signing this Contract in exchange for the benefits provided herein. The Parties further represent and acknowledge that they have been provided a reasonable period of time within which to review the terms of this Contract.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

14.1 TERMINATION BY THE CONTRACTOR

14.1.1 The Contractor may terminate the Contract because the Work has been stopped for a period of more than thirty (30) calendar days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor, provided the Contractor notifies the Owner and RPR in writing of such intent and the Owner has not cured the Work stoppage within fourteen (14) calendar days of receipt of such notice, for any one of the following reasons:

1. issuance of an order a court or other public authority having jurisdiction which requires all Work to be stopped; or
2. an act of government, such as a declaration of national emergency which requires all Work to be stopped; or
3. because the RPR has not approved an Application for Payment and has not notified the Contractor of the reason for withholding approval, or because the Owner has not made payment within the time stated in the Contract Documents.

14.1.2 If repeated suspensions, delays or interruptions by the Owner constitute in the aggregate more than one hundred percent (100%) of the total number of days scheduled for Substantial Completion, or one hundred and twenty (120) calendar days in any 365-day period, whichever is less, then the Contractor may terminate the Contract unless the Owner has approved a Contract Modification for the increased time and cost in accordance with Article 2.

14.1.3 If the Contractor terminates the Contract per Article 14.1.1 or 14.1.2, the Contractor may recover from the Owner payment for Work executed and actual reasonable costs incurred with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit earned to the date of termination, subject to the limitations in Article 7. There is no entitlement to anticipatory profits, unless agreed to by the Owner as part of a final Contract Modification that fully resolves all outstanding issues on the Project. The Contractor shall substantiate its request for payment as requested by the Owner.

14.1.4 Termination of the Contract or a portion thereof pursuant to Article 14.1.1 or 14.1.2 shall neither relieve the Contractor or its Surety of their responsibilities for the completed Work nor shall it relieve the Contractor and Surety of their obligation for and concerning any Claim arising out of the Work performed.

14.2 TERMINATION BY THE OWNER FOR CAUSE

14.2.1 The Owner may terminate the Contract if the Contractor:

1. fails to perform the Work; fails to provide a sufficient number of adequately skilled workers or supervisory staff who actively staff the job and prosecute the Work, or fails to have available at the site proper equipment or materials to assure completion of the Work in accordance with the terms of the Contract Documents, or
2. performs the Work unsuitably or neglects or refuses to remove materials or to perform anew such Work as may be rejected as unacceptable and unsuitable, or
3. fails to commence the Work, maintain adequate progress towards completion of the Work or discontinues the prosecution of the Work, or
4. fails to carry out the requirements of the Owner's DBE Participation Programs, or

5. allows any final judgment against it to remain unsatisfied for a period of thirty (30) or more days, or
6. makes an assignment for the benefit of creditors, or
7. fails to carry on the Work in accordance with the Contract Documents, or
8. consents to the appointment of a receiver, trustee or liquidator of all or substantially all of the property of Contractor, or
9. is the subject of any order or decree of any court or governmental authority or agency having jurisdiction, appointing a receiver, trustee or liquidator to take possession or control of all or substantially all of the Contractor's property for the benefit of creditors, or
10. if at any time the Surety executing the bond is determined by the Owner to be unacceptable and the Contractor fails to furnish an acceptable substitute Surety within ten (10) business days after notice from the Owner. This ten (10) business day notice and cure period is in lieu of the seven (7) day period set forth in Article 14, or
11. fails to fulfil the insurance requirements of Article 11 or fails to remedy an insurance deficiency within a reasonable time as determined by the Owner, or
12. for a Contract of One Million Dollars ($1,000,000.00) or more, Owner may terminate this Design Build Contract for cause and without the opportunity to cure if the Contractor is found to have submitted a false certification or has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Cuba or Syria.

14.2.2 When any of the above reasons exists, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's Surety seven (7) days written notice and opportunity to cure (which may be extended by the Owner, if the Contractor has made substantial progress towards curing such deficiency, cause or breach to the Owner's satisfaction), terminate the Contract, in whole or in part, provided that the Owner shall not terminate for cause if the Contractor has commenced the cure within the seven (7) day period and thereafter diligently prosecutes the cure to completion, and provided further that any termination for cause that is determined to have been wrongful or unsupported shall be deemed a termination for convenience under Article 14.3, and may finish the Work, or any portion thereof, by whatever reasonable method the Owner may deem expedient, including taking possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor.

14.2.3 When the Owner terminates this Contract for one of the reasons stated in Article 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is completed and the Contractor shall not be relieved from its indemnification and warranty obligations.

14.2.4 If the unpaid balance of the Total Contract Price exceeds the costs of finishing the Work, including compensation for the RPR's services and other expenses made necessary thereby, such excess shall be paid to the Contractor. If the costs of finishing the Work exceed the unpaid balance, the Contractor and its Surety shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the RPR and this obligation for payment shall survive termination of the Contract. Termination of the Contract or a portion thereof pursuant to Article 14.2 shall neither relieve the Contractor of its responsibility for the completed Work nor shall it relieve its Surety of its obligation for and concerning any Claim arising out of the Work performed.

14.3 SUSPENSION OR TERMINATION BY THE OWNER FOR CONVENIENCE

14.3.1 The Owner may, without cause, by written order direct the Contractor to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

14.3.2 An extension of Contract Time equal to the period of suspension shall be the Contractor's sole and exclusive remedy for a suspension by the Owner unless Article 2.2.2 applies to such suspension. No adjustment to Contract Time shall be made to the extent:

1. that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
2. that an equitable adjustment is made or denied under another provision of this Contract.

14.3.3 The Owner may terminate this Contract in whole or in part at any time for its convenience by giving the Contractor seven (7) calendar days' written notice. The Owner shall have the right, in that event, to take over any or all of the Contractor's material, supplies, equipment, or Subcontractors in order to complete the Work and the Contractor shall assign to the Owner such material, supplies, equipment, or Subcontracts/purchase orders. The Contractor shall proceed to complete any part of the Work, as directed by the Owner, and shall attempt to settle all Subcontractor/Subconsultant/Supplier claims and obligations under the Contract with the Owner. Subject to the limitations in Article 7, the Contractor shall only be compensated by the Owner for the Contractor's reasonable costs actually expended for Work properly performed through the date of termination (whether or not accepted), demobilization costs, Subcontract, Subconsultant, and Supplier termination and restocking costs, and overhead and profit on Work performed, . There is no entitlement to anticipatory profits for the terminated portion of the Work unless agreed to by the Owner as part of a final Contract Modification that fully resolves all outstanding issues on the Project. The Contractor shall substantiate its request for payment as requested by the Owner.

14.3.4 The Owner shall terminate the Contract or portion thereof by written notice when the Contractor is prevented from proceeding with the Contract as a direct result of an Executive Order of the President of the United States. When the Contract, or any portion thereof, is terminated pursuant to this Article before completion of all items of work in the Contract, payment will be made, subject to the limitations of Article 7, for the actual number of units or items of Work completed at the Contract Price or as mutually agreed to for items of Work partially completed or not started. No Claims for loss of anticipatory profits shall be permitted. Reimbursement for other overhead expenses (when not otherwise included in the Contract) and moving equipment and materials to and from the job will be considered, the intent being that an equitable settlement will be made with the Contractor. Acceptable materials obtained or ordered by the Contractor for the Work which are not incorporated in the Work shall, at the option of the Owner, be purchased from the Contractor at actual cost as shown by receipted bills and actual cost records at such points of delivery as may be designated by the RPR. Termination of the Contract or a portion thereof pursuant to this Article 14.3.4 shall neither relieve the Contractor of its responsibilities for the completed Work nor shall it relieve its Surety of its obligation for and concerning any Claim arising out of the Work performed.

ARTICLE 15 CLAIMS AND DISPUTES

15.1.1 Time Limits and Claim Substantiation. All Claims by the Contractor must be made within fourteen (14) days after occurrence of the event giving rise to such Claim or within fourteen (14) days after the Contractor first recognizes the condition giving rise to the Claim, whichever is later. Claims must be initiated by written notice to the Owner, provided in accordance with Article 13 and this Article 15, and contain a thorough description of the basis of the Claim, with copies served on the Owner and the RPR. Daily reports, Applications for Payments and other administrative documents required by the Contract do not constitute written notice of a Claim.

15.1.2 The responsibility to substantiate a Claim shall rest with the party making the Claim. All Claims and RCOs made by Contractor shall be substantiated and quantified within thirty (30) days of the written notice by an itemized, detailed cost breakdown sufficient to analyze the value and impact

of the Claim or RCO, stating applicable cost and time impacts in accordance with the requirements of Article 7. Failure to comply with the time requirements for providing written notice shall result in a waiver of the applicable Claim/RCO. Where written notice was timely, failure to provide substantiation within thirty (30) days shall entitle the Owner to reject the Claim or RCO as then submitted, provided the Contractor may resubmit the Claim or RCO with full substantiation within a reasonable period thereafter.

15.1.3 Limited Waiver of Consequential Damages

15.1.3.1 Except as set forth in Section 15.1.3.2, the Contractor and Owner waive all Claims against each other for consequential damages arising out of or relating to this Contract.

This mutual waiver includes:

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit (except anticipated profit arising directly from the Work).

This mutual waiver is also applicable in the event either party terminates the Agreement in accordance with Article 14.

15.1.3.2 The Owner does not waive (and shall be entitled to recover) consequential damages under the following limited circumstances: (i) consequential damages covered and paid by any insurance required by this Agreement or applicable to the Project; (ii) consequential damages caused by or arising from Contractor's willful misconduct or gross negligence; and (iii) liquidated damages assessed in accordance with the Contract Documents. Contractor's insurance policies required by the Contract Documents shall not contain any endorsements or riders that limit or exclude recovery of consequential damages that arise from a covered loss, claim or occurrence.

15.1.4 Continuing Contract Performance. Pending final resolution of a Claim, including, but not limited to during the process set forth in Articles 15.2 and 15.4, the Contractor shall proceed diligently with performance of the Work. Neither the Owner's payment on an Application for Payment pending final resolution of a Claim nor the Owner's agreement to relief in connection with a Claim, RCO, or otherwise shall be deemed to expressly, impliedly, by course of conduct or otherwise waive the requirement for notice and substantiation of Claims.

15.1.5 By making final payment, the Owner does not waive any Claim that arises from: (a) liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled at the time final payment is made; (b) latent defects; (c) failure of the Work to comply with the Contract Documents; (d) terms of special warranties required by the Contract Documents; or (e) any claim for overpayment, including, but not limited to, those resulting directly or indirectly from any erroneous measurement, estimate, or quantity.

15.1.6 Claims for Concealed, Unforeseen or Unknown Conditions. If conditions are encountered at the site that are (1) concealed physical conditions which differ materially from those indicated in the Contract or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract, then the Contractor shall give written notice to the RPR promptly before conditions are disturbed and in no event later than seven (7) days after first

observance of the conditions. This notice shall include a written description of the concealed or unknown condition and the Contractor's proposed method to resolve the concealed or unknown condition. If the RPR determines that the conditions at the site are not materially different from those indicated in the Contract, and that no change in the terms of the Contract is justified, the RPR shall so notify Contractor in writing. The Contractor shall notify the RPR of any opposition to the RPR's determination within seven (7) days after the RPR has given notice of its determination. Substantiation and quantification of any Claims related to concealed or unknown conditions must be provided within thirty (30) days of the date that the Contractor's Claim notice is received by the RPR or thirty (3) days from the date that the RPR has issued direction on how to resolve the concealed or unknown condition. If such concealed or unknown site conditions are encountered, and if the critical path is directly impacted as a result, the Contractor shall be entitled to an adjustment in the Total Contract Time for the delay caused by the correction of concealed or unknown conditions, subject to the requirements of Articles 7 and 8. If such concealed or unknown site conditions are encountered, requests for compensation for the reasonable direct costs that are caused solely by the delay are subject to the requirements of Article 7. If the concealed or unknown condition causes a decrease in the cost of performing the Work, the Owner shall be entitled to deduct the decreased cost from the Total Contract Price.

15.1.7 Injury or Damage to Person or Property. If Contractor suffers injury or damage to person or property because of an act or omission of the Owner, of the Owner's employees or agents, or of others for whose acts the Owner is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the Owner in accordance with Article 13.3, and no later than fourteen (14) days after first observance. The notice shall provide sufficient detail to enable the Owner to investigate the matter.

15.2 CERTIFICATION OF SUBCONSULTANT OR SUBCONTRACTOR CLAIM

15.2.1 For any Claim made by the Contractor against the Owner, the basis of which includes a Claim by a Subconsultant, Subcontractor, or any other person or entity under the Contractor's control, for acts or omissions allegedly attributable to the Owner, the Contractor must certify by affidavit that it has carefully examined each Subconsultant's or Subcontractor's Claim and has verified the truth and accuracy of each Claim. Such certification under oath must be made by the Contractor prior to the submission of any Subconsultant or Subcontractor Claim to the Owner and shall constitute an express condition precedent to the Contractor having a cause of action against the Owner that includes a Subconsultant's Claim or a Subcontractor's Claim. A copy of such certification shall be provided to the Owner contemporaneously with the submission of any Subconsultant or Subcontractor Claim to the Owner. The Owner will not consider any Claim that has not been properly certified by the Contractor, nor is the Contractor entitled to relief by the Owner unless the certification contemplated by this Section has been properly furnished to the Owner.

15.3 MANDATORY MEETING OF THE PRINCIPALS AND PRE-SUIT MEDIATION

15.3.1 All Claims, disputes, or other matters in question arising out of or relating to the Contract shall be subject to a meeting of the principals ("Meeting of the Principals") to address the issues in an attempt to resolve the disputes. Such meeting shall be scheduled within ten (10) business days after written notice and demand to meet under this provision. If the parties have not settled the dispute, either party may send written notice of their intent to mediate and engage a mutually acceptable mediator. The mediator shall be a Florida certified mediator experienced in resolving construction disputes and venue for the mediation shall be Manatee County, Florida. Mediation

must occur before a lawsuit may be filed. Mediation shall not occur until the conclusion of the DRB proceedings. Discovery prior to the scheduled mediation shall be limited to one (1) request for production of documents and two (2) depositions per party not exceeding 8 hours total time per deposition. Each party shall equally bear the costs of mediation and shall be solely responsible for its own attorneys' fees and other legal costs prior to and during the mediation process. In the event the case does not settle at mediation, the parties may re-depose either or both witnesses on non-repetitive matters.

15.4 RESOLUTION OF DISPUTES

15.4.1 The parties agree that all legal proceedings that relate in any way to this Contract shall be brought only in and for Manatee County, Florida.

15.4.2 The Contractor shall, within fifteen (15) business days from delivery of notice from the Owner or RPR, produce for examination by the Owner, RPR, or an authorized representative of either of them, all of the Contractor's records related to the Work or under the Contract, including, but not limited to, books of account, bills, invoices, payrolls, Subcontracts, Subcontractor payment requests, time sheets/cards, progress records, daily logs, daily reports, cost accounting records, correspondence, and any other document or record regarding all of the Contractor's acts and transactions in connection with or relating to or arising by reason of the Contract, and provide appropriate personnel familiar with such records to explain such records and answer questions regarding any Claims made under this Contract. The Contractor's failure to furnish the requested information or appear for examination shall result in the suspension of the Owner's obligation to evaluate the affected Claims until the requested information is furnished, and the Owner may seek an order compelling production; provided that only a willful and continued failure to produce records after written notice and a reasonable opportunity to comply shall result in waiver of the affected Claim. In addition to the foregoing, to the extent any Claim by the Contractor includes any claims by Subcontractors or Subconsultants, arising under or by reason of this Contract, the Owner shall also have the right through its designees, upon written notice, to require the Subcontractor to produce the above described records related to Work in connection with this Contract in the Subcontractor's or Subconsultant's possession and to submit itself and persons in its employ to similarly explain its records and answer questions, within fifteen (15) business days from delivery of written notice from the Owner to the Contractor requesting same. The Contractor shall ensure that the Subcontractor or Subconsultant timely complies with this provision.

15.4.3 It is further stipulated and agreed that no person or entity has power to waive any of the foregoing provisions of this Article 15, and that in any action against the Owner to recover on any claim or any sum in excess of the sums certified by the RPR to be due under or by reason of this Contract, the Contractor must allege in its complaint, and prove at trial, compliance with the provisions of this Article 15.

ARTICLE 16 E-VERIFY

Effective January 1, 2021, the Contractor shall register with and utilize the U.S. Department of Homeland Security's Employment Eligibility Verification System (E-Verify), in accordance with the terms governing the use of the system, to verify the work authorization status of all newly hired employees, performing work in the United States. The Contractor shall include an express provision in all Subcontracts requiring the Subconsultants and Subcontractors to do the same and require all Subconsultants and Subcontractors to provide the Contractor with an affidavit stating that the Subconsultant/Subcontractor does not employ,

contract with, or subcontract with an unauthorized alien. The Contractor must retain all such affidavits for the duration of the Contract. In accordance with Florida Statutes §448.095, the Owner shall terminate this Contract if Owner has a good faith belief that the Contractor knowingly employs an unauthorized alien or has otherwise violated Florida Statute §448.09(1). The Owner shall require the Contractor to terminate the contract of a Subconsultant/Subcontractor if Owner has a good faith belief that the Subconsultant/Subcontractor has knowingly violated Florida Statute §448.09(1). The Contractor may challenge any such termination in accordance with Florida Statutes §448.095. Consequences for a violation of this subsection also include liability for the Owner's costs as a result of the termination and debarment for at least one (1) year in accordance with Florida Statutes §448.095.

END OF SECTION

HAZARDOUS MATERIALS

PART 2 - GENERAL

2.1. SECTION INCLUDES

A. Alerting Contractors against the presence of hazardous materials in certain items in the building and alerting against the use of hazardous materials.

2.2. DEFINITION

A. As used in this Section, Hazardous Materials shall mean any hazardous substance as defined in 42 USC Section 9601 or regulations adopted pursuant to that Section or any material listed on the Florida Substance List required by Section 442.103, Florida Statutes.

2.3. CONSTRUCTION

A. Asbestos, asbestos containing material, lead or other hazardous materials are not allowed during the construction of new work or renovations at the Airport.

B. The Contractor will identify hazardous materials that are currently used in the construction process and in the way of new construction and shall seek specific approval, both as to the type of hazardous material and as to limits of usage, from the Owner.

PART 3 - PRODUCTS (Not Applicable)

PART 4 - EXECUTION (Not Applicable)

END OF SECTION

SPECIAL CONDITIONS REGARDING CONSTRUCTION
AT AIRPORT FACILITIES

Table of Contents

ARTICLE 1 AIRPORT LAYOUT PLAN CHANGE REQUEST 2
ARTICLE 2 RESTRICTIONS REGARDING AIR OPERATIONS AREA 2
ARTICLE 3 CONTRACTOR OPERATIONS ON THE AOA 2
ARTICLE 4 AOA CLOSURES 3
ARTICLE 5 NAVAIDS AND OTHER SIGNALS 3
ARTICLE 6 FAA REQUIRED PROVISIONS 4
ARTICLE 7 USE OF SITE 5
ARTICLE 8 BARRICADES, WARNING SIGNS AND HAZARD MARKINGS 5
ARTICLE 9 CONTRACTOR'S RESPONSIBILITY FOR UTILITY SERVICE AND FACILITIES OF OTHERS 6
ARTICLE 10 ARCHAEOLOGICAL AND HISTORICAL FINDINGS 6
ARTICLE 11 INSPECTION BY OTHERS 6

SPECIAL CONDITIONS REGARDING CONSTRUCTION AT AIRPORT FACILITIES

ARTICLE 1 AIRPORT LAYOUT PLAN CHANGE REQUEST

1.1 Prior to the start of construction, the Contractor shall be required to review the FAA permit for the construction equipment and machinery planned to be used at the Airport for the Project. If there is any modification required, an amendment shall be filed to the FAA by the Contractor through the RPR. The review and approval process requires a minimum of forty-five (45) days. No construction equipment or machinery shall be permitted on the Airport property without prior approval from the FAA and the Owner. This construction equipment and machinery, with the approval, shall be marked and lighted in accordance with the FAA requirements or as shown and specified in the construction documents.

ARTICLE 2 RESTRICTIONS REGARDING AIR OPERATIONS AREA

2.1 The Contractor shall control its operations and the operations of its Subcontractors, Subconsultants and Suppliers so as to provide for the free and unobstructed movement of aircraft in the Air Operations Area ("AOA") of the Airport. When the Work requires the Contractor to conduct its operations within the AOA, the Work shall be coordinated with the Owner's operations department (through the Owner's Authorized Representative-RPR) at least seventy-two (72) hours prior to commencement. The Contractor shall not close an AOA until authorized by the RPR and until the necessary temporary markings and lighting are in place as provided in Paragraph 4, AOA CLOSURES.

ARTICLE 3 CONTRACTOR OPERATIONS ON THE AOA

3.1 Aircraft traffic will continue to use existing runways, aprons, and taxiways of the Airport during the time that Work under the Contract is being performed. The Contractor shall at all times conduct its Work so as to create no hindrance, hazard or obstacle to aircraft using the Airport and must, at all times, conduct the Work in conformance with requirements of the Owner and the FAA Chief Control Tower Operator or authorized representatives.

3.2 The Contractor shall identify each motorized vehicle or piece of construction equipment in conformance to the current edition FAA Advisory Circular 150/5370-2G, Operational Safety on Airports During Construction.

3.3 All runways, taxiways, and aprons which have been used by the Contractor's vehicles or equipment shall be returned to the condition existing prior to any closing or crossing and prior to the reopening of these areas to aircraft traffic. All existing wooded or grassed areas beyond the limit of Work damaged by the Contractor's operations shall be restored to its original condition by the Contractor.

3.4 If the Contractor is given approval to work at night, the Contractor shall provide lights at the work site and along the access route. Type, direction, number and location of lights shall be subject to the approval of the Owner and FAA Chief Control Tower Operator.

3.5 Open flame type lighting is prohibited on the AOA.

3.6 The Contractor is to develop and provide the Safety Plan Compliance Document (SPCD) for the project in conformance with the current edition of FAA Advisory Circular 150/5370-2G Operational Safety at Airports During Construction.

ARTICLE 4 AOA CLOSURES

4.1 If absolutely essential, in order to permit construction, runways or taxiways may be closed to aircraft operations during periods when weather or other conditions do not require its use by aircraft, upon advance written application by the Contractor to the Owner or its RPR on a form to be provided by the Owner. The Contractor will schedule and organize its Work so that a minimum of closings or crossing of runways and taxiways will be required during the performance of the Work.

4.2 When the Work requires closing an AOA of the Airport or portion of such area, the Contractor shall furnish, erect and maintain temporary markings and associated lighting conforming to the requirements of the current edition FAA Advisory Circular 150/5340-1M, Standards for Airport Markings.

ARTICLE 5 NAVAIDS AND OTHER SIGNALS

5.1 There are installed on the Airport FAA NAVAIDs or Owner NAVAIDs and other electronic and visual signals (hereinafter collectively NAVAIDS) which may include but not be limited to, ASR, UHF, NDB and VHF Receivers and Transmitters, National Weather Service Facilities, lighting, electric cables and controls relating to such NAVAIDs and facilities and other electric power cables serving other facilities. Such NAVAIDs, National Weather Service and other facilities and electric cables must be fully protected during the entire construction time. Work under this Contract can be accomplished in the vicinity of these facilities and cables only at approved periods of time, which approval is subject to withdrawal at any time because of changes in the weather, emergency conditions on the existing airfield areas, anticipation of emergency condition and for any other reason as determined by the RPR acting under the orders and instructions of the Owner or the designated FAA representative. Any instructions to the Contractor to clear any given area, at any time by the RPR or the Airport Director of Operations (by radio or other means) shall be immediately executed. Construction work will be commenced in the cleared area only when additional instructions to this effect are issued. To the extent that they are known, the approximate locations of NAVAIDs, National Weather Service and other facilities have been indicated on the Contract Drawings. The Owner does not warrant or guaranty the accuracy or completeness of the location information relating to NAVAIDs, National Weather Service and other facilities appearing on the Contract Drawings. Any inaccuracy or omission shall not relieve the Contractor of its responsibility to protect such existing facilities from damage or unscheduled interruption of service.

5.2 Power and control cables leading to and from any NAVAIDs, National Weather Service and other facilities will be marked in the field by the Contractor, before any work in its general vicinity is started. Thereafter, through the entire time of this construction, they shall be protected from any possible damage.

5.3 These special provisions intend to make perfectly clear the need for protection of FAA NAVAID's, National Weather Service and other facilities and cables by this Contractor at all times.

5.4 The Contractor shall immediately repair at its expense, with identical material by skilled workers, any underground cables serving FAA NAVAIDs, National Weather Service and other Airport

facilities, which are damaged by its workers, equipment or work. Prior approval of the FAA must be obtained for the materials, workers, time of day or night, method of repairs, or for any temporary or permanent repairs the Contractor proposes to make to any FAA NAVAIDs, National Weather Service facilities or other cables and controls serving such NAVAIDs and facilities which are damaged by the Contractor. Prior approval by the Owner must be obtained for the materials, workers, time of day or night, method of repairs for any temporary or permanent repairs the Contractor proposes to make to any of the airport facilities and cables damaged by the Contractor.

ARTICLE 6 FAA REQUIRED PROVISIONS

6.1 Agreements with the United States and State of Florida.

6.1.1 This Contract shall be subject to all restrictions of record affecting the Airport and the use thereof, all Federal and Florida laws and regulations affecting the same, and shall be subject and subordinate to the provisions of any existing agreement between the Owner and the United States of America or the State of Florida, their board, members, agencies or commissions and to future agreements between the foregoing relative to the operation or maintenance of the Airport, the execution of which may be required as a condition precedent to the expenditure of Federal or state funds for the development of the Airport, or as a condition precedent to the use of the Airport, or any part thereof, by the Contractor, the Owner or otherwise. All provisions hereof shall be subordinate to the right of the United States of America to terminate the right of the Contractor, the Owner, or others, to occupy or to use the Airport, or any part thereof, during the time of war or national emergency. The Contractor shall comply with all Special Provisions for federally-funded contracts included in the Contract Documents.

6.2 Fair Prices.

6.2.1 If the Contractor shall furnish any services to the public at the Airport, it shall furnish said services on a fair, equal and non-discriminatory basis to all users thereof and shall charge fair, reasonable and non-discriminatory prices for each unit of service, provided that the Contractor shall be allowed to make reasonable and non-discriminatory discounts or rebates or other similar types of price reductions to volume purchasers, if any.

6.3 Miscellaneous Provisions:

1. The Contractor will not erect or permit the erection on the Airport property of any permanent or temporary structure or facility which would interfere materially with the use, operation or future development of the Airport, or permit the generation of electronic emissions that would interfere with communications and navigation by aircraft using the Airport.
2. This Contract confers no right upon the Contractor to use any landing area or air navigation facility at the Airport, and hence, nothing contained in this Contract shall be construed to grant, or to authorize the granting of, an exclusive right for the use of any such landing area or air navigation facility in violation of Section 308 of the Federal Aviation Act of 1958.
3. The Contractor shall comply with all applicable Transportation Security Administration (TSA) regulations concerning Airport security, including but not limited to 49 CFR 1542 and the Airport Security Plan (ASP).
4. The Contractor shall not, in its operations hereunder, generate any odors, fumes, smoke, noise, glare, vibration, electronic emissions, soot, dust or atmospheric pollution, sewage, industrial or other wastes, in violation of any applicable law, regulation or procedure of any Federal, state, county or city authority having jurisdiction with respect to such matters.

5. The Owner reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Airport, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation or flight in the said airspace, and for use of said airspace for landing on, taking off from or operating on the Airport.
6. The Contractor expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the Airport to such a height so as to comply with Federal Aviation Regulations, Part 77.
7. The Contractor agrees for itself and its Subcontractors to require any lights on the Airport to be constructed, focused or arranged in a manner that will prevent the lights from casting beams in an upward direction so as to interfere with the vision of pilots in aircraft.
8. If the FAA determines that any right or claim of right in or to the property herein creates an undue risk or interference with the operation of the Airport or the performance of or compliance with any covenants and conditions to which the use of the Airport is subject, said right or claim shall be extinguished or modified in a manner acceptable to the FAA.

ARTICLE 7 USE OF SITE

7.1 Personal vehicles of employees and vehicles operated by vendors of goods or services will not be permitted beyond the Contractor's parking area.

7.2 No signs shall be placed on the site, nor shall any photographs be taken without the RPR's prior written consent. No visitors other than persons engaged in the Work shall be permitted on the construction site without the RPR's prior written consent.

ARTICLE 8 BARRICADES, WARNING SIGNS AND HAZARD MARKINGS

8.1 For work on the AOA, the following requirements are in addition to those prescribed in Division 1 Specifications (if any).

8.2 The Contractor shall furnish, erect and maintain markings and associated lighting of open trenches, excavations, temporary stock piles and parked construction equipment that may be hazardous to the operation of emergency fire-rescue or maintenance vehicles on the Airport in reasonable conformance to the current edition FAA Advisory Circular 150/5370-2G, Operational Safety on Airports During Construction.

8.3 The Contractor shall furnish and erect all barricades, warning signs, and marking for hazards prior to commencing work which requires such erection and shall maintain the barricades, warning signs, and markings for hazards until their dismantling is approved in writing by the RPR.

8.4 The Contractor shall identify each motorized vehicle or piece of construction equipment in reasonable conformance to the most current version of AC 150/5370-2G, Operational Safety on Airports During Construction and AC 150/5210-5D, Painting, Marking, and Lighting of Vehicles Used on an Airport.

8.5 All cranes used on the site shall be marked in the following manner:

2. During daylight hours, a flag shall be installed at the highest point of the equipment. The flag shall be aviation surface orange and be a minimum of five (5) feet square.

3. During non-daylight hours, at least one steady burning light should be installed at the highest point of equipment on a horizontal plane in a manner to insure unobstructed visibility of aircraft at any normal angle of approach.

ARTICLE 9 CONTRACTOR'S RESPONSIBILITY FOR UTILITY SERVICE AND FACILITIES OF OTHERS

9.1 For work on the AOA, the following requirements are in addition to those prescribed in Division 1 Specifications, if any.

9.2 To the extent that such public or private utility services, FAA or National Oceanic and Atmospheric Administration (NOAA) facilities, or utility services of other governmental agency are known by the Owner to exist within the limits of the Contract Work, the approximate locations have been indicated on the Contract Drawings.

9.3 The Contractor shall cooperate with the owner of any public or private utility service, FAA or NOAA, or a utility service of another governmental agency that may be authorized by the Owner to construct, reconstruct or maintain such utility services or facilities during the progress of the Work. In addition, the Contractor shall control its operations to prevent the unscheduled interruption of such utility services and facilities.

ARTICLE 10 ARCHAEOLOGICAL AND HISTORICAL FINDINGS

10.1 Unless otherwise specified in the Contract Documents, the Contractor is advised that the site of the work is not within any property, district or site, and does not contain any building, structure or object listed in the current National Register of Historic Places published by the United States Department of the Interior.

10.2 Should the Contractor encounter, during its operations, any building, part of a building, structure, or object which is incongruous with its surroundings, the Contractor shall immediately cease operations in that location and notify the RPR. The RPR will investigate the Contractor's finding and will direct the Contractor to either resume or suspend operations.

ARTICLE 11 INSPECTION BY OTHERS

11.1 Pursuant to a Public Transportation Grant Agreement between the State of Florida Department of Transportation and the Owner, the State of Florida may pay a portion of the costs of this improvement. The construction work and labor shall be done in accordance with the laws affecting and regulations of the State of Florida Department of Transportation. The construction work and materials, therefore, will be subject to inspection by the State of Florida Department of Transportation or its agents as it or they may deem necessary; provided, however, that such inspections shall not be construed so as to make the State of Florida Department of Transportation a party to this Contract and shall not interfere with the performance of the obligations of any party to this Contract.

END OF SECTION

SECURITY AND BADGING AT AIRPORTS

PART 1 - GENERAL

1.1. RELATED DOCUMENTS

A. The Contractor and their subcontractors shall comply with all security requirements specified herein.

1.2. DEFINITIONS

A. AOA – Aircraft Operating Area
B. Airport Identification Media – identification badge issued by the Owner's ID Office
C. Red Photo ID Badges – photo identification badge issued by the Owner's ID Office for Secured/SIDA, Sterile and/or AOA areas
D. Green Photo ID Badges – photo identification badge issued by the Owner's ID Office for Secured/SIDA, Sterile areas
E. Orange Photo ID Badges – photo identification badge issued by the Owner's ID Office for non-sterile areas of the terminal only
F. Blue Non-photo ID Badges – identification badge issued by the Owner's ID Office for AOA only
G. Yellow Non-photo ID Badges – identification badge issued by the Owner's ID Office for General Aviation Ramp/Hangars only
H. Automobile Decal – Owner issued decal displayed on vehicle, color-matched to operator's ID badge and limited by date.

1.3. CONTRACTOR PERSONNEL SECURITY ORIENTATION

A. Prior to working in the construction area, the Contractor shall inform all Contractor personnel of these requirements and, from time to time, other security provisions adopted by the Owner. All new employees shall also be briefed on these requirements prior to working in the construction area. All authorized unescorted employees requiring access will receive security training prior to being issued identification media. All authorized signatories for each company requesting access will receive specialized training from the Access Control Office regarding processes, access and required documentation as well as fees.

1.4. ACCESS TO SITE

A. Contractor's access the site as shown on the plans or as directed by the RPR. The Contractor shall not permit any unauthorized construction personnel or traffic on the site. The Contractor shall be responsible for traffic control to and from the various construction areas on the site. The Contractor is responsible for immediate cleanup of any debris deposited along any access road as a result of his/her construction traffic. Directional signage at the access gate and along the delivery route to the storage area or work site shall be as directed by the RPR. Should a construction gate access the AOA, the Contractor shall coordinate with the Owner's Security through the Owner/RPR to request access point and schedule the Owner's security staff.

1.5. MATERIAL DELIVERY TO THE SITE

A. All Contractor's material orders for delivery to the site shall use as a delivery address the access point at the Contractor's storage site at the airport to avoid delivery trucks from entering into the airport or taking short cuts through the perimeter gate and entering into aircraft operations areas inadvertently. Deliveries to the terminal facility or the AOA shall be arranged with the RPR prior to delivery to ensure no operational interruptions and the Owner will make arrangements for placement on the vendor list.

1.6. CONSTRUCTION AREA LIMITS

A. The location of construction material storage areas, equipment storage areas, parking areas and other areas required for the Project will be requested by the Contractor and approval will be coordinated by the RPR. The Contractor shall erect and maintain suitable fencing, marking and/or warning devices suitable for both day/night use to delineate the perimeter of all such areas.

PART 2 - PRODUCTS (not applicable)

PART 3 - EXECUTION

3.1. AIRPORT IDENTIFICATION MEDIA, AUTOMOBILE DECALS AND KEY REQUEST APPLICATIONS

A. Authorization to apply for any Airport Identification Media (badges), Automobile Decals and Key Requests will be in the form of an Introduction Letter. Introduction letters will be provided for the Contractor and its subcontractors.

B. The Contractor and each Subcontractor shall designate representatives, in writing on company letterhead (format to be provide by the Access Control Office), to be the authorized signatories for badge, decal and key requests. All authorized signatories must receive required training, even if they are not applying for an ID.

C. All personnel applying for a pictured ID badge must attend an Airport Security Training Program class and, if applicable, a Vehicle Operating Class and/or Movement Area Training Class. The Computer Based Training Classes are provided on a walk in basis. The training office hours in Access Control Office are Monday through Friday from 0730 – 1400 hours.

D. Any outstanding fees for badges, decals or keys will be deducted from Contractor's final payment.

3.2. BADGE APPLICATION PROCESS

A. All new applicants requiring unescorted access to a Secured or Sterile area of the airport must undergo a Criminal History Records Check (CHRC), a Security Threat Assessment (STA), and are subject to the requirements of Title 49 of the Code for Federal Regulations Part 1542 or 1544 and the Airport Security Improvement Act of 2000. The CHRC and STA typically take less than 7-10 calendar days but may take longer depending on applicant's history. If granted access, a pictured ID badge will be issued in a color representative of the work area.

B. If an applicant has a Criminal History Record, their application must be reviewed by the Airport Security Coordinator. The applicant may be required to submit additional documentation. If an individual has ever pleaded guilty or nolo-contendere (no contest) to, had an adjudication withheld, been convicted or found not guilty by reason of insanity to any of the crimes listed in Title 49 of the Code of Federal Regulations, they may be prohibited access.

C. ID badges for the Aircraft Operations Area do not require a CHRC or fingerprinting but do require a Security Threat Assessment (STA).

D. Badges will be issued for the duration of the project, renewable yearly. All outstanding and/or expired or non-returned badges and/or keys must be resolved, by paying fees or physically returning the badges(s) and/or key(s), before renewals, extensions or new badges and/or keys will be authorized.

3.3 FEES ASSOCIATED WITH ACCESS CONTROL MEDIA

- Airport Badge with CHRC $60
- Airport Badge STA only $30
- Lost / Non-returned Badge $200
- Damaged Badge $25
- Security Fee (added to all Red and Green badges; new and renewal) $100

Fees can be paid by company check or cash at time of processing. The Owner will not reimburse Contractor for any fees or costs associated with the security requirements.

3.4 AUTOMOBILE DECAL REQUIREMENTS

A. Applications for vehicle access to the AOA shall be obtained from the Airport ID Office. Applicants and vehicles must be covered by the company's general and automobile liability insurance policies of not less than Five Million Dollars ($5,000,000) per occurrence "All Vehicles" coverage for each policy. A certificate of insurance must be submitted as outlined in General Provisions 70-25 in a form acceptable to the Authority.

B. Automobile decals will expire on the expiration date of either the project, vehicle driver's ID badge or the insurance, whichever is sooner.

C. All vehicles must have AOA decals on the rear window and have appropriate company logos on the right and left side of the vehicles. Logos shall be of a size to be seen from 100 feet and may be magnetic. Only employees with photo ID badges, permitted for driving, are allowed to drive on the AOA or to escort other vehicles.

3.5 VEHICLE REQUIREMENTS ENTERING AND DRIVING ON THE AOA TO ACCESS TERMINAL/AIRSIDES

A. All unescorted vehicles must display valid AOA vehicle decals and appropriate company signage on exterior of vehicle.

B. All vehicles will be searched before entering the AOA.

C. Vehicles can be left unattended/parked in designated areas while on the AOA, including being parked in the baggage makeup areas, if authorized by OWNER to be parked for project purposes.

D. Vehicles left unattended shall remain unlocked with keys available.

E. Vehicles can be left unattended/parked in designated areas while on the AOA if authorized by the Airport Authority to be parked for project purposes.

F. Vehicles left unattended shall remain locked, including pickup side or bed toolboxes.

3.6 VEHICLE REQUIREMENTS ENTERING AND DRIVING UNDER TERMINAL BUILDING

A. All vehicles must display appropriate company signage on exterior of vehicle.

B. All vehicles will be searched before entering terminal ramp from direct access gates.

C. Vehicles must always be locked when left 'unattended'.

D. No vehicle taller than 10 feet may drive under the Concourse B bridge connector.

E. No vehicle shall drive or park under a passenger boarding bridge.

3.7 VEHICLE REQUIREMENTS NEAR TERMINAL AND TERMINAL TOP PARKING AREA

A. All contractor vehicles parked at the terminal building, commercial lanes, ticketing and baggage ramps, loading/off-loading operations must have the contractors name and logo on both sides of the vehicle.

B. All contractor vehicles parked at the terminal building, commercial lanes, ticketing and baggage curbs, must be searched by Airport Police.

3.8 CONSTRUCTION SITES/LAYDOWN AREAS

A. Demising areas will be locked at all times with Owner's lock, unless attended by contractor personnel. Lock is available from Owner's lock shop.

B. Stored materials located within the terminal/airsides area will be enclosed with demising wall/fencing and will be subject to searches.

C. Dumpsters located within 300 feet of the terminal will be located inside a demised/fenced enclosure and will not be required to have a photo ID badged monitor.

D. Dumpsters located in a public area (outside of a demised/fenced enclosure) will be required to have a photo ID badged monitor.

E. Dumpsters will be emptied by the end of every business day.

F. There shall also be a means to remove the dumpster within reasonable time due to an emergency or security issues.

G. All prohibited items in the Sterile Area must be secured or controlled at all times.

3.9 SECURITY VIOLATIONS

A. The Owner will enforce all security procedures. Any violators will have their Access removed for a minimum period of seven calendar days.

B. An individual who has had access privileges removed may not be escorted into any security are during that time. Remedial security training must also be taken for security violations.

DURING PERIODS OF HEIGHTENED HOMELAND SECURITY ALERT LEVELS, ADDITIONAL SECURITY MEASURES WILL BE IMPOSED. END OF SECTION

SPECIAL PROJECT PROCEDURES FOR SENSITIVE SECURITY INFORMATION

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

A. 49 CFR parts 15 and 1520

B. Florida Statutes sections 331.22, 119.071, and/or 281.301

C. DHS Fm 11000_6 [Non-disclosure Agreement (NDA)]

1.2 DEFINITIONS

A. SSI: Sensitive Security Information – also noted as (SSI) – is information that, if publicly released, would be detrimental to transportation security, as defined by Federal regulation 49 C.F.R. part 1520. Although SSI is not classified information, there are specific procedures for recognizing, marking, protecting, safely sharing, and destroying SSI. Persons receiving SSI are considered "covered persons" under the SSI regulation in order to carry out responsibilities related to transportation security and are obligated to protect this information from unauthorized disclosure.

1.3 DESCRIPTION

A. General: The following information indicates requirements for access to, control of, and/or distribution of Project Documents Marked as Sensitive Security Information or SSI.

1. You Must – Lock All SSI: Store SSI in a secure container such as a locked file cabinet or drawer (as defined by Federal regulation 49 C.F.R. part 1520.9 (a)(1)).
2. You Must – When No Longer Needed, Destroy SSI: Destruction of SSI must be complete to preclude recognition or reconstruction of the information (as defined by Federal regulation 49 C.F.R. part 1520.19).
3. You Must – Mark SSI: The regulation requires that even when only a small portion of a paper document contains SSI, every page of the document must be marked with the SSI header and footer shown at left (as defined by Federal regulation 49 C.F.R. part 1520.13). Alteration of the footer is not authorized.

B. Reasonable steps must be taken to safeguard SSI. While the regulation does not define reasonable steps, the TSA SSI Branch offers the following best practices as examples of reasonable steps:

1. Use an SSI cover sheet on all SSI materials.

2. Electronic presentations (e.g., PowerPoint) should be marked with the SSI header on all pages and the SSI footer on the first and last pages of the presentation.
3. Spreadsheets should be marked with the SSI header on every page and the SSI footer on every page or at the end of the document.
4. Video and audio should be marked with the SSI header and footer on the protective cover when able and the header and footer should be shown and/or read at the beginning and end of the program.
5. CDs/DVDs should be encrypted or password-protected and the header and footer should be affixed to the CD/DVD.
6. Portable drives including "flash" or "thumb" drives should not themselves be marked, but the drive itself should be encrypted or all SSI documents stored on it should be password protected.
7. When leaving your computer or desk you must lock all SSI and you should lock or turn off your computer.
8. Taking SSI home is not recommended. If necessary, get permission from a supervisor and lock all SSI at home.
9. Do not handle SSI on computers that have peer-to-peer software installed on them or on your home computer.
10. Transmit SSI via email only in a password protected attachment, not in the body of the email. Send the password without identifying information in a separate email or by phone.
11. Passwords for SSI documents should contain at least eight characters, have at least one uppercase and one lowercase letter, contain at least one number, one special character and not be a word in the dictionary.
12. Faxing of SSI should be done by first verifying the fax number and that the intended recipient will be available promptly to retrieve the SSI.
13. SSI should be mailed by U.S. First Class mail or other traceable delivery service using an opaque envelope or wrapping. The outside wrapping (i.e. box or envelope) should not be marked as SSI.
14. Interoffice mail should be sent using an unmarked, opaque, sealed envelope so that the SSI cannot be read through the envelope.
15. SSI stored in network folders should either require a password to open or the network should limit access to the folder to only those with a need to know.
16. Properly destroy SSI using a cross-cut shredder or by cutting manually into less than ½ inch squares.
17. Properly destroy electronic records using any method that will preclude recognition or reconstruction.
18. Maintain an up-to-date record of all SSI Documents and list of persons with access to SSI Documents.

1.4 TRANSMISSION

A. When transmitting SSI, the SSI marking must be applied to the transmittal document (letter, memorandum, or fax). The transmittal document must contain, if applicable, a disclaimer noting that it is no longer SSI when it is detached from the SSI it is transmitting (transmittal e-mails do not need to contain this disclaimer), and a

warning that if received by an unintended or different recipient, the sender must be notified immediately.

B. When discussing or transmitting SSI to another individual(s), DHS Covered Persons must ensure that the individual with whom the discussion is to be held or the information is to be transferred has a valid Need-to-know. In addition, DHS Covered Persons must ensure that precautions are taken to prevent unauthorized individuals from overhearing the conversation, observing the materials, or otherwise accessing the information.

C. SSI shall be mailed in a manner that offers reasonable protection of the sent materials and sealed in such a manner as to prevent inadvertent opening and show evidence of tampering.

D. SSI may be mailed by U.S. Postal Service First Class Mail or an authorized commercial delivery service such as DHL or Federal Express.

E. SSI may be entered into an inter-office mail system provided it is afforded sufficient protection to prevent unauthorized access, e.g., sealed envelope.

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION

3.1 ACKNOWLEDGEMENT OF SENSITIVE SECURITY INFORMATION

A. The Owner has deemed components of this project to be of critical concern due to said component scope. As one of the bidders, you must execute this document to acknowledge the Security Sensitive Information (SSI) requirements and the proper Safeguarding of Sensitive but Unclassified Information.

B. Below is the SSI language from 49 CFR Part 15.13 that will be incorporated into the all construction drawing sheets and on the project manual components that are SSI:

WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520 or that may be otherwise exempt from public disclosure pursuant to Florida Statutes sections 331.22, 119.071, and/or 281.301. No part of this record may be disclosed to persons without a "need to know", as defined in 49 CFR parts 15 and 1520, except with the written permission of both the Sarasota Manatee Airport Authority and either the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action.

C. Attached for your use and records is 49 CFR parts 15 and 1520. By execution of

this document you are agreeing to the following:

1. This agreement is completed for the release of both electronic and hard copy bid documents, and any SSI documents related to SMAA airports.

2. I am the duly authorized representative for:

_____

Print Name and Title

_____

Print Authorized Entity

_____

Print Address

3. I have the express authority to sign this agreement and hereby consent to all conditions stated herein, in consideration of my being granted conditional access to certain information, specified in paragraph (1) above, that, is owned by, produced by, or in the possession of the Sarasota Manatee Airport Authority.
4. Sensitive Security Information. I attest that I am familiar with, and I will comply with the standards for access, dissemination, handling, and safeguarding of SSI information as cited in this Agreement and in accordance with 49 CFR Part 1520, "Protection of Sensitive Security Information," "Policies and Procedures for Safeguarding and Control of SSI," as amended, and any supplementary guidance issued by an authorized official of the Department of Homeland Security.
5. By being granted conditional access to the information in paragraph (1), indicated above, I am obligated to protect this information from unauthorized disclosure. I will not disclose or release any information provided to me pursuant to this Agreement without proper authority or authorization. Only those persons who have a need to know may handle this information, and I will ensure that they will comply with all maintenance, safeguarding, dissemination, and handling requirements provided in 49 CFR Part 1520.
6. Neither the execution of this agreement nor the release of the records indicated in paragraph (1) above operates as a waiver of the confidential and exempt status of the records.
7. Violation of this nondisclosure agreement or of the attached federal regulations is grounds for a civil penalty and other enforcement or corrective action by DOT and DHS and, if awarded the contract, will be cause for termination.

_____

Signature

_____

Date

3.2 ATTACHMENTS

A. The following documents are attached:

1. 49 CFR Part 15
2. 49 CFR part 1520
3. Sensitive Security Information – Best Practices Guide for Non-DHS Employees and Contractors.
4. Sensitive Security Information – SSI Quick Reference Guide for DHS Employees and Contractors
5. DHS Form 11000-6 (08-04) – Department of Homeland Security Non-Disclosure Agreement.

END OF SECTION

49 CFR Part 15 – Protection of Sensitive Security Information

§ 11.120 Evaluation and disposition of applications and proposals for research to be conducted or supported by a Federal department or agency.

(a) The department or agency head will evaluate all applications and proposals involving human subjects submitted to the Federal department or agency through such officers and employees of the Federal department or agency and such experts and consultants as the department or agency head determines to be appropriate. This evaluation will take into consideration the risks to the subjects, the adequacy of protection against these risks, the potential benefits of the research to the subjects and others, and the importance of the knowledge gained or to be gained.

(b) On the basis of this evaluation, the department or agency head may approve or disapprove the application or proposal, or enter into negotiations to develop an approvable one.

§ 11.121 [Reserved]

§ 11.122 Use of Federal funds.

Federal funds administered by a Federal department or agency may not be expended for research involving human subjects unless the requirements of this policy have been satisfied.

§ 11.123 Early termination of research support: Evaluation of applications and proposals.

(a) The department or agency head may require that Federal department or agency support for any project be terminated or suspended in the manner prescribed in applicable program requirements, when the department or agency head finds an institution has materially failed to comply with the terms of this policy.

(b) In making decisions about supporting or approving applications or proposals covered by this policy the department or agency head may take into account, in addition to all other eligibility requirements and program criteria, factors such as whether the applicant has been subject to a termination or suspension under paragraph (a) of this section and whether the applicant or the person or persons who would direct or has/have directed the scientific and technical aspects of an activity has/have, in the judgment of the department or agency head, materially failed to discharge responsibility for the protection of the rights and welfare of human subjects (whether or not the research was subject to federal regulation).

§ 11.124 Conditions.

With respect to any research project or any class of research projects the department or agency head of either the conducting or the supporting Federal department or agency may impose additional conditions prior to or at the time of approval when in the judgment of the department or agency head additional conditions are necessary for the protection of human subjects.

PART 15—PROTECTION OF SENSITIVE SECURITY INFORMATION

Sec.

15.1 Scope.
15.3 Terms used in this part.
15.5 Sensitive security information.
15.7 Covered persons.
15.9 Restrictions on the disclosure of SSI.
15.11 Persons with a need to know.
15.13 Marking SSI.
15.15 SSI disclosed by DOT.
15.17 Consequences of unauthorized disclosure of SSI.
15.19 Destruction of SSI.

AUTHORITY: 49 U.S.C. 40119.

SOURCE: 69 FR 28078, May 18, 2004, unless otherwise noted.

§ 15.1 Scope.

(a) *Applicability.* This part governs the maintenance, safeguarding, and disclosure of records and information that the Secretary of DOT has determined to be Sensitive Security Information, as defined in § 15.5. This part does not apply to the maintenance, safeguarding, or disclosure of classified national security information, as defined by Executive Order 12958, or to other sensitive unclassified information that is not SSI, but that nonetheless may be exempt from public disclosure under the Freedom of Information Act. In addition, in the case of information that has been designated as critical infrastructure information

under section 214 of the Homeland Security Act, the receipt, maintenance, or disclosure of such information by a Federal agency or employee is governed by section 214 and any implementing regulations, not by this part.

(b) *Delegation.* The authority of the Secretary under this part may be further delegated within DOT.

§ 15.3 Terms used in this part.

In addition to the terms in § 15.3 of this chapter, the following terms apply in this part:

Administrator means the Under Secretary of Transportation for Security referred to in 49 U.S.C. 114(b), or his or her designee.

Coast Guard means the United States Coast Guard.

Covered person means any organization, entity, individual, or other person described in § 15.7. In the case of an individual, *covered person* includes any individual applying for employment in a position that would be a covered person, or in training for such a position, regardless of whether that individual is receiving a wage, salary, or other form of payment. *Covered person* includes a person applying for certification or other form of approval that, if granted, would make the person a covered person described in § 15.7.

DHS means the Department of Homeland Security and any directorate, bureau, or other component within the Department of Homeland Security, including the United States Coast Guard.

DOT means the Department of Transportation and any operating administration, entity, or office within the Department of Transportation, including the Saint Lawrence Seaway Development Corporation and the Bureau of Transportation Statistics.

Federal Flight Deck Officer means a pilot participating in the Federal Flight Deck Officer Program under 49 U.S.C. 44921 and implementing regulations.

Maritime facility means any facility as defined in 33 CFR part 101.

Record includes any means by which information is preserved, irrespective of format, including a book, paper, drawing, map, recording, tape, film, photograph, machine-readable material, and any information stored in an electronic format. The term *record* also includes any draft, proposed, or recommended change to any record.

Security contingency plan means a plan detailing response procedures to address a transportation security incident, threat assessment, or specific threat against transportation, including details of preparation, response, mitigation, recovery, and reconstitution procedures, continuity of government, continuity of transportation operations, and crisis management.

Security program means a program or plan and any amendments developed for the security of the following, including any comments, instructions, or implementing guidance:

(1) An airport, aircraft, or aviation cargo operation;

(2) A maritime facility, vessel, or port area; or

(3) A transportation-related automated system or network for information processing, control, and communications.

Security screening means evaluating a person or property to determine whether either poses a threat to security.

SSI means sensitive security information, as described in § 15.5.

Threat image projection system means an evaluation tool that involves periodic presentation of fictional threat images to operators and is used in connection with x-ray or explosives detection systems equipment.

TSA means the Transportation Security Administration.

Vulnerability assessment means any review, audit, or other examination of the security of a transportation infrastructure asset; airport; maritime facility, port area, vessel, aircraft, train, commercial motor vehicle, or pipeline, or a transportation-related automated system or network, to determine its vulnerability to unlawful interference, whether during the conception, planning, design, construction, operation, or decommissioning phase. A *vulnerability assessment* may include proposed, recommended, or directed actions or countermeasures to address security concerns.

§ 15.5 Sensitive security information.

(a) *In general.* In accordance with 49 U.S.C. 40119(b)(1), SSI is information

obtained or developed in the conduct of security activities, including research and development, the disclosure of which the Secretary of DOT has determined would—

(1) Constitute an unwarranted invasion of privacy (including, but not limited to, information contained in any personnel, medical, or similar file);

(2) Reveal trade secrets or privileged or confidential information obtained from any person; or

(3) Be detrimental to transportation safety.

(b) *Information constituting SSI.* Except as otherwise provided in writing by the Secretary of DOT in the interest of public safety or in furtherance of transportation security, the following information, and records containing such information, constitute SSI:

(1) *Security programs and contingency plans.* Any security program or security contingency plan issued, established, required, received, or approved by DOT or DHS, including—

(i) Any aircraft operator or airport operator security program or security contingency plan under this chapter;

(ii) Any vessel, maritime facility, or port area security plan required or directed under Federal law;

(iii) Any national or area security plan prepared under 46 U.S.C. 70103; and

(iv) Any security incident response plan established under 46 U.S.C. 70104.

(2) *Security Directives.* Any Security Directive or order—

(i) Issued by TSA under 49 CFR 1542.303, 1544.305, or other authority;

(ii) Issued by the Coast Guard under the Maritime Transportation Security Act, 33 CFR part 6, or 33 U.S.C. 1221 *et seq.* related to maritime security; or

(iii) Any comments, instructions, and implementing guidance pertaining thereto.

(3) *Information Circulars.* Any notice issued by DHS or DOT regarding a threat to aviation or maritime transportation, including any—

(i) Information Circular issued by TSA under 49 CFR 1542.303 or 1544.305, or other authority; and

(ii) Navigation or Vessel Inspection Circular issued by the Coast Guard related to maritime security.

(4) *Performance specifications.* Any performance specification and any description of a test object or test procedure, for—

(i) Any device used by the Federal government or any other person pursuant to any aviation or maritime transportation security requirements of Federal law for the detection of any weapon, explosive, incendiary, or destructive device or substance; and

(ii) Any communications equipment used by the Federal government or any other person in carrying out or complying with any aviation or maritime transportation security requirements of Federal law.

(5) *Vulnerability assessments.* Any vulnerability assessment directed, created, held, funded, or approved by the DOT, DHS, or that will be provided to DOT or DHS in support of a Federal security program.

(6) *Security inspection or investigative information.* (i) Details of any security inspection or investigation of an alleged violation of aviation or maritime transportation security requirements of Federal law that could reveal a security vulnerability, including the identity of the Federal special agent or other Federal employee who conducted the inspection or audit.

(ii) In the case of inspections or investigations performed by TSA, this includes the following information as to events that occurred within 12 months of the date of release of the information: the name of the airport where a violation occurred, the airport identifier in the case number, a description of the violation, the regulation allegedly violated, and the identity of any aircraft operator in connection with specific locations or specific security procedures. Such information will be released after the relevant 12-month period, except that TSA will not release the specific gate or other location on an airport where an event occurred, regardless of the amount of time that has passed since its occurrence. During the period within 12 months of the date of release of the information, TSA may release summaries of an aircraft operator's, but not an airport operator's, total security violations in a specified time range without identifying specific violations or locations. Summaries may include total enforcement actions, total proposed civil penalty amounts,

DOT or DHS as critical to aviation or maritime transportation safety or security, including automated information security procedures and systems, security inspections, and vulnerability information concerning those systems.

(14) *Confidential business information.* (i) Solicited or unsolicited proposals received by DHS or DOT, and negotiations arising therefrom, to perform work pursuant to a grant, contract, cooperative agreement, or other transaction, but only to the extent that the subject matter of the proposal relates to aviation or maritime transportation security measures;

(ii) Trade secret information, including information required or requested by regulation or Security Directive, obtained by DHS or DOT in carrying out aviation or maritime transportation security responsibilities; and

(iii) Commercial or financial information, including information required or requested by regulation or Security Directive, obtained by DHS or DOT in carrying out aviation or maritime transportation security responsibilities, but only if the source of the information does not customarily disclose it to the public.

(15) *Research and development.* Information obtained or developed in the conduct of research related to aviation or maritime transportation security activities, where such research is approved, accepted, funded, recommended, or directed by the DHS or DOT, including research results.

(16) *Other information.* Any information not otherwise described in this section that TSA determines is SSI under 49 U.S.C. 114(s) or that the Secretary of DOT determines is SSI under 49 U.S.C. 40119. Upon the request of another Federal agency, the Secretary of DOT may designate as SSI information not otherwise described in this section.

(c) *Loss of SSI designation.* The Secretary of DOT may determine in writing that information or records described in paragraph (b) of this section do not constitute SSI because they no longer meet the criteria set forth in paragraph (a) of this section.

§ 15.7 Covered persons.

Persons subject to the requirements of part 15 are:

(a) Each airport operator and aircraft operator subject to the requirements of Subchapter C of this title.

(b) Each indirect air carrier, as defined in 49 CFR 1540.5.

(c) Each owner, charterer, or operator of a vessel, including foreign vessel owners, charterers, and operators, required to have a security plan under Federal or International law.

(d) Each owner or operator of a maritime facility required to have a security plan under the Maritime Transportation Security Act, (Pub. L. 107-295), 46 U.S.C. 70101 *et seq.*, 33 CFR part 6, or 33 U.S.C. 1221 *et seq.*

(e) Each person performing the function of a computer reservation system or global distribution system for airline passenger information.

(f) Each person participating in a national or area security committee established under 46 U.S.C. 70112, or a port security committee.

(g) Each industry trade association that represents covered persons and has entered into a non-disclosure agreement with the DHS or DOT.

(h) DHS and DOT.

(i) Each person conducting research and development activities that relate to aviation or maritime transportation security and are approved, accepted, funded, recommended, or directed by DHS or DOT.

(j) Each person who has access to SSI, as specified in § 15.11.

(k) Each person employed by, contracted to, or acting for a covered person, including a grantee of DHS or DOT, and including a person formerly in such position.

(l) Each person for which a vulnerability assessment has been directed, created, held, funded, or approved by the DOT, DHS, or that has prepared a vulnerability assessment that will be provided to DOT or DHS in support of a Federal security program.

(m) Each person receiving SSI under § 1520.15(d) or (e).

§ 15.9 Restrictions on the disclosure of SSI.

(a) *Duty to protect information.* A covered person must—

(1) Take reasonable steps to safeguard SSI in that person's possession

or control from unauthorized disclosure. When a person is not in physical possession of SSI, the person must store it a secure container, such as a locked desk or file cabinet or in a locked room.

(2) Disclose, or otherwise provide access to, SSI only to covered persons who have a need to know, unless otherwise authorized in writing by TSA, the Coast Guard, or the Secretary of DOT.

(3) Refer requests by other persons for SSI to TSA or the applicable component or agency within DOT or DHS.

(4) Mark SSI as specified in § 15.13.

(5) Dispose of SSI as specified in § 15.19.

(b) *Unmarked SSI.* If a covered person receives a record containing SSI that is not marked as specified in § 1520.13, the covered person must—

(1) Mark the record as specified in § 15.13; and

(2) Inform the sender of the record that the record must be marked as specified in § 15.13.

(c) *Duty to report unauthorized disclosure.* When a covered person becomes aware that SSI has been released to unauthorized persons, the covered person must promptly inform TSA or the applicable DOT or DHS component or agency.

(d) *Additional requirements for critical infrastructure information.* In the case of information that is both SSI and has been designated as critical infrastructure information under section 214 of the Homeland Security Act, any covered person who is a Federal employee in possession of such information must comply with the disclosure restrictions and other requirements applicable to such information under section 214 and any implementing regulations.

§ 15.11 Persons with a need to know.

(a) *In general.* A person has a need to know SSI in each of the following circumstances:

(1) When the person requires access to specific SSI to carry out transportation security activities approved, accepted, funded, recommended, or directed by DHS or DOT.

(2) When the person is in training to carry out transportation security activities approved, accepted, funded, recommended, or directed by DHS or DOT.

(3) When the information is necessary for the person to supervise or otherwise manage individuals carrying out transportation security activities approved, accepted, funded, recommended, or directed by the DHS or DOT.

(4) When the person needs the information to provide technical or legal advice to a covered person regarding transportation security requirements of Federal law.

(5) When the person needs the information to represent a covered person in connection with any judicial or administrative proceeding regarding those requirements.

(b) *Federal employees, contractors, and grantees.* (1) A Federal employee has a need to know SSI if access to the information is necessary for performance of the employee's official duties.

(2) A person acting in the performance of a contract with or grant from DHS or DOT has a need to know SSI if access to the information is necessary to performance of the contract or grant.

(c) *Background check.* The Secretary of DOT may make an individual's access to the SSI contingent upon satisfactory completion of a security background check and the imposition of procedures and requirements for safeguarding SSI that are satisfactory to the Secretary.

(d) *Need to know further limited by the DHS or DOT.* For some specific SSI, DHS or DOT may make a finding that only specific persons or classes of persons have a need to know.

[69 FR 28078, May 18, 2004, as amended at 70 FR 1381, Jan. 7, 2005]

§ 15.13 Marking SSI.

(a) *Marking of paper records.* In the case of paper records containing SSI, a covered person must mark the record by placing the protective marking conspicuously on the top, and the distribution limitation statement on the bottom, of—

(1) The outside of any front and back cover, including a binder cover or folder, if the document has a front and back cover;

(2) Any title page; and

(3) Each page of the document.

(b) *Protective marking.* The protective marking is: SENSITIVE SECURITY INFORMATION.

(c) *Distribution limitation statement.* The distribution limitation statement is:

WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know", as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520.

(d) *Other types of records.* In the case of non-paper records that contain SSI, including motion picture films, videotape recordings, audio recording, and electronic and magnetic records, a covered person must clearly and conspicuously mark the records with the protective marking and the distribution limitation statement such that the viewer or listener is reasonably likely to see or hear them when obtaining access to the contents of the record.

§ 15.15 SSI disclosed by DOT.

(a) *In general.* Except as otherwise provided in this section, and notwithstanding the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), and other laws, records containing SSI are not available for public inspection or copying, nor does DOT release such records to persons without a need to know.

(b) *Disclosure under the Freedom of Information Act and the Privacy Act.* If a record contains both SSI and information that is not SSI, DOT, on a proper Freedom of Information Act or Privacy Act request, may disclose the record with the SSI redacted, provided the record is not otherwise exempt from disclosure under the Freedom of Information Act or Privacy Act.

(c) *Disclosures to committees of Congress and the General Accounting Office.* Nothing in this part precludes DOT from disclosing SSI to a committee of Congress authorized to have the information or to the Comptroller General, or to any authorized representative of the Comptroller General.

(d) *Disclosure in enforcement proceedings—(1) In general.* The Secretary of DOT may provide SSI to a person in the context of an administrative enforcement proceeding when, in the sole discretion of the Secretary, access to the SSI is necessary for the person to prepare a response to allegations contained in a legal enforcement action document issued by DOT.

(2) *Security background check.* Prior to providing SSI to a person under paragraph (d)(1) of this section, the Secretary of DOT may require the individual or, in the case of an entity, the individuals representing the entity, and their counsel, to undergo and satisfy, in the judgment of the Secretary of DOT, a security background check.

(e) *Other conditional disclosure.* The Secretary of DOT may authorize a conditional disclosure of specific records or information that constitute SSI upon the written determination by the Secretary that disclosure of such records or information, subject to such limitations and restrictions as the Secretary may prescribe, would not be detrimental to transportation safety.

(f) *Obligation to protect information.* When an individual receives SSI pursuant to paragraph (d) or (e) of this section that individual becomes a covered person under § 15.7 and is subject to the obligations of a covered person under this part.

(g) *No release under FOIA.* When DOT discloses SSI pursuant to paragraphs (b) through (e) of this section, DOT makes the disclosure for the sole purpose described in that paragraph. Such disclosure is not a public release of information under the Freedom of Information Act.

(h) *Disclosure of Critical Infrastructure Information.* Disclosure of information that is both SSI and has been designated as critical infrastructure information under section 214 of the Homeland Security Act is governed solely by the requirements of section 214 and any implementing regulations.

§ 15.17 Consequences of unauthorized disclosure of SSI.

Violation of this part is grounds for a civil penalty and other enforcement or corrective action by DOT, and appropriate personnel actions for Federal

employees. Corrective action may include issuance of an order requiring retrieval of SSI to remedy unauthorized disclosure or an order to cease future unauthorized disclosure.

§ 15.19 Destruction of SSI.

(a) *DOT.* Subject to the requirements of the Federal Records Act (5 U.S.C. 105), including the duty to preserve records containing documentation of a Federal agency's policies, decisions, and essential transactions, DOT destroys SSI when no longer needed to carry out the agency's function.

(b) *Other covered persons*—(1) *In general.* A covered person must destroy SSI completely to preclude recognition or reconstruction of the information when the covered person no longer needs the SSI to carry out transportation security measures.

(2) *Exception.* Paragraph (b)(1) of this section does not require a State or local government agency to destroy information that the agency is required to preserve under State or local law.

PART 17—INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF TRANSPORTATION PROGRAMS AND ACTIVITIES

Sec.

17.1 What is the purpose of these regulations?
17.2 What definitions apply to these regulations?
17.3 What programs and activities of the Department are subject to these regulations?
17.4 [Reserved]
17.5 What is the Secretary's obligation with respect to Federal interagency coordination?
17.6 What procedures apply to the selection of programs and activities under these regulations?
17.7 How does the Secretary communicate with state and local officials concerning the Department's programs and activities?
17.8 How does the secretary provide states an opportunity to comment on proposed Federal financial assistance and direct Federal development?
17.9 How does the Secretary receive and respond to comments?
17.10 How does the Secretary make efforts to accommodate intergovernmental concerns?
17.11 What are the Secretary's obligations in interstate situations?
17.12 How may a state simplify, consolidate, or substitute federally required state plans?
17.13 May the Secretary waive any provision of these regulations?

AUTHORITY: Executive Order 12372, July 14, 1982 (47 FR 30959), as amended April 8, 1983 (48 FR 15887); sec. 401 of the Intergovernmental Cooperation Act of 1968, as amended (31 U.S.C. 6506); sec. 204 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended (42 U.S.C. 3334).

SOURCE: 48 FR 29272, June 24, 1983, unless otherwise noted.

§ 17.1 What is the purpose of these regulations?

(a) The regulations in this part implement Executive Order 12372, "Intergovernmental Review of Federal Programs," issued July 14, 1982, and amended on April 8, 1983. These regulations also implement applicable provisions of section 401 of the Intergovernmental Cooperation Act of 1968 and section 204 of the Demonstration Cities and Metropolitan Development Act of 1966.

(b) These regulations are intended to foster an intergovernmental partnership and a strengthened Federalism by relying on state processes and on state, areawide, regional and local coordination for review of proposed Federal financial assistance and direct Federal development.

(c) These regulations are intended to aid the internal management of the Department, and are not intended to create any right or benefit enforceable at law by a party against the Department or its officers.

§ 17.2 What definitions apply to these regulations?

Department means the U.S. Department of Transportation.

Order means Executive Order 12372, issued July 14, 1982, and amended April 8, 1983, and titled "Intergovernmental Review of Federal Programs."

Secretary means the Secretary of the U.S. Department of Transportation or an official or employee of the Department acting for the Secretary under a delegation of authority.

49 CFR Part 1520 – Protection of Sensitive Security Information

Displaying title 49, up to date as of 9/27/2021. Title 49 was last amended 9/27/2021.

ENHANCED CONTENT - TABLE OF CONTENTS

Part 1520 Protection of Sensitive Security Information 1520.1 – 1520.19
- **§ 1520.1** Scope.
- **§ 1520.3** Terms used in this part.
- **§ 1520.5** Sensitive security information.
- **§ 1520.7** Covered persons.
- **§ 1520.9** Restrictions on the disclosure of SSI.
- **§ 1520.11** Persons with a need to know.
- **§ 1520.13** Marking SSI.
- **§ 1520.15** SSI disclosed by TSA or the Coast Guard.
- **§ 1520.17** Consequences of unauthorized disclosure of SSI.
- **§ 1520.19** Destruction of SSI.

Title 49

PART 1520 - PROTECTION OF SENSITIVE SECURITY INFORMATION

Authority: 46 U.S.C. 70102-70106, 70117; 49 U.S.C. 114, 40113, 44901-44907, 44913-44914, 44916-44918, 44935-44936, 44942, 46105.

Source: 69 FR 28082, May 18, 2004, unless otherwise noted.

§ 1520.1 Scope.

(a) *Applicability.* This part governs the maintenance, safeguarding, and disclosure of records and information that TSA has determined to be Sensitive Security Information, as defined in § 1520.5. This part does not apply to the maintenance, safeguarding, or disclosure of classified national security information, as defined by Executive Order 12968, or to other sensitive unclassified information that is not SSI, but that nonetheless may be exempt from public disclosure under the Freedom of Information Act. In addition, in the case of information that has been designated as critical infrastructure information under section 214 of the Homeland Security Act, the receipt, maintenance, or disclosure of such information by a Federal agency or employee is governed by section 214 and any implementing regulations, not by this part.

(b) *Delegation.* The authority of TSA and the Coast Guard under this part may be further delegated within TSA and the Coast Guard, respectively.

§ 1520.3 Terms used in this part.

In addition to the terms in § 1500.3 of this chapter, the following terms apply in this part:

Administrator means the Under Secretary of Transportation for Security referred to in 49 U.S.C. 114(b), or his or her designee.

Coast Guard means the United States Coast Guard.

Covered person means any organization, entity, individual, or other person described in § 1520.7. In the case of an individual, *covered person* includes any individual applying for employment in a position that would be a covered person, or in training for such a position, regardless of whether that individual is receiving a wage, salary, or other form of payment. *Covered person* includes a person applying for certification or other form of approval that, if granted, would make the person a covered person described in § 1520.7.

Federal Flight Deck Officer means a pilot participating in the Federal Flight Deck Officer Program under 49 U.S.C. 44921 and implementing regulations.

Maritime facility means any facility as defined in 33 CFR part 101.

Rail secure area means "rail secure area" as defined in 49 CFR 1580.3.

Railroad carrier means "railroad carrier" as defined in 49 U.S.C. 20102(2).

Security contingency plan means a plan detailing response procedures to address a transportation security incident, threat assessment, or specific threat against transportation, including details of preparation, response, mitigation, recovery, and reconstitution procedures, continuity of government, continuity of transportation operations, and crisis management.

Security screening means evaluating a person or property to determine whether either poses a threat to security.

SSI means sensitive security information, as described in § 1520.5.

Threat image projection system means an evaluation tool that involves periodic presentation of fictional threat images to operators and is used in connection with x-ray or explosives detection systems equipment.

TSA means the Transportation Security Administration.

[69 FR 28082, May 18, 2004, as amended at 70 FR 41599, July 19, 2005; 73 FR 72172, Nov. 26, 2008; 74 FR 47695, Sept. 16, 2009; 85 FR 16499, Mar. 23, 2020]

§ 1520.5 Sensitive security information.

(a) *In general.* In accordance with 49 U.S.C. 114(s), SSI is information obtained or developed in the conduct of security activities, including research and development, the disclosure of which TSA has determined would -

(1) Constitute an unwarranted invasion of privacy (including, but not limited to, information contained in any personnel, medical, or similar file);

(2) Reveal trade secrets or privileged or confidential information obtained from any person; or

(3) Be detrimental to the security of transportation.

(b) ***Information constituting SSI.*** Except as otherwise provided in writing by TSA in the interest of public safety or in furtherance of transportation security, the following information, and records containing such information, constitute SSI:

(1) ***Security programs, security plans, and contingency plans.*** Any security program, security plan, or security contingency plan issued, established, required, received, or approved by DHS or DOT, including any comments, instructions, or implementing guidance, including -

(i) Any aircraft operator, airport operator, fixed base operator, or air cargo security program, or security contingency plan under this chapter;

(ii) Any vessel, maritime facility, or port area security plan required or directed under Federal law;

(iii) Any national or area security plan prepared under 46 U.S.C. 70103;

(iv) Any security incident response plan established under 46 U.S.C. 70104, and

(v) Any security program or plan required under subchapter D of this title.

(2) ***Security Directives.*** Any Security Directive or order -

(i) Issued by TSA under 49 CFR 1542.303, 1544.305, 1548.19, or other authority;

(ii) Issued by the Coast Guard under the Maritime Transportation Security Act, 33 CFR part 6, or 33 U.S.C. 1221 *et seq.* related to maritime security; or

(iii) Any comments, instructions, and implementing guidance pertaining thereto.

(3) ***Information Circulars.*** Any notice issued by DHS or DOT regarding a threat to aviation or maritime transportation, including any -

(i) Information circular issued by TSA under 49 CFR 1542.303, 1544.305, 1548.19, or other authority; and

(ii) Navigation or Vessel Inspection Circular issued by the Coast Guard related to maritime security.

(4) ***Performance specifications.*** Any performance specification and any description of a test object or test procedure, for -

(i) Any device used by the Federal Government or any other person pursuant to any aviation or maritime transportation security requirements of Federal law for the detection of any person, and any weapon, explosive, incendiary, or destructive device, item, or substance; and

(ii) Any communications equipment used by the Federal government or any other person in carrying out or complying with any aviation or maritime transportation security requirements of Federal law.

(5) ***Vulnerability assessments.*** Any vulnerability assessment directed, created, held, funded, or approved by the DOT, DHS, or that will be provided to DOT or DHS in support of a Federal security program.

(6) ***Security inspection or investigative information.***

(i) Details of any aviation, maritime, or surface transportation inspection, or any investigation or an alleged violation of aviation, maritime, or surface transportation security requirements of Federal law, that could reveal a security vulnerability, including

the identity of the Federal special agent or other Federal employee who conducted the inspection or investigation, and including any recommendations concerning the inspection or investigation.

(ii) In the case of inspections or investigations performed by TSA, this includes the following information as to events that occurred within 12 months of the date of release of the information: the name of the airport where a violation occurred, the airport identifier in the case number, a description of the violation, the regulation allegedly violated, and the identity of any aircraft operator in connection with specific locations or specific security procedures. Such information will be released after the relevant 12-month period, except that TSA will not release the specific gate or other location on an airport where an event occurred, regardless of the amount of time that has passed since its occurrence. During the period within 12 months of the date of release of the information, TSA may release summaries of an aircraft operator's, but not an airport operator's, total security violations in a specified time range without identifying specific violations or locations. Summaries may include total enforcement actions, total proposed civil penalty amounts, number of cases opened, number of cases referred to TSA or FAA counsel for legal enforcement action, and number of cases closed.

(7) ***Threat information.*** Any information held by the Federal government concerning threats against transportation or transportation systems and sources and methods used to gather or develop threat information, including threats against cyber infrastructure.

(8) ***Security measures.*** Specific details of aviation, maritime, or surface transportation security measures, both operational and technical, whether applied directly by the Federal government or another person, including the following:

(i) Security measures or protocols recommended by the Federal government;

(ii) Information concerning the deployments, numbers, and operations of Coast Guard personnel engaged in maritime security duties and Federal Air Marshals, to the extent it is not classified national security information; and

(iii) Information concerning the deployments and operations of Federal Flight Deck Officers, and numbers of Federal Flight Deck Officers aggregated by aircraft operator.

(iv) Any armed security officer procedures issued by TSA under 49 CFR part 1562.

(9) ***Security screening information.*** The following information regarding security screening under aviation or maritime transportation security requirements of Federal law:

(i) Any procedures, including selection criteria and any comments, instructions, and implementing guidance pertaining thereto, for screening of persons, accessible property, checked baggage, U.S. mail, stores, and cargo, that is conducted by the Federal government or any other authorized person.

(ii) Information and sources of information used by a passenger or property screening program or system, including an automated screening system.

(iii) Detailed information about the locations at which particular screening methods or equipment are used, only if determined by TSA to be SSI.

(iv) Any security screener test and scores of such tests.

(v) Performance or testing data from security equipment or screening systems.

(vi) Any electronic image shown on any screening equipment monitor, including threat images and descriptions of threat images for threat image projection systems.

(10) ***Security training materials.*** Records created or obtained for the purpose of training persons employed by, contracted with, or acting for the Federal government or another person to carry out aviation, maritime, or surface transportation security measures required or recommended by DHS or DOT.

(11) ***Identifying information of certain transportation security personnel.***

(i) Lists of the names or other identifying information that identify persons as -

(A) Having unescorted access to a secure area of an airport, a rail secure area, or a secure or restricted area of a maritime facility, port area, or vessel;

(B) Holding a position as a security screener employed by or under contract with the Federal government pursuant to aviation or maritime transportation security requirements of Federal law, where such lists are aggregated by airport;

(C) Holding a position with the Coast Guard responsible for conducting vulnerability assessments, security boardings, or engaged in operations to enforce maritime security requirements or conduct force protection;

(D) Holding a position as a Federal Air Marshal; or

(ii) The name or other identifying information that identifies a person as a current, former, or applicant for Federal Flight Deck Officer.

(12) ***Critical transportation infrastructure asset information.*** Any list identifying systems or assets, whether physical or virtual, so vital to the aviation, maritime, or surface transportation that the incapacity or destruction of such assets would have a debilitating impact on transportation security, if the list is -

(i) Prepared by DHS or DOT; or

(ii) Prepared by a State or local government agency and submitted by the agency to DHS or DOT.

(13) ***Systems security information.*** Any information involving the security of operational or administrative data systems operated by the Federal government that have been identified by the DOT or DHS as critical to aviation or maritime transportation safety or security, including automated information security procedures and systems, security inspections, and vulnerability information concerning those systems.

(14) ***Confidential business information.***

(i) Solicited or unsolicited proposals received by DHS or DOT, and negotiations arising therefrom, to perform work pursuant to a grant, contract, cooperative agreement, or other transaction, but only to the extent that the subject matter of the proposal relates to aviation or maritime transportation security measures;

(ii) Trade secret information, including information required or requested by regulation or Security Directive, obtained by DHS or DOT in carrying out aviation or maritime transportation security responsibilities; and

(iii) Commercial or financial information, including information required or requested by regulation or Security Directive, obtained by DHS or DOT in carrying out aviation or maritime transportation security responsibilities, but only if the source of the information does not customarily disclose it to the public.

(15) ***Research and development.*** Information obtained or developed in the conduct of research related to aviation, maritime, or surface transportation, where such research is approved, accepted, funded, recommended, or directed by DHS or DOT, including research results.

(16) ***Other information.*** Any information not otherwise described in this section that TSA determines is SSI under 49 U.S.C. 114(s) or that the Secretary of DOT determines is SSI under 49 U.S.C. 40119. Upon the request of another Federal agency, TSA or the Secretary of DOT may designate as SSI information not otherwise described in this section.

(c) ***Loss of SSI designation.*** TSA or the Coast Guard may determine in writing that information or records described in paragraph (b) of this section do not constitute SSI because they no longer meet the criteria set forth in paragraph (a) of this section.

[69 FR 28082, May 18, 2004, as amended at 70 FR 41599, July 19, 2005; 71 FR 30507, May 26, 2006; 73 FR 72172, Nov. 26, 2008; 74 FR 47695, Sept. 16, 2009; 85 FR 16499, Mar. 23, 2020]

§ 1520.7 Covered persons.

Persons subject to the requirements of part 1520 are:

(a) Each airport operator, aircraft operator, and fixed base operator subject to the requirements of subchapter C of this chapter, and each armed security officer under subpart B of part 1562.

(b) Each indirect air carrier (IAC), as described in 49 CFR part 1548; and each certified cargo screening facility and its personnel, as described in 49 CFR part 1549.

(c) Each owner, charterer, or operator of a vessel, including foreign vessel owners, charterers, and operators, required to have a security plan under Federal or international law.

(d) Each owner or operator of a maritime facility required to have a security plan under the Maritime Transportation Security Act, (Pub.L. 107-295), 46 U.S.C. 70101 *et seq.*, 33 CFR part 6, or 33 U.S.C. 1221 *et seq.*

(e) Each person performing the function of a computer reservation system or global distribution system for airline passenger information.

(f) Each person participating in a national or area security committee established under 46 U.S.C. 70112, or a port security committee.

(g) Each industry trade association that represents covered persons and has entered into a non-disclosure agreement with the DHS or DOT.

(h) DHS and DOT.

(i) Each person conducting research and development activities that relate to aviation or maritime transportation security and are approved, accepted, funded, recommended, or directed by DHS or DOT.

(j) Each person who has access to SSI, as specified in § 1520.11.

(k) Each person employed by, contracted to, or acting for a covered person, including a grantee of DHS or DOT, and including a person formerly in such position.

(l) Each person for which a vulnerability assessment has been directed, created, held, funded, or approved by the DOT, DHS, or that has prepared a vulnerability assessment that will be provided to DOT or DHS in support of a Federal security program.

(m) Each person receiving SSI under § 1520.15(d) or (e).

(n) Each owner/operator of maritime or surface transportation subject to the requirements of subchapter D of this chapter.

[69 FR 28082, May 18, 2004, as amended at 70 FR 41600, July 19, 2005; 73 FR 72173, Nov. 26, 2008; 74 FR 47695, Sept. 16, 2009; 76 FR 51867, Aug. 18, 2011; 85 FR 16499, Mar. 23, 2020]

§ 1520.9 Restrictions on the disclosure of SSI.

(a) ***Duty to protect information.*** A covered person must -

(1) Take reasonable steps to safeguard SSI in that person's possession or control from unauthorized disclosure. When a person is not in physical possession of SSI, the person must store it a secure container, such as a locked desk or file cabinet or in a locked room.

(2) Disclose, or otherwise provide access to, SSI only to covered persons who have a need to know, unless otherwise authorized in writing by TSA, the Coast Guard, or the Secretary of DOT.

(3) Refer requests by other persons for SSI to TSA or the applicable component or agency within DOT or DHS.

(4) Mark SSI as specified in § 1520.13.

(5) Dispose of SSI as specified in § 1520.19.

(b) ***Unmarked SSI.*** If a covered person receives a record containing SSI that is not marked as specified in § 1520.13, the covered person must -

(1) Mark the record as specified in § 1520.13; and

(2) Inform the sender of the record that the record must be marked as specified in § 1520.13.

(c) ***Duty to report unauthorized disclosure.*** When a covered person becomes aware that SSI has been released to unauthorized persons, the covered person must promptly inform TSA or the applicable DOT or DHS component or agency.

(d) ***Additional Requirements for Critical Infrastructure Information.*** In the case of information that is both SSI and has been designated as critical infrastructure information under section 214 of the Homeland Security Act, any covered person who is a Federal employee in possession of such information must comply with the disclosure restrictions and other requirements applicable to such information under section 214 and any implementing regulations.

§ 1520.11 Persons with a need to know.

(a) ***In general.*** A person has a need to know SSI in each of the following circumstances:

(1) When the person requires access to specific SSI to carry out transportation security activities approved, accepted, funded, recommended, or directed by DHS or DOT.

(2) When the person is in training to carry out transportation security activities approved, accepted, funded, recommended, or directed by DHS or DOT.

(3) When the information is necessary for the person to supervise or otherwise manage individuals carrying out transportation security activities approved, accepted, funded, recommended, or directed by the DHS or DOT.

(4) When the person needs the information to provide technical or legal advice to a covered person regarding transportation security requirements of Federal law.

(5) When the person needs the information to represent a covered person in connection with any judicial or administrative proceeding regarding those requirements.

(b) ***Federal, State, local, or tribal government employees, contractors, and grantees.***

(1) A Federal, State, local, or tribal government employee has a need to know SSI if access to the information is necessary for performance of the employee's official duties, on behalf or in defense of the interests of the Federal, State, local, or tribal government.

(2) A person acting in the performance of a contract with or grant from a Federal, State, local, or tribal government agency has a need to know SSI if access to the information is necessary to performance of the contract or grant.

(c) ***Background check.*** TSA or Coast Guard may make an individual's access to the SSI contingent upon satisfactory completion of a security background check or other procedures and requirements for safeguarding SSI that are satisfactory to TSA or the Coast Guard.

(d) ***Need to know further limited by the DHS or DOT.*** For some specific SSI, DHS or DOT may make a finding that only specific persons or classes of persons have a need to know.

[69 FR 28082, May 18, 2004, as amended at 70 FR 1382, Jan. 7, 2005; 73 FR 72173, Nov. 26, 2008]

§ 1520.13 Marking SSI.

(a) ***Marking of paper records.*** In the case of paper records containing SSI, a covered person must mark the record by placing the protective marking conspicuously on the top, and the distribution limitation statement on the bottom, of -

(1) The outside of any front and back cover, including a binder cover or folder, if the document has a front and back cover;

(2) Any title page; and

(3) Each page of the document.

(b) ***Protective marking.*** The protective marking is: SENSITIVE SECURITY INFORMATION.

(c) ***Distribution limitation statement.*** The distribution limitation statement is:

> *WARNING:* This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know", as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520.

(d) ***Other types of records.*** In the case of non-paper records that contain SSI, including motion picture films, videotape recordings, audio recording, and electronic and magnetic records, a covered person must clearly and conspicuously mark the records with the protective marking and the distribution limitation statement such that the viewer or listener is reasonably likely to see or hear them when obtaining access to the contents of the record.

§ 1520.15 SSI disclosed by TSA or the Coast Guard.

(a) *In general.* Except as otherwise provided in this section, and notwithstanding the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), and other laws, records containing SSI are not available for public inspection or copying, nor does TSA or the Coast Guard release such records to persons without a need to know.

(b) *Disclosure under the Freedom of Information Act and the Privacy Act.* If a record contains both SSI and information that is not SSI, TSA or the Coast Guard, on a proper Freedom of Information Act or Privacy Act request, may disclose the record with the SSI redacted, provided the record is not otherwise exempt from disclosure under the Freedom of Information Act or Privacy Act.

(c) *Disclosures to committees of Congress and the General Accounting Office.* Nothing in this part precludes TSA or the Coast Guard from disclosing SSI to a committee of Congress authorized to have the information or to the Comptroller General, or to any authorized representative of the Comptroller General.

(d) *Disclosure in enforcement proceedings -*

(1) *In general.* TSA or the Coast Guard may provide SSI to a person in the context of an administrative enforcement proceeding when, in the sole discretion of TSA or the Coast Guard, as appropriate, access to the SSI is necessary for the person to prepare a response to allegations contained in a legal enforcement action document issued by TSA or the Coast Guard.

(2) *Security background check.* Prior to providing SSI to a person under paragraph (d)(1) of this section, TSA or the Coast Guard may require the individual or, in the case of an entity, the individuals representing the entity, and their counsel, to undergo and satisfy, in the judgment of TSA or the Coast Guard, a security background check.

(e) *Other conditional disclosure.* TSA may authorize a conditional disclosure of specific records or information that constitute SSI upon the written determination by TSA that disclosure of such records or information, subject to such limitations and restrictions as TSA may prescribe, would not be detrimental to transportation security.

(f) *Obligation to protect information.* When an individual receives SSI pursuant to paragraph (d) or (e) of this section that individual becomes a covered person under § 1520.7 and is subject to the obligations of a covered person under this part.

(g) *No release under FOIA.* When TSA discloses SSI pursuant to paragraphs (b) through (e) of this section, TSA makes the disclosure for the sole purpose described in that paragraph. Such disclosure is not a public release of information under the Freedom of Information Act.

(h) *Disclosure of Critical Infrastructure Information.* Disclosure of information that is both SSI and has been designated as critical infrastructure information under section 214 of the Homeland Security Act is governed solely by the requirements of section 214 and any implementing regulations.

§ 1520.17 Consequences of unauthorized disclosure of SSI.

Violation of this part is grounds for a civil penalty and other enforcement or corrective action by DHS, and appropriate personnel actions for Federal employees. Corrective action may include issuance of an order requiring retrieval of SSI to remedy unauthorized disclosure or an order to cease future unauthorized disclosure.

§ 1520.19 Destruction of SSI.

(a) ***DHS.*** Subject to the requirements of the Federal Records Act (5 U.S.C. 105), including the duty to preserve records containing documentation of a Federal agency's policies, decisions, and essential transactions, DHS destroys SSI when no longer needed to carry out the agency's function.

(b) ***Other covered persons*** -

(1) ***In general.*** A covered person must destroy SSI completely to preclude recognition or reconstruction of the information when the covered person no longer needs the SSI to carry out transportation security measures.

(2) ***Exception.*** Paragraph (b)(1) of this section does not require a State or local government agency to destroy information that the agency is required to preserve under State or local law.

Sensitive Security Information – Best Practices Guide for Non-DHS Employees and Contractors

www.tsa.gov

Sensitive Security Information

Best Practices Guide for Non-DHS Employees and Contractors

The purpose of this hand-out is to provide *transportation security stakeholders and non-DHS government employees and contractors* with best practices for handling SSI. Best practices are not to be construed as legally binding requirements of, or official implementing guidance for, the SSI regulation.

What is SSI?

Sensitive Security Information (SSI) is information that, if publicly released, would be *detrimental to transportation security*, as defined by Federal regulation 49 C.F.R. part 1520.

Although SSI is not classified information, there are specific procedures for recognizing, marking, protecting, safely sharing, and destroying SSI. As persons receiving SSI in order to carry out responsibilities related to transportation security, you are considered "covered persons" under the SSI regulation and have special obligations to protect this information from unauthorized disclosure.

SSI Requirements

The SSI regulation mandates specific and general requirements for handling and protecting SSI.

You Must – Lock Up All SSI: Store SSI in a secure container such as a locked file cabinet or drawer (as defined by Federal regulation 49 C.F.R. part 1520.9 (a)(1)).

You Must – When No Longer Needed, Destroy SSI: Destruction of SSI must be complete to preclude recognition or reconstruction of the information (as defined by Federal regulation 49 C.F.R. part 1520.19).

You Must – Mark SSI: The regulation requires that even when only a small portion of a paper document contains SSI, every page of the document must be marked with the SSI header and footer shown at left (as defined by Federal regulation 49 C.F.R. part 1520.13). Alteration of the footer is not authorized.

SENSITIVE SECURITY INFORMATION

TEXT

WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know," as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 USC 552 and 49 CFR parts 15 and 1520.

Best Practices Guide

Reasonable steps must be taken to safeguard SSI. While the regulation does not define reasonable steps, the TSA SSI Branch offers these best practices as examples of reasonable steps:

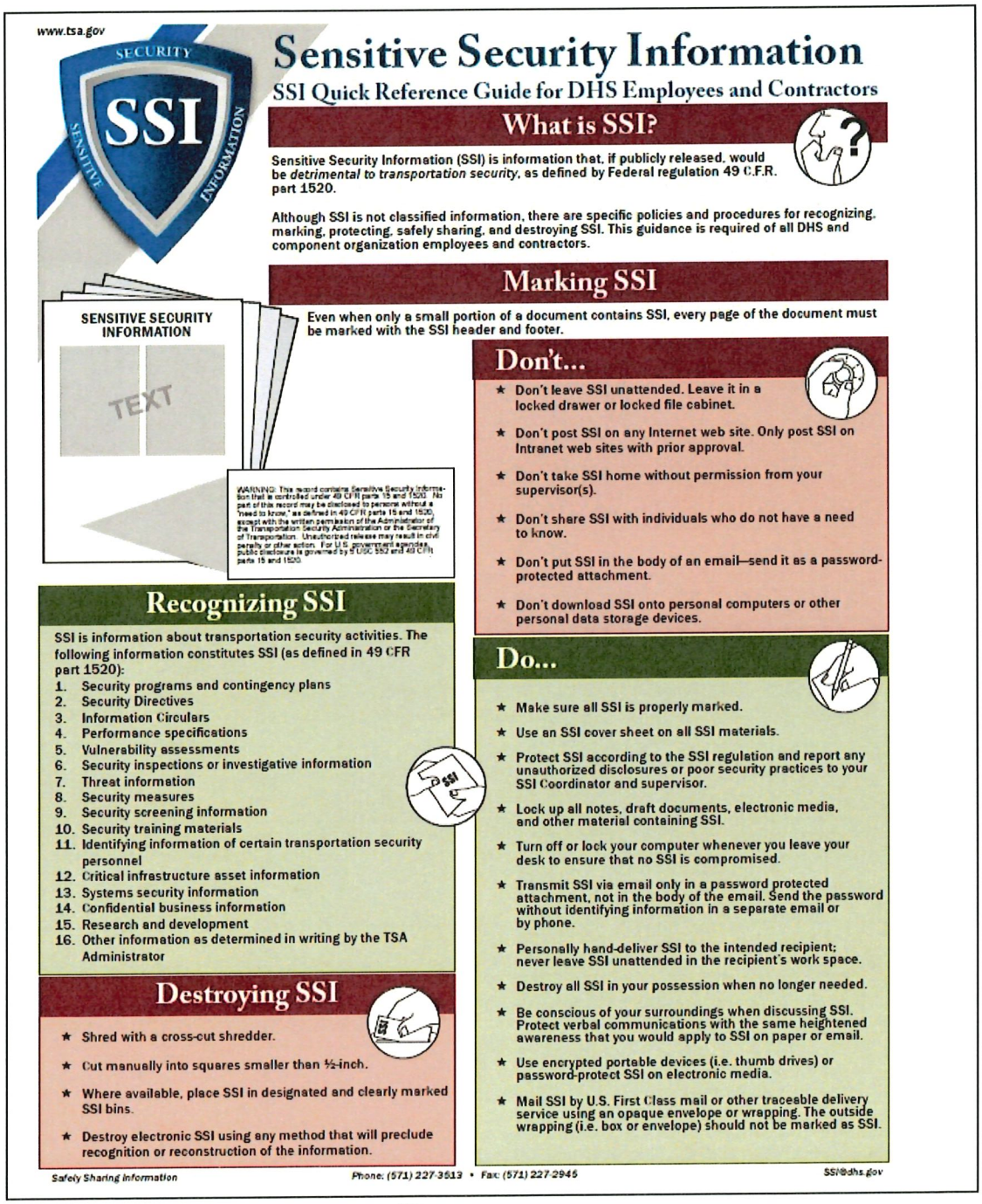
- ★ Use an SSI cover sheet on all SSI materials.
- ★ Electronic presentations (e.g., PowerPoint) should be marked with the SSI header on all pages and the SSI footer on the first and last pages of the presentation.
- ★ Spreadsheets should be marked with the SSI header on every page and the SSI footer on every page or at the end of the document.
- ★ Video and audio should be marked with the SSI header and footer on the protective cover when able and the header and footer should be shown and/or read at the beginning and end of the program.
- ★ CDs/DVDs should be encrypted or password-protected and the header and footer should be affixed to the CD/DVD.
- ★ Portable drives including "flash" or "thumb" drives should not themselves be marked, but the drive itself should be encrypted or all SSI documents stored on it should be password protected.
- ★ When leaving your computer or desk you must lock up all SSI and you should lock or turn off your computer.
- ★ Taking SSI home is not recommended. If necessary, get permission from a supervisor and lock up all SSI at home.
- ★ Don't handle SSI on computers that have peer-to-peer software installed on them or on your home computer.
- ★ Transmit SSI via email only in a password protected attachment, not in the body of the email. Send the password without identifying information in a separate email or by phone.
- ★ Passwords for SSI documents should contain at least eight characters, have at least one uppercase and one lowercase letter, contain at least one number, one special character and not be a word in the dictionary.
- ★ Faxing of SSI should be done by first verifying the fax number and that the intended recipient will be available promptly to retrieve the SSI.
- ★ SSI should be mailed by U.S. First Class mail or other traceable delivery service using an opaque envelope or wrapping. The outside wrapping (i.e. box or envelope) should not be marked as SSI.
- ★ Interoffice mail should be sent using an unmarked, opaque, sealed envelope so that the SSI cannot be read through the envelope.
- ★ SSI stored in network folders should either require a password to open or the network should limit access to the folder to only those with a need to know.
- ★ Properly destroy SSI using a cross-cut shredder or by cutting manually into less than ½ inch squares.
- ★ Properly destroy electronic records using any method that will preclude recognition or reconstruction.

Transportation Security Administration

Phone: (571) 227-3513 • Fax: (571) 227-2945

Safely Sharing Information
SSI@dhs.gov

Sensitive Security Information – SSI Quick Reference Guide for DHS Employees and Contractors



www.tsa.gov

Sensitive Security Information

SSI Quick Reference Guide for DHS Employees and Contractors

What is SSI?

Sensitive Security Information (SSI) is information that, if publicly released, would be *detrimental to transportation security*, as defined by Federal regulation 49 C.F.R. part 1520.

Although SSI is not classified information, there are specific policies and procedures for recognizing, marking, protecting, safely sharing, and destroying SSI. This guidance is required of all DHS and component organization employees and contractors.

Marking SSI

SENSITIVE SECURITY INFORMATION

TEXT

WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know," as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 USC 552 and 49 CFR parts 15 and 1520.

Even when only a small portion of a document contains SSI, every page of the document must be marked with the SSI header and footer.

Don't...

- ★ Don't leave SSI unattended. Leave it in a locked drawer or locked file cabinet.
- ★ Don't post SSI on any Internet web site. Only post SSI on Intranet web sites with prior approval.
- ★ Don't take SSI home without permission from your supervisor(s).
- ★ Don't share SSI with individuals who do not have a need to know.
- ★ Don't put SSI in the body of an email—send it as a password-protected attachment.
- ★ Don't download SSI onto personal computers or other personal data storage devices.

Recognizing SSI

SSI is information about transportation security activities. The following information constitutes SSI (as defined in 49 CFR part 1520):

1. Security programs and contingency plans
2. Security Directives
3. Information Circulars
4. Performance specifications
5. Vulnerability assessments
6. Security inspections or investigative information
7. Threat information
8. Security measures
9. Security screening information
10. Security training materials
11. Identifying information of certain transportation security personnel
12. Critical infrastructure asset information
13. Systems security information
14. Confidential business information
15. Research and development
16. Other information as determined in writing by the TSA Administrator

Do...

- ★ Make sure all SSI is properly marked.
- ★ Use an SSI cover sheet on all SSI materials.
- ★ Protect SSI according to the SSI regulation and report any unauthorized disclosures or poor security practices to your SSI Coordinator and supervisor.
- ★ Lock up all notes, draft documents, electronic media, and other material containing SSI.
- ★ Turn off or lock your computer whenever you leave your desk to ensure that no SSI is compromised.
- ★ Transmit SSI via email only in a password protected attachment, not in the body of the email. Send the password without identifying information in a separate email or by phone.
- ★ Personally hand-deliver SSI to the intended recipient; never leave SSI unattended in the recipient's work space.
- ★ Destroy all SSI in your possession when no longer needed.
- ★ Be conscious of your surroundings when discussing SSI. Protect verbal communications with the same heightened awareness that you would apply to SSI on paper or email.
- ★ Use encrypted portable devices (i.e. thumb drives) or password-protect SSI on electronic media.
- ★ Mail SSI by U.S. First Class mail or other tracesble delivery service using an opaque envelope or wrapping. The outside wrapping (i.e. box or envelope) should not be marked as SSI.

Destroying SSI

- ★ Shred with a cross-cut shredder.
- ★ Cut manually into squares smaller than ½-inch.
- ★ Where available, place SSI in designated and clearly marked SSI bins.
- ★ Destroy electronic SSI using any method that will preclude recognition or reconstruction of the information.

Safely Sharing Information

Phone: (571) 227-3513 • Fax: (571) 227-2945

SSI@dhs.gov

DHS Form 11000-6 (08-04) – Department of Homeland Security Non- Disclosure Agreement

DEPARTMENT OF HOMELAND SECURITY

NON-DISCLOSURE AGREEMENT

I, _____, an individual official, employee, consultant, or subcontractor of or to _____ (the Authorized Entity), intending to be legally bound, hereby consent to the terms in this Agreement in consideration of my being granted conditional access to certain information, specified below, that is owned by, produced by, or in the possession of the United States Government.

(Signer will acknowledge the category or categories of information that he or she may have access to, and the signer's willingness to comply with the standards for protection by placing his or her initials in front of the applicable category or categories.)

Initials:	**Protected Critical Infrastructure Information (PCII)**

I attest that I am familiar with, and I will comply with all requirements of the PCII program set out in the Critical Infrastructure Information Act of 2002 (CII Act) (Title II, Subtitle B, of the Homeland Security Act of 2002, Public Law 107-296, 196 Stat. 2135, 6 USC 101 et seq.), as amended, the implementing regulations thereto (6 CFR Part 29), as amended, and the applicable PCII Procedures Manual, as amended, and with any such requirements that may be officially communicated to me by the PCII Program Manager or the PCII Program Manager's designee.

Initials:	**Sensitive Security Information (SSI)**

I attest that I am familiar with, and I will comply with the standards for access, dissemination, handling, and safeguarding of SSI information as cited in this Agreement and in accordance with 49 CFR Part 1520, "Protection of Sensitive Security Information," "Policies and Procedures for Safeguarding and Control of SSI," as amended, and any supplementary guidance issued by an authorized official of the Department of Homeland Security.

Initials:	**Other Sensitive but Unclassified (SBU)**

As used in this Agreement, sensitive but unclassified information is an over-arching term that covers any information, not otherwise indicated above, which the loss of, misuse of, or unauthorized access to or modification of could adversely affect the national interest or the conduct of Federal programs, or the privacy to which individuals are entitled under Section 552a of Title 5, as amended, but which has not been specifically authorized under criteria established by an Executive Order or an Act of Congress to be kept secret in the interest of national defense or foreign policy. This includes information categorized by DHS or other government agencies as: For Official Use Only (FOUO); Official Use Only (OUO); Sensitive Homeland Security Information (SHSI); Limited Official Use (LOU); Law Enforcement Sensitive (LES); Safeguarding Information (SGI); Unclassified Controlled Nuclear Information (UCNI); and any other identifier used by other government agencies to categorize information as sensitive but unclassified.

I attest that I am familiar with, and I will comply with the standards for access, dissemination, handling, and safeguarding of the information to which I am granted access as cited in this Agreement and in accordance with the guidance provided to me relative to the specific category of information.

I understand and agree to the following terms and conditions of my access to the information indicated above:

1. I hereby acknowledge that I have received a security indoctrination concerning the nature and protection of information to which I have been provided conditional access, including the procedures to be followed in ascertaining whether other persons to whom I contemplate disclosing this information have been approved for access to it, and that I understand these procedures.

2. By being granted conditional access to the information indicated above, the United States Government has placed special confidence and trust in me and I am obligated to protect this information from unauthorized disclosure, in accordance with the terms of this Agreement and the laws, regulations, and directives applicable to the specific categories of information to which I am granted access.

3. I attest that I understand my responsibilities and that I am familiar with and will comply with the standards for protecting such information that I may have access to in accordance with the terms of this Agreement and the laws, regulations, and/or directives applicable to the specific categories of information to which I am granted access. I understand that the United States Government may conduct inspections, at any time or place, for the purpose of ensuring compliance with the conditions for access, dissemination, handling and safeguarding information under this Agreement.

DHS Form 11000-6 (08-04) Page 1

4. I will not disclose or release any information provided to me pursuant to this Agreement without proper authority or authorization. Should situations arise that warrant the disclosure or release of such information I will do so only under approved circumstances and in accordance with the laws, regulations, or directives applicable to the specific categories of information. I will honor and comply with any and all dissemination restrictions cited or verbally relayed to me by the proper authority.

5. (a) For PCII - (1) Upon the completion of my engagement as an employee, consultant, or subcontractor under the contract, or the completion of my work on the PCII Program, whichever occurs first, I will surrender promptly to the PCII Program Manager or his designee, or to the appropriate PCII officer, PCII of any type whatsoever that is in my possession.
(2) If the Authorized Entity is a United States Government contractor performing services in support of the PCII Program, I will not request, obtain, maintain, or use PCII unless the PCII Program Manager or Program Manager's designee has first made in writing, with respect to the contractor, the certification as provided for in Section 29.8(c) of the implementing regulations to the CII Act, as amended.
(b) For SSI and SBU - I hereby agree that material which I have in my possession and containing information covered by this Agreement, will be handled and safeguarded in a manner that affords sufficient protection to prevent the unauthorized disclosure of or inadvertent access to such information, consistent with the laws, regulations, or directives applicable to the specific categories of information. I agree that I shall return all information to which I have had access or which is in my possession 1) upon demand by an authorized individual; and/or 2) upon the conclusion of my duties, association, or support to DHS; and/or 3) upon the determination that my official duties do not require further access to such information.

6. I hereby agree that I will not alter or remove markings, which indicate a category of information or require specific handling instructions, from any material I may come in contact with, in the case of SSI or SBU, unless such alteration or removal is consistent with the requirements set forth in the laws, regulations, or directives applicable to the specific category of information or, in the case of PCII, unless such alteration or removal is authorized by the PCII Program Manager or the PCII Program Manager's designee. I agree that if I use information from a sensitive document or other medium, I will carry forward any markings or other required restrictions to derivative products, and will protect them in the same matter as the original.

7. I hereby agree that I shall promptly report to the appropriate official, in accordance with the guidance issued for the applicable category of information, any loss, theft, misuse, misplacement, unauthorized disclosure, or other security violation, I have knowledge of and whether or not I am personally involved. I also understand that my anonymity will be kept to the extent possible when reporting security violations.

8. If I violate the terms and conditions of this Agreement, such violation may result in the cancellation of my conditional access to the information covered by this Agreement. This may serve as a basis for denying me conditional access to other types of information, to include classified national security information.

9. (a) With respect to SSI and SBU, I hereby assign to the United States Government all royalties, remunerations, and emoluments that have resulted, will result, or may result from any disclosure, publication, or revelation of the information not consistent with the terms of this Agreement.
(b) With respect to PCII I hereby assign to the entity owning the PCII and the United States Government, all royalties, remunerations, and emoluments that have resulted, will result, or may result from any disclosure, publication, or revelation of PCII not consistent with the terms of this Agreement.

10. This Agreement is made and intended for the benefit of the United States Government and may be enforced by the United States Government or the Authorized Entity. By granting me conditional access to information in this context, the United States Government and, with respect to PCII, the Authorized Entity, may seek any remedy available to it to enforce this Agreement including, but not limited to, application for a court order prohibiting disclosure of information in breach of this Agreement. I understand that if I violate the terms and conditions of this Agreement, I could be subjected to administrative, disciplinary, civil, or criminal action, as appropriate, under the laws, regulations, or directives applicable to the category of information involved and neither the United States Government nor the Authorized Entity have waived any statutory or common law evidentiary privileges or protections that they may assert in any administrative or court proceeding to protect any sensitive information to which I have been given conditional access under the terms of this Agreement.

11. Unless and until I am released in writing by an authorized representative of the Department of Homeland Security (if permissible for the particular category of information), I understand that all conditions and obligations imposed upon me by this Agreement apply during the time that I am granted conditional access, and at all times thereafter.

12. Each provision of this Agreement is severable. If a court should find any provision of this Agreement to be unenforceable, all other provisions shall remain in full force and effect.

13. My execution of this Agreement shall not nullify or affect in any manner any other secrecy or non-disclosure Agreement which I have executed or may execute with the United States Government or any of its departments or agencies.

14. These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 12958, as amended; Section 7211 of Title 5, United States Code (governing disclosures to Congress); Section 1034 of Title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); Section 2302(b)(8) of Title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 USC 421 et seq.) (governing disclosures that could expose confidential Government agents); and the statutes which protect against disclosure that may compromise the national security, including Sections 641, 793, 794, 798, and 952 of Title 18, United States Code, and Section 4(b) of the Subversive Activities Act of 1950 (50 USC 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive Order and listed statutes are incorporated into this agreement and are controlling.

15. Signing this Agreement does not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law.

16. I represent and warrant that I have the authority to enter into this Agreement.

17. I have read this Agreement carefully and my questions, if any, have been answered. I acknowledge that the briefing officer has made available to me any laws, regulations, or directives referenced in this document so that I may read them at this time, if I so choose.

DEPARTMENT OF HOMELAND SECURITY

NON-DISCLOSURE AGREEMENT

Acknowledgement

Typed/Printed Name:	Government/Department/Agency/Business Address	Telephone Number:

I make this Agreement in good faith, without mental reservation or purpose of evasion.

Signature:

WITNESS:

Typed/Printed Name:	Government/Department/Agency/Business Address	Telephone Number:

Signature:

This form is not subject to the requirements of P.L. 104-13, "Paperwork Reduction Act of 1995," 44 USC, Chapter 35

END OF ATTACHMENT SECTION

1.0 ACCESS TO RECORDS AND REPORTS

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

2.0 BREACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the Contractor or its subcontractors may result in the suspension or termination of this contract in accordance with Article 7, or such other action that may be necessary to enforce the rights of the parties of this agreement. The Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

3.0 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.

4.0 CONTRACTUAL REQUIREMENTS PURSUANT TO CIVIL RIGHTS ACT OF 1964, TITLE VI (49 CFR PART 21)

Compliance with Nondiscrimination Requirements:

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

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

2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin), 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.

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

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

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

a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or

b. Cancelling, terminating, or suspending a contract, in whole or in part.

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

Title VI List of Pertinent Nondiscrimination Acts and Authorities

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);

- 49 CFR Part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964) including amendments thereto;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 .U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (P.L. 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 U.S.C. § 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 U.S.C. § 1681, et seq).

5.0 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.

6.0 CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS – APPLICABLE ONLY TO SERVICES THAT ARE INCLUDED IN THE DEPARTMENT OF LABOR'S DEFINITION OF CONSTRUCTION SERVICES, SUCH AS WATCHMEN AND GUARDS

1. Overtime Requirements.

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

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

In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and
any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of $29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

3. Withholding for Unpaid Wages and Liquidated Damages.

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

4. Subcontractors.

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

7.0 COPELAND "ANTI-KICKBACK" ACT - APPLICABLE ONLY TO SERVICES THAT ARE INCLUDED IN THE DEPARTMENT OF LABOR'S DEFINITION OF CONSTRUCTION SERVICES, SUCH AS WATCHMEN AND GUARDS

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.

8.0 DAVIS-BACON REQUIREMENTS - APPLICABLE ONLY TO SERVICES THAT ARE INCLUDED IN THE DEPARTMENT OF LABOR'S DEFINITION OF CONSTRUCTION SERVICES, INCLUDING WATCHMEN AND GUARDS

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

http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site.

The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the

Contractor will submit them to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

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

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

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

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

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

9.0 Disadvantaged Business Enterprise - Contract Assurance (49 CFR § 26.13)

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

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 10 business days from the receipt of each payment the prime contractor receives from the Owner. The prime contractor agrees further to return retainage payments to each subcontractor within 10 business days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Owner. This clause applies to both DBE and non-DBE subcontractors.

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

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

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

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

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

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

10.0 TEXTING WHEN DRIVING

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

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding $10,000 that involve driving a motor vehicle in performance of work activities associated with the project.

11.0 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.

12.0 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)].

13.0 PROHIBITION OF COVERED UNMANNED AIRCRAFT SYSTEMS (UAS)

The Offeror/Contractor certifies that they are aware of and comply with 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 (including the Contractor and Subcontractors) cannot use AIP grant funds to enter into, extend, 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.

14.0 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:

The contract requires procurement of $10,000 or more of a designated item during the fiscal year; or

The contractor has procured $10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

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

a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;

b) Fails to meet reasonable contract performance requirements; or

c) Is only available at an unreasonable price.

15.0 RIGHTS TO INVENTIONS (as applicable)

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

16.0 SEISMIC SAFETY IN DESIGN

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.

Seismic Safety in Construction

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

17.0 VETERANS 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.

18.0 FEDERAL FAIR LABOR STANDARDS ACT

All contracts and subcontracts pursuant to this Agreement shall incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers. The Contractor has full responsibility to monitor compliance with the referenced statute or regulation. The Contractor shall address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

19.0 OCCUPATIONAL SAFETY AND HEALTH ACT

All contracts and subcontracts pursuant to this Agreement shall incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

20.0 MANDATORY FEDERAL FUNDED CERTIFICATIONS

During the performance of this Agreement, the Contractor, for itself, its subcontractors, assignees, and successors in interest (hereinafter referred to as the "Contractor"), shall comply with and shall include each of the following certifications without modification in all contracts, subcontract, solicitations for bids, request for proposals, and solicitations for negotiated contracts for Federal funding Services pursuant to this Agreement.

A. Certification Regarding Debarment. The Contract certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this Agreement. Any contract issued pursuant to this Agreement that exceeds $25,000 shall verify that each participant is not presently debarred or otherwise disqualified from participation in this federally assisted project. The Contractor shall accomplish this by:

1. Checking the System for Award Management at website: http://www.sam.gov.

2. Collecting a certification statement like the Certification of Regarding Debarment, above.

3. Inserting a clause or condition in the covered transaction with each contract.

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

B. Trade Restriction Certification. The Contractor certifies that with respect to this Agreement and any resultant contract or subcontract that all such agents of the Contractor:

1. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);

2. has not knowingly entered 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 any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC Section 1001. The Contractor shall provide immediate written notice to the Authority if the Contractor learns that this certification or that of a subcontractor, or any other agent of the Contractor was erroneous when submitted or has become erroneous because of changed circumstances. The Contractor must require each of its subcontractors, and any other agent of the Contractor to provide immediate written notice to the Authority 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 any individual or entity:

- 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

- whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or

- 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 to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Contractor has knowledge that the certification is erroneous. This certification is a material representation of the fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor, or any other agent of the Contractor knowingly rendered an erroneous certification, the FAA may direct through the Authority cancellation of the contract or subcontract for default at no cost to the Authority or the FAA.

C. Certification Regarding Lobbying. The Contractor certifies, to the best of its 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.

D. Certification Regarding Tax Delinquency and Felony Convictions. The applicant must complete the following two certification statements. The applicant must indicate its 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 subcontracts.

1. It is ___ it not _X__ a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

2. It is ___ it not _X__ a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

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

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

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