

AGENDA
SHAWNEE AIRPORT AUTHORITY
February 18, 2020 AT 6:00 P.M.
COMMISSION CHAMBERS AT CITY HALL
SHAWNEE, OKLAHOMA

CALL TO ORDER

DECLARATION OF A QUORUM

1. Consider approval of Consent Agenda:
 - a. Minutes from the February 3, 2020 regular meeting.
2. Discussion, consideration, and possible action on an agreement with H. W. Lochner, Inc.
3. New Business

(Any matter not known or which could not
have been reasonably foreseen prior to
the posting of the agenda)
4. Adjournment

Respectfully submitted

Lisa Lasyone, CMC, City Clerk

Shawnee Airport Authority

1. a.

Meeting Date: 02/18/2020

Minutes

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Minutes from the February 3, 2020 regular meeting.

Fiscal Impact

Attachments

Minutes

THE TRUSTEES OF THE SHAWNEE AIRPORT AUTHORITY OF THE CITY OF SHAWNEE, COUNTY OF POTTAWATOMIE, STATE OF OKLAHOMA, MET IN REGULAR SCHEDULED SESSION IN THE COMMISSION CHAMBERS AT CITY HALL, 9TH AND BROADWAY, SHAWNEE, OKLAHOMA, MONDAY, FEBRUARY 3, 2020, DURING THE BOARD OF CITY COMMISSIONERS MEETING AT 6:00 P.M., PURSUANT TO NOTICE DULY POSTED AS PRESCRIBED BY LAW AT 2:30 P.M. ON JANUARY 31, 2020. UPON ROLL CALL, A QUORUM WAS DECLARED WITH THE FOLLOWING MEMBERS IN ATTENDANCE:

PRESENT: Bolt, Gillham, Harrod, Finley, Rutherford, Sehorn, Salter

ABSENT: None

Call to Order

Declaration of a Quorum

AGENDA ITEM NO. 1: Consider approval of Consent Agenda:

a. Minutes from the January 21, 2020 regular meeting.

A motion was made by Trustee Gillham, seconded by Trustee Bolt, to approve the Consent Agenda Item No. 1(a). Motion carried 7-0.

AYE: Gillham, Bolt, Harrod, Finley, Rutherford, Sehorn, Salter

NAY: None

AGENDA ITEM NO. 2: New Business (Any matter not known or which could not have been reasonably foreseen prior to the posting of the agenda)

There was no New Business.

AGENDA ITEM NO. 3: Adjournment

There being no further business to be considered, the meeting was adjourned by power of the Chair. (6:25 p.m.)

RICHARD FINLEY, CHAIRMAN

ATTEST:

LISA LASYONE, SECRETARY

DRAFT

Shawnee Airport Authority

2.

Meeting Date: 02/18/2020

Agreement

Submitted By: Kacie Eck, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Discussion, consideration, and possible action on an agreement with H. W. Lochner, Inc.

Fiscal Impact

Attachments

Memo

Agreement



To: **Shawnee Airport Authority**

The Honorable Richard Finley, Mayor
James Harrod, Vice Mayor
Ed Bolt, Commissioner
Ron Gillham, Commissioner
Darren Rutherford, Commissioner
Ben Salter, Commissioner
Mark Sehorn, Commissioner

From: **Bonnie A. Wilson, CM**
Airport Manager

Date: **February 12, 2020**

Subject: **Proposed Addendum to Professional Engineering Contract to Address Construction and Grant Administration for Rehabilitation of Runway 17/35, Taxiway Alpha and Connecting Taxiways**

Nature of Request

Staff is seeking authorization to execute an Addendum to the Professional Engineering Contract with H. W. Lochner, Inc. for professional engineering services in support of construction and grant administration for the rehabilitation of runway 17/35, Taxiway Alpha and connecting taxiways at the Shawnee Regional Airport.

Staff Analysis and Considerations:

At the June 19, 2019, Regular Meeting of the Airport Advisory Board, staff presented a recommendation to award a contract for general engineering services to H. W. Lochner, Inc. (Lochner) based on a review of Statements of Qualifications. Following the recommendation of the Airport Advisory Board, the Shawnee Airport Authority authorized staff to execute a professional services contract establishing the terms, conditions and rates for services over a five-year period. Design and Construction and Grant Administration of Rehabilitation of Runway 17/35, Taxiway Alpha and Connecting Taxiways will be the first project addressed under the contract.

The initial phase of the project will be a survey and assessment of surface conditions to create a detailed scope of construction work; rehabilitation options for review and approval; development of a construction design and work plan, also for review and approval; preparation of a Disadvantaged Business Enterprise participation goal; preparation of bid documents; review of bids, and recommendation to award a contract for construction based on bids received. Following the award of the construction contract, Lochner will provide Construction and Grant Administration services for the remainder of the project.

Recommendation

FAA requires professional engineers to design and support AIP supported capital improvement projects. FAA allows airports to use AIP grant funds for engineering service fees if the firm is selected via a request for qualifications process. Lochner was selected via the RFQ process, is familiar with the airfield and fully capable of providing the services necessary to address the scope of the project.

Per FAA Advisory Circular AC, No: 150/5100-14E, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects; staff engaged the services of an independent third-party engineering firm familiar with airport capital construction terms and conditions, Rood & Associates, to review Lochner's proposed fees and prepare an "Independent Fee Assessment".

Rood & Associates reviewed the detailed scope of work and the proposed fees. Rood & Associates recommended a reduction in fees of \$6,200. Lochner agreed to reduce their fee by moving half of the proposed hours from construction observation from the Senior Construction Observer role to the lower cost Construction Observer role.

Lochner's new proposed fee is not to exceed \$273,100. The estimated cost of construction for the project is \$993,299.

Budget Consideration

The Shawnee Airport Authority received a discretionary grant offer from the Federal Aviation Administration (FAA) in the amount of \$765,000 to support rehabilitation of Runway 17/35. These funds combined with \$300,000 in FAA Airport Improvement Plan (AIP) Entitlement funds, and up to \$450,000 in grant funds provided by the State of Oklahoma Aeronautics Commission, will provide sufficient capital resources to undertake a project to rehabilitate the surface of Runway 17/35, and significant portions of the Taxiway system. The Shawnee Airport Authority will be responsible for providing funding for five percent (5%) of the grant eligible costs of the project.

Proposed Scope of Work – Engineering and Design

BASIC SERVICES

1. Preliminary Phase
 - a. Coordination with the Sponsor, FAA, and OAC regarding Project scope, schedule, and budget.
 - b. Coordinate and conduct a site visit to evaluate the condition and measure crack and full-depth repair quantities of the existing Runway 17-35 and parallel taxiway pavements.
 - c. Prepare scopes and subagreements for survey and DBE program and goal preparation.
 - d. Prepare and assist Sponsor with submission and updates to CIP and ODOs for the FY 2020 projects.
2. Design Phase – Design Report
 - a. Prepare project narrative to include discussion on project scope and photos, pavement markings, pavement rehabilitation, environmental conditions, project phasing and safety considerations, seal coat material alternatives, and funding mechanisms and split of project costs.
 - b. Prepare Engineer's Opinion of Probable Cost and Budget for both Runway and Taxiway portions of project.
 - c. Complete modifications to report based on review comments from Sponsor, FAA, and OAC.
3. Design Phase – Plans and Specifications
 - a. Prepare Construction Plans and Contract Documents/Technical Specifications for the Project.
 - b. Submit preliminary (90% completion) Construction Plans, Contract Documents/Technical Specifications, updated engineer's opinion of probable construction cost, and Project budget to the Sponsor, FAA, and OAC for review and comment.
 - c. Finalize Construction Plans and Contract Documents/Technical Specifications with consideration of preliminary (90% completion) review comments.
 - d. Submit Construction Plans and Contract Documents/ Technical Specifications along with Final Engineer's Design Report to the Sponsor and the FAA for final approval and authorization to advertise.
4. Bidding Phase

- a. Assist the Sponsor with advertisement for bids. Distribute Construction Plans and Contract Documents/Technical Specifications to plan holding houses and prospective Bidders. Answer questions and clarify points pertaining to the Construction Plans and Contract Documents/Technical Specifications during the Bidding Services phase.
- b. Attend and conduct a prebid conference at the Airport; prepare and distribute prebid meeting minutes; prepare and issue addendums during the Bidding Phase.
- c. Tabulate and analyze bid results, prepare Project budget, review Contractor's qualifications and DBE subcontractors list provided by the Contractor, and make recommendation of contract award.

B. SPECIAL SERVICES

1. Administrative Assistance
2. Prepare a Modification of Standards Request to utilize alternative seal coat material on Runway and Taxiway Pavements and assist Sponsor with submission of MOS request.
 - a. Prepare FAA grant application for design and construction and assist Sponsor in submission of forms to the FAA Airports Division.
 - b. Prepare FAA required Sponsor Certifications and assist Sponsor in submission of forms to the FAA Airports Division.
 - c. Prepare and assist Sponsor in submission of OAC State grant application and supporting documentation.
 - d. Prepare and submit FAA form 7460-1 for temporary construction through FAA's OE/AAA website; prepare and submit Airport Sponsor Strategic Event Submission Form (FAA Form 6000-26), as required, for runway and FAA NAVAID shutdown.
 - e. Assist the Sponsor in preparation of: Invoice Summary forms as required for requests for reimbursement; Sponsor Quarterly Performance Reports for submittal to the FAA Airports Division on a quarterly basis for the duration of the Project.
 - f. Update Disadvantaged Business Enterprise (DBE) Program
3. Field Survey – Engineering Design.
 - a. Perform field surveys as required for the Project. The survey areas will consist of the following: Coordinate and direct survey onsite; establish survey baselines for improvement areas and set horizontal control points for use during the survey and construction. The horizontal control points shall be established on NAD 83 or better control and shall be on the extended centerline for Runway 17-35; establish vertical control at the site based upon U.S.G.S. NAVD 88 datum and set benchmark for use during construction within close

proximity of Runway 17-35 if one is not already located there; obtain elevations along Runway 17-35 and adjacent taxiways.

C. CONSTRUCTION SERVICE

1. Preliminary Phase - Prepare Contracts for Sponsor and successful bidder execution; prepare copies of the Construction Plans and Contract Documents/Technical Specifications for use by the Contractor during construction; prepare Construction Observation Program; attend and conduct a pre-construction conference; prepare and distribute Minutes.
2. Construction Administration and Observation Phase - Provide full time construction observation services, including preparation of daily reports, weekly reports, photo logs, wage rate interviews, and DBE participation forms as required by the FAA to document the prosecution and progress of the Project; review shop drawings and material certification submittals from the Contractor; prepare Contractor's progress estimates and Sponsor's request for reimbursement of funds; prepare change orders and supplements necessary for construction of the Project; attend and conduct periodic site visits and construction progress meetings as needed; attend and conduct a final review of the Project with Sponsor and the OAC.
3. Project Closeout Phase - Prepare and submit to the Sponsor one (1) set of black line prints of the record drawings and one (1) set of electronically produced prints of the record drawings; prepare the documents relating to engineering design and construction services for Project closeout as required by the FAA and OAC.

TASK ORDER NO. 1
AGREEMENT FOR SERVICES
FOR IMPROVEMENTS TO THE
SHAWNEE REGIONAL AIRPORT
SHAWNEE, OKLAHOMA
F.A.A. A.I.P. PROJECT NO. 3-40-0088-019-2020 (Future)

THIS TASK ORDER NO. 1 made and entered into this _____ day of _____, 2020 by and between the Shawnee Airport Authority on behalf of the City of Shawnee, Oklahoma, with offices located at 16 W 9th St, Shawnee, OK 74801, hereinafter referred to as the "Sponsor", and H.W. Lochner, Inc. (Lochner), with offices located at 13439 Broadway Ext, Suite 101, Oklahoma City, OK 73114, hereinafter called the "Consultant."

This Task Order supplements the Master On-Call Agreement, dated July 15, 2019, by adding the Design and Construction services necessary to complete the Runway 17-35 and Parallel Taxiway System rehabilitation.

WITNESSETH:

WHEREAS, the Sponsor is desirous of making airport improvements, hereinafter called the "Project", at the Shawnee Regional Airport.

- Rehabilitate Runway 17-35 Pavement (Crack Seal / Seal Coat)
- Rehabilitate Parallel Taxiway for Runway 17-35 (Crack Seal / Seal Coat)

WHEREAS, the Sponsor has agreed to employ the Consultant to provide the engineering services required for performing design and construction administration in support of the improvements identified, as well as contract documents/technical specifications, tabulation of construction quantities, engineer's opinion of probable construction cost and project budget, bidding and administrative services and construction administration and observation services.

NOW, THEREFORE, in consideration of these premises and the mutual covenants herein contained, the parties hereto agree as follows:

ARTICLE I
SCOPE OF SERVICES

The Consultant, in consideration of the payment on the part of the Sponsor, will agree to perform the engineering services enumerated as follows:

The Consultant will perform surveys and pavement investigations to produce construction plans, contract documents/technical specifications, tabulation of construction quantities, and engineer's opinion of probable construction costs and project budget for the Project. The Consultant will assist the Sponsor with administrative services, and coordination with the FAA and OAC. The Consultant will assist the Sponsor with advertisement for obtaining construction bids and award of the construction contract. The services required for construction administration and construction observation are also included in this Agreement.

All services will be performed in accordance with good engineering practice and applicable published design criteria of the FAA, primarily the FAA Advisory Circulars (current version as of the date of this Agreement).

A. BASIC SERVICES

1. Preliminary Phase

- a. Coordination with the Sponsor, FAA, and OAC regarding Project scope, schedule, and budget.
- b. Coordinate and conduct a site visit to evaluate the condition and measure crack and full-depth repair quantities of the existing Runway 17-35 and parallel taxiway pavements.
- c. Prepare scopes and subagreements for survey and DBE program and goal preparation.
- d. Prepare and assist Sponsor with submission and updates to CIP and ODOs for the FY 2020 projects.

2. Design Phase – Design Report

- a. Prepare project narrative to include discussion on project scope and photos, pavement markings, pavement rehabilitation, environmental conditions, project phasing and safety considerations, seal coat material alternatives, and funding mechanisms and split of project costs.
- b. Prepare Engineer's Opinion of Probable Cost and Budget for both Runway and Taxiway portions of project.
- c. Complete modifications to report based on review comments from Sponsor, FAA, and OAC.

3. Design Phase – Plans and Specifications

- a. Prepare Construction Plans and Contract Documents/Technical Specifications for the Project.
 - 1) Prepare Construction Plans for the Project. The Construction Plans will generally include the following:
 - Title Sheet
 - General Airport Layout Plan and General Notes
 - Construction Safety and Phasing Plan
 - Construction Safety and Phasing Plan notes and details per AC 150/5370-2
 - Summary of Quantities and Pay Item Notes
 - Demolition Plans
 - Runway 17-35 Plan
 - Taxiway Plan
 - Pavement Marking Plan and Details
 - Miscellaneous Details
 - 2) Prepare Contract Documents/Technical Specifications that are in accordance with FAA criteria and satisfy project specific needs.
 - 3) Submit preliminary (90% completion) Construction Plans, Contract Documents/Technical Specifications, updated engineer's opinion of probable construction cost, and Project budget to the

Sponsor, FAA, and OAC for review and comment. PDF copies will be submitted electronically with hard copies provided upon request.

- 4) Finalize Construction Plans and Contract Documents/Technical Specifications with consideration of preliminary (90% completion) review comments.
- 5) Submit Construction Plans and Contract Documents/ Technical Specifications along with Final Engineer's Design Report to the Sponsor and the FAA for final approval and authorization to advertise. PDF copies will be submitted electronically with hard copies provided upon request.

4. Bidding Phase

- a. Assist the Sponsor with advertisement for bids. The Consultant shall prepare the advertisement and send the "Notice to Bidders" to prospective Contractors. (The Sponsor shall place the advertisement in the appropriate media.)
- b. Distribute Construction Plans and Contract Documents/Technical Specifications to plan holding houses and prospective Bidders.
- c. Answer questions and clarify points pertaining to the Construction Plans and Contract Documents/Technical Specifications during the Bidding Services phase.
- d. Attend and conduct a prebid conference at the Airport or City Offices.
- e. Prepare and distribute prebid meeting minutes.
- f. Prepare and issue addendums during the Bidding Phase as required.
- f. The Consultant will attend the bid opening at the City Offices and assist the Sponsor with one (1) receipt of bids.
- g. Tabulate and analyze bid results, prepare Project budget, review Contractor's qualifications and DBE subcontractors list provided by the Contractor, and make recommendation of contract award.

B. SPECIAL SERVICES

1. Administrative Assistance

- a. Prepare a Modification of Standards Request to utilize alternative seal coat material on Runway and Taxiway Pavements and assist Sponsor with submission of MOS request.
- b. Prepare FAA grant application for design and construction and assist Sponsor in submission of forms to the FAA Airports Division.
- c. Prepare FAA required Sponsor Certifications and assist Sponsor in submission of forms to the FAA Airports Division.
- d. Prepare and assist Sponsor in submission of OAC State grant application and supporting documentation.

- e. Prepare and submit FAA form 7460-1 for temporary construction through FAA's OE/AAA website.
 - f. Prepare and submit Airport Sponsor Strategic Event Submission Form (FAA Form 6000-26), as required, for runway and FAA NAVAID shutdown.
 - g. Assist the Sponsor in preparation of Invoice Summary forms as required for requests for reimbursement.
 - h. Assist the Sponsor in preparation of Sponsor Quarterly Performance Reports for submittal to the FAA Airports Division on a quarterly basis for the duration of the Project.
2. Update Disadvantaged Business Enterprise (DBE) Program
- a. The Consultant shall assist the Sponsor with updating their current DBE Program and goals to comply with the requirements of 49 CFR 26. The Program will be developed using the FAA. The Consultant will submit one (1) electronic copy of the updated Program to the Sponsor for use during the Notice to the Public period. The Consultant will revise the DBE Program per the Public comment period as required and provide the Sponsor with one (1) copy of the Final DBE Program as a PDF file. The Sponsor shall submit one (1) PDF copy of the updated Program to the FAA for review and approval.
3. Field Survey – Engineering Design
- a. Perform field surveys as required for the Project. The survey areas will consist of the following:
 - 1) Coordinate and direct survey onsite.
 - 2) Establish survey baselines for improvement areas and set horizontal control points for use during the survey and construction. The horizontal control points shall be established on NAD 83 or better control and shall be on the extended centerline for Runway 17-35.
 - 3) Establish vertical control at the site based upon U.S.G.S. NAVD 88 datum and set benchmark for use during construction within close proximity of Runway 17-35 if one is not already located there.
 - 4) Obtain elevations along Runway 17-35 and adjacent taxiways.

C. CONSTRUCTION SERVICES

- 1. Preliminary Phase
 - a. Prepare Contracts for Sponsor and successful bidder execution.
 - b. Prepare copies of the Construction Plans and Contract Documents/Technical Specifications for use by the Contractor during construction.
 - c. Prepare Construction Observation Program.
 - d. Attend and conduct a pre-construction conference. Minutes of the conference will be prepared and distributed to the attendees.

2. Construction Administration and Observation Phase

- a. Provide full time construction observation services, including preparation of daily reports, weekly reports, photo logs, wage rate interviews, and DBE participation forms as required by the FAA to document the prosecution and progress of the Project.
- b. Review shop drawings and material certification submittals from the Contractor.
- c. Prepare Contractor's progress estimates and Sponsor's request for reimbursement of funds.
- d. Prepare change orders and supplements necessary for construction of the Project.
- e. Attend and conduct periodic site visits and construction progress meetings as needed.
- f. Attend and conduct a final review of the Project with Sponsor and the OAC.

3. Project Closeout Phase

- a. Prepare and submit to the Sponsor one (1) set of black line prints of the record drawings and one (1) set of electronically produced prints of the record drawings.
- b. Prepare the documents relating to engineering design and construction services for Project closeout as required by the FAA and OAC.

**ARTICLE II
SPONSOR'S RESPONSIBILITIES**

The Sponsor, as a part of this Agreement, shall provide the following:

1. Arrange for access to and make all provisions for the Consultant to enter upon public and private property as required for the Consultant to perform his/her services.
2. Assist in approvals and permits from all governmental entities having jurisdiction over the project and such approvals and consents from others as may be necessary for completion of the project.
3. Designate in writing a person to act as Sponsor representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, and interpret and define Sponsor policies and decisions.
4. Give prompt written notice to the Consultant whenever Sponsor observes or knows of any development that affects the scope or timing of Consultant's services.
5. Pay publishing cost for advertisements of notices, public hearings, request for bids, and other similar items. The Sponsor shall pay for all permits and licenses that may be required by local, state or federal authorities; and shall secure the necessary land, easements and rights-of-way required for the project.
6. One (1) copy of existing plans, reports, or other data the Sponsor may have on file with regard to future projects.

7. Available information relating to environmental conditions at the property, including any permits, clearances, investigations, and remediation required for federal, state, and local agencies identified by environmental consultants for the Sponsor in currently available reports.

ARTICLE III TIME SCHEDULE

The Consultant agrees to proceed with the services immediately upon *receipt of a written Notice to Proceed (NTP) by the Sponsor*, and to employ such personnel as required to complete the Scope of Services in accordance with the following time schedule:

SCHEDULED PERFORMANCE IN CALENDAR DAYS OR BY DATE

A. BASIC SERVICES

1. Preliminary Phase..... As Required
2. Design Phase – Design Report
 - a. Submit Preliminary Design Report..... Antic. March 31, 2020
 - b. Submit Final Engineer’s Design Report 30 Calendar Days After
Receipt of Review Comments for Item A.2.a.)
3. Design Phase – Plans and Specifications
 - a.3) Submit Preliminary Plans and Specifications Antic. March 31, 2020
 - a.6) Submit Final Plans and Specifications 30 Calendar Days After
Receipt of Review Comments for Item A.3.a.3)
4. Bidding Phase As Required

B. SPECIAL SERVICES

1. Administrative Assistance..... As Required
2. Update Disadvantaged Business Enterprise (DBE) Program..... 60 Calendar Days After
Receipt of Notice to Proceed
3. Field Survey – Engineering Design..... 45 Calendar Days After
Receipt of Notice to Proceed
3. Pavement Investigation 45 Calendar Days After
Receipt of Notice to Proceed

C. CONSTRUCTION SERVICES

1. through 2) 63 Calendar Days
After Issuance of Construction NTP
3. Project Closeout..... Within 90 Calendar Days
Following Final Acceptance

The schedule presented above does not include review time by the Sponsor, FAA, OAC, or other interested agencies.

ARTICLE IV COMPENSATION

The compensation for the scope of services is separated out between Runway and Taxiway pavements based on the approximate proportions of pavement involved in each section. If the entire project is not awarded, such as in the case that only the Runway pavement rehabilitation is awarded, the scope of services and compensation schedule will be required to be re-negotiated, as the combination of the two pavement rehabilitation projects provides additional efficiency of scale and effort.

A. BASIC SERVICES

No.	Scope Item	Runway Portion	Taxiway Portion	Total Fee
1	Preliminary Phase	\$9,800.00	\$4,200.00	\$14,000.00 Lump Sum
2	Design Phase – Engineer’s Design Report	\$8,190.00	\$3,510.00	\$11,700.00 Lump Sum
3	Design Phase – Plans and Specifications	\$37,100.00	\$15,900.00	\$53,000.00 Lump Sum
4	Bidding Phase	\$7,700.00	\$3,300.00	\$11,000.00 Lump Sum
Subtotal Basic Services				\$89,700.00 Lump Sum

B. SPECIAL SERVICES

No.	Scope Item	Runway Portion	Taxiway Portion	Total Fee
1	Administrative Assistance	\$13,930.00	\$5,970.00	\$19,900.00 Lump Sum
2	Update DBE Program	\$9,380.00	\$4,020.00	\$13,400.00 Lump Sum
3	Field Survey – Engineering Design	\$8,960.00	\$3,840.00	\$12,800.00 Lump Sum
Subtotal Special Services				\$46,100.00 Lump Sum

C. CONSTRUCTION SERVICES

No.	Scope Item	Runway Portion	Taxiway Portion	Total Fee
1 - 2	Construction Observation	\$88,760.00	\$38,040.00	\$126,600.00 Not-to-Exceed
3	Project Closeout	\$7,490.00	\$3,210.00	\$10,700.00 Lump Sum
Subtotal Construction Services				\$137,300.00 Not-to-Exceed

The Consultant shall not proceed with the services described herein until written authorization in the form of a Notice to Proceed is received from the Sponsor.

For Item A. Basic Services, Item B. Special Services, and Item C.3 Project Closeout partial payment shall be made to the Consultant for those portions of the services completed. The Consultant shall submit to the Sponsor a monthly statement showing an estimate of completion, and the portion of compensation requested for each element and phase of the services. The request for partial payments will not be in excess of the value of the services completed at the time the statement is rendered.

Progress payments shall be made to the Consultant within thirty (30) calendar days of receipt of proper billing statement.

The fixed payment to the Consultant for services outlined in Item C 1) through 2), Construction Services, shall be \$14,776.88, and the total payment to the Consultant shall not exceed \$126,300.00.

If the Contractor exceeds the construction contract period of 63 Calendar Days, the Consultant may renegotiate the respective fixed payment and not-to-exceed amount. The renegotiated fixed payment and not-to-exceed amount will be estimated based on direct salary costs and the Overhead, Administrative Expenses, and Profit Multiplier as outlined in the Master On Call Agreement dated July 15, 2019 and included as Attachment “A” and out-of-pocket expenses.

Travel on and off the Project site required of Consultant personnel will be compensated at the current rate allowed by the Internal Revenue Service.

Progress payments shall be made to the Consultant within thirty (30) calendar days of receipt of proper billing statement.

ARTICLE V MANDATORY FEDERAL CONTRACT PROVISIONS

Reference Federal Contract Provisions Attachment “B”.

ARTICLE VI MISCELLANEOUS PROVISIONS

1. Change in Scope. The Scope of Services described herein shall be subject to modification or supplement upon the written Agreement of the contracting parties. Any such modification in the Scope of Services shall be incorporated in this Agreement by Supplemental Agreement executed by both parties.
2. Ownership of Drawings and Contract Documents. Original documents, tracings, plans specifications and maps prepared or obtained under the terms of the Contract shall be delivered to and become the property of the Sponsor and basic survey notes and sketches, charts, computations, and other data shall be made available upon request by the Sponsor without restriction or limitation on their use. In the event any of the above documents are re-used by the Sponsor, the nameplates will be removed and the Consultant will be released and held harmless of subsequent liabilities. There shall be no legal limitations upon the Sponsor in the subsequent use of plans or ideas developed in this project and incorporated in the preliminary or final reports or plans for the subsequent preparation of construction plans.
3. Electronically Produced Documents. Electronically produced documents will be submitted in data files compatible with AutoCAD Release 2018 and Portable Document Format (PDF). The Consultant makes no warranty as to the compatibility of the data files beyond the above specified hardware and release or version of the stated software.

Because data stored on electronic media can deteriorate undetected or be modified without the Consultant's knowledge, the electronic data files submitted to the Sponsor or other Agencies will have an acceptance period of thirty (30) days. If during that period the Sponsor or other Agencies find any errors or omissions in the files, the Consultant will correct the errors or omissions as a part of the basic Agreement. The Consultant will not be responsible for maintaining copies of the submitted electronic data files after the acceptance period.

Any changes requested after the acceptance period will be considered additional services for which the Consultant shall be reimbursed including the cost of materials.

The data on the electronic media shall not be considered the Consultant's instrument of service. Only the submitted hard copy documents will be considered the instrument of service. The Consultant's nameplate shall be removed from all electronic media provided to the Sponsor or other Agencies.

4. Engineer's Opinion of Probable Project Cost and Construction Cost. Since the Consultant has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor(s) methods of determining prices, or over competitive bidding or market conditions, his opinions of probable Project Cost and Construction Cost provided for herein are to be made on the basis of his experience and qualifications and represent his best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but the Consultant cannot and does not guarantee that proposals, bids or actual Project or Construction Cost will not vary from opinions of probable cost prepared by him. However, the Consultant represents that he will use reasonable engineering care and judgment commonly exercised by an engineer in the same or similar circumstances in making and transmitting such cost estimates to the Sponsor.

5. Remedies. In the event of a claim, dispute and other matters in question arising out of or relating to this Agreement or the services to be rendered hereunder, the Consultant and the Sponsor agree to attempt to resolve such disputes in the following manner:

First, the parties agree to attempt to resolve such claims, disputes and other matters in question through direct negotiations between the appropriate representatives of each party.

Second, if such negotiations are not fully successful, the parties agree to attempt to resolve any remaining claim, dispute or other matter in question by formal nonbinding mediation conducted in accordance with rules and procedures to be agreed upon by the parties.

Third, if the claim, dispute or other matter in question, or any issues remain unresolved after the above steps, then such unresolved issues may, with the consent of both parties, be settled by binding arbitration in accordance with the rules of the American Arbitration Association current as of the date of this Agreement then pertaining.

6. Insurance. The Consultant shall procure and maintain at its expense during the effective period of this Contract the following insurance from insurance companies authorized to do business in Oklahoma covering all operations and services under this Contract performed by Engineer.
 - a. Workers' Compensation Insurance in accordance with the provisions of the Oklahoma Workers' Compensation Act.
 - b. Commercial General Liability in amounts not less than \$1 million combined single limit per occurrence and \$1 million aggregate for bodily injury, personal injury and property damage with endorsements to include broad form contractual, and broad form property damage.
 - c. Automobile Liability, Bodily Injury and Property Damage with a limit of \$1 Million for occurrence, combined single limit including owned, hired and non-owned autos.
 - d. Professional Liability Insurance in amounts not less than \$1 million per claim and annual aggregate.

The Consultant shall furnish to the Sponsor a certificate or certificates of insurance showing compliance with this paragraph. The Certificate shall name the City of Shawnee as additionally insured, excluding Workers' Compensation Insurance and Professional Liability Insurance. Such certificate shall provide that the carrier issuing the certificate shall notify the City within ten (10) days in advance of any cancellation or significant change in the terms of coverage of such insurance policies. The failure of the Consultant to obtain and maintain such insurance coverage shall not relieve the Consultant from any liability arising from this Agreement, nor shall any such liability be limited to the liability insurance coverage provided herein.

7. **Liability.** Each party will defend and indemnify and hold harmless the other party from and against third party claims for liability, damage, loss, costs and expenses, including attorney's fees, on account of injury or damage to persons or property occurring on or occasioned by facilities owned or controlled by such indemnifying party, unless such injury or damage resulted from the sole negligence of the other party. In the event negligence is attributable to both parties, each party shall be responsible for the resulting damages attributable to the negligence of such party whether such proportionate share is arrived at through agreement between the parties or as a result of litigation.
8. **Force Majeure.** Any delay or failure of Consultant in the performance of its required obligations hereunder shall be excused if and to the extent caused by acts of God, war, riot, strike, fire, storm, flood, windstorm, discovery or uncovering of hazardous or toxic materials or causes beyond the reasonable control of Consultant, provided that prompt written notice of such delay or suspension be given by Consultant to the Sponsor. Upon receipt of said notice, if necessary, the time for performing shall be extended for a period of time reasonably necessary to overcome the effect of such delays and Consultant shall be reimbursed for the cost of such delays.
9. **Binding Upon Successors.** This Agreement shall be binding upon the undersigned parties, their successors, partners, assigns, and legal representatives.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized officers on the day and year first above-written.

SPONSOR:
CITY OF SHAWNEE, OKLAHOMA

ATTEST:

By: _____

By: _____

Title: _____

Title: _____

CONSULTANT:
H.W. LOCHNER, INC.

ATTEST:

By: Patrick J. Barnas
Patrick J. Barnas, P.E.

By: Steven D. Harris
Steven D. Harris, P.E.

Title: Civil Engineer

Title: Vice President

ATTACHMENT “A”
LOCHNER 2020 COMPENSATION RATES

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Principal	\$75.00
Project Manager	\$65.00
Sr. Electrical Engineer	\$65.00
Sr. Design Engineer	\$50.00
Design Engineer	\$42.00
Sr. Airport Planner	\$43.00
Environmental Scientist	\$40.00
Engineer Intern	\$32.00
Design Tech	\$27.00
Administrative Assistant	\$23.00
Sr. Construction Inspector	\$45.00
Construction Inspector	\$38.00
Overhead, Administrative Expenses, and Profit Multiplier	3.01

FEDERAL CONTRACT PROVISIONS FOR A/E AGREEMENTS

ALL REFERENCES MADE HEREIN TO "CONTRACTOR", "PRIME CONTRACTOR", "BIDDER", AND "OFFEROR" SHALL PERTAIN TO THE ARCHITECT/ENGINEER (A/E).

ALL REFERENCES MADE HEREIN TO "SUBCONTRACTOR", "SUB-TIER TONTRACTOR" OR "LOWER TIER CONTRACTOR" SHALL PERTAIN TO ANY SUBCONSULTANT UNDER CONTRACT WITH THE A/E.

ALL REFERENCES MADE HEREIN TO "SPONSOR" AND "OWNER" SHALL PERTAIN TO THE STATE, CITY, AIRPORT AUTHORITY OR OTHER PUBLIC ENTITY EXECUTING CONTRACTS WITH THE A/E.

ACCESS TO RECORDS AND REPORTS

Reference: 2 CFR § 200.333, 2 CFR § 200.336, and FAA Order 5100.38

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

CIVIL RIGHTS – GENERAL

Reference: 49 USC § 47123

The contractor agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractor and sub-tier contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

CIVIL RIGHTS – TITLE VI ASSURANCE

Reference: 49 USC § 47123 and FAA Order 1400.11

A) Title VI Solicitation Notice

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

B) Title VI Clauses for Compliance with Nondiscrimination Requirements

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

- 1) **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- 2) **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- 3) **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- 4) **Information and Reports:** The contractor will provide all information and reports required by the Nondiscrimination Acts and Authorities, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- 5) **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
- 6) **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Nondiscrimination Acts and Authorities, and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

C) Title VI List of Pertinent Nondiscrimination Authorities

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

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

DISADVANTAGED BUSINESS ENTERPRISE

Reference: 49 CFR part 26

Contract Assurance (§ 26.13) - The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

Prompt Payment (§26.29) - The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) calendar days from the receipt of each payment the prime contractor receives from the Sponsor. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Sponsor. This clause applies to both DBE and non-DBE subcontractors.

ENERGY CONSERVATION REQUIREMENTS

Reference: 2 CFR § 200, Appendix II (H)

Contractor and each subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq).

FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

Reference: 29 USC § 201, et seq.

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The ~~contractor/~~Consultant has full responsibility to monitor compliance to the referenced statute or regulation. The ~~contractor/~~Consultant must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Wage and Hour Division.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Reference: 20 CFR part 1910

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

RIGHT TO INVENTIONS

Reference: 2 CFR § 200 Appendix II (F) and 37 CFR §401

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Owner in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within in the 37 CFR §401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental or research work.

SEISMIC SAFETY

Reference: 49 CFR part 41

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard which provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a “certification of compliance” that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

TRADE RESTRICTION CERTIFICATION

Reference: 49 USC § 50104 and 49 CFR part 30

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

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

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

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

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

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

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

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

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

VETERAN'S PREFERENCE

Reference: 49 USC § 47112(c)

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

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$3,500

DISTRACTED DRIVING

Reference: Executive Order 13513 and DOT Order 3902.10

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

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The

Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$10,000

TERMINATION OF CONTRACT

Reference: 2 CFR § 200 Appendix II (B)

Termination for Convenience

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

Termination by Default

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

- a) Termination by Owner: The Owner may terminate this Agreement in whole or in part, for the failure of the Consultant to:
 - 1) Perform the services within the time specified in this contract or by Owner approved extension;
 - 2) Make adequate progress so as to endanger satisfactory performance of the Project;
 - 3) Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are

incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

- b) Termination by Consultant: The Consultant may terminate this Agreement in whole or in part, if the Owner:
 - 1) Defaults on its obligations under this Agreement;
 - 2) Fails to make payment to the Consultant in accordance with the terms of this Agreement;
 - 3) Suspends the Project for more than [180] days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Engineer is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$25,000

DEBARMENT AND SUSPENSION

Reference: 2 CFR part 180 (Subpart C), 2 CFR part 1200, and DOT Order 4200.5

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

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

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

If the FAA later determines that a lower tier participant failed to tell a higher tier that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedy, including suspension and debarment.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$100,000

CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

Reference: 2 CFR § 200 Appendix II (E)

1) Overtime Requirements.

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

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

In the event of any violation of the clause set forth in paragraph (1) above, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 above.

3) Withholding for Unpaid Wages and Liquidated Damages.

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

4) Subcontractors.

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

LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

Reference: 31 U.S.C. § 1352 – Byrd Anti-Lobbying Amendment; 2 CFR part 200, Appendix II (J); and 49 CFR part 20, Appendix A

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress

in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$150,000

BREACH OF CONTRACT TERMS

Reference: 2 CFR § 200 Appendix II (A)

Any violation or breach of terms of this contract on the part of the contractor or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

CLEAN AIR AND WATER POLLUTION CONTROL

Reference: 2 CFR § 200 Appendix II (G)

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

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

CERTIFICATION OF OFFERER/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS

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

CERTIFICATIONS

- 1) The applicant represents that it is () is not (✓) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

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