

AGENDA
SHAWNEE AIRPORT AUTHORITY
October 6, 2014 AT 6:30 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 September 15, 2014 meeting.
2. Consider a contract with Lochner Aviation for services for FAA AIP Project No. 3-0040-0088-16-2015.
3. New Business

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

Respectfully submitted

Phyllis Loftis, CMC, City Clerk

Shawnee Airport Authority

1. a.

Meeting Date: 10/06/2014

SAA 9-15-14 Minutes

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Minutes from the September 15, 2014 meeting.

Attachments

SAA Minutes 9-15-14

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, SEPTEMBER 15, 2014, DURING THE BOARD OF CITY COMMISSIONERS MEETING AT 6:30 P.M., PURSUANT TO NOTICE DULY POSTED AS PRESCRIBED BY LAW. UPON ROLL CALL, A QUORUM WAS DECLARED WITH THE FOLLOWING MEMBERS IN ATTENDANCE:

PRESENT: Vogel, Agee, Harrod, Mainord, Hall, Shaw, Dykstra

ABSENT: None

Call to Order

Declaration of a Quorum

AGENDA ITEM NO. 1: Consider approval of Consent Agenda

a. Minutes from the September 2, 2014 meeting.

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

AYE: Harrod, Shaw, Dykstra, Vogel, Agee, Mainord, Hall

NAY: None

AGENDA ITEM NO. 2: New Business (Any matter not known about 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. (7:41 p.m.)

ATTEST:

WES MAINORD
CHAIRMAN

PHYLLIS LOFTIS, CMC, CITY CLERK
SECRETARY

Shawnee Airport Authority

2.

Meeting Date: 10/06/2014

Lochner Agg

Submitted By: Lisa Lasyone, City Clerk

Department: City Clerk

Information

Title of Item for Agenda

Consider a contract with Lochner Aviation for services for FAA AIP Project No. 3-0040-0088-16-2015.

Attachments

Lochner Memo

Lochner Agreement

Mayor
WES MAINORD



The City of Shawnee
Airport Assistant Manager

P.O. Box 1448
Shawnee, Oklahoma 74802-1448
(405) 878-1625 Fax (405)
www.ShawneeOK.org

Commissioners
LINDA AGEE
GARY VOGEL
JAMES HARROD
KEITH HALL
LESA SHAW
MICHEAL DYKSTRA

Date: 9/29/2014
To: Mayor and City Commissioners
From: Keenan English, Assistant Airport Manager
RE: **Contract with Lochner Aviation Services**

Nature of the Request:

Enter into an agreement with Lochner Aviation Services to provide project management for FAA AIP Project No. 3-0040-0088-16-2015

Staff Analysis, Considerations:

In March of 2014, the Shawnee Airport Authority approved that Lochner Aviation Services act as the Shawnee Regional Airport's consultant for the next five airport capital improvement projects. The Airport is requesting the Shawnee Airport Authority's approval to allow Lochner to apply for Non-Primary Entitlement Funds* to fund capital improvement projects for the 2014/2015 Fiscal Year, as well as manage the projects to their completion.

*Non-Primary Entitlement Funds (NPE) are Federal dollars that are contributed to eligible airports around the country each year to help with various projects. Each year, the FAA contributes \$150,000 to Shawnee Regional Airport until that dollar amount reaches \$600,000. Currently the Airport has not used any of this money within the past four years and has reached the \$600,000 level. This means, we need to use this money so we can keep receiving another \$150,000 each year. Essentially, if we don't use the money, we don't receive any more.

The following projects are eligible for NPE funding and have been recommended by Airport Staff as well as the Airport Advisory Board as projects that will increase transient traffic and safety. They include:

1. Replacing the existing rotating beacon
2. Installing lights around main apron.
3. Replace Automated Weather Observing System (AWOS)

This contract between the Airport and Lochner will allow Lochner to provide services as described in the contract on pages 2 through 5. They consist of:

1. Preparing project development documents to the FAA
2. Designing phase/Engineering

3. Lighting, AWOS, and Beacon plans and studies
4. Bidding phase
5. Administrative assistance
6. Field surveys
7. Construction services

Cost of services:

The total cost for Lochner's services totals \$140,375

Federal Match - \$126,337.50

Local Match - \$14,037.50

If approved the Airport will come before the Airport Authority once again with bids in May of 2015. The estimated total cost for construction for these projects are:

AWOS - \$120,000

Rotating beacon - \$60,000

Apron Lighting - \$150,000
\$330,000

Federal Match - \$297,000

Local match - \$33,000

Recommendation:

It is important that the Airport use NPE funds in order to take full advantage of the FAA's \$150,000 contribution each year. If NPE funds are not used once the maximum limit is reached, the airport is essentially missing out on new Federal dollars each year. The Airport staff recommends signing an Agreement for Services contract with Lochner Aviation Services. The Airport Advisory Board made the same recommendation on August 20th, 2014.

Budget Consideration:

Contract with Lochner will cost the Airport \$14,037.50. Airport staff has budgeted for this item. Line item 5-0120-5450 CAPITAL OUTLAY- EQUIPMENT

**AGREEMENT FOR SERVICES
FOR IMPROVEMENTS TO THE
SHAWNEE REGIONAL AIRPORT
SHAWNEE, OKLAHOMA
F.A.A. A.I.P. PROJECT NO. 3-0040-0088-16-2015**

THIS AGREEMENT made and entered into this _____ day of _____, 2014 by and between the City of Shawnee, Oklahoma, with offices located at 16 W 9th Street Shawnee, OK 74801, hereinafter referred to as the "Sponsor", and H.W. Lochner, Inc. (Lochner), with offices located at 13439 Broadway Ext., Suite 101, 73114, hereinafter called the "Consultant."

WITNESSETH:

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

- Replace Existing Rotating Beacon
- Install Apron Area Lighting
- Replace and Relocate AWOS
- These items are being funded through a future grant from the Federal Aviation Administration (FAA).

WHEREAS, the Sponsor has agreed to employ the Consultant to provide the engineering services required for performing field investigations and surveys and for updating engineer's design report, preparing designs, construction plans, contract documents/technical specifications, tabulation of construction quantities, engineer's opinion of probable construction cost and project budget. The Consultant shall also assist the Sponsor with administrative services, bidding services, construction administration, and construction observation services for the proposed project.

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, agrees to perform the engineering services enumerated as follows:

The Consultant will perform field investigations and surveys to update engineer's design report, 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, preparation of a Project specific DBE goal and program, and coordination with the FAA. The services required for construction bids and award of the construction contract, construction administration, and construction observation are included in this agreement.

All services will be performed in accordance with good engineering practice and applicable published design criteria of the FAA, primarily FAA Advisory Circular 150/5300-13A "Airport Design," with Change 1

dated 02/26/2014 and Advisory Circular 150/5370-10F "*Standards for Specifying Construction of Airports.*" The following is a detailed description of the specific services that are a duty of this Agreement.

A. BASIC SERVICES

1. Preliminary Phase

- a. Coordination with the Sponsor and FAA regarding Project scope, schedule, and budget.
- b. Provide required exhibits to the Sponsor and FAA to depict project details.
- c. Prepare Early Project Development Requirements and Submittals. Items to include the following:
 - Updated Five-Year ACIP
 - Approved ALD or ALP
 - Commitment of Local Funds
 - Disadvantaged Business Enterprise - 3 Year Program and Project Specific Goal
 - Environmental Determination
 - Selection of Consultants Certification
 - Executed Consultant Contract
 - Drug-Free Workplace Certification
 - Overall Development Objective (ODO)
 - Project Schedule
 - Airspace Study Form 7460
 - Request for Modifications of Standards
- d. Prepare survey services Scope of Services and subconsultant Agreement.

2. Design Phase –Engineer’s Design Report

- a. Preliminary Engineer's Design Report: The Preliminary Engineer’s Design Report will be updated as a part of the design and will include updated engineer's opinion of probable construction cost and Project budget, and design considerations which will be submitted to Sponsor (two [2] copies) and FAA (one [1] copy), for review and comment.
- b. Finalize Engineer’s Design Report with consideration of preliminary (90%) review comments and submit Final Engineer’s Design Report to the Sponsor (two [2] copies) and the FAA (one [1] copy) for final approval and authorization to advertise. Final report will be submitted with final Construction Plans and Contract Documents/Technical Specifications.

3. Design Phase – AWOS Study

- a. The airport is currently served by an Automated Weather Observation System (AWOS-III) which is a suite of sensors that measure, collect and disseminate weather data to assist meteorologists, pilots and flight dispatchers to prepare and monitor weather forecasts, plan flight routes, and provide necessary information for arrivals and departures. The airport’s AWOS-III provides the following information including wind speed, peak gust, wind direction, temperature, dew point, altimeter setting, density altitude, visibility, as well as sky condition, cloud height and cloud type. Due to the age and condition of the facility, the Sponsor wishes to replace and/or rehabilitate the system to accommodate existing and future operational

conditions.

This portion of the project will consist of a Benefit Cost Analysis (BCA) using the new computer program (Excel based) to complete the BCA developed by the FAA Office of Airports, Airports Financial Assistance Division, APP-500. In order to secure federal and/or state funding for system replacement and/or rehabilitation, the analysis must meet or exceed a BCA ratio of 0.50. This Scope of Services provides only for the BCA portion of the work necessary to replace and/or rehabilitate the current AWOS.

The AWOS BCA will be performed in accordance with FAA Order 7031.2C, Airway Planning Standard Number One, its accompanying report FAA Report APO-83-6, Establishment and Discontinuance Criteria for Automated Weather Observing Systems, and Program Guidance Letter (PGL) 14-04, Eligibility of Automated Weather Observing Systems (AWOS). In addition, the AWOS BCA will require the following efforts to be completed:

- Life-Cycle Cost Analysis
- Facility and Equipment Costs
- Operation and Maintenance Costs
- Estimation and Valuation of AWOS Benefits
- Submittal of an FAA Form 7460-1, *Notice of Proposed Construction of Alteration*, to initiate and airspace study by the FAA of the AWOS site.
- Evaluation of available funding sources to fund the acquisition and installation of the system.
- Submittal of a report highlighting the findings and recommendation of the AWOS BCA.

4. Design Phase – Beacon/Apron Lighting 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
- Construction Safety and Phasing Plan
- General Notes and Summary of Quantities
- Typical Sections
- Demolition Plans
- Electrical Plan
- Electrical Details
- Miscellaneous Details

2) Prepare Contract Documents/Technical Specifications that are in accordance with FAA criteria and satisfy project specific needs. The specifications shall be developed using FAA Advisory Circular 150/5370-10F.

3) Calculate plan quantities and prepare preliminary engineers' opinion of probable construction cost and Project budget.

9/26/14
SPH

- 4) Submit preliminary (90% completion) Construction Plans, Contract Documents/Technical Specifications, engineer's opinion of probable construction cost, and Project budget to the Sponsor (two [2] copies) and FAA (one [1] copy) for review and comment.
- 5) Attend and conduct Design Review Meeting and conduct a field check at the Shawnee Regional Airport at the 90% preliminary submittal level.
- 6) Submit Final Engineer's Design Report, Construction Plans, Contract Documents/Technical Specifications, engineer's opinion of probable construction cost and project budget to the Sponsor (two [2] copies) and the FAA (one [1] copy) for final approval and authorization to advertise.

5. Design Phase – AWOS Plans and Specifications

- a. Prepare Construction Plans and Contract Documents/Technical Specifications for the AWOS portion of the Project.
 - 1) Prepare Construction Plans for the AWOS portion of the Project. The Construction Plans will generally include the following:
 - Electrical Plan
 - Electrical Details
 - Miscellaneous Details
 - 2) Prepare Contract Documents/Technical Specifications that are in accordance with FAA criteria and satisfy project specific needs. The specifications shall be developed using FAA Advisory Circular 150/5370-10F.
 - 3) Calculate plan quantities and prepare preliminary engineers' opinion of probable construction cost and Project budget.

6. Bidding Phase

- a. Assist the Sponsor with advertisement for bids and send "Notice to Bidders" to prospective contractors. (Sponsor shall place advertisements in appropriate media.)
- b. Print and distribute Construction Plans and Contract Documents/Technical Specifications to plan holding houses and prospective Bidders.
- c. Answer questions, clarify points, and issue addenda as necessary pertaining to the Construction Plans and Contract Documents/Technical Specifications during the bidding phase.
- d. Attend and conduct the bid opening, tabulate and analyze bid results, review contractor's qualifications, and make recommendation of contract award to Sponsor.

B. SPECIAL SERVICES

1. Administrative Assistance

- a. Assist the Sponsor in preparation of FAA Project Phase II Construction Grant Application for federal funding for submittal to the FAA Airports Division.
- b. Assist the Sponsor in preparation of required Sponsor Certifications throughout the project for submittal to the FAA Airports Division.
- c. Assist the Sponsor in preparation of Invoice Summary forms as required for requests for reimbursement and SF Forms 271 and 425.
- d. 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. Field Survey

- a. Perform topographic field surveys for relocation of AWOS. The services to be completed will consist of the following:
 - 1) Conduct topographic survey for the proposed AWOS location. Survey area should include a topographical survey on a 50' grid consisting of a 1,500' x 1,000' area to include the runway edge and end points.

3. Update Disadvantaged Business Enterprise Program

- a. The consultant shall assist the Sponsor with completing the FY15 program and project specific DBE goal to comply with the requirements of 49 CFR 26.
- b. Provide two (2) copies of the completed DBE Program/Small Business Element/Goal(s) – one for the sponsor and one for the DBELO. Electronic copy will be submitted to the Civil Rights Division of the FAA as this is their preferred method of receipt.
- c. Provide sample copy of required legal announcements to be published by the City.
- d. Provide assistance to aid the sponsor in understanding their responsibilities in the administration of the DBE program, goals and Small Business Element.

C. CONSTRUCTION SERVICES

1. Preliminary

- a. Prepare copies of the Construction Plans and Project Manual for use by the Contractor during construction.
- b. Develop a Construction Observation Program (Non-Paving) in accordance with FAA requirements.

- c. Attend and conduct a pre-construction conference. Minutes of the conference will be prepared and distributed to all attendees.
2. Provide construction administration, on-site construction observation, and material(s) testing per the COP:
 - a. Provide construction observation services, including preparation of weekly reports and other reports as required by the COP to document the prosecution and progress of the Project.
 - b. Review shop drawings and material certification submittals as provided by the Contractor.
 - c. Perform material(s) testing (field and laboratory) as required by the COP.
 - d. Respond to field issues throughout the duration of the project.
 - e. Prepare Contractor's progress estimates and Sponsor's request for reimbursement of funds.
 - f. Prepare change orders and supplemental agreements necessary for construction of the project.
 - g. Attend and conduct a final review of the Project with the Sponsor, FAA, and the Contractor
3. Project Closeout Phase
 - a. Prepare and submit to the Sponsor and FAA one (1) electronic set of record drawings on a compact disc (CD) in .pdf format copied to a single file.
 - b. Prepare and submit to the Sponsor and FAA a Final Testing Report as required by the COP.
 - c. Provide FAA with all closeout documents as required for project final acceptance.

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 this project.
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

A. BASIC SERVICES

1. Preliminary Phase As Required
2. Design Phase – Engineer’s Design Report
 - a. Submit Preliminary Engineer’s Design Report60 Calendar Days After
Receipt of Notice to Proceed
 - b. Submit Final Engineer’s Design Report30 Calendar Days After
Receipt of Review Comments for Item A.3.a.4)
3. Design Phase – AWOS STUDY
 - a. Submit AWOS Study..... As Required
4. Design Phase – Beacon/Lighting Plans and Specifications
 - a. 4) Submit Preliminary Plans and Specifications90 Calendar Days After
Receipt of Review Comments for Item A.2.a.
 - b.6) Submit Final Plans and Specifications30 Calendar Days After
Receipt of Review Comments for Item A.3.a.4)

5. Design Phase – AWOS Plans and Specifications
 - a. Submit AWOS Preliminary Plans and Specifications as part of Item A.4.a. 4)

.....90 Calendar Days After
Completion of Item A.3.a.
 - b. Submit AWOS Final Plans and Specifications as part of Item A.4.a. 4)

.....30 Calendar Days After
Receipt of Review Comments for Item A.4.b.6)
6. Bidding Phase As Required

B. SPECIAL SERVICES

1. Administrative Assistance As Required
2. Field Survey30 Calendar Days After
Receipt of Notice to Proceed
3. Update DBEGoal and Program As Required

C. CONSTRUCTION SERVICES

1. Construction Services.....45 Calendar Days After
Receipt of Notice to Proceed

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

**ARTICLE IV
COMPENSATION**

The Sponsor agrees to compensate the Consultant for performing engineering services as described herein on the following basis:

COMPENSATION SCHEDULE

A. BASIC SERVICES

1. Preliminary Phase..... \$ 4,350.00 Lump Sum
2. Design Phase –Engineer’s Design Report \$ 2,450.00 Lump Sum
3. Design Phase –AWOS Study \$15,600.00 Lump Sum
4. Design Phase –Beacon/Lighting Plans and Specifications \$24,700.00 Lump Sum
5. Design Phase –AWOS Plans and Specifications \$13,000.00 Lump Sum
6. Bidding Phase \$4,800.00 Lump Sum
- Subtotal Basic Services \$64,900.00 Lump Sum

B. SPECIAL SERVICES

1. Administrative Assistance	\$ 3,825.00 Lump Sum
2. Field Survey	\$ 8,500.00 Lump Sum
3. Update Disadvantaged Business Enterprise Program	\$ 12,500.00 Lump Sum
Subtotal Special Services	\$ 24,825.00 Lump Sum
Total Basic and Special Services	\$89,725.00 Lump Sum

C. CONSTRUCTION SERVICES

1.-2. Construction Services	\$45,150.00 Not to Exceed
3. Project Closeout Phase	\$5,500.00 Lump Sum

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, and Item B. Special Services, 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.

The fixed payment to the Consultant for services outlined in Item C. 1. through 2., Construction Services, shall be \$5,530 and the total payment to the Consultant shall not exceed \$45,500.00.

For Item C. Construction Services, Part 3, 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.

If the Contractor exceeds a construction contract period of 45 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, labor and general overhead, out-of-pocket expenses, and profit similar to those used in this Agreement.

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

By entering into this Agreement, the Consultant agrees to abide by the Federal Provisions included herein.

1. ACCESS TO RECORDS AND REPORTS
(Reference: 2 CFR § 200.326, 2 CFR § 200.333)

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

2. BUY AMERICAN PREFERENCE
(Reference: 49 USC § 50101)

This provision is omitted as none of the identified deliverables constitute a manufactured product.

3. CIVIL RIGHTS: GENERAL PROVISIONS
(Reference: 49 USC § 47123)

The Consultant 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 handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds the Consultants from the bid solicitation period through the completion of the agreement. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

4. CIVIL RIGHTS: TITLE VI ASSURANCES

Title VI Solicitation Notice:

The Owner and Engineer, 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 the Consultant that it will affirmatively ensure that any agreement 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.

Title VI Compliance with Nondiscrimination Requirements:

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

1. **Compliance with Regulations:** The Consultant (hereinafter includes consultants) will comply with the **Title VI List of Pertinent Nondiscrimination Statutes and Authorities**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this agreement.
2. **Non-discrimination:** The Consultant, with regard to the work performed by it during the agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subconsultants, including procurements of materials and leases of equipment. The Consultant will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the agreement 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 Consultant for work to be performed under a subagreement, including procurements of materials, or leases of equipment, each potential subconsultant or supplier will be notified by the Consultant of the Consultant's obligations

under this agreement and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

4. **Information and Reports:** The Consultant will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Engineer, Owner or the FAA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish the information, the Consultant will so certify to the Engineer, Owner or the FAA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Consultant's noncompliance with the Non-discrimination provisions of this agreement, the Engineer will impose such agreement sanctions as it or the FAA may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the Consultant under the agreement until the Consultant complies; and/or
 - b. Cancelling, terminating, or suspending an agreement, in whole or in part.
6. **Incorporation of Provisions:** The Consultant will include the provisions of paragraphs one through six in every subagreement, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Consultant will take action with respect to any subagreement or procurement as the Engineer, Owner, or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Consultant becomes involved in, or is threatened with litigation by a subconsultant, or supplier because of such direction, the Consultant may request the Engineer and/or Owner to enter into any litigation to protect the interests of the Engineer and/or Owner. In addition, the Consultant may request the United States to enter into the litigation to protect the interests of the United States.

Title VI List of Pertinent Nondiscrimination Authorities

(Source: Appendix E of Appendix 4 of FAA Order 1400.11, Nondiscrimination in Federally-Assisted Programs at the FAA)

During the performance of this agreement, the Consultant, for itself, its assignees, and successors in interest (hereinafter referred to as the "Consultant") 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);

9/26/14
SPH

- 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 Consultants, 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 FAA’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 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).

5. DISADVANTAGED BUSINESS ENTERPRISE (Reference: 49 CFR part 26)

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

Prompt Payment (§26.29)- The prime Consultant agrees to pay each subconsultant under this prime agreement for satisfactory performance of its agreement no later than thirty (30) days from the receipt of each payment the prime Consultant receives from the Engineer. The prime Consultant agrees further to return retainage payments to each subconsultant within thirty (30) days after the subconsultant'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 Engineer. This clause applies to both DBE and non-DBE subconsultants.

6. FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE) (Reference: 29 USC § 201, et seq.)

This provision is incorporated by reference to 29 USC § 201, et seq.

7. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES
(Reference: 49 CFR part 20, Appendix A)

The Consultant certifies that by executing the Agreement, 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.

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.

8. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970
(Reference: 29 CFR part 1910)

This provision is incorporated by reference to 29 CFR part 1910

9. RIGHTS TO INVENTIONS
(Reference: 2 CFR § 200 Appendix II(F))

All rights to inventions and materials generated under this agreement are subject to requirements and regulations issued by the FAA and the Sponsor of the Federal grant under which this agreement is executed.

10. TRADE RESTRICTION CLAUSE
(Reference: 49 CFR part 30)

The Consultant or subconsultant, by submission of an offer and/or execution of an agreement, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United States Trade Representative (USTR);
- b. has not knowingly entered into any agreement or subagreement for this project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list;
- c. has not procured any product nor subcontracted for the supply of any product for use on the project that is produced in a foreign country on said list.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no agreement shall be awarded to a Consultant or subconsultant who is unable to certify to the above. If the Consultant knowingly procures or subcontracts for the supply of any product or service of a foreign country on said list for use on the project, the FAA may direct through the Owner and/or Engineer cancellation of the agreement at no cost to the Government.

Further, the Consultant agrees that, if awarded an agreement resulting from this solicitation, it will incorporate this provision for certification without modification in each agreement and in all lower tier subagreements. The Consultant may rely on the certification of a prospective subconsultant unless it has knowledge that the certification is erroneous.

The Consultant shall provide immediate written notice to the Engineer if the Consultant learns that its certification or that of a subconsultant was erroneous when submitted or has become erroneous by reason of changed circumstances. The subconsultant agrees to provide written notice to the Consultant if at any time it learns that its certification was erroneous by reason of changed circumstances.

This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the Consultant or subconsultant knowingly rendered an erroneous certification, the FAA may direct through the Owner and/or the Engineer, cancellation of the agreement or subagreement for default at no cost to the Government.

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 Consultant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

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.

11. TERMINATION OF CONTRACT

(Reference: 2 CFR § 200 Appendix II(B))

- a. The Engineer may, by written notice, terminate this agreement in whole or in part at any time, either for the Engineer's convenience or because of failure to fulfill the agreement obligations. Upon receipt of such notice services must be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this agreement, whether completed or in progress, delivered to the Engineer.
- b. If the termination is for the convenience of the Engineer, an equitable adjustment in the agreement price will be made, but no amount will be allowed for anticipated profit on unperformed services.
- c. If the termination is due to failure to fulfill the Consultant's obligations, the Engineer may take over the work and prosecute the same to completion by agreement or otherwise. In such case, the Consultant is liable to the Engineer for any additional cost occasioned to the Engineer thereby.
- d. If, after notice of termination for failure to fulfill agreement obligations, it is determined that the Consultant had not so failed, the termination will be deemed to have been effected for the convenience of the Engineer. In such event, adjustment in the agreement price will be made as provided in paragraph 2 of this clause.
- e. The rights and remedies of the Engineer provided in this clause are in addition to any other rights and remedies provided by law or under this agreement.

12. GOVERNMENT WIDE DEBARMENT AND SUSPENSION

Reference: 2 CFR part 180 (Subpart C), 2 CFR part 1200, DOT Order 4200.5 DOT Suspension & Debarment Procedures & Ineligibility

By submitting an Agreement for execution by the Engineer, the Consultant certifies that at the time the Consultant submits said Agreement that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

Certification Regarding Debarment and Suspension (Consultant Regarding Lower Tier Participants)

The Consultant, by administering each lower tier subagreement 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 Consultant will accomplish this by:

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

If the FAA or Engineer 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 or Engineer may pursue any available remedy, including suspension and debarment.

13. BREACH OF CONTRACT TERMS

(Reference: 2 CFR § 200 Appendix II(A))

Any violation or breach of terms of this agreement on the part of the Consultant or its subconsultants may result in the suspension or termination of this agreement or such other action that may be necessary to enforce the rights of the parties of this Agreement. The duties and obligations imposed by the Agreement 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.

14. CLEAN AIR AND WATER POLLUTION CONTROL

(Reference: 2 CFR § 200 Appendix II(G))

Consultants and subconsultants agree:

1. That any facility to be used in the performance of the agreement or subagreement or to benefit from the agreement is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
2. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;
3. That, as a condition for the award of this agreement, the Consultant or subconsultant will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the agreement is under consideration to be listed on the EPA List of Violating Facilities;

4. To include or cause to be included in any construction agreement or subagreement which exceeds \$100,000 the aforementioned criteria and requirements.

15. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

(Reference: 2 CFR § 200 Appendix II(G))

1. Overtime Requirements.

No Consultant or subconsultant contracting for any part of the agreement 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 Consultant and any subconsultant responsible therefor shall be liable for the unpaid wages. In addition, such Consultant and subconsultant 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 FAA, the Owner, or the Engineer 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 Consultant or subconsultant under any such agreement or any other Federal agreement with the same prime Consultant, or any other Federally-assisted agreement subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Consultant, such sums as may be determined to be necessary to satisfy any liabilities of such Consultant or subconsultant for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 above.

4. Subconsultants.

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

16. REDUCING TEXT MESSAGING WHILE DRIVING

(Reference: Executive Order 13513 and DOT Order 3902.10)

The Consultant under this project must promote policies and initiatives for employees and other work personnel that decrease crashes by distracted drivers, including policies to ban text messaging while driving. The Consultant must include these policies in each third party subcontract involved on this project.

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 2011. 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:

9/26/14
SDH

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.

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.

Upon request, the Consultant shall furnish to the Sponsor a certificate or certificates of insurance showing compliance with this paragraph.

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.
10. In the event of litigation, the laws of the State of Oklahoma, excluding choice of laws, will apply. Venue will be in the District Courts of Oklahoma, Pottawatomie County.

9/26/14
SDH

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:  _____
Kirk D. Evans, P.E.

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

Title: Project Manager

Title: Vice-President, Director of Gen Aviation