RS&H Project No. 1010.5487.XXX
Short Title: APN Planning OnCall

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (this "Agreement") is made as of the _____ day of _____, 2024 (the "Effective Date"), by and between **County of Alpena**, with offices located at 720 W. Chisholm Street, Alpena, MI 49707 (the "CLIENT"), and **RS&H Michigan, Inc.**, a Michigan corporation with offices located at G-3101 West Bristol Road, Suite 300, Flint, MI 48507 ("RS&H") (CLIENT and RS&H are collectively referred to as the "Parties" and individually as the "Party").

IN CONSIDERATION of the mutual promises and covenants hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. RELATIONSHIP

1.1. For all work performed hereunder RS&H is an independent contractor to CLIENT, solely responsible for the means and methods used in performing services hereunder, and it shall not be deemed an employee, agent, fiduciary, partner or joint venturer of CLIENT for any purpose.

2. PROVISION OF SERVICES/METHOD OF AUTHORIZATION

2.1. RS&H shall provide those professional services (check appropriate description below):

_____ As described in **Attachment A**, attached hereto and made a part hereof by reference (the "Services"); or

__X__ As described in separately authorized Work Orders (the "Services").

2.2. Any Work Order, when signed by the Parties, shall be incorporated into and form a part of this Agreement. Each such Work Order shall contain a Project Description, a detailed Scope of Services, Project Schedule, Deliverables, and Compensation specific to the Services or project being authorized (the "Project"). In the event of a conflict between this Agreement and any Work Order issued hereunder, the terms of this Agreement shall govern the provision of the particular Services or Project involved.

2.3. Should CLIENT issue a purchase order or other instrument related to RS&H's Services, it is understood and agreed that such document is for CLIENT's internal accounting purposes only and shall in no way modify, add to, or delete any of the terms and conditions of this Agreement. Any conflicting or additional terms on any purchase order issued by the CLIENT shall be void and are hereby expressly rejected by RS&H.

3. ADDITIONAL SERVICES

3.1. RS&H shall furnish work beyond the scope of the Services (hereinafter "Additional Services") if requested by CLIENT and agreed to by RS&H. RS&H shall be under no obligation to provide Additional Services, unless the scope and compensation for such Additional Services are mutually agreed upon in writing by Supplemental Agreement, Amendment, or Work Order.

4. STANDARD OF CARE

4.1. RS&H shall perform its Services consistent with the degree of care and skill ordinarily exercised by members of the same profession performing the same or similar services in the same locality at the time the Services are provided ("Standard of Care"). Notwithstanding anything to the contrary, RS&H's Services are not required to meet any standard beyond the Standard of Care. No warranty, express or implied, is made or intended by the RS&H's undertaking herein or its performance of services, and it is agreed that RS&H is not a fiduciary with respect to the Client.

5. SCHEDULE

5.1. Unless otherwise stated herein, RS&H will begin performing Services timely after receipt of a properly executed copy of this Agreement and any required retainer amount. This Agreement is made in anticipation of conditions permitting continuous and orderly progress through completion of the Services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that are outside of RS&H's control. If such delay or suspension extends for more than six months (cumulatively), RS&H's compensation shall be renegotiated.

5.2. The schedule for each Project will be as described in **Attachment A** or the applicable Work Order.

6. COMPENSATION AND METHOD OF PAYMENT

6.1 CLIENT shall compensate RS&H for the Services, any approved Additional Services, and Reimbursable Expenses (as defined below) on the basis set forth in **Attachment A**, attached hereto and made a part hereof by reference, or as set forth in the applicable Work Order, as the case may be ("Fee").

6.2 In addition to the Fee, the CLIENT shall pay any sales or similar tax levied by any governmental authority on professional or other services or materials provided under this Agreement.

6.3 RS&H shall invoice CLIENT periodically for all Services rendered and Reimbursable Expenses incurred pursuant to this Agreement, and each invoice shall be due and payable upon receipt by CLIENT. CLIENT shall notify RS&H in writing of any disputed amount contained on an invoice within fifteen (15) calendar days from the date of invoice; otherwise, all charges shall be deemed acceptable and correct.

6.4 Compensation due RS&H under this Agreement is due and payable to its corporate offices or at such other location as may be specified by RS&H in writing.

6.5 If CLIENT fails to make any payment due RS&H for Services and Reimbursable Expenses within thirty (30) days after the date of an invoice therefore, the amounts due RS&H shall accrue interest at the maximum rate allowed by law from the thirtieth (30^{th}) day. In addition, RS&H may, after giving notice to CLIENT, suspend Services and withhold deliverables under this Agreement until RS&H has been paid in full all amounts due for Services and Reimbursable Expenses (including all accrued but unpaid interest) without RS&H incurring liability due to such suspension or withholding. In the event of CLIENT's failure to pay invoices timely, RS&H may also commence proceedings, including filing liens, to secure its right to payment under this Agreement without RS&H incurring liability.

6.6 Reimbursable Expenses are defined as actual expenditures made by RS&H, its employees, or its consultants in the interest of the Services or Project, including but not limited to:

> Transportation and subsistence of Project personnel, consultants' fees, computer and computer aided drafting and design (CADD) charges, fees paid for securing approval of authorities having jurisdiction of the Project, toll telephone calls and facsimile charges, reproduction and printing charges of all types for Project-specific documents, mailing and shipping charges, equipment and laboratory use fees, photography, model materials, and all other materials and expendable supplies directly used with respect to the Project.

Reimbursable Expenses shall include a ten percent (10%) service charge which shall be added as an administrative charge to RS&H's actual costs for such expenses.

6.7. If the CLIENT relies on payment or proceeds from a third party to pay RS&H and CLIENT does not pay RS&H's invoice within 60 days of receipt, RS&H may communicate directly with such third party to secure payment.

6.8 The CLIENT agrees that the payment to RS&H is not subject to any contingency or condition. RS&H may negotiate payment of any check tendered by the CLIENT, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of RS&H to collect additional amounts from the CLIENT.

7. CONSTRUCTION COSTS & CONSTRUCTION SERVICES

7.1. Since RS&H has no control over the cost of labor, materials, or equipment or over a contractor's methods of determining prices, or over competitive bidding or market conditions, when requested by CLIENT to estimate project construction costs, RS&H's opinions of probable costs provided as a service hereunder are to be made on the basis of its experience and qualifications and represent its judgment as a design professional familiar with the construction industry; however, RS&H cannot and does not guarantee that proposals, bids, or the construction costs will not vary from opinions of probable costs prepared by it. If CLIENT wishes greater assurance as to the construction costs, it shall employ an independent cost estimator at its own expense. Services to modify approved documents to bring the construction cost within any limitations established by CLIENT will be considered Additional Services and entitle RS&H to additional compensation which shall be negotiated and mutually agreed upon by the Parties and set forth in either a Work Order or Supplemental Agreement.

7.2. If the Services are to include services during construction, including any construction inspection, testing or observation provided by RS&H, such services and site visits are for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the Construction Documents prepared by RS&H and RS&H's subconsultants only. RS&H neither guarantees the performance of nor insures any contractor's work nor assumes responsibility for (i) the means, methods or materials used by any contractor; (ii) Project site safety; or (iii) any contractor's compliance or failure to comply with Construction Documents, specifications, laws or regulations. CLIENT agrees that, in accordance with generally accepted construction practices, the construction contractor will be required to assume sole and complete responsibility for Project site conditions during the course of construction of the Project, including safety of all persons and property, and that this responsibility shall be continuous and not be limited to normal working hours. If construction services are included in RS&H's Services, RS&H shall have no authority or responsibility to stop or direct the work of any contractor.

7.3. If RS&H's services include the preparation of documents to be used for construction and RS&H is not retained to make periodic site visits, the CLIENT assumes all responsibility for interpretation of the documents and for construction observation, and the CLIENT waives any claims against RS&H in any way connected thereto.

7.4. RS&H is not responsible for any duties assigned to the design professional in the construction contract that are not expressly provided for in this Agreement. The CLIENT agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and for its means and methods; that the contractor shall indemnify the CLIENT and RS&H for all claims and liability arising out of job site accidents; and that the CLIENT and RS&H shall be made additional insureds under the contractor's general liability insurance policy.

8. CLIENT'S RESPONSIBILITIES

8.l. In addition to other responsibilities described herein or imposed by law, the CLIENT shall:

8.1.1. Provide all information and criteria as to the CLIENT 's requirements, objectives, and expectations for the project including all numerical criteria that are to be met and all standards of development, design, or construction.

8.1.2. Provide to RS&H all previous studies, plans, or other documents and information pertaining to the Project and all data reasonably necessary, in RS&H's opinion, to complete the Services, including but not limited to site surveys, engineering data, and environmental impact assessments or statements ("Client Information"). RS&H may rely on Client Information.

8.1.3. Arrange for access to the site and other private or public property as required for RS&H to provide its Services.

8.1.4. Review all documents or oral reports presented by RS&H and render in writing decisions pertaining thereto within a reasonable time so as not to delay RS&H's Services.

8.1.5. Furnish approvals and permits from governmental authorities having jurisdiction over the Project and approvals and consents from other parties as may be necessary for completion of RS&H's Services.

8.1.6. Cause to be provided such independent accounting, legal, insurance, cost estimating and overall feasibility services as the CLIENT may require.

8.1.7. Give prompt written notice to RS&H whenever the CLIENT becomes aware of any development that affects the scope, timing, or payment of RS&H's Services or any defect or noncompliance in any aspect of the Project.

8.1.8. Bear all costs incidental to the responsibilities of the CLIENT.

9. AUTHORIZED REPRESENTATIVE

9.1. RS&H's Authorized Representative for this Project is the Project Manager as designated on **Attachment A** or applicable Work Order. All matters and correspondence pertaining to the Project, including submittal of monthly invoices, will be through RS&H's Project Manager.

9.2. Upon execution of this Agreement, CLIENT will designate CLIENT's Authorized Representative for the Project and convey the name of CLIENT's Authorized Representative to RS&H in writing. CLIENT's Authorized Representative shall act on behalf of CLIENT on all matters pertaining to this Project. All matters and correspondence to CLIENT pertaining to the Project will be addressed through CLIENT's Authorized Representative. CLIENT's Authorized Representative shall have complete authority to transmit instructions, receive information, and make or interpret decisions on behalf of the CLIENT.

10. TERM, TERMINATION & SUSPENSION

10.1. The term of this Agreement shall be from the Effective Date through _____, 20___, unless sooner terminated as provided in this Section 8 hereof, or extended through written agreement signed by the Parties.

10.2. This Agreement may be terminated without cause by either party upon fourteen (14) days' written notice.

10.3. If any change in CLIENT's ownership occurs, or if this Agreement is assigned by CLIENT, RS&H shall have the right to immediately terminate this Agreement.

10.4. In the event of termination of this Agreement for any reason, RS&H shall be compensated, as provided herein, for Services performed through the effective date of such written notice of termination, together with Reimbursable Expenses due and for all expenses directly attributable to termination.

10.5. If the Project is suspended for more than thirty (30) consecutive days, RS&H shall be compensated, as provided herein, for Services performed through receipt of written notice of such suspension, together with Reimbursable Expenses then due. When the Project is resumed, RS&H's compensation shall be equitably adjusted to provide for expenses incurred in the interruption and resumption of RS&H's Services.

11. USE OF DOCUMENTS AND ELECTRONIC DELIVERABLES

11.1 Representations, in any medium of expression now known or later developed, of tangible and intangible creative work performed by RS&H and its subconsultants under this Agreement or respective professional service agreements for the purpose of providing such to the CLIENT are "Instruments of Service."

11.2. RS&H and the CLIENT warrant that in transmitting Instruments of Service, Client Information, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

11.3. RS&H and its subconsultants shall be deemed the authors and owners of their respective Instruments of Service, including drawings and specifications, and shall retain all common law, statutory and other reserved rights,

including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connectin with the Project is not to be construed ad publication in derogation of the reserved rights of RS&H and its subconsultants.

11.4. RS&H grants to the CLIENT a nonexclusive license to use RS&H's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the CLIENT substantially performs its obligatins under this Agreement, including prompt payment of all sums due. RS&H shall obtain similar nonexclusive licenses from RS&H's subconsultants consistent with this Agreement. The license grainted under this sectin permits the CLIENT to authorize the contractor, contractor's subcontractors and suppliers, as well as the CLIENT's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service soley and exclusively for use in performing services or construction for the Project.

11.5. In the event the CLIENTuses the Instruments of Service without retaining the authors of the Instrumetns of Service, the CLIENT releases RS&H and RS&H's subconsultants from all claims and causes of action arising from such uses. CLIENT, to the extent permitted by law, further agrees to indemnify and hold harmless RS&H and its subconsultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the CLIENT's use of the Instruments of Service under this Section 11.5.

11.6. Except for the licenses granted in this Section 11, no other license or right shall be deemed granted or implied under this Agreement. The CLIENT shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of RS&H.

11.7. Except as otherwise stated in this Section 11, the provisions of this Section 11 shall survive the termination of this Agreement.

11.8. The Instruments of Service are not intended or represented to be suitable for use, partial use or reuse by the CLIENT or others on extensions of this Project or on any other project. Any modifications made by the CLIENT to any of RS&H's Instruments of Service, or any use, partial use or reuse of the Instruments of Service without written authorization or adaptation by RS&H will be at the CLIENT's sole risk and without liability to RS&H, and the CLIENT shall indemnify, defend and hold RS&H harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom.

11.9. Drawings and plans prepared by RS&H and it's subconsultants that may be relied upon by CLIENT and its consultants and contractors are limited to those printed drawings that are signed and sealed by RS&H or RS&H's subconsultants and are identified as "Construction Documents." Electronic files of text, data, graphics, or other information stored on EODM (hereinafter "Electronic Deliverables") are not Construction Documents and are furnished by RS&H hereunder solely for the convenience of CLIENT, in understanding the design for the Project. Any information or data obtained or derived from such Electronic Deliverables shall be used at CLIENT's sole risk. Because data stored in electronic media format can deteriorate or be modified without RS&H's authorization, the Client has 60 days to perform acceptance tests, after which it shall be deemed to have accepted the data.

12. INDEMNIFICATION

12.1. CLIENT shall indemnify and hold harmless RS&H, and its parent company, affiliated and subsidiary entities, directors, officers, consultants, agents, and employees from and against all third-party suits, actions, claims, demands, judgments, losses, expenses (including attorney's fees), damages, and liabilities including property damage and bodily injury or death, to the extent caused by the recklessness, intentionally wrongful conduct or negligent act, error, or omission of the CLIENT, its parent company, affiliated and subsidiary entities, directors, officers, consultants, agents, employees, or other persons and organizations employed or utilized by the CLIENT in relation to this Agreement.

12.2. RS&H shall indemnify and hold harmless CLIENT, and its parent company, affiliated and subsidiary entities, directors, officers, consultants, agents, and employees from and against all third-party suits, actions, claims, demands, judgments, losses, expenses (including attorney's fees), damages, and liabilities including property damage and bodily injury or death, to the extent caused by the recklessness, intentionally wrongful conduct or negligent act,

error, or omission of RS&H, its parent company, affiliated and subsidiary entities, directors, officers, consultants, agents, employees, or other persons and organizations employed or utilized by RS&H in relation to this Agreement.

13. INSURANCE

13.1 RS&H shall maintain, to the extent reasonably available, the following insurance coverage during the performance of its Services under this Agreement:

13.1.1	**Commercial General Liability**	
	General Aggregate	$2M
	Products-Comp/OP Aggregate)	$2M
	Personal and Advertising Injury	$1M
	Each Occurrence	$1M
	Medical Expenses per person	$10,000
13.1.2	**Automobile Liability** (any auto, hired autos and non-owned autos) Bodily Injury and Property Damage	$1M CSL
13.1.3	**Workers' Compensation**	Statutory
	Employer's Liability	$1M $1M $1M
13.1.4	**Professional Liability Insurance**	
	Per Claim	$5M
	Aggregate	$10M

13.2 RS&H shall provide the CLIENT with a Certificate of Insurance indicating that the above-described coverages are in effect, if requested. RS&H shall name CLIENT as additional insured on the Commercial General and Auto Liability policies.

14. CONTROLLING LAW

14.1 This Agreement, the rights and obligations of the Parties hereto, and any claims or disputes relating thereto shall be governed by, interpreted, construed and enforced in accordance with the laws of the state in which the Project is located, excluding that jurisdiction's choice of law rules.

14.2. The Federal arbitration Act shall govern arbitration required under this Agreement.

14.3. If this Agreement relates to professional services for a project funded under the Airport Improvement Program (AIP) of the Federal Aviation Administration or a project otherwise federally-funded, then where applicable RS&H shall comply with the Federal Contract Provisions set out in **Attachment B** attached hereto.

15. DISPUTE RESOLUTION

15.1. The CLIENT and RS&H shall commence all claims, disputes, and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise ("Claims"), in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of substantial completion of the work. The Parties waive all claims and causes of action not commenced in accordance with this Section 15.1.

15.2. To the extent damages are covered by property insurance, the Parties waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages.

15.3. All Claims shall be subject to the following mandatory procedures: (A) the aggrieved Party shall notify the other party of any Claims within a reasonable time (unless specified otherwise in this Agreement) after such Claims arise and if the Parties shall put forth a good faith effort to resolve such Claims; (B) in the event the Parties are unable to timely resolve any remaining Claims, either party may provide a written notice requesting participation of the other Party in a non-binding mediation, which shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the Effective Date; and (C) should the parties not agree to mediation, or fail to resolve any remaining Claims at mediation, then all remaining Claims shall be resolved through binding arbitration, which shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the Effective Date. A demand for arbitration shall be made in writing, delivered to the other Party to this Agreement, and filed with the person or entity administering the arbitration. The Parties shall agree to a single arbitrator. The award rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

15.4. Mediation and arbitration proceedings shall be held in the jurisdiction where the Project is located, unless the Parties agree otherwise in writing.

15.5. As it relates to Claims described under this Section, the Parties hereby knowingly, voluntarily, and intentionally waive the right any of them have to a trial by jury with respect to any litigation based hereon, or arising out of, under, or in connection with this Agreement and any agreement contemplated to be executed in conjunction herewith, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of either Party.

16. SUCCESSORS AND ASSIGNS

16.1. This Agreement shall be binding upon CLIENT and RS&H and their respective partners, successors, heirs, assigns and legal representatives.

16.2. Neither Party shall assign this Agreement or transfer any rights under or interest in this Agreement without the prior written consent of the other Party. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

17. NONDISCRIMINATION

17.1. RS&H agrees to comply with all local, state, and Federal laws and ordinances regarding discrimination in employment against any individual on the basis of race, color, religion, sex, national origin, physical or mental impairment, or age.

18. FORCE MAJEURE

18.1. No Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, except for any obligations to make payments to the other Party hereunder, when and to the extent such Party's ("Impacted Party") failure or delay is caused by or results from the following force majeure events ("Force Majeure Events"): changes ordered in the Services by CLIENT, Acts of God, labor disputes, fire, unusual delay in deliveries, pandemic, epidemic, public health emergency, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties, any events or circumstances beyond Impacted Party's reasonable control, or by other causes which the CLIENT determines may justify the delay. If a Force Majeure Event causes delay or failure to fulfill any term of this Agreement then an equitable extension shall be granted to the Impacted Party through written mutual agreement.

19. MISCELLANEOUS

19.1. **Hazardous Substances and Emerging Contaminants.** In no event shall RS&H be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and emerging contaminants. RS&H's Services will be limited to professional consulting, sampling, analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. RS&H shall notify the CLIENT of hazardous substances and/or conditions created by hazardous substances not contemplated in the scope of Services of which RS&H actually becomes aware. Upon such notice by RS&H, RS&H may stop affected portions of its Services until the hazardous substance or condition is eliminated.

19.2. **Certifications.** RS&H shall not be required to execute certifications or third-party reliance letters that are inaccurate, that relate to facts of which RS&H does not have actual knowledge, or that would cause RS&H to violate applicable rules of professional responsibility.

19.3. **Mutual Waiver of Consequential Damages.** In no event shall either party be liable to the other for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.

19.4. **Limitation of Liability.** To the fullest extent permitted by law, the total liability, in the aggregate, of RS&H, RS&H's officers, directors, partners, employees, agents, and subconsultants, to CLIENT, and anyone claiming by, through, or under CLIENT for any claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way related to this Project or Agreement from any cause or causes, including but not limited to negligence, professional errors and omissions, strict liability, breach of contract, or breach of warranty, shall not exceed the total compensation received by RS&H under this Agreement or $50,000 whichever is greater.

19.5. **Third Party Beneficiaries.** Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the CLIENT or RS&H. This Agreement gives no rights or benefits to anyone other than the CLIENT and RS&H, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the CLIENT and RS&H.

19.6. **Project Promotional Materials.** RS&H shall have the right to include general references to and representations of the Project, including photographs among RS&H's promotional and professional materials. RS&H shall not make any press release or public presentation containing information that is confidential and relating to the Project without the prior written approval of CLIENT.

19.7. **Changes in law.** Notwithstanding anything to the contrary, effects on the Services, if any, resulting from any changes in legal or professional requirements enacted after the Effective Date of this Agreement shall be considered Additional Services and CLIENT shall adjust RS&H's Fee and/or the schedule for the Services. Such effects may include, without limitation, revisions RS&H is required to make to the construction documents. RS&H is under no obligation to begin performance of Additional Services until the Parties have agreed to such Additional Services and the adjustment of Fee and schedule in writing.

19.8. **PFAS.** While Per- and Polyfluoroalkyl Substances ("PFAS") have been identified as an emerging contaminant by the USEPA, RS&H will only perform services related to PFAS chemicals, or substances possibly containing PFAS chemicals, including but not limited to sampling, investigation, handling and remediating, to the extent the CLIENT specifically directs, in writing, RS&H to perform such services. RS&H shall not be liable for the nonperformance of PFAS-related services to the extent the CLIENT did not specifically direct RS&H to perform such services in writing. The CLIENT assumes all risk associated with the presence of PFAS on or at its property, the exacerbation of a contamination of PFAS resulting from the Services, and the identification of contamination following soil sample testing. RS&H shall not be liable for the presence, discharge, release, or escape of hazardous materials, emerging contaminants or PFAS.

19.9. **NON-SOLICITATION.** The Client understands and acknowledges that RS&H has expended and continues to expend significant time and expense in recruiting and training its employees and that the loss of employees would cause significant and irreparable harm to RS&H. The Client agrees and covenants not to directly or indirectly solicit or recruit for its own benefit or the benefit of any other person/entity, or so attempt to solicit or

recruit, any employee of RS&H ("Covered Employee"), or induce any Covered Employee to terminate their employment for the Term of this Agreement and two (2) years thereafter ("Restricted Period").

20. NOTICES

Any and all notices required or authorized to be given pursuant to this Agreement shall be given in writing and either hand-delivered, sent by overnight courier service or sent by certified or registered mail, postage prepaid, and return receipt requested, as follows:

If to CLIENT:	County of Alpena 720 W. Chisholm Street Alpena, MI 49707
If to RS&H:	RS&H, INC. G-3101 West Bristol Road, Suite 300 Flint, MI 48507 Attention: Kelsey Reeves
	with a copy to:
	RS&H, INC. 10748 Deerwood Park Boulevard South Jacksonville, Florida 32256 Attention: Legal Department

21. ENTIRE AGREEMENT

This Agreement, together with any separately authorized Work Order issued hereunder, constitutes the entire and integrated Agreement between CLIENT and RS&H and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may only be amended, supplemented, modified or canceled by written instrument signed by an authorized representative of each party.

22. SEVERABILITY

If any provision of this Agreement or any application thereof to any person or circumstance shall, to any extent, be invalid, the remainder of this Agreement or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

23. COUNTERPARTS

This Agreement may be executed in two or more counterparts, each of which may be executed by one or more of the Parties hereto, but all of which, when delivered and taken together, shall constitute but one Agreement binding upon all of the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives, under seal, as of the day and year first above written.

CLIENT	**RS&H**
County of Alpena	RS&H Michigan, Inc.
By:_____	By:_____
Print Name:_____	Print Name: Patrick T. Frame
Title:_____	Title: President

RS&H ATTACHMENT A

RS&H's Scope of Services and Fee

Not used – Separate Work Orders to be submitted

RS&H ATTACHMENT B

Federal Contract Provisions for Professional A/E Services

FEDERAL CONTRACT PROVISIONS FOR PROFESSIONAL A/E SERVICES PROCUREMENT AND CONTRACTING UNDER AIRPORT IMPROVEMENT PROGRAM (AIP)

(Based on Federal Contract Provisions Issued by FAA on November 17, 2022)

1. ACCESS TO RECORDS AND REPORTS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded).

Reference: 2 CFR § 200.334, 2 CRF § 200.337, FAA Order 5100.38

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

2. BREACH OF CONTRACT TERMS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded), and the contract exceeds the simplified acquisition threshold as stated in 2 CFR Part 200, Appendix II (A). This threshold is occasionally adjusted for inflation and is $250,000.

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.
Owner will provide Contractor written notice that describes the nature of the breach and corrective actions the Contractor must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the Contractor must correct the breach. Owner may proceed with termination of the contract if the Contractor fails to correct the breach by the deadline indicated in the Owner's notice.

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

3. BUY AMERICAN PREFERENCE

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and includes providing a manufactured good as a deliverable.

Reference: 49 USC § 50101, Executive Order 14005, and BABA

The Contractor certifies that its bid/offer is in compliance with 49 USC § 50101, BABA and other related Made in America Laws,[1] U.S. statutes, guidance, and FAA policies, which provide that Federal funds may not be obligated unless all iron, steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

The bidder or offeror must complete and submit the certification of compliance with FAA's Buy American Preference, BABA and Made in America laws included herein with their bid or offer. The Airport Sponsor/Owner will reject as nonresponsive any bid or offer that does not include a completed certification of compliance with FAA's Buy American Preference and BABA.

The bidder or offeror certifies that all constructions materials, defined to mean an article, material, or supply other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall used in the project are manufactured in the U.S.

4. CIVIL RIGHTS- GENERAL

This provision is mandatory and hereby included in all contracts and subcontracts.
Reference: 49 USC §47123

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

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

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

5. CIVIL RIGHTS- TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES

[1] Per Executive Order 14005 "Made in America Laws" means all statutes, regulations, rules, and Executive Orders relating to federal financial assistance awards or federal procurement, including those that refer to "Buy America" or "Buy American," that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, and manufactured products offered in the United States.

This provision is mandatory and hereby included in all contracts and subcontracts.
Reference: 49 USC §47123, FAA Order 1400.11

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

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq*., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq*.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq*.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 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 (ensures nondiscrimination 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. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

6. CIVIL RIGHTS- NONDISCRIMINATION REQUIREMENTS/TITLE VI CLAUSES FOR COMPLIANCE

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded).

Reference: 49 USC §47123, FAA Order 1400.11

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:

i. **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.

ii. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

iii. **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.

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

v. **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.

vi. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant

thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

7. CLEAN AIR AND WATER POLLUTION CONTROL

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract exceeds $150,000.

Reference: 2 CFR Part 200, Appendix II(G); 42 USC § 7401, et seq; 33 USC § 1251, et seq

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

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

8. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded), the contract exceeds $100,000, and the Project employs laborers, mechanics, watchmen, and guards (his includes members of survey crews and exploratory drilling operations).

Reference: 2 CFR Part 200, Appendix II(E); 2 CFR § 5.5(b); 40 USC § 3702; 40 USC § 3704

1. Overtime Requirements.

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

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

In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of $29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of

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

3. Withholding for Unpaid Wages and Liquidated Damages.

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

4. Subcontractors.

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

9. COPELAND "ANTI-KICKBACK" ACT

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded), the Project includes tasks that meet the definition of construction, alteration, or repair (as defined in 29 CFR Part 5), and it exceeds $2,000.
Reference: 2 CFR Part 200, Appendix II(D); 29 CFR Parts 3 and 5

Contractor must comply with the requirements of the Copeland "Anti-Kickback" Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Contractor and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor and each Subcontractor must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Owner must report any violations of the Act to the Federal Aviation Administration.

10. DAVIS-BACON REQUIREMENTS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded), the Project includes tasks that meet the definition of construction, alteration, or repair (as defined in 29 CFR Part 5), and it exceeds $2,000.
Reference: 2 CFR Part 200, Appendix II(D); 29 CFR Part 5; 49 USC § 47112(b); 40 USC §§ 3141-3144, and 3147

1. Minimum Wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or

rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

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

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

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination;

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

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

(C) In the event the Contractor, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification

and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

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

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

2. Withholding. The Federal Aviation Administration or the Sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the Contractor, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and Basic Records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the

Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (*e.g.,* the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at *http://www.dol.gov/esa/whd/forms/wh347instr.htm* or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit them to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

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

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

(2) That each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or

indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3;

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

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

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

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

4. Apprentices and Trainees.

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

as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

(iii) Equal Employment Opportunity. The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements.

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

6. Subcontracts.

The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR §§ 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these

clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR § 5.5.

7. Contract Termination: Debarment.

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

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

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

9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

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

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

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

11. DEBARMENT AND SUSPENSION (NON-PROCUREMENT)

This provision is mandatory and hereby included in all contracts and subcontracts if they involve a covered transaction (as defined in 2 CFF Part 180 subpart B), including AIP funded Projects if the contract is $25,000 or more.

Reference: 2 CFR Part 180 (Subpart B); 2 CFR Part 200, Appendix II(H); 2 CFR Part 1200; DOT Order 4200.5; Executive Orders 12549 and 12689

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

1. Checking the System for Award Management at website: http://www.sam.gov.

2. Collecting a certification statement similar to the Certification of Offeror /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

12. DISADVANTAGED BUSINESS ENTERPRISES

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the Project/Client has a DBE program on file with the FAA. **The language below must be included in any subcontracts and must not be modified.**

Reference: 49 CFR Part 26

Contract Assurance (49 CFR § 26.13; mandatory text provided) –

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

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

Prompt Payment (49 CFR § 26.29; acceptable/sample text provided) –
The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from Client. The prime contractor agrees further to return retainage payments to each subcontractor within 30 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 Client. This clause applies to both DBE and non-DBE subcontractors.

Termination of DBE Subcontracts (49 CFR § 26.53(f); acceptable/sample text provided) –
The prime contractor must not terminate a DBE subcontractor listed in response to the Solicitation paragraph number where paragraph 12.3.1, Solicitation Language appears (or an approved substitute DBE firm) without prior written consent of Client. This includes, but is not limited to, instances in which the prime contractor seeks to perform work originally designated

for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

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

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

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

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

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

13. DISTRACTED DRIVING

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract exceeds the micro-purchase threshold of 2 CFR § 200.320 (currently set at $10,000).
Reference: Executive Order 13513; DOT Order 3902.10

TEXTING WHEN DRIVING

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

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding $10,000 that involve driving a motor vehicle in performance of work activities associated with the project.

14. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded).

Reference: 2 CFR § 200, Appendix II(K); 2 CFR § 200.216

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)].

15. EQUAL OPPORTUNITY CLAUSE AND SPECIFICATIONS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract exceeds $10,000.

Reference: 2 CFR Part 200, Appendix II(C); 41 CFR § 60-1.4; 41 CFR § 60-4.3; Executive Order 11246

EQUAL OPPORTUNITY CLAUSE

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identify, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under this section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance*: Provided,* however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS

1. As used in these specifications:

   a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

   b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;

   c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;

   d. "Minority" includes:

(1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);

(3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR part 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women

shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The

Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other contractors and subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all

personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.

11. The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

16. FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded).

Reference: 29 USC § 201, et seq; 2 CFR § 200.430

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

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

17. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract exceeds $100,000.

Reference: 31 USC § 1352 – Byrd Anti-Lobbying Amendment; 2 CFR Part 200, Appendix II(I); 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, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

18. PROHIBITION OF SEGREGATED FACILITIES

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract includes a task that qualifies as a construction work as defined by 41 CFR Part 60-1.

Reference: 2 CFR Part 200, Appendix II(C); 41 CFR § 60-1

(a) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.

(b) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this contract.

19. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded).

Reference: 29 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. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

20. PROCUREMENT OF RECOVERED MATERIALS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract includes procurement of a product that exceeds $10,000.

Reference: 2 CFR § 200.323; 2 CFR Part 200, Appendix II(J); 40 CFR Part 247; 42 USC § 6901, et seq [Resource Conservation and Recovery Act (RCRA)]

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

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

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

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

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

21. RIGHTS TO INVENTIONS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and includes experimental, developmental, or research work.

Reference: 2 CFR Part 200, Appendix II(F); 37 CFR Part 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 37 CFR § 401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

22. SEISMIC SAFETY

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and includes is involved in the construction of new buildings or structural addition to existing buildings.

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

23. TAX DELINQUENCY AND FELONY CONVICTIONS

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded, in whole or in part, (or otherwise federally funded).

Reference: Section 8113 of the Consolidated Appropriations Act, 2022 (Public Law 117-103) and similar provisions in subsequent appropriations acts; DOT Order 4200.6 – Appropriations Act Requirements for Procurement and Non-Procurement Regarding Tax Delinquency and Felony Convictions

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

Certifications

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

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

Note

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the Sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

Term Definitions

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

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

24. TERMINATION OF CONTRACT

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and the contract is in excess to $10,000.
Reference: 2 CFR Part 200, Appendix II(B); FAA Advisory Circular 150/5370-10, Section 80-09

TERMINATION FOR CONVENIENCE (CONSTRUCTION & EQUIPMENT CONTRACTS)

The Owner may terminate this contract in whole or in part at any time by providing written notice to the Contractor. Such action may be without cause and without prejudice to any other right or remedy of Owner. Upon receipt of a written notice of termination, except as explicitly directed by the Owner, the Contractor shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:

1. Contractor must immediately discontinue work as specified in the written notice.
2. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
3. Discontinue orders for materials and services except as directed by the written notice.

4. Deliver to the Owner all fabricated and partially fabricated parts, completed and partially completed work, supplies, equipment and materials acquired prior to termination of the work, and as directed in the written notice.
5. Complete performance of the work not terminated by the notice.
6. Take action as directed by the Owner to protect and preserve property and work related to this contract that Owner will take possession.

Owner agrees to pay Contractor for:

1. Completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
2. Documented expenses sustained prior to the effective date of termination in performing work and furnishing labor, materials, or equipment as required by the contract documents in connection with uncompleted work;
3. Reasonable and substantiated claims, costs, and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
4. Reasonable and substantiated expenses to the Contractor directly attributable to Owner's termination action.

Owner will not pay Contractor for loss of anticipated profits or revenue or other economic loss arising out of or resulting from the Owner's termination action.

The rights and remedies this clause provides are in addition to any other rights and remedies provided by law or under this contract.

TERMINATION FOR CONVENIENCE (PROFESSIONAL SERVICES)

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 FOR CAUSE (CONSTRUCTION)

Section 80-09 of FAA Advisory Circular 150/5370-10 establishes standard language for conditions, rights, and remedies associated with Owner termination of this contract for cause due to default of the Contractor.

TERMINATION FOR CAUSE (EQUIPMENT)

The Owner may, by written notice of default to the Contractor, terminate all or part of this Contract for cause if the Contractor:

1. Fails to begin the Work under the Contract within the time specified in the Notice- to-Proceed;
2. Fails to make adequate progress as to endanger performance of this Contract in accordance with its terms;
3. Fails to make delivery of the equipment within the time specified in the Contract, including any Owner approved extensions;
4. Fails to comply with material provisions of the Contract;
5. Submits certifications made under the Contract and as part of their proposal that include false or fraudulent statements; or
6. Becomes insolvent or declares bankruptcy.

If one or more of the stated events occur, the Owner will give notice in writing to the Contractor and Surety of its intent to terminate the contract for cause. At the Owner's discretion, the notice may allow the Contractor and Surety an opportunity to cure the breach or default.

If within [10] days of the receipt of notice, the Contractor or Surety fails to remedy the breach or default to the satisfaction of the Owner, the Owner has authority to acquire equipment by other procurement action. The Contractor will be liable to the Owner for any excess costs the Owner incurs for acquiring such similar equipment.

Payment for completed equipment delivered to and accepted by the Owner shall be at the Contract price. The Owner may withhold from amounts otherwise due the Contractor for such completed equipment, such sum as the Owner determines to be necessary to protect the Owner against loss because of Contractor default.

Owner will not terminate the Contractor's right to proceed with the work under this clause if the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such acceptable causes include: acts of God, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, and severe weather events that substantially exceed normal conditions for the location.

If, after termination of the Contractor's right to proceed, the Owner determines that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the Owner issued the termination for the convenience the Owner.

The rights and remedies of the Owner in this clause are in addition to any other rights and remedies provided by law or under this contract.

TERMINATION FOR CAUSE (PROFESSIONAL SERVICES)

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 for cause 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; or
   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 for cause 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 Consultant 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.

25. TRADE RESTRICTION CERTIFICATION

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded).
Reference: 49 USC § 50104; 49 CFR Part 30

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

1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);

2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and

3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

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

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

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

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

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

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

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

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

26. VETERAN'S PREFERENCE

This provision is mandatory and hereby included in all contracts and subcontracts if the Project is AIP funded (or otherwise federally funded) and involves labor to carry out the Project.
Reference: 49USC § 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 USC § 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.