

**ADDENDUM NO. 2**

*to*

**BIDDING DOCUMENTS**

*for*

**ELMIRA CORNING REGIONAL AIRPORT**

**ELMIRA CORNING REGIONAL AIRPORT TERMINAL  
REVITALIZATION – PHASE IV**

**M-J PROJECT NO.: 18302.05**

*June 1, 2018*

**ADDENDUM NO. 2**  
**June 1, 2018**

**INSTRUCTIONS TO ALL HOLDERS OF CONTRACT DOCUMENTS**

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Your attention is directed to the following interpretations of changes in and additions to the Contract Documents for the construction of the Elmira Corning Regional Airport Terminal Revitalization – Phase IV project at the Elmira Corning Regional Airport.

Bidders shall acknowledge receipt of this addendum (including date) on page P-5 of the Proposal Documents.

## **REVISIONS/CLARIFICATIONS TO CONTRACT DOCUMENTS**

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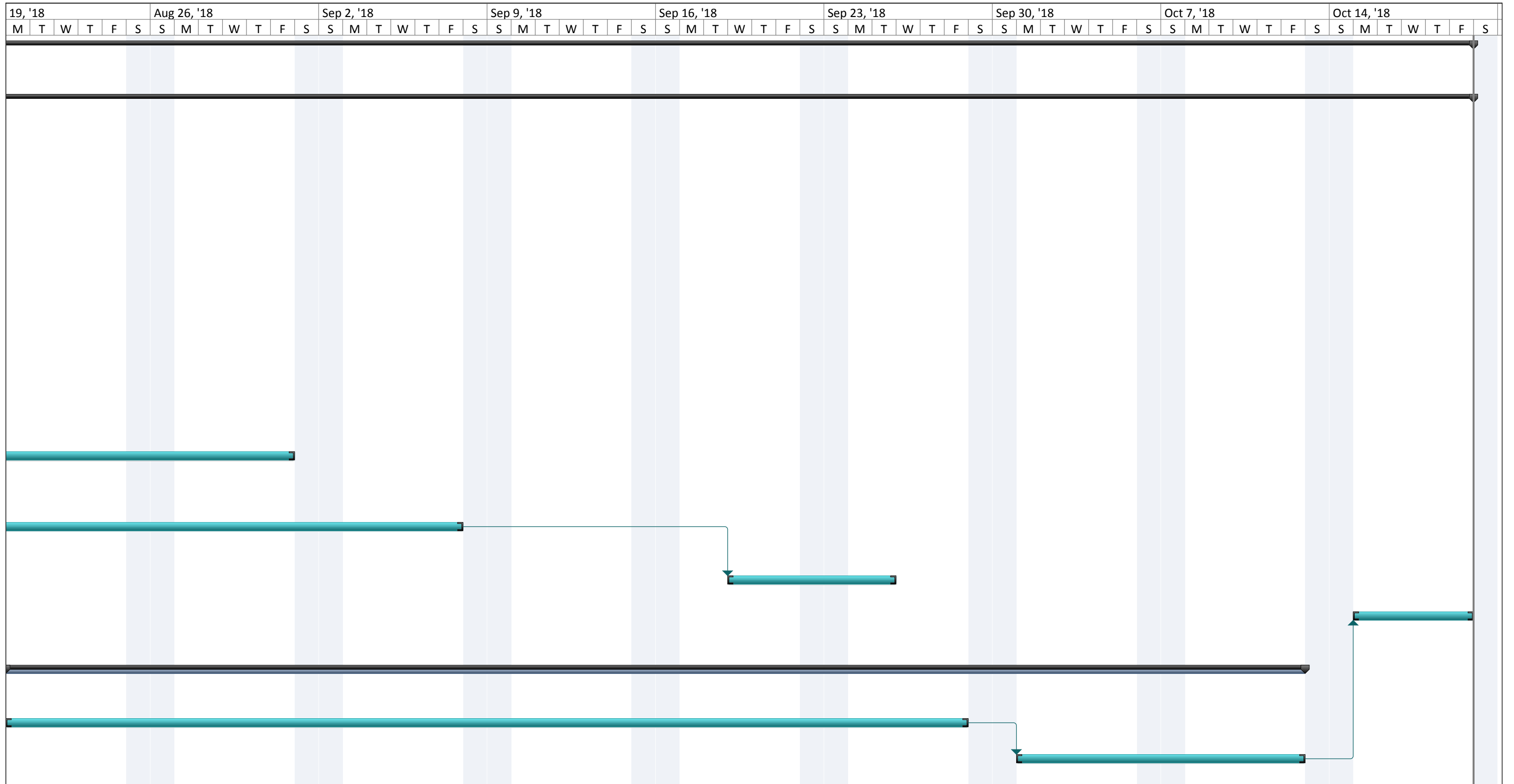
### **SPECIFICATIONS**

1. SUPPLEMENTAL GENERAL PROVISIONS – Add attached section.
2. SECTION 011000 – Add attached Exhibit E – Milestone Schedule
3. SECTION 012000 – Change the following:
  - a. Change section 1.04 L. to read “Exhibit for additional procedures for payment applications available upon request.”

**END OF ADDENDUM NO. 2**







Project: TowerWorkOutline  
Date: Wed 5/30/18

Task		Project Summary		Inactive Milestone		Manual Summary Rollup		Deadline	
Split		External Tasks		Inactive Summary		Manual Summary		Progress	
Milestone		External Milestone		Manual Task		Start-only			
Summary		Inactive Task		Duration-only		Finish-only			

**SPECIAL PROVISIONS (SGP)**

**SUPPLEMENTAL GENERAL PROVISIONS**



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## SUPPLEMENTAL GENERAL PROVISIONS

### SPECIAL PROVISIONS FOR ALL AVIATION PROJECTS FEDERALLY OBLIGATED AIRPORTS

#### Part A – Project Specific Clauses

1. DBE DIRECTORY. The latest edition of the DBE Directory can be obtained from the Office of Civil Rights and Labor's webpage at the following address: <http://www.nysucp.net/>
2. Contractors that do not have access to the internet may obtain a copy by contacting the Engineer.
3. **WAGE RATES.** U.S. Department of Labor Davis-Bacon wage rates are applicable to this Contract and are included in Special Provisions Section SP-2. State wage rates are also applicable to this Contract and are included in Special Provisions Section SP-8. The higher wage rate shall apply.
4. **CONTACT WITH THE AIRPORT.** From the time of advertising until the actual bid opening for this Contract, the only contact with the Airport will be as described in the Invitation for Bids.
5. **SUSPENSION OF WORK.** The Contractor is hereby notified that in the absence of the Engineer, the Airport's Safety Officer, the Airport's Hazardous Materials and Waste Coordinator, and the Airport Operator shall each have the authority to suspend work when they determine that a serious safety or environmental violation exists on the job site. The period of time when work is suspended due to a serious safety or environmental violation will not be justification for an extension of time or the award of damages to the Contractor.
6. **CONTRACT DOCUMENTS.** The Contractor's attention is directed to the following documents that make up the Contract Documents and are effective for this Contract:

- Table of Contents
- Invitation to Bid
- Instructions to Bidders
- Bid Proposal
- Bid Bond
- Award of Contract and Execution of Contract Bonds
- Contract
- Performance Bond
- Payment Bond
- Notice of Award
- Notice to Proceed
- Contractor's Guaranty
- Special Provisions:
  - Permits
  - Supplemental General Provisions

## SUPPLEMENTAL GENERAL PROVISIONS

US Department of Labor – Davis-Bacon Wage Rates

Reference Documents:

Forms MJ-200 through MJ-220

AC 150/5370-2F - Operational Safety on Airports During Construction

State Prevailing Wage Rates

State or other Standards or Requirements

Pre-Demolition Asbestos, Lead & Hazardous Materials Assessment Report

Technical Specifications

Contract Plans

Addendums

7. **DAILY LIST OF WORKERS.** The Contractor shall provide a daily list of workers on the site in accordance with the requirements set forth in Section 21 of the Supplemental General Provisions.
8. **UTILITIES.** There are no known public utilities within the project site that could impact the contractor's operations.
9. **PERMIT AND REGULATION COMPLIANCE.** The Contractor shall comply with all project permits, general permits, state laws, and state and local regulations. Any fines assessed against the Airport and related expenses due to non-compliance with the permits, laws, rules, and regulations cited in the Contract Documents and caused by the Contractor and their personnel, Subcontractors and Vendors shall be paid for by the Contractor.

For permit requirements refer to the Special Provisions of the Contract Documents.

10. **WORK AREAS.** In order to enhance safety during construction and minimize the impacts on Airport operations caused by construction, the Contractor is to stay within the confines of the designated work areas.
11. **WORK AREA REQUIREMENTS.** Contractor to follow the safety precautions, pre-work requirements and administrative requirements required prior to being allowed to work in any of the specified work areas in accordance with established Airport safety measures. The work area requirements are not intended to describe every work element or every detail of work, but rather provide the Contractor with an outline of Airport safety measures, safety protocols and operational requirements during the progression of work.

The Contractor shall propose the actual sequencing of the work in all work areas subject to the conditions indicated below. If requested, the Contractor shall make necessary changes in the sequencing in order to facilitate Airport operation and safety. All work shall be completed within the specified contract time.

- a) Mitigation of Effects: To enhance safety and to minimize the impacts to Airport Operations:
  - a. Badged Escorts will be used during the work being performed in the "Airport Operations Area".

## SUPPLEMENTAL GENERAL PROVISIONS

**12. PROJECT DURATION.** Upon execution of the Contract, the Owner will issue a written "Notice to Proceed" which will specify an effective date for the Contractor to begin work at the site. All work under this Contract must be completed within the Total Contract Time listed below of the date specified in the "Notice to Proceed" for each individual contract:

- **For CONTRACT NO. 1 – GENERAL TRADES, the work duration for will be 120 calendar days**

It shall be clearly understood that the Contract time is contractual, and if the time is exceeded, liquidated damages may be assessed. Requests for additional Contract time will only be granted for the following reasons:

- 1) Additional work is authorized by change order.
- 2) Delays or postponements of critical path work per the approved construction schedule are requested by the Owner.
- 3) Material delivery delays, which are documented and are beyond the Contractor's control. Material delivery delays, which are not documented, and not accounted for or identified in the Contractor's schedule, will not be considered a valid justification to extend the Contract time.

**13. LIQUIDATED DAMAGES.** Refer to Section 012000, PRICE AND PAYMENT PROCEDURES.

**14. ADDITIONAL RESIDENT ENGINEER SERVICES.** The Owner has established a Resident Engineering budget based on the work hours made available to the Contractor. If the Contractor's work schedule exceeds the weekly Resident Engineering hours budgeted for the project, the Contractor agrees to pay the Owner the additional cost for the Resident Engineer in excess of the budgeted hours. The weekly Resident Engineering budget is fifty-five (55) hours per week. The cost to the Contractor shall be based on the Resident Engineer's actual billing rate plus expenses and fifteen percent (15%) profit in effect at the time the services were provided. For budgeting purposes, an hourly rate of \$150.00/hour is recommended. It shall be understood that these charges are in addition to any other damage claims available to the Owner (Liquidated Damages, Breach of Contract, etc, as described within the Contract Documents).

**15. MONTHLY DBE REPORTING.** Not required.

**16. COORDINATION OF CONTRACT DOCUMENTS.**

- (a) General. The various sections of the Contract Documents are essential parts of the Contract; a requirement occurring in one is as binding as though occurring in all. The Contract Documents are complementary and intended to describe and provide for a complete work product. In case of discrepancy, precedence of the Contract Documents will be determined in the following order:

Contract Document Precedence

## SUPPLEMENTAL GENERAL PROVISIONS

1. Project Permits. In the event of a conflict between permit requirements, the more protective or stringent shall take precedence as determined by the Engineer.
2. Contract
3. Required Federal Contract Provisions for AIP and Obligated Sponsors, Appendix Y – AIP Handbook, and referenced Federal laws, regulations, and policies
4. Invitation to Bid
5. Special Provisions – Supplemental General Provisions
6. Other Special Provisions documents.
7. Technical Specifications
8. FAA - General Provisions
9. Contract Plans
  - a. Calculated Dimensions
  - b. Scaled Dimensions
10. Cited Standards for Materials or Testing
11. Cited FAA Advisory Circulars and Orders
12. Any Other Specifications Adopted by Reference

Addendum items take on the precedence of the item they are revising or the section into which they are added.

- (b) No Advantage from Errors or Omissions in Contract Documents. Neither the Contractor nor the Owner shall take advantage or be afforded any benefit as the result of apparent error(s) or omission(s) in the Contract Documents. If either party discovers error(s) or omission(s), it shall immediately notify the other. Failure of a bidder to notify the Owner or apparent error(s) or omission(s) in the Contract Documents during the bid process may result in their bid being determined to be non-responsive.
- (c) Corrections to Contract Documents. The Engineer will make corrections and interpretations deemed necessary and appropriate to fulfill the intent of the Contract Documents. When there is an apparent absence or mention of a detail or an apparent omission of a detailed description in the Contract Documents, the

## SUPPLEMENTAL GENERAL PROVISIONS

detail or description shall be interpreted/understood/determined using the best general engineering and construction practice.

- (d) Effect of Other Specifications/Standards. Other specifications (e.g. ASTM, NDS, CRSI, ACI) cited by reference shall become effective only if the work or material covered by them is not included in the Contract Documents. Specifications so referenced shall be the latest revision in effect on the date of advertisement for bids.

**17. BID VALID PERIOD.** No bids may be withdrawn by the Bidder prior to the date listed in the Invitation to Bid.

**18. SPECIALTY ITEMS.** The following items are considered "Specialty Items" in this project:

- a. None.

### **19. GENERAL SURETY REQUIREMENTS.**

The Proposal Surety shall be as specified in the Invitation to Bid; only the Bid Bond as bound within these documents or a Cashier's Check is acceptable. Upon request of the bidder, the Owner may choose to accept the AIA Bid Bond form. Each separate Proposal shall be accompanied by a Cashier's Check or Proposal Bond on the form provided herein in the amount of Five Percent (5 %) of the total amount bid, made payable to the Owner. If a Proposal Bond is provided in lieu of a Cashier's Check, it must be accompanied by a Surety's Bond Affidavit indicating that the person signing the bond on behalf of the Surety has full legal authority to do so.

If a Surety Bond is provided, the Surety Company issuing the bond shall be listed on the current United States Department of the Treasury "Department of the Treasury's listing of approved Sureties (Department Circular 570)" as authorized to do business in the State of New York. Bids submitted without Bid Security will be rejected as nonresponsive.

100% Contract Payment and 100% Performance Bonds must be accompanied by a Surety's Bond Affidavit indicating that the person signing the bond on behalf of the Surety has full legal authority to do so. The Surety Company issuing the bond shall be listed on the current United States Department of the Treasury "Department of the Treasury's listing of approved Sureties (Department Circular 570)" as authorized to do business in the State of New York. These Bonds are required from the Contractor guaranteeing that the Contract, including the various guarantee periods thereunder, will be faithfully performed and that Contractor will promptly make payment to all persons supplying them labor, materials, supplies, and services used directly or indirectly by the Contractor in the prosecution of the work provided for in the Contract.

If, at any time after the execution of the Contract and the Contract Bonds, as above required, the Owner deems the Surety or Sureties upon such Bond or Bonds is unsatisfactory, or if, for any reasons, such Bond or Bonds cease(s) to be adequate to cover the performance of the work or prompt payment as above specified, Contractor shall, at its expense and within 15 days written notice from the Owner to do so, furnish additional Bond or Bonds in such form and amount and with such Surety and Sureties as shall be satisfactory to the Owner. In such event, no further payment to the Contractor shall be deemed due under the

## SUPPLEMENTAL GENERAL PROVISIONS

Agreement until such new or additional bond or bonds are furnished in a manner and form satisfactory to the Owner.

The Bidder to whom the Contract is awarded must deposit with the Owner at the date of substantial completion of the Contract a Maintenance Surety Bond in a sum equal to 15 percent of the adjusted Contract amount at completion of work, guaranteeing against defective workmanship and materials for a period of one year from the date of substantial completion. The bond shall be in the form acceptable to the Owner and the Surety Company issuing the bond shall be listed on the current United States Department of the Treasury "Department of the Treasury's listing of approved Sureties (Department Circular 570)" as authorized to do business in the State of New York. The Contractor shall be responsible for obtaining and maintaining the Bond in force from the date of substantial completion until the expiration of the one year maintenance period.

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

- 20. CHANGE ORDERS.** When the change order or supplemental agreement authorizing the extra work requires that it be done by force account, such force account shall be measured and paid for based on expended labor, equipment, and materials plus an allowance for overhead and profit not to exceed 15% of the materials and labor costs when the work is performed by the Prime contractor; or a 5% allowance for the Prime for work completed by a subcontractor, with the subcontractor's allowance for overhead and profit not to exceed 15% of the materials and labor costs.

Extra work will be paid for at the contract prices or agreed prices specified in the change order or supplemental agreement authorizing the extra work.

Should acceptable completion of the contract require the Contractor to perform an item of work for which no basis of payment has been provided in the original contract or previously issued change orders or supplemental agreements, the same shall be called "Extra Work." Extra Work that is within the general scope of the contract shall be covered by written change order. Change orders for such Extra Work shall contain agreed unit prices for performing the change order work in accordance with the requirements specified in the order, and shall contain any adjustment to the contract time that, in the Engineer's opinion, is necessary for completion of such Extra Work.

When determined by the Engineer to be in the Owner's best interest, the Engineer may order the Contractor to proceed with Extra Work. Any claim for payment of Extra Work that is not covered by written agreement (change order or supplemental agreement) shall be rejected by the Owner.

## SUPPLEMENTAL GENERAL PROVISIONS

### 21. SECURITY AND SITE ACCESS CONTROL.

Access to any work areas within the security perimeter of the airport shall be controlled as follows:

**Contractor Badge:** Access to general construction areas in the Airport Operations Area (AOA) by the Contractor's and Subcontractor's personnel shall only be via the access points designated on the plans, or approved by the Airport. Access by Contractor's and Subcontractor's personnel shall be generally controlled through the issuance of Contractor Badges by the Airport. Only those personnel issued Contractor Badges shall be allowed access to the general construction areas of the Airfield. Individuals with limited access (less than 7 working days) may be escorted by Contractor personnel who have been issued a Contractor Badge.

**SIDA Badge:** Access to any Security Identification Display Area (SIDA), Sterile Area in the Terminal Building, and Air Traffic Control Tower areas by Contractor's and Subcontractor's personnel shall be controlled through the issuance of SIDA badges by the Airport. Access to these areas shall only be via the access points designated on the plans, or approved by the Airport. Only those personnel who have been issued SIDA Badges shall be allowed access to the above areas. Individuals with limited access (less than 7 working days) may be escorted by Contractor or Subcontractor personnel who have been issued a SIDA Badge by the Airport. Individuals accessing the Air Traffic Control Tower may also be required to be escorted by FAA or Airport personnel, regardless of having airport issued IDs.

**Gate Guards** - All Airfield Access Gates shall be monitored, and access to the airfield shall be controlled by Gate Guards. All Gate Guards must possess a Contractor badge issued by the Airport.

**Material Delivery Trucks** - Material Delivery Truck Drivers will not need to be badged, however all material delivery trucks and operators must appear on a daily list possessed by the Gate Guards, and only those Material Delivery Trucks appearing on said list shall be allowed access to the airfield. All Material Delivery Trucks shall be escorted beyond the airside access gate by individuals possessing a Contractor or SIDA badge issued by the Airport.

**Note:** All individuals issued an airport ID badge must be in possession of the badge while in the AOA, SIDA, or other areas as required by the airport. Once issued an airport ID badge, an individual cannot be escorted for any reason and will be prohibited from accessing the airfield if not in possession of the badge.

#### **Badging Process –**

**Contractor Badge issuance process** includes an initial application and fee of \$20 per individual, submission of required identification documents, photographs of each individual by the airport, the requirement for each individual to attend an approximate 1



## SUPPLEMENTAL GENERAL PROVISIONS

to 2-hour airfield security and safety training class. Note that this process normally takes from 1-3 weeks to complete due to government background checks that are beyond the Airport's ability to control.

**SIDA Badge issuance process** includes an initial application fee of \$50 per individual, submission of required identification documents, fingerprinting, government background check, photographs of each individual by the airport, the requirement for each individual to attend an approximate 1 to 2-hour airfield security and safety training class, and the requirement for each individual to take and pass a short written examination regarding airfield security and safety procedures. Note that this process normally takes from 1-3 weeks to complete due to government background checks that are beyond the Airport's ability to control.

The Contractor shall consider in its bid, the number of badged personnel that both the Contractor, and its Subcontractors will require to allow for orderly progression of contract work.

All costs to comply with this section, including badging fees, shall be included in the price bid of the contract.

### 22. PAYMENTS/RETAINAGE

The Owner shall withhold ten percent (10%) retainage on the Contract.

Partial payments will be made to the Contractor at least once each month as the work progresses. Said payments will be based upon estimates, prepared by the Engineer, of the value of the work performed and materials complete and in place, in accordance with the contract, plans, and specifications. Such partial payments may also include the delivered actual cost of those materials stockpiled and stored. No partial payment will be made when the amount due to the Contractor since the last estimate amounts to less than five hundred dollars.

The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 30 days after the Contractor has received a partial payment. The Owner must ensure prompt and full payment of retainage from the prime Contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Owner. When the Owner has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

From the total of the amount determined to be payable on a partial payment the Retainage percentage of such total amount as specified will be deducted and retained by the Owner until the final payment is made. The balance of the amount payable, less all previous payments, shall be certified for payment.

## **SUPPLEMENTAL GENERAL PROVISIONS**

When at least 95% of the work has been completed, the Engineer shall, at the Owner's discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done.

The Owner may retain an amount not less than twice the contract value or estimated cost, whichever is greater, of the work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the Contractor.

It is understood and agreed that the Contractor shall not be entitled to demand or receive partial payment based on quantities of work in excess of those provided in the proposal or covered by approved change orders or supplemental agreements, except when such excess quantities have been determined by the Engineer to be a part of the final quantity for the item of work in question.

No partial payment shall bind the Owner to the acceptance of any materials or work in place as to quality or quantity. All partial payments are subject to correction at the time of final payment.

The Contractor shall deliver to the Owner a complete release of all claims for labor and material arising out of this contract before the final payment is made. If any subcontractor or supplier fails to furnish such a release in full, the Contractor may furnish a bond or other collateral satisfactory to the Owner to indemnify the Owner against any potential lien or other such claim. The bond or collateral shall include all costs, expenses, and attorney fees the Owner may be compelled to pay in discharging any such lien or claim.

## SUPPLEMENTAL GENERAL PROVISIONS

### Part B – FAA Required Clauses

### Part C – General Aviation Clauses

#### **55. FORMS**

The Special Provisions Section of these Specifications contains most of the forms required for use during the project and referenced throughout the Contract Documents. Most of the forms have been assigned unique form numbers to assist the Contractor in locating the correct form. After award of the Contract, the Prime Contractor may request electronic copies of some or all of the forms contained in Special Provision Section.

#### **56. SHOP DRAWINGS AND SUBMITTALS**

- 56.1** Submittals shall include but not be limited to: shop drawings, schedules, samples, and manufacturer's literature as required by the Specifications or requested by the Resident Engineer.

No work shall be fabricated until such approval has been received. Work performed without shop drawing approval is at the Contractor's own risk.

- 56.2** All submissions shall include a Form MJ-213 "CONTRACTOR SUBMITTAL FORM" as a cover sheet to the submittal information. For submittals generated from Subcontractors, two (2) submittal forms are required, one (1) Form MJ-213 from the Contractor and one (1) Form MJ-214 "SUBCONTRACTOR SUBMITTAL FORM" from the Subcontractor. Submittals received without the completed submittal form(s) will be returned to the Contractor as incomplete and not reviewed. Contractor submittal forms shall be printed on colored paper of the Contractor's choice and shall remain the same color throughout the project.

Contractor submittal forms MJ-213 and MJ-214 are provided in "Forms" as referenced above.

- 56.3** Submissions made directly by Subcontractors will not be accepted. All business concerning approval will be conducted through the Contractor.

The Contractor shall submit for the approval of the Resident Engineer, the following number of submittal copies:

- Three (4) copies for the Resident Engineer
- Plus the number of copies required by the Contractor/Subcontractor

With approval of the Engineer, the Contractor may submit Submittals via email on Adobe Acrobat (.pdf) format. In the event that Submittals are submitted via email, it

## SUPPLEMENTAL GENERAL PROVISIONS

shall be the Contractor's responsibility to ensure that the Submittal is received by the Engineer.

- 56.4** Submissions shall be made sufficiently in advance of construction requirements to allow ample time for checking, resubmitting and rechecking without causing delay in the work. Failure to submit shop drawings in a timely manner shall not be considered as a valid reason for a Contract time extension.
- 56.5** Each submission, including the submission of Subcontractors shall be checked by the Contractor for accuracy and compliance with the Contract Documents. The certification on the submittal form shall constitute as evidence of such checking and coordination. Submissions without this certification will not be considered for review by the Resident Engineer.

Submittal certification shall include one (1) of the following:

1. Submitted "as specified" for the product
  2. Submitted "AS EQUAL" to the product specified
  3. Submitted "IN SUBSTITUTION" for the product specified
  4. "OTHER"
1. Submitted "as specified" shall mean the Contractor is certifying that the submittal item or system is of the same manufacture and model number, or performance standard as specified and is in all ways identical to the Contract Documents in form and function. For these items, manufacturer's data sheets shall be attached to the Contractor submittal form.
  2. Submitted "AS EQUAL" to the product or system specified shall mean the Contractor is certifying the proposed submittal, although supplied by a manufacturer other than the one specified for the item meets or exceeds the physical requirements, function, specifications, quality, speed, reliability, service life, safety, and/or maintenance costs of the product specified, and is capable of being incorporated into the overall project without design revisions and will perform equally or better than the specified item. For these items, manufacturer's data sheets shall be attached to the Contractor submittal to demonstrate that the performance, durability and/or maintenance standards of the product are as specified.
  3. Submitted "IN SUBSTITUTION" to the product or system specified means the Contractor is proposing an item or system of different physical requirements, specifications, quality, reliability, and/or maintenance costs, than the product specified. For a submission "IN SUBSTITUTION" of the product or system specified, the following information and procedure shall be followed to determine if the Owner's requirements will be satisfied:

## SUPPLEMENTAL GENERAL PROVISIONS

- a. Design the system to meet or exceed the operational requirements, physical requirements, specifications, quality, reliability, maintenance costs, and ease of operation of the specified system.
- b. Submit full Specifications for the system and all components in the form of shop drawings for review by the Owner and the Engineer.
- c. Submit a revised design for the system, stamped by a licensed Professional Engineer within the state in which the work is to be performed.
- d. Submit revised details for any and all components of the proposed system that are different than those of the specified system. A licensed Professional Engineer within the state in which the work is to be performed shall stamp details.
- e. Demonstrate the proposed system to the satisfaction of the Owner and Engineer.
- f. Reimburse the Engineer at the rate of \$170.00 per hour for Project Managers and \$130.00 per hour plus expenses for Project Engineers for all time spent reviewing, discussing and otherwise being involved with the substitute system. The payment shall be made based on an estimate of the time required and shall be paid in advance of the review. If the estimated amount is exceeded, additional amounts must be provided by the Contractor for the review to continue. Upon completion of the review, a summary invoice will be provided to the Contractor indicating the hours spent and amount billed. Any money not spent on the review will be returned to the Contractor.
- g. Provide a credit satisfactory to the Owner for any cost savings associated with the substitution. The Contractor should anticipate providing a credit equal to one-half of the cost differential between the specified system and the system proposed for substitution.

Acceptance of any alternate item or system will be at the discretion of the Owner. Upon acceptance or rejection of a system or component thereof, the Engineer shall provide a written response to the Contractor in the form of a shop drawing review.

4. Submitted Certified as "OTHER". The Contractor shall provide information to demonstrate the proposed item or system will satisfy the design intent and provide the Owner performance, reliability and maintenance ease over its anticipated service life that exceeds that of the specified product. The final determination of suitability shall be the sole responsibility of the Owner.

**56.6** Changes on the submitted shop drawings that deviate from the Project Plans and Specifications must be brought to the Owner's and Resident Engineer's attention, in writing, prior to review. Changes must be clearly visible on the shop drawings in the

## SUPPLEMENTAL GENERAL PROVISIONS

form of written notation, ballooning, or highlighting the intended change. A written description for the proposed change must also be included and submitted on company letterhead. Changes to drawings and details not submitted in accordance with these requirements will not be recognized as an approved deviation from the Design of Record. Construction repairs, renovations, or replacements required as a result of shop drawing and submittal deviations that are not documented in accordance with these requirements are subject to removal and/or replacement by the Contractor, at the sole cost of the Contractor. The Contractor shall not be relieved of responsibility for errors or omissions in shop drawings, product data, samples or similar submittals by the Resident Engineer's actions.

- 56.7** Shop drawings for pipe, fittings, and masonry items shall consist of certificates of conformance of affidavits from the manufacturer's signifying that all materials conform to the Specifications.
- 56.8** The Contractor shall allow for sufficient time within the project schedule for shop drawing review and processing. Items requiring long lead times which impact the start or completion of the project shall be identified, brought to the Engineer's attention and noted on the shop drawing submission. Additional Contract time will not be provided for failure to submit shop drawings for approval in a timely manner.
- 56.9** The Owner reserves the right to back charge the Contractor for expenses incurred in reviewing and returning incomplete shop drawings. Expenses shall include the costs of the Engineer at the rate of \$170.00 per hour for Project Managers and \$130.00 per hour plus expenses for Project Engineer's for the actual time incurred. The Contractor will be provided documentation of the expenses incurred. Contractor back charges will be deducted from payments due to the Contractor.
- 56.10** The Contractor shall submit all required Buy American Preferences documentation with each shop drawing as outlined in Appendix Y of FAA Order 5100-38D (AIP Handbook) dated September 30, 2015 and as required by the Owner or the Resident Engineer. Delays caused by the Buy American Preferences program shall be expected and the Contractor agrees to make no monetary claim for delays, interferences or hindrances of any kind in the performance of this Contract occasioned by any act or omission to act of the Owner or any of its Representatives.

Each shop drawing and submittal shall be accompanied by a signed copy of Form MJ-212 "Contractor / Subcontractor / Supplier Buy American Certification." A blank copy of this form is included in the "Forms" Section referenced above.

## **57. DISADVANTAGED BUSINESS ENTERPRISE (DBE) AND SMALL BUSINESS PROGRAMS – NOT USED**

## SUPPLEMENTAL GENERAL PROVISIONS

### 58. SUBLETTING WORK TO SUBCONTRACTORS AND SUPPLIERS OR ASSIGNMENT OF CONTRACT

**58.1 GENERAL:** The Contractor shall not sublet, assign, sell, transfer, or otherwise dispose of the Contract or any portion thereof, or of its right, title, or interest therein to any individual, firm, corporation, or other entity without the written consent of the Airport. The Contractor must file with the Airport copies of all executed subcontracts and other documents. An approved subcontractor shall not in turn sublet or assign any of the work pertaining to the subcontract without the Contractor obtaining further permission from the Airport. In no event shall Airport approval release the Contractor from responsibility and liability under the Contract and bonds.

Any work or material supply that costs \$10,000 or more and is included in this project that the Prime Contractor wants to sublet to another firm must be approved by the Airport in writing. Any Subcontractors or Suppliers that will be doing work or supplying material that is sublet and approved by the Airport must have a signed contract with the Prime Contractor or a lower tier Subcontractor or Supplier before they may begin work or deliver material to the project site. The Airport reserves the right to reject the use of any Subcontractor or Supplier that they feel is not in best interests of the Airport.

**58.2 PERFORMANCE OF THE CONTRACT WORK:** The Contractor shall perform Contract work with its own organization amounting to at least **25 percent** of the total Contract work amount, minus "Specialty Items." The Contractor's own organization includes only workers employed and paid directly by the Contractor and equipment owned, leased, or rented by it from a non-debarred individual or entity, with or without operators. The term "own organization" does not include employees or equipment of a subcontractor, assignee, agent, or supplier of the Contractor. When determining whether the Contractor is in compliance with this 50 percent requirement, the following shall apply:

- (1) The cost of materials and manufactured products to be purchased or produced under the Contract shall be included in the amount upon which the 50 percent requirement is computed.
- (2) The percentage of subcontracted work shall be based on the Contract, rather than subcontract, unit prices. If only a part of a Contract item is to be sublet, its proportional value shall be determined on the same basis.
- (3) When a firm sells materials to a Contractor and performs the work of incorporating the materials into the project, these actions must be considered in combination and as constituting a single subcontract.

**58.3 "SPECIALTY" ITEMS:** The cost of "Specialty Items" may be deducted from the total Contract price before computing the amount of work required to be performed by the Contractor's own organization. Specialty items will be designated as such paragraph 18 in this section and may be performed by subcontract.

## SUPPLEMENTAL GENERAL PROVISIONS

**58.4 PERFORMANCE REQUIREMENTS:** The Contractor and its subcontractor(s) shall, in the staffing and administration of the Contract, comply with the following performance requirements:

(1) Commercially Useful Function. The Contractor and all subcontractor(s) must each perform a “commercially useful function.” This means that the Contractor/subcontractor is responsible for the execution of a distinct element of the work of a Contract and carries out its responsibilities by actually performing, managing, and supervising the work involved. The Contractor/subcontractor must have the latitude to independently:

- a. Select contracts to be bid;
- b. Determine prices to be quoted;
- c. Select material suppliers;
- d. Hire, fire, supervise, and pay employees; and
- e. Direct or cause the direction of the management and policies of the firm.

The Contractor/subcontractor may not broker work for another firm or act as a bidding conduit.

(2) Contractor to Furnish Competent Representative; Safety Officer; Others. To ensure that any subcontracted work is performed in accordance with the Contract requirements, the Contractor shall be required to furnish:

- a. A competent, reliable, English-speaking representative employed by the Contractor who has full authority to direct performance of the work in accordance with the Contract requirements and who is responsible for all construction operations on the project regardless of who performs the work.
- b. A competent, reliable, English-speaking employee designated as the safety officer who is authorized to receive orders and to issue binding directions concerning safety to all persons except Agency representatives associated with the project, whether employed by the Contractor, subcontractors, or material suppliers.
- c. Such other individual(s) from the Contractor’s organization as the Agency’s Construction Engineer determines are necessary to ensure the performance of the Contract, e.g., supervisory, managerial and engineering personnel.

(3) Employees on Payroll. The Contractor/subcontractor is not permitted to place on the payroll the employees of another firm for the purpose of avoiding Federal or State regulations or the provisions of the Contract.



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**58.5 SUBLETTING WORK TO SUPPLIERS:** Suppliers that the Contractor or a lower tier Subcontractor or Supplier plans to sublet work to must be approved by the Agency. The Prime Contractor must submit a package of information to the Agency through the Resident Engineer at least 14 days prior to the date that the supplier will be supplying material to the project site.

The Supplier Sublet package shall include the following correctly filled out and executed forms:

- i. Form MJ-211 – “Transmittal Request for Consent to Sublet”;
- ii. Form MJ-210 – “Contractor Acknowledgement Certification”;
- iii. Form MJ-217 – “EEO Officer Notification and Program Compliance Certification”;
- iv. EEO Appointment Letter;
- v. EEO Policy Statement;
- vi. Form MJ-203 – “Certificate of Non-Segregated Facilities”; and
- vii. Form MJ-207 – “Subcontractor/Supplier – DBE/Small Business Reporting Information Form”.

**58.6 SUBLETTING WORK TO SUBCONTRACTORS:** Subcontractors that the Contractor or a lower tier Subcontractor or Supplier plans to sublet work to must be approved by the County. The Prime Contractor must submit a package of information to the County through the Resident Engineer at least 14 days prior to the date that the supplier will be supplying material to the project site.

The Subcontractor Sublet package shall include the following correctly filled out and executed forms:

- i. Form MJ-211 – “Transmittal Request for Consent to Sublet”;
- ii. Form MJ-210 – “Contractor Acknowledgement Certification”;
- iii. Form MJ-209 – “Annual Contractor Assurances – AIP Funded Contracts”;
- iv. Form MJ-217 – “EEO Officer Notification and Program Compliance Certification”;
- v. EEO Appointment Letter;
- vi. EEO Policy Statement;
- vii. Form MJ-203 – “Certificate of Non-Segregated Facilities”;
- viii. Form MJ-207 – “Subcontractor/Supplier – DBE/Small Business Reporting Information Form”; and
- ix. Form MJ-204 – “Equal Employment Opportunity Report Statement as Required by 41 CFR 60-1.7(b)”.

Form MJ-209 must be resubmitted by the Prime Contractor and each Subcontractor annually by January 15<sup>th</sup>.

## 59. PROOF OF PROMPT PAYMENT

Prompt payment of suppliers and subcontractors is required as outlined in Section 22 above.

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With each Periodic Cost Estimate (PCE), the Prime Contractor shall provide proof of payment of all Subcontractors and Suppliers whose work was included in the previous PCE. Proof of payment shall consist of a copy of a cancelled check or a certificate of payment signed by the Subcontractor or Supplier. The Owner may provide the Contractor with one or more forms to be filled out and returned to the Owner to monitor and track payments.

To track work by Subcontractors and Suppliers, the Prime Contractor shall submit copies of Form MJ-216 "Subcontractor / Supplier Disadvantage Business Enterprise (DBE) and Small Business – Project Expenditure Report" for EVERY approved Subcontractor and Supplier with each PCE even if the Subcontractor or Supplier did not do any work on the project or supply any materials to the project during the period covered by the PCE.

If the Contractor is in violation of this prompt payment requirement, the Owner may withhold the amount due to the Subcontractor or Supplier from future payments due to the Contractor until satisfactory proof of payment is received. If the Contractor is in violation of this prompt payment requirement four (4) or more times, the Owner may terminate the Contract for cause and/or may require the Contractor to pay some or all of their Subcontractors or Suppliers and provide proof of payment before the Subcontractor's or Supplier's work can be included on a PCE.

### **60. EQUAL EMPLOYMENT OPPORTUNITY (EEO) / AFFIRMATIVE ACTION (AF) / NON-DISCRIMINATION**

The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications". The Contractor and all Subcontractors and Suppliers shall comply with the EEO, AF, and Non-Discrimination requirements in the "Required Federal Contract Provisions for AIP and Obligated Sponsors" contained in Section VTA-I, 41 CFR 60-4 (available upon request), and federal Executive Order 11246. If the federal requirements and the state requirements conflict, the federal requirements shall govern. Requirements include, but are not limited to:

**60.1 SF-100:** The Contractor and all first tier Subcontractors must file SF-100 (EEO-1) by September 30<sup>th</sup> of each year but in no case later than the start of this project if they employ 50 or more employees at all locations and they have contracts of \$50,000 or more. The Contractor shall confirm these requirements prior to the start of work.

**60.2 MINORITY AND FEMALE EMPLOYEE PARTICIPATION:** The Contractor and all Subcontractors must comply with 41 CFR Part 60-4 and federal Executive Order 11246 in regards to goals for minority and female employees in federally funded projects. Participating Contractors and Subcontractors must:

- i. Take specific actions as outlined in 41 CFR Part 60-4 to ensure EEO;
- ii. Have an EEO / AF Plan;
- iii. Designate an EEO / AF Officer;
- iv. Periodically notify and train supervisors and others on the Plan;
- v. Recruit minorities and females;
- vi. Maintain EEO / AF records;

## SUPPLEMENTAL GENERAL PROVISIONS

- vii. Develop or participate in on-the-job training programs;
- viii. Disseminate their Plan;
- ix. Post their Plan;
- x. Annually evaluate all minorities for promotion; and
- xi. Annually review supervisors' adherence to their Plan.

**60.3** The goals and timetables for minority and female participation, expressed in percentage terms for the contractor's aggregate workforce in each trade on all construction work in the covered area, are contained in the Invitation for Bids.

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

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

**60.4** The contractor shall provide written notification to the US Department of Labor, Director, Office of Federal Contract Compliance Programs (OFCCP), within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of subcontract; and the geographical area in which the subcontract is to be performed.

**60.5** As used in this notice and in the contract resulting from this solicitation, the "covered area" is Broome, Chemung, Schuyler, Steuben and Tompkins Counties.

## **61. MATERIALS, SERVICES, AND FACILITIES**

It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor shall provide at no cost to the Owner all materials, labor, tools, equipment, water, light, power, transportation, superintendence, temporary construction of any nature, and all other services

## **SUPPLEMENTAL GENERAL PROVISIONS**

and facilities of any nature whatsoever necessary to execute, complete, and deliver the work for the specified item.

Any work to be performed after regular hours, on Sundays or on Legal Holidays, shall be performed without additional expense to the Owner. This includes but is not limited to paying for additional Resident Engineering cost incurred by the Owner.

### **62. CONTRACTOR'S TITLE TO MATERIALS**

No materials or supplies for the work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The Contractor warrants that he /she has good title to all materials and supplies used by him/her in the work free from all liens, claims or encumbrances.

### **63. LUMP SUM AND UNIT PRICES**

Only those items for which unit prices are shown in the Bid Form will be considered for separate payment. Compensation for all other work shall be included in the appropriate Contract items.

Quantities listed in the Bid Form are estimated for Bidding purposes only and do not necessarily represent the exact amount of work to be done. Payment for unit price items will be based on the unit prices specified or Bid and the actual amount of work performed.

### **64. "OR EQUAL" CLAUSE**

Whenever materials are identified on the Plans or in the Specifications by reference to manufacturer's or vendors' names, trade names, catalogue numbers, etc., it is intended merely to establish a standard; and any material of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the materials so proposed are, in the opinion of the Engineer, of equal substance and function. Such materials shall not be purchased or installed by the Contractor without the Engineer's written approvals through the Shop Drawing process.

### **65. REPRESENTATIONS OF THE CONTRACTOR**

The Contractor represents and warrants:

- a. that they are financially solvent and that they are experienced in and competent to perform the type of work or to furnish the plant, materials, supplies or equipment, to be so performed or furnished by him/her; and

## SUPPLEMENTAL GENERAL PROVISIONS

- b. that they are familiar with all Federal, State, municipal and Agency laws, ordinances and regulations, which may in any way affect the work or those employed therein, including but not limited to, rulings or actions specifically relating to the work or to the project of which it is a part; and
- c. that such temporary and permanent work provided by the Contract Documents as is to be done by them can be satisfactorily constructed and used for the purpose for which it is intended, and that such construction will not injure any person or damage any property; and
- d. that they have carefully examined the Plans, Specifications and site of the work, and that from their own investigations, they have satisfied themselves as to the nature and location of the work, the character, quality and quantity of equipment and other facilities needed for the performance of the work, the general and local conditions and all other materials which may in any way affect the work or its performance.

### 66. PROTECTION OF WORK AND PROPERTY AND EMERGENCIES

**66.1 PROTECTION OF WORK AND PROPERTY:** The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this Contract. The Contractor shall at all times safeguard and protect their own work and adjacent property from damage. The Contractor shall correct any such damage, loss or injury unless such is caused directly by errors contained in the Contract or caused by the Owner, or the Owner's duly authorized representative.

**66.2 EMERGENCIES:** In case of an emergency which threatens loss or injury of property, and/or safety of life, the Contractor will be allowed to act, without previous instructions from the Resident Engineer, in a diligent manner. The Contractor shall notify the Resident Engineer immediately thereafter. Any claim for compensation by the Contractor due to such extra work shall be promptly submitted to the Resident Engineer for approval.

The amount of reimbursement claimed by the Contractor on account of any emergency action shall be determined in the manner provided in Section 40 of the General Provisions.

Where the Contractor has not taken action but has notified the Engineer of any emergency threatening injury to persons or damage to the work or any adjoining property, the Contractor shall act as instructed or authorized by the Resident Engineer.

Any Contractor whose place of business is located outside of the boundary of the city or town where the airport is located and who does not maintain local headquarters 24 hours a day within that city or town must make satisfactory arrangements with the Engineer for taking care of emergencies or complaints which may occur at night, over the weekend, or when the job is shut down. If they do not, the Owner may make arrangements and the cost will be charged to the Contractor. Before the final estimate is certified for payment, the Contractor shall make similar arrangements to cover the guarantee period.

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### 67. PROTECTION AND RESTORATION OF PROPERTY

#### 67.1 GENERAL:

The Contractor shall:

- (1) Not enter upon private property for any purpose without obtaining written permission;
- (2) Use every precaution necessary to prevent damage or injury to public and private property;
- (3) Protect all trees, shrubs, and other plants not marked by the Engineer for removal from damage by construction operations.

**67.2 PROTECTION OF EXISTING INFRASTRUCTURE:** The Contractor shall make sure that any portions of the existing airport, roadway and existing structures which are to be retained for public use or travel are left in as good condition as when the Contractor commenced work. The Contractor shall not move or use equipment on any pavement or structure in a manner that may or does cause damage

**67.3 CONTRACTOR'S RESPONSIBILITY:** The Contractor's responsibility shall not be released until the work has been completed and accepted and the applicable statute of limitations has expired.

**67.4 RESTORATION OF DAMAGED PROPERTY:** When any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the work or in consequence of the non-execution thereof on the part of the Contractor, such property shall be restored at the Contractor's expense to a condition similar or equal to that existing before such damage or injury was done or the Contractor shall make good such damage or injury in an acceptable manner.

**67.5 CLEANING TRAFFIC SIGNALS, STREET LIGHTING, AND AIRFIELD LIGHTING:** When the Contractor's operations compromise the functionality of existing traffic signals and/or street or airfield lighting equipment, the Engineer may require the Contractor to clean said equipment prior to project completion. Cleaning of traffic signals shall include all vehicle and pedestrian signal face lenses (inside and outside). Further, the inside of the controller cabinet shall be vacuumed and any vent filter shall be replaced; cleaning of streetlights shall include both the lens (inside and outside) and the reflector. The cleaning of electrical equipment shall be done by a traffic signal/electrical contractor. Any equipment that is damaged in the cleaning process shall be repaired or replaced at the Contractor's expense. The costs for cleaning will not be paid for directly, but will be considered incidental to other items in the Contract.

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**67.6 GROUND VIBRATION LIMITS:** The maximum Peak Particle Velocity (PPV) of ground vibration in any of the three mutually perpendicular components of particle velocity for the following structure types shall be limited as follows:

<u>Type of Structure</u>	<u>PPV in mm/s (in/sec)</u>	
	<u>Frequencies &lt; 40</u>	<u>Frequencies</u>
	<u>Hertz</u>	<u>&gt; or = 40</u> <u>Hertz</u>
Modern Homes (drywall interior)	19 (0.75)	50 (2.0)
Older Homes (plaster on wood or lath)	13 (0.50)	50 (2.0)
Non-Residential Structures		
Underground Utilities		

The Agency reserves the right to lower the PPV limit in areas where there may be structures or elements with a higher sensitivity to ground vibration. Adherence to this specification does not waive the Contractor's responsibility for damage as specified in this Subsection and in Item 35 of this Section.

### 68. PUBLIC CONVENIENCE AND SAFETY

**68.1 GENERAL:** The Contractor shall conduct all work so as to ensure the least possible obstruction to traffic. The safety and convenience of the general public and the residents along the highway within the construction area and the protection of persons and property shall be provided for by the Contractor.

**68.2 DUST CONTROL:** The Contractor shall use all necessary dust control on haul road(s) and maintenance yard(s) in the same manner as required for materials sources and disposal areas. Dust control on haul road(s) and maintenance yard(s) will not be paid for directly, but will be considered incidental to all other Contract items. The Contractor shall perform all dust control directed by the Engineer on the haul road(s) and/or maintenance yard(s); unless otherwise provided, dust control will not be paid for directly, but will be considered incidental to all other Contract items.

**68.3 STORED MATERIALS:** Materials stored within the construction area shall be placed so as to cause a minimum obstruction to the facility users, the traveling public and snow removal operations. Materials shall not be stored in any areas regulated by ANR or in buffers unless approved by the Resident Engineer.

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**68.4 FIRE HYDRANTS:** Fire hydrants located within the construction area shall be kept accessible to fire apparatus at all times and no material or obstruction shall be placed within 15 feet of any such hydrants.

**68.5 ADJOINING WAYS:** Sidewalks, gutters, drainage inlets, and portions of highways adjoining the construction shall be obstructed only when necessary. If a sidewalk is obstructed, temporary pedestrian access meeting the requirements of ADA and the MUTCD shall be provided around the obstructed area.

**68.6 VEHICLE LANE RESTRICTIONS:** When the total useable width of a traveled way will be decreased to 14 feet or less for a period longer than one working day, the Contractor shall notify the Engineer of the date of the first day and the anticipated period of time such a lane restriction will be in effect. This notification shall be provided at least two weeks prior to the beginning of the lane restriction so that the Engineer may provide proper notification to the Oversized/Overweight Section of the Commercial Vehicle Enforcement Unit of the Department of Motor Vehicle and the Agency's Communications Section. When the date of the removal of the restriction becomes known, the Contractor shall notify the Engineer so that notification can be provided to these entities.

### 69. USE OF EXPLOSIVES

**69.1 GENERAL:** The Contractor shall use the utmost care to protect life and property and, whenever directed by the Engineer, shall reduce the number and size of explosive charges. Blasting mats shall be used when required by regulation or deemed necessary. The Contractor shall notify each person, company, corporation, or public utility that owns, leases, or occupies property or structures near the site of the work of plans to use explosives; notice shall be given sufficiently in advance to enable people to take such steps to protect their property or structure from injury as they may deem necessary. Provision of notice shall not relieve the Contractor of responsibility for any damage resulting from the Contractor's blasting operations. All persons within the danger zone of blasting operations shall be warned, a warning whistle shall be sounded, and the zone cleared just prior to blasting. A sufficient number of flaggers shall be stationed outside the danger zone to stop all approaching traffic during blasting operations. Explosives shall be used only during daylight hours and shall be handled only by competent, trained workers; particular care shall be taken to ensure that no unexploded charges remain in the work area unattended and when constructions operations cease for the day. All explosives shall be stored securely, all storage locations shall be clearly marked "DANGEROUS-EXPLOSIVES," and all storage locations shall be supervised and controlled by a competent, trained person at all times. All explosives and highly flammable materials shall be stored and used in strict conformity with all Federal, State, and local laws, rules, and regulations. Attention is directed to VOSHA *Safety and Health Standards for Construction, Subpart U, Blasting and the Use of Explosives*.



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**69.2 LIABILITY:** Each of the insurance policies required for a project shall include coverage for injury to persons and injury or destruction of any property arising out of the storage and use of explosives.

**69.3 INSURANCE:** The Contractor acknowledges full responsibility and assumes full liability for any and all damage or injury to persons or property caused either directly or indirectly by the Contractor's or a subcontractor's use of explosives. The liability of the Contractor shall apply equally to damages or injury to persons or property whether said injury or damage occurs within or outside of the right-of-way. The cost of all precautionary measures shall not be paid for directly, but all costs therefore shall be included in the bid prices for the pay items under the Contract.

**69.4 BLASTING CAP DANGER:** The Contractor and/or the Contractor's agents shall take all precautions necessary to prevent premature explosions of electric blasting caps individually or when they are connected into a circuit.

The Contractor and/or the Contractor's agents acknowledge and are hereby advised of the potential hazard of a premature explosion of electric blasting caps due to propagation of radio frequency energy by transmitters of radio and the related radio services such as television and radar. Mobile and fixed radio, cellular telephone, radar, television, and related transmitters are in general use in the project area, including police departments, fire departments, political subdivisions, utility companies, commercial carriers, private and public enterprises, and individuals.

**69.5 WARNING SIGNS; COSTS INCIDENTAL:** Prior to blasting operations the Contractor shall install warning signs in conformance with the MUTCD. Warning signs shall be located in prominent positions at least 1,200 feet from the point of blasting and visible to any person approaching the blasting point. Payment for furnishing, erecting and maintaining warning signs shall be considered incidental to other items in the Contract.

**69.6 DOCUMENTATION OF STRUCTURE CONDITION:** It shall be the responsibility of the Contractor to document the existing condition of all structures that have potential for damage. This documentation shall be in the form of a video or pictures, with sufficient description, and shall be supplied to the Engineer prior to any blasting on the project. The costs of preparing this documentation will not be paid for directly, but shall be considered incidental to all Contract items.

**69.7 BLAST SURVEYS:** The Contractor shall monitor all blasts and provide a report to the Engineer that shall indicate the Peak Particle Velocity (PPV) of the blast. The PPV sensitivity as reported shall range from less than 0.5 mm/s (0.02 in/s) to more than 125 mm/s (5.0 in/s). The Engineer reserves the right to request more than one instrument to monitor the blasting if there is a need for monitoring in more than one direction from the blasting area. The costs of the monitoring and preparing the reports will not be paid for directly, but shall be considered incidental to all Contract items.

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### 70. PROTECTION AND RESTORATION OF UTILITIES AND SERVICES

**70.1 GENERAL.** The Contractor shall take proper precaution during construction to avoid damage to public and private services. These services include, but are not limited to gas, water, sewer and drainage pipes, springs, wells, septic tanks, cesspools, telephone, telegraph, television, and other communication and electrical services. Services may be located on or adjacent to the project, above, on, or under the ground, and may not be shown on the Plans.

**70.2 DIG-SAFE.** The Contractor shall comply with the requirements of Dig-Safe laws in the state in which the work will take place.

**70.3 NOTICE OF WORK.** At commencement or resumption of construction, the Contractor shall notify the owners, operators, occupants, or lessees of all the public or private services of any work to be done on, over, under, adjacent to, or in proximity to said utilities during the construction of the project. Further, the Contractor shall again notify the aforesaid parties seven (7) to fourteen (14) calendar days in advance of starting such work to enable them to take steps as they may deem necessary to protect their property or structures from damage. Provision of notice shall not relieve the Contractor of its responsibility for any damages resulting from the Contractor's work.

**70.4 OWNER ACCESS.** Owners, employees, or agents of public or private services located within the project limits shall be allowed free and full access with the tools, materials, and equipment necessary to install, operate, maintain, place, replace, relocate, and remove service facilities. No compensation will be paid to the Contractor for any inconvenience caused by working with these parties or around or with their services.

**70.5 SERVICE RELOCATION.** The exact location of any service facility relocated within the project limits shall be as directed by the Engineer.

**70.6 COOPERATION.** The Contractor shall cooperate with the owners of any of the aforementioned services in order that the service removal and/or relocation operation will progress in a reasonable manner, that duplication or temporary relocation work may be reduced to a minimum, and that services rendered by the concerned parties will not be unnecessarily interrupted.

**70.7 SERVICE INTERRUPTION.** If in connection with the work interruption in service occurs, the Contractor shall promptly notify the owner or the owner's authorized representative and cooperate with the owner to promptly restore service. In no case shall interruption to water or sewer service be allowed to exist outside of normal working hours without the substitution of acceptable alternate service.

**70.8 FIRE HYDRANTS.** No work shall be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority.

**70.9 RESPONSIBILITY FOR DAMAGE.** The Contractor shall be responsible for all damages done to services from the beginning of construction to the satisfactory

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completion of the project, including all damages to water supplies and sewage systems, including but not limited to damage to springs and wells, septic tanks, cesspools, and underground pipes, whether located within or outside the project area or whether or not shown on the Plans, except as otherwise provided in the Contract.

**70.10 WATER; INVESTIGATION OF CLAIMS.** The Agency will receive and investigate all claims relating to damage to springs, wells, and water supply systems. The Contractor will be notified of the results of the investigation. If it is determined that the damage is the responsibility of the State, the Contractor will not be liable and will be reimbursed by the State for expenses incurred in providing temporary water service and repairing the damage.

**70.11 RESTORATION OF SERVICE BY AGENCY.** If the Contractor fails to restore a service or to make good on a damage or injury to service(s), the Engineer may proceed to repair, rebuild, or otherwise restore the service as deemed necessary and the cost thereof will be deducted from any monies due, or which may become due, the Contractor under the Contract.

### 71. RESPONSIBILITY FOR DAMAGE CLAIMS

**71.1 GENERAL.** The State shall notify the Contractor in the event of any claim or suit pursuant to the items listed in Section 50-16 of the FAA General Provisions, and the Contractor shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit.

After a final judgment or settlement, the Contractor may request recoupment of specific defense costs and may file suit in the Court having jurisdiction, requesting recoupment. The Contractor shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Contractor.

The Contractor shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Contractor.

The Contractor shall indemnify and save harmless the Engineer and the Owner and their officers, and employees from all suits, actions, or claims, of any character, brought because of any injuries or damage received or sustained by any person, persons, or property on account of the operations of the Contractor; or on account of or in consequence of any neglect in safeguarding the work; or through use of unacceptable materials in constructing the work; or because of any act or omission, neglect, or misconduct of said Contractor; or because of any claims or amounts recovered from any infringements of patent, trademark, or copyright; or from any claims or amounts arising or recovered under the "Workmen's Compensation Act," or any other law, ordinance, order, or decree. Money due the Contractor under and by virtue of his or her contract considered

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necessary by the Owner for such purpose may be retained for the use of the Owner or, in case no money is due, his or her surety may be held until such suits, actions, or claims for injuries or damages shall have been settled and suitable evidence to that effect furnished to the Owner, except that money due the Contractor will not be withheld when the Contractor produces satisfactory evidence that he or she is adequately protected by public liability and property damage insurance.

**71.2 SUBMISSION OF DAMAGE CLAIMS.** With regard to each and every damage claim, the Contractor shall:

- (1) Provide the claimant with a damage claim form for the submission of damage claims to the Contractor and Agency;
- (2) Pay, settle, or otherwise resolve the claim;
- (3) Submit the claim to the insurance carrier, with a copy to the Agency;
- (4) Treat all claimants with respect.

## 72. SCHEDULES.

**PM PROGRESS SCHEDULE:** Within ten calendar days after the award of the Contract, the Contractor shall submit to the Engineer for approval a CPM progress schedule. The CPM progress schedule shall show the proposed sequence of work and when the Contractor proposes to complete the various items of work within the time(s) established in the Contract. During the progress of the work, the Contractor shall confer with the Engineer concerning performance of the work in accordance with the approved schedule. The approved schedule shall be used as a basis for establishing major construction operations and for checking the progress of the work.

Unless otherwise specified, the Contractor shall submit their progress schedule for the Engineer's approval within 10 days after the effective date of the notice to proceed. The Contractor's progress schedule, when approved by the Engineer, may be used to establish major construction operations and to check on the progress of the work. The Contractor shall provide sufficient materials, equipment, and labor to guarantee the completion of the project in accordance with the plans and specifications within the time set forth in the proposal.

If the Contractor falls significantly behind the submitted schedule, the Contractor shall, upon the Engineer's request, submit a revised schedule for completion of the work within the contract time and modify their operations to provide such additional materials, equipment, and labor necessary to meet the revised schedule. Should the execution of the work be discontinued for any reason, the Contractor shall notify the Engineer at least 24 hours in advance of resuming operations.

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The Contractor shall not commence any actual construction prior to the date on which the notice to proceed is issued by the Owner.

### 73. CHARACTER OF WORKERS, METHODS, AND EQUIPMENT

The Contractor shall, at all times, employ sufficient labor and equipment for prosecuting the work to full completion in the manner and time required by the contract, plans, and specifications.

All workers shall have sufficient skill and experience to perform properly the work assigned to them. Workers engaged in special work or skilled work shall have sufficient experience in such work and in the operation of the equipment required to perform the work satisfactorily.

Any person employed by the Contractor or by any subcontractor who violates any operational regulations or operational safety requirements and, in the opinion of the Engineer, does not perform his work in a proper and skillful manner or is intemperate or disorderly shall, at the written request of the Engineer, be removed forthwith by the Contractor or subcontractor employing such person, and shall not be employed again in any portion of the work without approval of the Engineer.

Should the Contractor fail to remove such persons or person, or fail to furnish suitable and sufficient personnel for the proper execution of the work, the Engineer may suspend the work by written notice until compliance with such orders.

All equipment that is proposed to be used on the work shall be of sufficient size and in such mechanical condition as to meet requirements of the work and to produce a satisfactory quality of work. Equipment used on any portion of the work shall be such that no injury to previously completed work, adjacent property, or existing airport facilities will result from its use.

When the methods and equipment to be used by the Contractor in accomplishing the work are not prescribed in the contract, the Contractor is free to use any methods or equipment that will accomplish the work in conformity with the requirements of the contract, plans, and specifications.

When the contract specifies the use of certain methods and equipment, such methods and equipment shall be used unless others are authorized by the Engineer. If the Contractor desires to use a method or type of equipment other than specified in the contract, the Contractor may request authority from the Engineer to do so. The request shall be in writing and shall include a full description of the methods and equipment proposed and of the reasons for desiring to make the change. If approval is given, it will be on the condition that the Contractor will be fully responsible for producing work in conformity with contract requirements. If, after trial use of the substituted methods or equipment, the Engineer determines that the work produced does not meet contract requirements, the Contractor shall discontinue the use of the substitute method or

## SUPPLEMENTAL GENERAL PROVISIONS

equipment and shall complete the remaining work with the specified methods and equipment. The Contractor shall remove any deficient work and replace it with work of specified quality, or take such other corrective action as the Engineer may direct. No change will be made in basis of payment for the contract items involved nor in contract time as a result of authorizing a change in methods or equipment under this subsection.

“Electrical Work. All electrical work shall be performed by or under the supervision of a licensed electrician (master or journeyman). Electrical work shall be defined as any work which involves making connections to electrical components or splices in wiring that are, or will be, carrying 100 V or more. “Under the supervision of” means that the licensed electrician employed on the project shall be physically present on the project and must be actively supervising the work.

Removal of Machinery and Equipment. The Contractor shall not remove from the project any item of machinery or equipment after it has been placed on the project without the prior consent of the Engineer, which consent shall not be unreasonably withheld. Reasonableness shall be tested by the needs of the project and not by the needs of any other project in which the Contractor may be engaged.”

### 74. NOT USED

### 75. RETAINAGE

The Owner shall withhold ten percent (10%) retainage on the Contract in accordance with Section 90-06 “Partial Payments” of the FAA General Provisions.

### 76. DEFINITIONS.

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

**10-01 AASHTO.** The American Association of State Highway and Transportation Officials, the successor association to AASHO.

**10-02 Access road.** The right-of-way, the roadway and all improvements constructed thereon connecting the airport to a public highway.

**10-03 Advertisement.** A public announcement, as required by local law, inviting bids for work to be performed and materials to be furnished.

**10-04 Airport Improvement Program (AIP).** A grant-in-aid program, administered by the Federal Aviation Administration (FAA).

## SUPPLEMENTAL GENERAL PROVISIONS

**10-05 Air operations area (AOA).** For the purpose of these specifications, the term air operations area (AOA) shall mean any area of the airport used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft. An air operation area shall include such paved or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft in addition to its associated runway, taxiway, or apron.

**10-06 Airport.** Airport means an area of land or water which is used or intended to be used for the landing and takeoff of aircraft; an appurtenant area used or intended to be used for airport buildings or other airport facilities or rights of way; and airport buildings and facilities located in any of these areas, and includes a heliport.

**10-07 ASTM International (ASTM).** Formerly known as the American Society for Testing and Materials (ASTM).

**10-08 Award.** The Owner's notice to the successful bidder of the acceptance of the submitted bid.

**10-09 Bidder.** Any individual, partnership, firm, or corporation, acting directly or through a duly authorized representative, who submits a proposal for the work contemplated.

**10-10 Building area.** An area on the airport to be used, considered, or intended to be used for airport buildings or other airport facilities or rights-of-way together with all airport buildings and facilities located thereon.

**10-11 Calendar day.** Every day shown on the calendar.

**10-12 Change order.** A written order to the Contractor covering changes in the plans, specifications, or proposal quantities and establishing the basis of payment and contract time adjustment, if any, for the work affected by such changes. The work, covered by a change order, must be within the scope of the contract.

**10-13 Contract.** The written agreement between the Owner and the Contractor setting forth the obligations of the parties relative to the performance of the work.

The Contract includes those documents listed as Contract Documents in the Supplemental General Provisions, and any supplemental agreements that are required to complete the work in an acceptable manner.

**10-14 Contract item (pay item).** A specific unit of work for which a price is provided in the contract.

**10-15 Contract time.** The number of calendar days or working days, stated in the proposal, allowed for completion of the contract, including authorized time extensions. If a calendar date of completion is stated in the proposal, in lieu of a number of calendar or working days, the contract shall be completed by that date.

**10-16 Contractor.** The individual, partnership, firm, corporation, any acceptable combination thereof, or a joint venture which is primarily liable for the acceptable

## SUPPLEMENTAL GENERAL PROVISIONS

performance of the work contracted and for the payment of all legal debts pertaining to the work and is a party to the Contract with the Owner which is undertaking the performance of the work under the terms of the Contract and acting directly or through its agent(s) or employee(s) to complete the Contract work. The term "Contractor" means the prime Contractor as differentiated from a subcontractor. All Contractors must be registered with the Department of State. The Contractor will act in an independent capacity and not as officers or employees of the Owner.

**10-17 Contractor's laboratory.** The Contractor's quality control organization in accordance with the Contractor Quality Control Program.

**10-18 Construction Safety and Phasing Plan (CSPP).** The overall plan for safety and phasing of a construction project developed by the airport operator, or developed by the airport operator's consultant and approved by the airport operator. It is included in the invitation for bids and becomes part of the project specifications.

**10-19 Drainage system.** The system of pipes, ditches, and structures by which surface or subsurface waters are collected and conducted from the airport area.

**10-20 Engineer.** The individual, partnership, firm, or corporation duly authorized by the Owner to be responsible for engineering, inspection, and observation of the contract work and acting directly or through an authorized representative.

**10-21 Equipment.** All machinery, together with the necessary supplies for upkeep and maintenance, and also all tools and apparatus necessary for the proper construction and acceptable completion of the work.

**10-22 Extra work.** An item of work not provided for in the awarded contract as previously modified by change order or supplemental agreement, but which is found by the Engineer to be necessary to complete the work within the intended scope of the contract as previously modified.

**10-23 FAA.** The Federal Aviation Administration of the U.S. Department of Transportation. When used to designate a person, FAA shall mean the Administrator or his or her duly authorized representative.

**10-24 Federal specifications.** The Federal Specifications and Standards, Commercial Item Descriptions, and supplements, amendments, and indices thereto are prepared and issued by the General Services Administration of the Federal Government.

**10-25 Force account.** Force account work is planning, engineering, or construction work done by the Sponsor's employees.

**10-26 Inspector.** An authorized representative of the Engineer assigned to make all necessary inspections, observations, and/or tests of the work performed or being performed, or of the materials furnished or being furnished by the Contractor.



## SUPPLEMENTAL GENERAL PROVISIONS

**10-27 Intention of terms.** Whenever, in these specifications or on the plans, the words “directed,” “required,” “permitted,” “ordered,” “designated,” “prescribed,” or words of like import are used, it shall be understood that the direction, requirement, permission, order, designation, or prescription of the Engineer is intended; and similarly, the words “approved,” “acceptable,” “satisfactory,” or words of like import, shall mean approved by, or acceptable to, or satisfactory to the Engineer, subject in each case to the final determination of the Owner.

Any reference to a specific requirement of a numbered paragraph of the contract specifications or a cited standard shall be interpreted to include all general requirements of the entire section, specification item, or cited standard that may be pertinent to such specific reference.

**10-28 Laboratory.** The official testing laboratories of the Owner or such other laboratories as may be designated by the Engineer. Also referred to as “Engineer’s Laboratory” or “quality assurance laboratory.”

**10-29 Lighting.** A system of fixtures providing or controlling the light sources used on or near the airport or within the airport buildings. The field lighting includes all luminous signals, markers, floodlights, and illuminating devices used on or near the airport or to aid in the operation of aircraft landing at, taking off from, or taxiing on the airport surface.

**10-30 Major and minor contract items.** A major contract item shall be any item that is listed in the proposal, the total cost of which is equal to or greater than 20% of the total amount of the award contract. All other items shall be considered minor contract items.

**10-31 Materials.** Any substance specified for use in the construction of the contract work.

**10-32 Notice to Proceed (NTP).** A written notice to the Contractor to begin the actual contract work on a previously agreed to date. If applicable, the Notice to Proceed shall state the date on which the contract time begins.

**10-33 Owner.** The term “Owner” shall mean the party of the first part or the contracting agency signatory to the contract. Where the term “Owner” is capitalized in this document, it shall mean airport Sponsor only.

**10-34 Passenger Facility Charge (PFC).** Per 14 CFR Part 158 and 49 USC § 40117, a PFC is a charge imposed by a public agency on passengers enplaned at a commercial service airport it controls.”

**10-35 Pavement.** The combined surface course, base course, and subbase course, if any, considered as a single unit.

**10-36 Payment bond.** The approved form of security furnished by the Contractor and his or her surety as a guaranty that the Contractor will pay in full all bills and accounts for materials and labor used in the construction of the work.

## SUPPLEMENTAL GENERAL PROVISIONS

**10-37 Performance bond.** The approved form of security furnished by the Contractor and his or her surety as a guaranty that the Contractor will complete the work in accordance with the terms of the contract.

**10-38 Plans.** The official drawings or exact reproductions which show the location, character, dimensions and details of the airport and the work to be done and which are to be considered as a part of the contract, supplementary to the specifications.

**10-39 Project.** The agreed scope of work for accomplishing specific airport development with respect to a particular airport.

**10-40 Proposal.** The written offer of the bidder (when submitted on the approved proposal form) to perform the contemplated work and furnish the necessary materials in accordance with the provisions of the plans and specifications.

**10-41 Proposal guaranty.** The security furnished with a proposal to guarantee that the bidder will enter into a contract if his or her proposal is accepted by the Owner.

**10-42 Runway.** The area on the airport prepared for the landing and takeoff of aircraft.

**10-43 Specifications.** A part of the contract containing the written directions and requirements for completing the contract work. Standards for specifying materials or testing which are cited in the contract specifications by reference shall have the same force and effect as if included in the contract physically.

**10-44 Sponsor.** A Sponsor is defined in 49 USC § 47102(24) as a public agency that submits to the FAA for an AIP grant; or a private Owner of a public-use airport that submits to the FAA an application for an AIP grant for the airport.

**10-45 Structures.** Airport facilities such as bridges; culverts; catch basins, inlets, retaining walls, cribbing; storm and sanitary sewer lines; water lines; underdrains; electrical ducts, manholes, handholes, lighting fixtures and bases; transformers; flexible and rigid pavements; navigational aids; buildings; vaults; and, other manmade features of the airport that may be encountered in the work and not otherwise classified herein.

**10-46 Subgrade.** The soil that forms the pavement foundation.

**10-47 Superintendent.** The Contractor's executive representative who is present on the work during progress, authorized to receive and fulfill instructions from the Engineer, and who shall supervise and direct the construction.

**10-48 Supplemental agreement.** A written agreement between the Contractor and the Owner covering (1) work that would increase or decrease the total amount of the awarded contract, or any major contract item, by more than 25%, such increased or decreased work being within the scope of the originally awarded contract; or (2) work that is not within the scope of the originally awarded contract.

## SUPPLEMENTAL GENERAL PROVISIONS

**10-49 SURETY.** The individual, partnership, firm, or corporation, or any acceptable combination thereof, other than the Contractor, executing the bond or bonds furnished by the Contractor. The Surety Company issuing the bond(s) shall be listed on the current United States Department of the Treasury "Department of the Treasury's listing of approved Sureties (Department Circular 570)" as authorized to do business in the State in which the project is located.

**10-50 Taxiway.** For the purpose of this document, the term taxiway means the portion of the air operations area of an airport that has been designated by competent airport authority for movement of aircraft to and from the airport's runways, aircraft parking areas, and terminal areas.

**10-51 Work.** The furnishing of all labor, materials, tools, equipment, and incidentals necessary or convenient to the Contractor's performance of all duties and obligations imposed by the contract, plans, and specifications.

**10-52 Working day.** A working day shall be any day other than a legal holiday, Saturday, or Sunday on which the normal working forces of the Contractor may proceed with regular work for at least six (6) hours toward completion of the contract. When work is suspended for causes beyond the Contractor's control, it will not be counted as a working day. Saturdays, Sundays and holidays on which the Contractor's forces engage in regular work will be considered as working days.

**10-07A ACCEPTANCE.** All Contracts require proper acceptance of the described goods or services by the Owner. Proper acceptance shall be understood to include inspection of goods and certification of acceptable performance of services by Authorized Representative(s) of the Owner to insure that the goods or services are complete and are as specified in the Contract.

**10-06A AIRPORT OPERATOR.** The person or entity representing the Owner and having operational responsibility for the Airport.

**10-13A CONTRACT DOCUMENTS.** All the documents that comprise the awarded Contract as defined in Item 10-13 of this Section.

**10-25A GOODS.** Hard goods, supplies, or materials.

**10-25B HE, SHE, HE/SHE, HER, HERS, HIS/HER, HIM, AND HIS.** These terms shall be gender-neutral and shall be applied without regard to gender.

**10-45A SUBCONTRACTOR.** An individual or legal entity to whom or which the Contractor sublets part of the work. A Supplier can also be considered a Subcontractor

**10-48A SUPPLIER.** An individual or legal entity with which the Contractor enters an agreement to provide Goods for use in the Project.

**10-49A NYSDOT or DOT.** These terms shall each mean the New York State Department of Transportation.

## SUPPLEMENTAL GENERAL PROVISIONS

### 77. CLAIMS FOR ADJUSTMENT

**77.1 NOTICE REQUIREMENTS:** In order to bring a claim for additional compensation not clearly covered by the Contract for conditions substantially different than represented by the Contract and not ordered by the Engineer as Extra Work as defined herein, the Contractor must provide written notice (“the Notice of Intent to File a Claim” or the “Notice”) to the Engineer before conducting any work or purchasing any materials subject to the claim (the “Claim”). The words “Notice of Intent to File a Claim” must appear in large print at the top of the document. The Notice must specify the basis for the Claim, including the nature of the Claim, the reason why the Contractor believes that the Owner is responsible for payment of the Claim, and a description of the additional compensation, including reference to each activity associated with the work and/or materials, including reference to any impacts to the Contractor’s Progress Schedule (Critical Path). If the Contractor fails to provide the Notice as specified herein, the Contractor waives its right to bring the Claim under the Contract.

**77.2 NOTICE DOCUMENTATION REQUIREMENTS:** Upon providing the Notice of Intent to File a Claim, the Project Superintendent must commence daily records for all labor hours, equipment hours (idle and operating), and materials involved with the work or materials at issue in the Notice. The Contractor must submit such records to the Engineer on a daily basis. Such records must include a written analysis of how the work and/or materials at issue in the Notice impact/s the Critical Path. If the Contractor fails to provide such records to the Engineer as required herein, the Contractor waives its right to bring the Claim.

**77.3 CLAIMS PROCEDURE:** The Engineer’s written acknowledgement of the Notice and receipt of the Contractor’s daily reporting under this Subsection shall not be construed as an approval by the Owner of the merits of the Claim. Claims are evaluated by the Resident Engineer, the Owner, the FAA, and any other agency contributing funding to the project. If the Owner decides in favor of the Contractor, the Claim will be allowed, in whole or in part, and paid as provided in the Contract. If the Owner denies the Claim, in whole or in part, the Contractor may appeal to the Owner one time for review of the decision. Notwithstanding any other provision of law, case law, regulation, or the Contract, an appeal from the decision of the Engineer shall be made within 30 calendar days of denial, and not thereafter.

**77.4 CLAIMS DOCUMENTATION REQUIREMENTS:** The Contractor must provide the Engineer with the following documentation in support of the Claim:

- (1) A detailed statement of the Claim, including all necessary dates, location, and work and material items at issue in the Claim;
- (2) The date on which the Contractor first became aware of the actions or conditions giving rise to the Claim;

## SUPPLEMENTAL GENERAL PROVISIONS

- (3) A copy of the Notice of Intent to File a Claim;
- (4) A list of the names of all Owner employees and agents, including consultants, the Contractor believes have knowledge or information concerning the facts giving rise to the Claim;
- (5) A list of the names of all Contractor employees and agents, including subcontractors, whom the Contractor believes have knowledge or information concerning the facts giving rise to the Claim;
- (6) A list of the specific provisions of the Contract that the Contractor believes support the Claim, and a description of why the Contractor believes those provisions support the Claim;
- (7) A list of all documents and all oral statements that the Contractor believes support the Claim;
- (8) A statement as to whether additional compensation and/or a time extension are being requested in the Claim;
- (9) If a time extension is being requested in the Claim, a statement as to the specific number of days being requested, supported with reference to how the facts underlying the Claim affected the Contractor's performance schedule, including how such facts affected the Critical Path;
- (10) A description of the amount of additional compensation being sought, itemized by category of work, including delays associated with performing the work, work items, materials costs, and any and all other costs at issue in the Claim. Such documentation includes, but is not limited to, invoices for rented equipment, a Blue Book analysis for owned equipment; and subcontractor agreements.
- (11) If additional compensation for delays associated with performing the work is included in the Claim, the Contractor must provide a description of the operations that were delayed, the reasons for the delay, the impact of the delay on the operations, and how the delay impacted the Contractor's progress schedule, including the Critical Path. The Contractor must review the Contract for the project as claims for delays must be in accordance with the Contract terms.
- (12) For every claim seeking additional compensation in excess of \$50,000, the Contractor must provide a separate document certifying that the documentation provided in support of the Claim and that the amount of additional compensation sought in the Claim is accurate and that the Contractor has a good faith basis for believing that the Owner is responsible for payment of the Claim (the "Claims Certification"). The Claims Certification shall be notarized and executed by a senior officer of the Contractor with legal authority to bind the Contractor, or if the Contractor is a sole proprietor, by the proprietor. The Claims Certification may be

## SUPPLEMENTAL GENERAL PROVISIONS

used in any proceeding under the False Claims Act, 18 U.S.C. 1020, and/or 23 CFR 635.119.

**77.5 APPEAL TO THE OWNER:** Appeals will be judged by the OWNER in accordance with their policies. Should an appeal be judged in favor of the Contractor, it will be allowed and paid as provided for in the Contract. Should an appeal be denied by the Owner, the Contractor may not appeal this claim again.

**77.6 TIME FOR CLAIMS; APPEALS.** Notwithstanding any other provision of law, case law, regulation, or the Contract, all claims by the Contractor shall be submitted in writing within 30 calendar days after the Acceptance Date of the project or within 30 calendar days of the Notice of Intent to File a Claim, whichever occurs first, and not thereafter (the "Claim Filing Period"). Such claims must meet the requirements set forth above, including but not limited to complete documentation supporting the Claim. If the Contractor fails to meet these requirements, the Owner may grant the Contractor additional time to meet the requirements. Any additional time granted for such purpose shall not be the subject of any demand for interest payments or for attorneys' fees and/or other costs. If the Contractor fails to file the Claim within the Claim Filing Period, the Contractor waives its right to bring the Claim. If the disputed work continues to be performed beyond the Claim Filing Period, the Contractor must submit a written request to extend the Claim Filing Period prior to the expiration of the Claim Filing Period. The Contractor shall submit such requests for extension of the Claims Filing Period every 30 calendar days until the disputed work is completed.

### **78. INSPECTION BY OWNER AND PUBLIC AGENCIES**

The authorized representatives and agents of the Owner shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records. Representatives of the Owner shall have access to the work wherever it is in preparation or progress and the Contractor shall provide facilities for such access and inspection.

### **79. REPORTS, RECORDS AND DATA**

The Contractor shall submit to the Owner such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data, as the Owner may request concerning work performed or to be performed under this Contract.

### **80. GENERAL GUARANTEE**

Neither the final certificate of payment nor any provision in the Contract Documents nor partial or entire occupancy of the premises by the Owner shall constitute an acceptance of work not done in accordance with the Contract Documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall remedy any defects in the work and pay for any damage to other work resulting there from, which shall appear within a period of one year of the date of final acceptance of the work unless a longer period is specified. The Owner will give notice of observed defects with reasonable promptness.

## **SUPPLEMENTAL GENERAL PROVISIONS**

### **81. NOTICE AND SERVICE THEREOF**

Any notice to any Contractor from the Owner relative to any part of this Contract shall be in writing and considered delivered and the service thereof completed when said notice is posted, by certified or registered mail, or by Fed-Ex or other express shipping to the said Contractor at their last given address, or delivered in person to said Contractor or their authorized representative.

### **82. PRE-CONSTRUCTION CONFERENCE**

A Pre-construction Conference shall be held. The purpose of this conference is to go over the Contractor's proposed job organization, equipment and preliminary work schedule and to review Specification requirements. The order of construction shall be discussed with the Engineer and shall meet with their approval. The Contractor, prior to starting work, shall submit to the Engineer a written description of the methods they plan to use in doing the work.

A pre-construction conference for permitting may also be required by the Owner or the project permits. This may be concurrent with the regular pre-construction conference or separate at the discretion of the Owner.

### **83. REQUIRED PROVISIONS DEEMED INSERTED**

Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion or correction.

### **84. RECORD "AS BUILT" PLANS**

In addition to any other requirements in the Plans and Specifications pertaining to "As-Built" Plans and surveys:

- 1) The Contractor shall, during the progress of the work, keep a master set of prints on the job site, on which they shall keep a careful and neat record of all deviations from the Contract Plans prepared by the Engineer which are made during the course of the work.
- 2) Upon completion of the project, these "as built" prints shall be certified as to their correctness by the signature of the Contractor and turned over to the Engineer for use in the preparation of a permanent set of "As Built" Plans.

## **SUPPLEMENTAL GENERAL PROVISIONS**

### **85. AIRPORT OPERATIONS AND SAFETY REQUIREMENTS DURING CONSTRUCTION**

The Contractor's attention is directed to the FAA Advisory Circular (AC) 150/5370-2F, OPERATIONAL SAFETY ON AIRPORTS DURING CONSTRUCTION, dated 29 September 2011 as amended or superseded.

The Contractor can be provided with a copy of the Construction Safety and Phasing Plan CSPP as part of the Plans. The Contractor must review the CSPP and file a Safety Plan Compliance Document Certification (Form MJ-208) indicating that they understand the plan and will comply with it throughout construction.

### **86. PERMITS AND APPROVALS**

It is the Contractor's responsibility to secure, obtain and pay for any Permits, Licenses, Approvals and all other legal or administrative prerequisites to their performance of the Contract.

### **87. LIABILITY OF PUBLIC OFFICIALS**

To the full extent permitted by law, no official, employee, agent or representative of the Owner shall be individually or personally liable on any obligation of the Owner under this Contract.

### **88. OSHA TRAINING**

All employees to be employed at the job site shall have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration (OSHA) that is ten (10) hours in duration at the time the employee begins work.

The Contractor shall furnish documentation of successful completion of said course by either a copy of the OSHA card or a letter or certificate of completion from the person or company that administered the course. OSHA documentation shall be provided prior to any person beginning work on the site. It is recommended that Contractors and Subcontractors provide a copy of OSHA documentation for all employees prior to the start of work.

Periodic Cost Estimates will not be accepted for payment unless all OSHA documentation has been received. Final payment for the Project will not be made until all Project OSHA cards have been submitted to and approved by the Engineer.

## **END OF SUPPLEMENTAL GENERAL PROVISIONS**



**SUPPLEMENTAL GENERAL PROVISIONS**

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