



**PROCUREMENT OFFICE**  
11000 TERMINAL ACCESS ROAD  
SUITE 8671  
FORT MYERS, FL 33913

**REQUEST FOR BIDS (RFB) 24-0080LB**  
**for**  
**AIRSIDE IMPROVEMENTS PAVING PACKAGE**  
**FOR RSW TERMINAL EXPANSION PHASE II**

**RELEASED: June 14, 2024**

**PROCUREMENT OFFICE CONTACT**  
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**NON-MANDATORY PRE-BID MEETING**  
Thursday, June 27, 2024, at 2:00 p.m., local time

**QUESTIONS/CLARIFICATION REQUEST DEADLINE**  
Tuesday, July 2, 2024, before 5:00 p.m., local time

**BIDS DUE IN IONWAVE**  
Tuesday, July 16, 2024, before 2:00 p.m., local time

**IMPORTANT**

A prohibition against lobbying is in effect during the entire procurement process.  
See Lee County Port Authority Procurement Manual, Section 4  
and Part A.22 and B.02 for more information.

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## **LEGAL NOTICE**

### **Request for Bid 24-0080LB AIRSIDE IMPROVEMENTS PAVING PACKAGE FOR RSW TERMINAL EXPANSION PHASE II**

Lee County Port Authority ("Authority"), a political subdivision and special district of the State of Florida, invites all interested and qualified potential Bidders to submit bids pursuant to the referenced solicitation. Solicitation documents are available on Friday, June 14, 2024 online at <https://flylcpa.ionwave.net/>, powered by EUNA Solutions.

**NON-MANDATORY PRE-BID MEETING** - is scheduled for **2:00 p.m., local time on Thursday, June 27, 2024**. This meeting will be conducted in person at Lee County Port Authority located at Southwest Florida International Airport, 11000 Terminal Access Road, 3rd floor, Fort Myers, FL 33913 in the Wright Brothers Conference Room and remotely with Google Meets through this link:

<https://meet.google.com/cdn-twsh-ccq>

Or dial: (US) 1-319-435-9179 PIN: 312 711 727#

Potential Bidders are encouraged to attend the pre bid meeting. The purpose of this meeting is to discuss the requirements and objectives of this RFB. Attendees joining remotely must have the ability to communicate with the Authority at this meeting.

**RECEIVING AND PUBLIC OPENING OF BIDS** - Bids must be received electronically in IonWave before **2:00 p.m., local time, Tuesday, July 16, 2024**. Lee County Port Authority will unseal the electronic submissions at the bid opening, which may be viewed or heard remotely through Google Meets by using this link:

<https://meet.google.com/rde-etfx-djt>

or by phone: (US) 1-513-480-5265 PIN: 998 905 753#

**Hard copies, faxed bids, and electronic bids sent directly to the Authority will not be accepted. Bidders are responsible for taking all necessary steps to ensure that their bid is uploaded before the due date and time. The Authority is not responsible for technology and/or any other issues that cause the bid deadline to be missed.**

**NO LOBBYING** - No prospective Bidder or representative of a Bidder will contact any Authority board member, Airports Special Management Committee (ASMC) member, or any Authority employee, either individually or collectively (other than the designated procurement office contact) using any form of communication (i.e: text, call, email, zoom meeting, face to face meeting, etc. regarding this solicitation. This prohibition applies to any individual listed in the Bidder's bid and any individual or agent representing the Bidder including any third party acting on Bidder's behalf.

**AMERICANS WITH DISABILITIES NOTICE** - Lee County Port Authority will not discriminate against individuals with disabilities. Any person needing special accommodations for attendance at any public meeting should contact the Procurement Office at least seven (7) days before the scheduled meeting.

**DBE/WMBE** - Disadvantaged Business Enterprise (DBE) and Woman and Minority-Owned Business Enterprises (W/MBE) companies are encouraged to submit a bid.

The Authority, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§2000d to 2000d-4) and the Regulations, hereby notifies all Bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, businesses/disadvantaged business enterprises/or airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this solicitation and no businesses will be discriminated against on

the grounds of race, color, national origin, (including limited English proficiency), creed, sex, (including sexual orientation and gender identity), age, or disability in consideration for an award.

The Lee County Port Authority endeavors to maximize participation of State of Florida approved Disadvantaged Business Enterprises (DBEs) in their projects. Each Bidder should strive to meet or exceed the established minimum percentage participation goal. The anticipated DBE goal under this project is twelve percent (12%).

Lee County Port Authority  
Southwest Florida International Airport  
11000 Terminal Access Road  
Fort Myers, FL 33913-8899  
[www.flylcpa.com](http://www.flylcpa.com)

## **PART A: INSTRUCTIONS FOR BIDDERS**

Lee County Port Authority (Authority) invites the submission of bids from interested and qualified individuals, corporations, partnerships, and other legal entities authorized to do business in the state of Florida to compete to perform the services described in this Request for Bids (RFB). In order to receive consideration, Bidders must meet the minimum qualifications stated in Part B and comply with the Instructions for Bidders contained in Part A. The Authority specifically reserves the right to reject any or all bids, to waive technicalities, to make inquiries, and to request additional information from all Bidders, and to select the bid which is, in the Authority's sole discretion, judged to be in the best interest of the Authority.

Throughout this RFB, where reference is made to "Provider", it means the successful Bidder(s) entering into an agreement with the Authority as a result of this RFB.

### **A.01 ELECTRONIC SUBMISSION OF BIDS**

The Authority is accepting electronic bids in IonWave, powered by EUNA Solutions at <https://flylcpa.ionwave.net/>. Submission of bids prior to the deadline is solely and strictly the responsibility of the Bidder. It is the responsibility of the Bidder to take all necessary steps to ensure its bid is received by the due date and time. The Authority Procurement Office will not be responsible for delays caused by technological issues that may occur or for any other reason. The Bidder is hereby directed to cause submission of its bid prior to the bid opening time. Vendor Support is available by calling 866-277-2645. Hard copy or bids sent electronically and directly to the Authority will not be accepted. Faxed bids will not be accepted.

All electronic documents must be PDF/A compliant. PDF/A compliant documents have embedded fonts and do not reference external files. If applicable, layers must not be preserved from CAD drawings. Scanned documents must be created as PDF/A compliant, made text searchable, and have a minimum resolution of 300 dpi.

Bidder acknowledges that entry of the username, password and entry of the user's full name and email address serves as a unique electronic signature for the submission of a bid. Bidder further agrees that only individuals with signatory authority will submit a bid in IonWave.

### **A.02 RECEIVING AND PUBLIC OPENING OF ELECTRONIC BIDS**

Bids submitted in response to this RFB will be electronically unsealed and read publicly after the time specified for receipt of bids stated in this RFB. The Authority reserves the right to extend this date and time for opening at Authority's sole discretion, when deemed to be in the best interest of the Authority. Bidders, their authorized agents and other interested persons are invited to view the opening of bids remotely through electronic means by using the link to the Google Meets that is provided on the Legal Notice page of this RFB.

### **A.03 QUESTION AND CLARIFICATION PERIOD**

Each Bidder must examine all RFB solicitation documents and must judge for itself all matters relating to the adequacy and accuracy of them. Inquiries, suggestions or requests concerning interpretation, clarification or additional information regarding the RFB documents must be made in writing and submitted in IonWave under the "Questions" tab on or before the deadline for questions and clarification requests. All questions received and responses given will be provided in the form of a written addendum to this RFB. The Authority will not respond to inquiries received after the published deadline.

### **A.04 ADDENDA**

Each Bidder is required, before submitting a bid, to be thoroughly familiar with each and every requirement contained within the solicitation documents, including any addenda. No additional allowances will be made because of lack of knowledge of the requirements contained herein.

All Bidders must carefully review the bid documents in their entirety to become familiar with what is required, including information on all bid forms. Interpretations, corrections or changes made by the

Authority to this Request for Bids will be made by written addenda. The Authority will not be responsible for oral interpretations given by any Authority employee, representative, or others, and Bidders are not entitled to rely upon any such oral statements. The issuance of a written addendum issued by the Procurement Office is the only official method whereby an interpretation, clarification or additional information will be given.

It is the responsibility of the Bidder, prior to submitting a bid, to review IonWave to determine if addenda to the RFB were issued and, if issued, to acknowledge and incorporate each addendum into Bidder's bid. All addenda will become part of the bid documents as if contained in the originally issued solicitation documents.

#### **A.05 ACCESSING SOLICITATION DOCUMENTS**

The Authority uses a third party provider, IonWave to distribute solicitation documents including addenda and bid results. Interested parties may register to receive this information free of charge by contacting Vendor Support at 866-277-2645, or by registering at <https://flylcpa.ionwave.net/> or through the electronic link available at the Authority website [www.flylcpa.com/procurement](http://www.flylcpa.com/procurement). **Companies must register with IonWave to participate in any Lee County Port Authority solicitation.**

#### **A.06 PRE-BID MEETING**

If applicable, a pre-bid meeting will be held on the date and time specified in the Legal Notice and/or on the cover page of this RFB, which will also note if the pre-bid meeting is Non-Mandatory or Mandatory and if a site visit is planned and if remote attendance is available. While attendance is not required at a pre-bid meeting that has been deemed non-mandatory; it is strongly advised and encouraged. Conversely, attendance is mandatory for pre-bid meetings that are indicated as mandatory on the cover page of this RFB. A Bidder's failure to attend a mandatory pre-bid meeting will result in its bid being considered non-responsive.

The purpose of the pre-bid meeting is to discuss the requirements and objectives of this RFB, to answer any questions potential Bidders have about the RFB, and to answer any general questions about the Authority. At the pre-bid meeting the Authority will attempt to answer all questions received; however, reserving the right to answer any questions in writing in a subsequent addendum to the RFB. All prospective Bidders are encouraged to obtain and review the RFB documents prior to the pre-bid meeting in order to be prepared to discuss questions or concerns about the requirements of the Authority.

In order to conduct the pre-bid meeting as expeditiously and efficiently as possible, it is requested that all pre-bid questions be sent to the Procurement Office contact indicated on the cover page of this RFB at least three (3) business days prior to the scheduled pre-bid meeting to allow staff time to research the questions.

#### **A.07 EXAMINATION OF BID DOCUMENTS AND SITE(S)**

It is the responsibility of each Bidder before submitting a bid, to (a) examine the RFB documents thoroughly; (b) visit the project site(s) to become familiar with local conditions that may affect cost, progress, performance, or furnishing of the work; (c) consider federal, state, and local codes, laws, and regulations that may affect costs, progress, performance, or furnishing of the work; (d) study and carefully correlate Bidder's observations with the RFB documents; and (e) notify the Authority of all conflicts, errors, or discrepancies in the RFB documents.

#### **A.08 COST OF PREPARATION**

The cost of preparing a bid in response to this RFB will be borne entirely by the Bidder.

#### **A.09 WITHDRAWAL OF BID**

Bids may be withdrawn or revised by the Bidder for any reason prior to the date and time fixed for the public opening.

Bids opened by the Authority that are made pursuant to this RFB are considered a binding offer to provide the items and/or perform the services described herein. The submission of a bid is taken as prima facie evidence that the Bidder has fully familiarized itself with the contents of this RFB.

**A.10 AMERICANS WITH DISABILITIES ACT**

The Authority does not discriminate against individuals with disabilities. Any person needing special accommodations to attend a bid opening or pre-bid meeting conducted on site should contact the designated Procurement Agent indicated on the cover page of this solicitation document at least five (5) days before the meeting.

**A.11 NONDISCRIMINATION - TITLE VI ASSURANCE**

The Authority, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat, 252m 42 USC §2000d-4) and the Regulations, hereby notifies all proposers that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, all businesses will be afforded full and fair opportunity to submit bids in response to the RFP and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for award. Further, pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964; the Restoration Act of 1987; and the Florida Civil Rights Act of 1992, as said regulations may be amended, the Provider must assure that "no person in the United States shall on the basis of race, color, national origin, sex, creed or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," and in the selection and retention of subcontractors and/or sub-consultants, including procurements of materials and leases of equipment. The Provider will not participate directly or indirectly in discrimination prohibited by federal or state law or applicable regulations, including but not limited to employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

**A.12 GENERAL CIVIL RIGHTS**

The successful Bidder agrees to comply with the nondiscrimination provisions stated above in A.11 as well as other pertinent statutes, regulations, executive orders and such rules as are promulgated to ensure that no person will, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from federal assistance. This provision binds the successful Bidder and its subcontractors from the bid solicitation period through the completion of any resulting contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

**A.13 CALCULATIONS, ERRORS, OMISSIONS**

All bids will be reviewed mathematically and, if necessary, corrected. In the event of multiplication/addition or extension error(s), the unit pricing will prevail. In the case of a disparity between the grand total bid price expressed numerically and that expressed in written words, the grand total price expressed in words as shown on the Bidder's submission will govern.

Bidders must fill in all information requested on the bid forms. All blanks on the bid forms must be completed. Where submitted bids have erasures or corrections, such erasures or corrections must be initialed by the Bidder. Bids submitted on a form other than what is furnished herein, or bids submitted on the Authority's bid form that is altered or detached, may be considered irregular. Bidders must fully comply with all requirements of this RFB in its entirety. Bid Forms must be executed by an authorized signatory who has the legal authority to make the bid and bind the company.



**A.14 DIRECT PURCHASE**

If applicable, the Authority reserves the right to purchase directly various materials, supplies, and equipment that may be a part of any agreement resulting from this RFB.

**A.15 TERMINATION FOR CONVENIENCE**

The Authority may cancel any agreement resulting from this RFB at its discretion upon giving thirty (30) calendar days written notice to the successful Bidder. In addition, the Authority reserves the right during the term of the agreement to terminate the agreement with any single successful Bidder and award the agreement to the next ranking Bidder if deemed to be in the Authority's best interest.

**A.16 PUBLIC RECORDS AND DISCLOSURE**

Bids and related information and materials received by the Authority are public records under Florida law, and will be subject to public inspection upon the issuance of the Authority's notice of intended decision, or thirty (30) days after bid opening, whichever occurs first. However, certain exemptions to the public records laws are statutorily provided for in section 119.07, Florida Statutes. If the Authority rejects all bids and concurrently notices its intent to reissue the solicitation, the rejected bids are exempt from public disclosure until the Authority provides notice of intended decision concerning the reissued solicitation or until the Authority withdraws the reissued solicitation. A bid is not exempt for longer than twelve months after the notice of rejection of all bids.

Pursuant to section 119.0701, Florida Statute, to the extent a successful Bidder is performing services on behalf of the Authority, the successful Bidder must:

- 1) Keep and maintain public records required by the Authority to perform the service. Information and data it manages as part of the services may be public record in accordance with Chapter 119, Florida Statutes, and the Authority's public records policies. The Bidder agrees, prior to providing services, it will implement policies and procedures, which are subject to approval by Authority, to maintain, produce, secure and retain public records in accordance with applicable laws, regulations, and Authority policies including but not limited to section 119.0701, Florida Statutes.
- 2) Upon request from the Authority's custodian of public records, provide the Authority with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119.
- 3) Ensure that the public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the term of the Agreement and following completion of the Agreement if the successful Bidder does not transfer the records to the Authority.
- 4) Upon completion of the Agreement, transfer, at no cost to the Authority, all public records in its possession or keep and maintain public records required by the Authority to perform the service. If the successful Bidder transfers all public records to the Authority at the completion of the Agreement, the successful Bidder must destroy any duplicate records that are exempt from public disclosure requirements. If the successful Bidder keeps any public records, it must meet all requirements for maintaining and retaining public records. All records stored electronically must be provided to the Authority in a format that is compatible with the information technology systems of the Authority.

In accordance with sections 119.071(3) and 331.22, Florida Statutes, airport security plans or other records relating directly to the physical security or fire safety of a public facility or revealing security or fire safety systems are confidential and exempt from public disclosure. For example, photographs, maps, blueprints, drawings, and similar materials that depict critical airport operating facilities are exempt, as well as building plans, blueprints, schematic drawings, and diagrams depicting the internal layout and structural elements of a public building or structure, all of which are exempt from disclosure under the provisions cited in this paragraph.



To the extent the law applies to the goods or services to be acquired through this RFB, Bidders agree to treat all such information as confidential and not to disclose it without prior written consent of the Authority.

#### **A.17 TRADE SECRETS**

As stated above, all documents, materials, and data submitted as a part of a response to this Request for Bids are governed by the disclosure, exemption and confidentiality provisions relating to public records as outlined in Chapter 119, Florida Statutes. Under Florida law, designation of an entire submittal as 'trade secret', 'proprietary' or 'confidential' is not permitted and may result in a determination that the bid is nonresponsive and therefore the bid will not be evaluated or considered.

Except for materials that are considered 'trade secrets' as defined by Florida Statutes, ownership of all documents, materials and data submitted as part of a bid in response to this RFB belong exclusively to the Authority.

The Authority does not believe that any of the information by this RFB constitutes a trade secret under Florida law. To the extent Bidder desires to maintain the confidentiality of any materials that it believes constitute trade secrets pursuant to Florida law, any trade secret material submitted as part of a bid must be segregated from the portions of the bid that are not declared as trade secrets. In addition, the Bidder must cite, for each trade secret claimed, the Florida statute number that supports the designation of the information as a trade secret and include a brief explanation as to why the cited statute is applicable to the information claimed as trade secret. Additionally, Bidder must provide a copy of its bid that redacts all information designated as trade secret. In conjunction with any trade secret designation, Bidder acknowledges and agrees that:

- 1) Trade secret requests made after opening will not be considered. See also A.09 above;
- 2) By submitting a bid, all Bidders grant the Authority, its officials, employees, agents, and representatives full rights to access, view, consider, and discuss the information designated as trade secret;
- 3) Any trade secrets provided by Bidder to the Authority are subject to the provisions of section 119.0715, Florida Statutes, and the Authority may disclose a trade secret to its officers or employees whose use of the trade secret is within the scope of his or her lawful duties and responsibilities; and
- 4) After notice from the Authority that a public records request has been made to inspect or copy all or any portion of Bidder's bid, the Bidder at its sole expense will be responsible for defending its determination that the submitted material (or portions thereof) constitutes a trade secret and is not subject to disclosure. Once the Authority notifies the Bidder that it has received a request to inspect or copy information that the Bidder has designated a trade secret, the Bidder will take action to respond to the request promptly, but no later than ten (10) calendar days from the date of notification by the Authority or Bidder will be deemed to have waived the trade secret designation of the materials.

Bidder will indemnify and hold harmless the Authority and its officials, employees, agents and representatives from any losses, claims, actions, damages (including attorney's fees and costs) and amounts arising or incurred by the Authority from or related to the designation of trade secrets by the Bidder, including but not limited to actions or claims arising from Authority's nondisclosure of the trade secret materials.

#### **A.18 TAX EXEMPT**

The Authority is generally a tax-exempt entity subject to applicable provisions of Florida law regarding sales tax. The successful Bidder will be responsible for complying with the Florida sales and use tax laws as may apply. The amount(s) of compensation set forth in any agreement resulting from this RFB, or in any change orders authorized pursuant to the agreement, will be understood

and agreed to include any and all Florida sales and use tax payment obligations required by Florida law of the successful Bidder and all subcontractors or materials suppliers engaged by the successful Bidder.

#### **A.19 RESERVATION OF RIGHTS**

The Authority reserves the right to reject any and/or all bids, accept or reject any alternates, waive irregularities and technicalities if it is in the best interest of the Authority, in the Authority's sole judgment, and in conformance with applicable state and local laws or regulations.

The Authority further reserves the right to make inquiries, request clarification, require additional information and documentation from any Bidder, or cancel this solicitation and solicit for new bids at any time prior to the execution of the Agreement. If a single response is received by the deadline for receipt of bids, it may or may not be rejected by the Authority depending on available competition and current needs of the Authority. The Authority reserves the right to take such actions as it deems necessary and in its best interests.

#### **A.20 SCRUTINIZED COMPANIES UNDER SECTION 287.135, FLORIDA STATUTES**

Notwithstanding any provision to the contrary, Authority will have the option to immediately terminate any agreement, in its sole discretion, if Bidder is found to have submitted a false certification under section 287.135(5) Florida Statutes, or has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created under section 215.473 Florida Statutes; or if Bidder is engaged in business operations in Cuba or Syria; or has been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

The Bidder certifies through submission of the attached Bidders Scrutinized Companies Certification that it is not listed on any Scrutinized Companies Lists described above; is not engaged in business operations in Cuba or Syria; is not engaged in a boycott of Israel and is not barred from submitting a bid or proposal under section 287.135, Florida Statutes.

#### **A.21 NO LOBBYING**

All Bidders are hereby placed on notice that Lee County Port Authority Board of Port Commissioners, members of the Airports Special Management Committee and all Authority employees are not to be lobbied, either individually or collectively, regarding this RFB. After the issuance of this RFB, no Bidder or prospective Bidder is allowed to contact or communicate with or discuss any matter relating in any way to this RFB with any Authority officers, agents, or employees except for the designated Procurement Office contact. This prohibition includes, but is not limited to, copying all such persons on written communications (including email correspondence), but does not apply to presentations made to Staff Evaluation Committees or at a Board of Port Commissioners meeting or Airports Special Management Committee meetings when the Board or Committee is considering approval of a proposed agreement or purchase order. This prohibition against lobbying ends upon final execution of the Agreement or purchase order or at the time the solicitation is canceled.

All Bidders and their subcontractors and any agents must submit individual affidavits with their bids in substantially the form attached, stating that they have not engaged in lobbying activities or prohibited contacts. Joint ventures must file a separate affidavit for each joint venture partner.

**ANY BIDDER OR INDIVIDUAL CONTACTING INDIVIDUALS MENTIONED HEREIN IN VIOLATION OF THIS PROHIBITION WILL BE AUTOMATICALLY DISQUALIFIED FROM FURTHER CONSIDERATION.**

#### **A.22 LOCAL VENDOR PREFERENCE**

It is the intent of the Board of Port Commissioners to establish an optional preference for local firms when facts and circumstances warrant that the Authority may grant such a preference. It is not the intent of the Board of Port Commissioners to prohibit, exclude, or discourage persons, firms,

businesses, or corporations that are non-local from providing goods and services to the Authority as part of this bid process. All potential respondents, Authority staff, and the Airports Special Management Committee should be advised that the Board of Port Commissioners encourages award of contracts to local vendors, firms, consultants, contractors, and successful Bidders when possible to foster the economic growth of the local community.

In an effort to achieve the goals outlined above, the Board of Port Commissioners may give preference to local contractors and vendors that submit pricing within three percent (3%) of the lowest responsive, responsible competitive bid or quote total price (base bid plus Authority selected alternates) in accordance with Lee County Ordinance No. 00-10, as amended by Lee County Ordinance Nos. 08-26 and 17-16.

### **LOCAL VENDOR PREFERENCE DOES NOT APPLY FOR THIS PROJECT**

#### **A.23 RIGHT TO PROTEST**

Any Bidder affected adversely by an intended decision to award any bid must file a written notice of intent to file a protest with the Procurement Office but not later than forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) after receipt of the notice of the intended decision with respect to a bid award.

Details regarding the bid protest policy are contained within the Lee County Port Authority Procurement Manual, which is available at [www.flylcpa.com](http://www.flylcpa.com). **Failure to follow the protest procedure requirements within the timeframe established by Lee County Port Authority constitutes a waiver of any protest and resulting claims.**

#### **A.24 FINANCIAL RESPONSIBILITY**

During bid evaluation Bidders may, upon request, be required to demonstrate financial responsibility by furnishing audited financial statements for the past two fiscal years. Statements must be made in accordance with generally acceptable accounting practice and include an independent Certified Public Accountant (CPA) statement and be provided to the Authority within ten (10) calendar days from Authority's request.

#### **A.25 UTILIZATION OF AGREEMENT BY OTHER GOVERNMENTAL ENTITIES**

If mutually agreeable to the successful Bidder, other governmental entities may desire to utilize, i.e., piggyback, an agreement entered into pursuant to this RFB, subject to the rules and regulations of that governmental entity. The Authority accepts no responsibility for other agreements entered into utilizing this method.

#### **A.26 COMPLIANCE WITH STATE AND FEDERAL REQUIREMENTS**

In agreements financed in whole or in part by Federal or State grant funds, all requirements set forth in the grant documents or in the law, rules, and regulations governing the grant, including federal or state cost principles, must be satisfied. To the extent that they differ from those of the Authority, the cost principles of the grantor will be used.

#### **A.27 ESTIMATED QUANTITIES**

If provided, estimated quantities indicated on the bid form are for bidding purposes only. The amount of actual purchase of the item(s), or the service(s) to be performed, described in this Request for Bids is neither guaranteed nor implied. Payment to the successful Bidder will be made only for the actual quantities of work performed or materials furnished in accordance with the plans and specifications and as described in the Official Bid Form. .

#### **A.28 NON-EXCLUSIVITY OF AGREEMENT**

The successful Bidder understands and agrees that any resulting contractual relationship is nonexclusive and the Authority reserves the right to seek similar or identical services elsewhere if deemed in the best interest of the Authority.

**A.29 UNBALANCED BIDS**

The Authority recognizes that large and/or complex projects will often result in a variety of methods, sources, and prices used by Bidders in preparing their bids. However, where in the opinion of the Authority such variation does not appear to be justified, given bid requirements and industry and market conditions, the bid will be presumed to be unbalanced. Examples of unbalanced bids include:

- a. Bids showing omissions, alterations of form, additions not specified, or required conditional or unauthorized alternate bids.
- b. Bids quoting prices that substantially deviate, either higher or lower, from those included in the bids of competing Bidders for the same line item unit costs.
- c. Bids where the unit costs offered are in excess of or below reasonable cost analysis values.

If the Authority determines that a bid is presumed unbalanced, it will request the opportunity to and reserves the right to, review all source quotes, bids, price lists, letters of intent, etc., that the Bidder obtained and upon which the Bidder relied to develop its bid. The Authority reserves the right to reject as non-responsive any presumptively unbalanced bid(s) where the Bidder is unable to demonstrate the validity and/or necessity of the unbalanced unit costs.

**A.30 FRONTLOADING OF BID PRICING PROHIBITED**

If applicable, prices offered for performance and/or acquisition activities which occur early in the project schedule, such as mobilization; clearing and grubbing; or maintenance of traffic; that are substantially higher than pricing of competitive Bidders within the same portion of the project schedule, will be presumed to be front loaded. Front loaded bids could reasonably appear to be an attempt to obtain unjustified early payments creating a risk of insufficient incentive for the Bidder to complete the work or otherwise creating an appearance of an undercapitalized Bidder.

In the event the Authority presumes a bid to be front loaded, it will request the opportunity to, and reserves the right to, review all source quotes, bids, price lists, letters of intent, etc., which the Bidder obtained and upon which the Bidder relied upon to develop the pricing or acquisition timing for these bid items. The Authority reserves the right to reject as nonresponsive any presumptively front loaded bids where the Bidder is unable to demonstrate the validity and/or necessity of the front loaded costs.

**A.31 PUBLIC ENTITY CRIMES**

In accordance with section 287.133, Florida Statutes, a person, affiliate, or corporation who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity on a contract; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, Florida Statutes, for category two for a period of thirty-six (36) months following the date of being placed on the convicted vendor list.

To ensure compliance with the foregoing, Bidders must certify by submission of the enclosed public entity crimes certification, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any state or federal entity, department or agency

**A.32 BID EVALUATION**

Upon evaluation of all bids received, a notice of intent to award may be made to the lowest, responsive, and responsible Bidder whose bid(s) serves the best interests of the Authority, in the Authority's sole judgment and discretion.

No award will be made until the Authority has concluded such investigations, as it deems necessary, to establish the responsibility, qualifications and financial ability of any Bidder to provide the required goods and services in accordance with any agreement resulting from this RFB and to the satisfaction of the Authority and within the time prescribed. The Authority may reject any bid if the evidence submitted by the Bidder, or an investigation of the qualifications and/or experience of the Bidder, fails to satisfy the Authority that such Bidder is sufficiently qualified or experienced to provide the goods or services required, or to carry out the obligations as required in this RFB. The Authority, at its sole discretion, may request clarification or additional information to determine a Bidder's responsibility or responsiveness.

The recommendation for award of the agreement will be forwarded to the Airports Special Management Committee for review, and then to the Authority Board of Port Commissioners for decision.

#### **A.33 EXECUTION OF AGREEMENT**

The successful Bidder will be required to execute and return a service provider or other suitable agreement in substantially the attached form, unless amended during the bid process, within ten (10) calendar days from issuance of the notice of intent to award the bid. Failure of the successful Bidder to execute the agreement within ten (10) calendar days from the date the notice of intent to award is announced will constitute legal grounds for cancellation of the award and forfeiture of the bid bond.

Successful Bidder acknowledges that electronic signatures are true and valid signatures for all purposes related to the Agreement and the successful Bidder agrees to be bound to the same extent as that of an original signature. Any electronic signature must be of sufficient quality to be legible electronically or when printed as a hardcopy. The Authority will determine legibility and acceptability for public record purposes.

Upon receipt of the agreement properly executed by the successful Bidder, the Authority will submit the agreement for review and approval of the Board of Port Commissioners; complete the execution of the awarded agreement in accordance with local laws or ordinances, and return one fully executed original agreement, along with the bid bond, if applicable, to the Bidder. Delivery of the fully executed agreement to the Bidder will constitute the Authority's approval to be bound by the successful Bidder's bid and the terms and conditions of the agreement.

Until approval and final execution of the agreement, the Authority reserves the right to reject any or all bids, to waive technicalities and to advertise for new bids, or to proceed to do the work otherwise, in the Authority's sole judgment and discretion.

#### **A.34 PAYMENT**

The accepted bid price for the scope of work to be provided will be paid to the successful Bidder after completion and acceptance of the work and upon receipt of the successful Bidder's invoice. **All invoices must include purchase order number or agreement number, as applicable, and will be submitted electronically to [rlpowers@flylcpa.com](mailto:rlpowers@flylcpa.com).**

#### **A.35 E-VERIFY**

In accordance with section 448.095(2), Florida Statutes, beginning January 1, 2021, the successful Bidder must register with and use the E-Verify system to verify the work authorization status of all newly hired employees. A public employer, contractor, or subcontractor may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

Furthermore, the successful Bidder's agreement with the Authority cannot be renewed unless at the time of renewal, the successful Bidder certifies to the Authority that it has registered with and uses the E-Verify system.

As applicable, if the successful Bidder enters into an agreement with a subcontractor, the subcontractor must provide the successful Bidder with an affidavit stating that the subcontractor



does not employ, contract with, or subcontract with an unauthorized alien and successful Bidder must maintain a copy of such affidavit for the duration of the agreement. If the successful Bidder develops a good faith belief that any subcontractor with which it contracting has knowingly violated section 448.09(1), Florida Statutes (making it unlawful for any person knowingly to employ, hire, recruit, or refer, with for herself or himself, or on behalf of another for private or public employment with the state, an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States), the successful Bidder must terminate the contract with the subcontractor. Failure to do so will result in termination of the agreement by the Authority.

If the Authority develops a good faith belief that the successful Bidder has knowingly violated sections 448.09(1) or 448.095(2), Florida Statutes (making it unlawful for any person knowingly to employ, hire, recruit, or refer, with for herself or himself, or on behalf of another for private or public employment with the state, an alien who is not duly authorized work by the immigration laws or the Attorney General of the United States) the Authority will terminate this agreement. Pursuant to section 448.095(2)(c)(3), Florida Statutes, termination of the agreement by the Authority, under the above circumstances is not a breach of contract and may not be considered as such.

**A.36 PROHIBITION AGAINST CONSIDERING SOCIAL, POLITICAL OR IDEOLOGICAL INTERESTS**

In accordance with section 287.05701, Florida Statutes, the Authority will not request documentation of, or consider, a Bidder's social, political, or ideological interest when determining if the Bidder is a responsible Bidder. Further, the Authority will not give preference to a Bidder based on the Bidder's social, political, or ideological interests.

**END OF PART A**



## **PART B: SPECIAL INSTRUCTIONS AND REQUIREMENTS**

**Bidders must carefully review the bid documents in their entirety to become familiar with what is required and what is to be submitted in the Bidder's bid. Bidder's must properly complete all bid forms as noted.**

### **B.01 MINIMUM QUALIFICATIONS**

Bidders are required to meet the following minimum qualifications in order to receive consideration of the submitted bid.

- Bidders contracting in a corporate capacity must be registered with the Florida Department of State Division of Corporations as a Florida corporation or other Florida-recognized legal business entity in good standing and authorized to conduct business in the State of Florida.
  - **No documentation of registration and status is required, as the Authority will verify with the Division of Corporations.**
- Bidder shall have a minimum of five (5) years of experience on airside commercial projects of similar size, scope and of equal difficulty.

Complete and accurate reference information must be provided where indicated on the Bid Form. The Authority will contact references to verify the Bidder has five (5) years of experience performing airside commercial projects similar in size, scope, and of equal difficulty.

### **B.02 AUTOMATIC DISQUALIFICATION**

A Bidder will be disqualified from consideration for award of an agreement for any of the following reasons:

- Failure to meet mandatory minimum qualifications stated herein.
- Lobbying the Lee County Board of Port Commissioners, members of the Airports Special Management Committee, or employees of the Lee County Port Authority, individually or collectively, regarding this Request for Bids.
- Collusion with the intent to defraud or other illegal practices upon the part of any firm submitting a bid.
- Evidence that Bidder has a financial interest in the company of a competing Bidder.
- Being on the Convicted Vendors List.
- Being on a Scrutinized Companies List or otherwise ineligible to submit a bid to provide services under section 287.135, Florida Statutes.
- Not being properly licensed by the State of Florida or Lee County prior to submitting a bid.

The Authority, at its sole discretion, may request clarification or additional information to determine a Bidder's responsibility or responsiveness.

### **B.03 BASIS OF AWARD**

The award will be made to the responsive and responsible Bidder having the lowest total base bid.

The lowest, responsible Bidder means that Bidder who makes the lowest bid to sell goods and/or services of a quality which meets or exceeds the quality of goods and/or services set forth in the RFB documents or otherwise required by the Authority.

To be responsive, a Bidder must submit a bid which conforms in all material respects to the requirements set forth in the RFB.

To be a responsible Bidder, the Bidder must have the capability in all respects to perform fully the bid requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.

The Authority reserves the right to make such an investigation as it deems necessary to determine the ability of any Bidder to furnish the service requested. Information that the Authority deems necessary to make this determination must be provided by the Bidder. Such information may include, but is not be limited to, current financial statements, verification of availability of equipment and personnel, and past performance records.

Upon request by the Authority one or more Bidders shall submit evidence of its integrity and reliability as well as the financial and technical capacity to perform the requirements of the Request for Bid and subsequent agreement.

- Documentation required will, at a minimum, consist of statements covering the Bidder's past experience on similar work, and a list of equipment and a list of key personnel that will be available for the work. For each example of Bidder's past experience performing similar projects, include a reference with contact information, including name of the project, name and title of the project representative providing the reference along with email and phone information. Specify for each piece of owned equipment listed, the year and make. For all other equipment indicate if it will be leased or rented. For each key personnel, specify if the individual is a full or part time employee of the Bidder.
- A Bidder may submit evidence that they are prequalified with the Florida Department of Transportation State Highway Division and are on the current "Bidder's list". Evidence of Florida Department of Transportation State Highway Division prequalification may be submitted as evidence of financial responsibility in lieu of the certified financial statements or reports and the past experience, equipment and personnel information specified above .

#### **B.04 PUBLIC BID DISCLOSURE**

Pursuant to the requirements of section 218.80(3), Florida Statutes, which requires the Authority to disclose each permit or fee which the successful Bidder will have to pay before or during construction and to include in such disclosure the dollar amount or the percentage method or the unit method of all permits or fees which may be required as a part of the contract. The Authority discloses the following permits and fees requirements for this project include, but are not limited to, NPDES, FDEP water and wastewater:

<u>Permit or Fee</u>	<u>Cost</u>
Miscellaneous Permit Fees	\$10,000.00

The statute does not require the Authority to confirm or disclose permit and permit fee requirements related to the Project which may be required by the federal government, the State of Florida, Lee County, or any other governmental agency, and the Authority makes no representation regarding such other entities. It is the successful Bidder's responsibility to ensure it has identified all permits required to complete the Project and to apply for and obtain such permits. **Costs for permit fees are to be included in the Bidder's mobilization costs.**

#### **B.05 BID PRICES**

All bid prices submitted in response to this solicitation must be fixed, firm net pricing inclusive of all charges, fees, incidentals, labor and any other ancillary items necessary to satisfactorily perform the work that is the subject of this RFB.

Invoices must be itemized and must detail the work performed and accepted by the Authority.

#### **B.06 GENERAL INFORMATION AND REQUIREMENTS**

Before submitting a bid, each Bidder must examine the project site(s) and all conditions thereon fully familiarizing themselves with the full scope of the work. Failure to become familiar with project site conditions will in no way relieve the successful Bidder from the necessity of furnishing any materials or performing any work that is required to complete the project in accordance with the

plans and specifications. Bidder must acknowledge inspection of the project site(s) on his/her signed, submitted Bid Form.

Arrangements to inspect the site may be made by contacting the procurement agent on the cover page in advance of the time and date set for receipt of bids. Each Bidder may, at Bidder's own expense, make or obtain any additional examinations, investigations, explorations, tests and studies, and obtain any additional information and data which pertain to the physical conditions at or contiguous to the project site(s) or otherwise which may affect cost, progress, performance or furnishing of the work and which Bidder deems necessary to determine its bid for performing and furnishing the work in accordance with the time, price and other terms and conditions of the RFB documents. The Authority will provide each Bidder access to the site(s) to conduct such explorations and tests.

Bidder must fill all holes, clean up and restore the project site(s) to its former condition upon completion of such explorations. The lands upon which the work is to be performed, rights-of-way and easements for access thereto, and other lands designated for use by successful Bidder in performing the work are identified in the RFB documents.

#### **B.07 SCHEDULE**

Bidder must follow schedule and phasing documents provided indicated in PART D: CONSTRUCTION DOCUMENTS. Anticipated notice to proceed date is provided in PART C: SCOPE OF WORK.

#### **B.08 QUALITY GUARANTEE / WARRANTY**

The successful Bidder will guarantee workmanship without disclaimers for a minimum of twelve (12) months from the date of final acceptance by the Authority.

The successful Bidder shall warranty the work for a period of one year from the date of substantial completion of the work. The Contractor's warranty with respect to work repaired or replaced will run for one (1) year from the date of repair or replacement.

Any products, unit, parts, equipment, etc installed by the successful Bidder that does not meet performance representations or other quality assurance representations as published by manufacturers, producers, or distributors of such products or the specifications listed, will be picked up by the successful Bidder from the Authority at no expense to the Authority. The successful Bidder will be required to replace the faulty products and/or parts within a reasonable time frame as agreed to by the successful Bidder and the Authority, at no expense to the Authority.

The Authority reserves the right to reject any or all materials, if in its sole judgment and discretion, the material or item in question reflects unsatisfactory workmanship or manufacturing or shipping damage. The successful Bidder will refund, to the Authority, any money which has been paid for the same.

The price bid must include quality guarantee/warranty in accordance with this section. No additional compensation will be made to the successful Bidder for providing a quality guarantee/warranty.

#### **B.09 USE OF PREMISES**

During the progress of the work, the successful Bidder must keep the premises free from the accumulation of waste materials and other debris resulting from the work. The successful Bidder will be held financially responsible for any and all penalties or costs incurred by the Authority to remedy such failure to keep the premises free from waste or debris resulting from the work.

#### **B.10 REGULATIONS**

The successful Bidder must comply with all applicable federal, state and local laws, ordinances, rules and regulations pertaining to the performance of the work specified herein.

As applicable, the successful Bidder must obtain all permits, licenses and certificates, or any approvals of plans or specifications as may be required by federal, state and local laws, ordinances,

rules and regulations, for the proper execution of the work specified herein. A current copy of all applicable licenses, registrations and/or permits will be maintained on the jobsite during the progress of the work.

Spillage or dumping of hazardous materials caused or made by the successful Bidder or its subcontractor(s) on Authority property must be reported immediately to the Authority's representative. The successful Bidder will be responsible for all cleanup and any costs incurred for such incidents.

The successful Bidder must comply with federal and state right-to-know laws if hazardous materials are used in the work.

Safety Data Sheets (SDS) must be made available to all Authority employees and representatives.

#### **B.11 PERSONNEL**

The work performed by the successful Bidder must be executed in a professional manner. The successful Bidder must, during all work hours, provide a qualified and competent person onsite with the ability to converse in English, to understand and carry out instructions and having the authority to supervise the operations and to represent and act on behalf of the successful Bidder.

It is the successful Bidder's responsibility and obligation to train its employees to be able to identify and understand all signs and notices in and/or around the work areas that relate to them or the services being performed by them under the Agreement. In addition, the successful Bidder must have someone in attendance at all times who can communicate instructions to its employees.

The successful Bidder must promptly remove from the project any employee or employees that the Authority advises are not satisfactory, and replace such personnel with employees satisfactory to the Authority; however in no event will the Authority be responsible for monitoring or assessing the suitability of any employee or agent of the successful Bidder.

All articles found by the successful Bidder's employees on Authority premises must be turned over to the Authority or the Authority's designated agent in charge of such articles.

A valid driver license (Commercial Driver License, if applicable) will be required of all personnel operating motor vehicles or motorized equipment on roadways in or around the Airport property. Each motor vehicle brought onto the Authority's premises must have the successful Bidder's business name and/or logo prominently displayed on the vehicle.

While working on Authority property, all employees will wear neat and clean clothing and footwear of a style that complies with all legal and safety requirements, including and without limitation, the requirements of OSHA.

#### **B.12 AIR OPERATIONS AREA (AOA) SECURITY MAINTENANCE**

Employees of the Provider or subcontractors who must work full or part-time within the Secured Area/Air Operations Area (AOA) or within the Customs Area at the Southwest Florida International Airport must qualify for and obtain the appropriate Airport-issued identification badges which must be worn at all times while within the aforementioned areas. Airport-issued badges shall be worn on outer, uppermost garments to be clearly visible in order to distinguish, on sight, employees assigned to a particular vendor. Badges will be issued individually. Drivers of delivery or hauling vehicles will not require badges but must be under the continuous escort of a properly badged employee while within the Secured Area/AOA. There will be a charge of \$100.00 per incident for any lost badges or a charge of \$150.00 per incident for unreturned badges. Authority reserves the right to modify the fee at any time.

Any work being conducted within the AOA or that may be in an area requiring access through, or around the AOA will be coordinated in advance with the Authority's Project Coordinator. At no time may the successful Bidder access these areas on its own without prior coordination and/or escort.

**B.13 CONFIDENTIAL SECURITY PROGRAMS**

The successful Bidder acknowledges that the Southwest Florida International Airport Security Plan and other critical operational and security initiatives and materials are confidential and exempt from disclosure as public records under sections 331.22 and 119.071 (3)(a) Florida Statutes. The successful Bidder agrees not to divulge, furnish, or make available to any third person, firm, or organization, without the Authority's prior written consent, any information regarding the airport security system or the contents of the airport security plan or any other sensitive security or operational material or information concerning the services provided by the successful Bidder under this Agreement, and shall require all of its employees, agents, and subcontractors to comply with the provisions of this paragraph.

**END OF PART B**

## **PART C: SCOPE OF WORK**

### **C.01 ABOUT LEE COUNTY PORT AUTHORITY**

Lee County Port Authority operates both Southwest Florida International Airport (RSW) and Page Field (FMY) in Fort Myers, Florida. RSW is an award-winning, medium-hub commercial service airport with an annual economic impact of more than \$8.3 billion. In 2022, RSW served more than 10.3 million passengers, which made it the busiest year in airport history and surpassed the previous record in 2021. RSW is one of the top 50 airports in the United States for passenger traffic. Fourteen airlines serve the airport with nonstop service throughout the United States, as well as international flights to Canada and Germany.

A terminal complex with 28 gates and state-of-the-art facilities opened in 2005, making it one of the newest airport terminals in the nation offering a top-rated travel experience. In 2021, the Lee County Port Authority finished construction on a new \$80 million Airport Traffic Control Tower and Terminal Radar Approach Control facility at RSW and handed it over to the FAA for equipping and certifying for operations.

RSW has seen significant increases in passengers, especially during peak-hour operations, which has impacted the terminal's functionality. In October 2021, LCPA started construction on a \$331 million Terminal Expansion Project to improve the airport's efficiency by consolidating the security checkpoints, adding concession space and providing passengers more amenities and options. This will be a three-year project and will be the second-largest public works project in Lee County history, only being surpassed by the airport's Midfield Terminal Complex in 2005.

Terminal Expansion Phase 2 will expand the existing terminal further by adding Concourse E with an additional 14 gates; expanding Chiller Plant Facility; as well as other associated terminal facilities, landside and airside improvements. The completion of Concourse E is currently planned for late 2027.

Other future infrastructure improvements include rental car expansion projects, roadway rehabilitation projects, additional terminal expansion projects and a future parallel runway. More information about the Terminal Expansion Project and RSW is available at [flylcpa.com](http://flylcpa.com).

Page Field, an FAA-designated reliever airport, provides services to general and business aviation and accommodated more than 170,000 aircraft operations in 2022, a new record. Base Operations at Page Field is an award-winning fixed-based operator and has been recognized for its customer service and facilities. LCPA opened the new Base Operations terminal complex in 2011.

Bidders are encouraged to review additional information about Southwest Florida International Airport and Page Field on the website at [flylcpa.com](http://flylcpa.com).

### **C.02 PROJECT DESCRIPTION**

The Airside Improvements Paving Package Project consists of full-strength Taxiway and Taxilane construction with asphalt (Base Bid) or concrete (Bid Alt 1) paving. The apron hardstands will consist of full-strength concrete construction and paving. Other site improvements include fine grading, airfield electrical, pavement markings, and airfield MOT.

### **C.03 BASE BID DESCRIPTION**

The base bid includes all of the work described in the above project description and as shown on the project drawings and called for in the specifications mentioned in PART D: CONSTRUCTION DOCUMENTS. The sum of all bid items which comprise the base bid is referenced on the bid form as the grand total bid number. **All Bidders are required to hold their bid prices for 120 days after the date bids are due.**



**C.04 CONTRACT TIME**

<b><u>DESCRIPTION</u></b>	<b><u>DURATION</u></b>	<b><u>ESTIMATED DATE</u></b>
From the date of issuance of Notice to Proceed (NTP) assumed to be October 1, 2024, to Substantial Completion.	1,095 calendar days	10/1/2027
Substantial Completion to Final Completion	60 calendar days	12/1/2027

Substantial Completion is achieved when the GC turns over the final airside pavement configuration to LCPA for full operational use, where only minor punch list items remain.

**C.05 LIQUIDATED DAMAGES**

- \$1,000 **per day** if the GC's work, for any reason, violates any of the LCPA Phasing Requirements outlined in the Final Phasing document. Each occurrence shall be assessed the following amounts independent of other occurrences even if the incident(s) occurred concurrently, including but not limited to:
  - Re-opening taxiways and taxilanes
  - Re-opening of aircraft gates
  - Completion of apron paving for all work areas and apron limits required for PBB installation in accordance with milestone completion dates
- An Additional \$1,000 **per day** for GC's failure to achieve project Substantial Completion by the October 1, 2027 deadline
- An Additional \$500 **per day** for GC's failure to achieve overall project Final Completion by the December 1, 2027 deadline
- \$1,000 **per day** if the GC's work, for any reason, results in an unscheduled interruption that affects the passenger and public use of the Airport facilities including, but not limited to:
  - Closure of any existing taxiways or taxilanes
  - Normal operation of existing aircraft gates
  - Normal operation of the existing aircraft fueling system
- \$1,000 **per hour** if the GC's work, for any reason, results in an unscheduled interruption that affects the passenger and public use of the Airport facilities including, but not limited to:
  - Closure of RSW Runway 6-24
  - Normal ability to use the baggage handling system
  - Normal operation of fire alarm and/or airport security system
  - Utilities: Power, HVAC, Communications, IT Systems, water, or sanitary that affect passenger and/or public use of the airport facilities

**If the above mentioned milestones are not achieved by the date indicated above, the Owner will incur substantial injury, including loss of use of facilities, loss of revenue and inconvenience to the public. Damages arising from such injury cannot be calculated with any degree of certainty. The liquidated damages specified above are not a penalty, but are fixed and a requirement of the Agreement, in recognition of the impossibility of precisely ascertaining the actual amount of damages that will be sustained by Owner.**

**These liquidated damages are additive. There is not a cap for assessment of liquidated damages.**

**If NTP is not issued on or before 10/1/24, commensurate calendar days will be added to each milestone that is associated with a liquidated damage**

**C.06 DBE PARTICIPATION GOAL**

The DBE goal established for this project is twelve percent (12%).

### C.07 BID SCHEDULE

**NOTE: THE BID SCHEDULE SHARED IN THE TABLE BELOW IS FOR REFERENCE ONLY - BIDDER MUST ENTER OFFICIAL UNIT BID PRICING IN IONWAVE**

The project will be awarded as a lump sum contract according to the Grand Total Bid Amount of either Bid Schedule A (Base Bid) or Bid Schedule B (Bid Alternative 1) as provided by the lowest responsive Bidder. All items in the bid schedule below will be compensated based upon the final field verified quantity installed in place, assuming placement/installation of said items is deemed compliant to design intent by the CEI and Engineer of Record.

Award of the contract shall be made to the lowest, responsible, and responsive Bidder, whose bid conforms to the written requirements of the contract documents. Prospective Bidders shall submit bids for Bid Schedule A (Base Bid) and/or Bid Schedule B (Bid Alternative 1) as shown on the Bid Schedule. The owner reserves the right to award the contract to the lowest, responsive, and responsible Bidder for Bid Schedule A OR Bid Schedule B, dependent on available funding.

TERMINAL EXPANSION PHASE II - AIRSIDE IMPROVEMENTS PAVING PACKAGE - BID PACKAGE 2 - SCHEDULE OF VALUES									
BID ITEM NO.	ITEM REF. NO.	BID ITEM DESCRIPTION	BID UNIT	BID SCHEDULE A - BASE BID			BID SCHEDULE B - BID ALTERNATIVE 1		
				BID QUANTITY	UNIT PRICE	EXTENDED TOTAL	BID QUANTITY	UNIT PRICE	EXTENDED TOTAL
GENERAL									
1	C-100-1	CONTRACTOR QUALITY CONTROL PROGRAM	LS	1			1		
2	C-102-1	EROSION AND SEDIMENTATION CONTROL AND MAINTENANCE ALLOWANCE	LS	1			1		
3	C-105-1	MOBILIZATION	LS	1					
BP-2 AIRSIDE									
4	P-152-1	UNCLASSIFIED AND UNSUITABLE EXCAVATION	CY	340					
5	P-152-2	BORROW FOR EMBANKMENT	CY						
6	P-156-1	8" CEMENT TREATED SUBGRADE							
7	P-156-2	12" CEMENT TREATED SUBGRADE					240,900		
8	P-156-3	CEMENT					7,900		
9	P-211-1			35,300			35,300		
10			SY	6,700			6,700		
11			SY	6,600			6,600		
		BASE COURSE	SY	0			236,500		
		ASPHALT SURFACE COURSE	TON	41,000			0		
14	P-403-1	5" ASPHALT BASE COURSE	TON	49,400			0		
15	P-403-2	9" ASPHALT BASE COURSE	TON	34,600			0		
16	P-403-3	4" ASPHALT SHOULDER COURSE	TON	8,200			14		
17	P-501-1	16" CEMENT CONCRETE PAVEMENT	SY	93,000			168,500		

**CHART IS FOR REFERENCE ONLY**

**24-0080LB: AIRSIDE IMPROVEMENTS PAVING PACKAGE FOR RSW TERMINAL EXPANSION PHASE II**

18	P-501-2	16.5" CEMENT CONCRETE PAVEMENT	SY	2,000			2,000		
19	P-501-3	10" CEMENT CONCRETE PAVEMENT	SY	6,400			6,400		
20	P-501-4	10" REINFORCED CEMENT CONCRETE PAVEMENT	SY	300			300		
21	P-501-5	12" CEMENT CONCRETE PAVEMENT	SY	0			34,830		
22	P-501-6	17.5" CEMENT CONCRETE PAVEMENT	SY	0			66,000		
23	P-602-1	EMULSIFIED ASPHALT PRIME COAT	GAL	74,900			20		
24	P-603-1	EMULSIFIED ASPHALT TACK COAT	GAL	64,900			16		
25	P-604-1	COMPRESSION JOINT SEALS FOR CONCRETE PAVEMENTS	LF	109,540			300,000		
26	P-605-1	JOINT SEALING FILLER	LF	13,410			37,000		
27	P-610-1	12-INCH DIA. CONCRETE FILLED BOLLARDS, INCLUDING FOUNDATIONS	EA	179			179		
28	P-620-1	PAVEMENT MARKING WITH REFLECTIVE MEDIA	SF	57,490			57,490		
29	P-620-2	PAVEMENT MARKING WITHOUT REFLECTIVE MEDIA	SF	78,760			78,760		
30	T-904-1	SODDING	SY	42,980			42,980		
31	L-100-5.1	VERIFICATION OF EXISTING FIELD CONDITIONS	LS	1			1		
32	L-104-1	TEMPORARY AIRFIELD LIGHTING	LS	1			1		
33	L-108-5.1	NO 8 AWG, 5KV, L-824, TYPE C CABLE, INSTALLED IN DUCT BANK OR CONDUIT	LF	60,500			60,500		
34	L-108-5.2	NO 6 AWG, SOLID BARE COPPER COUNTERPOISE WIRE INSTALLED ABOVE THE DUCT BANK OR CONDUIT INCLUDING TERMINATIONS AND GROUND RODS	LF	26,000			26,000		
35	L-110-5.1	CONCRETE ENCASED ELECTRICAL CONDUIT, 1WAY 2INCH SCHEDULE 40 PVC	LF	22,700			22,700		
36	L-110-5.2	CONCRETE ENCASED ELECTRICAL CONDUIT, 2WAY 4 INCH SCHEDULE 40 PVC	LF	1,600			1,600		
37	L-115-5.1	ELECTRICAL MANHOLE, 4 FOOT BY 4 FOOT, AIRCRAFT RATED	EA	7			7		
38	L-115-5.2	L-867D JUNCTION STRUCTURE WITH COVER PLATE, INSTALLED IN TURF	EA	3			3		
39	L-115-5.3	L-867D JUNCTION STRUCTURE WITH COVER PLATE, INSTALLED IN NEW SIGN FOUNDATION	EA	28			28		
40	L-115-5.4	L-867B ADJUSTABLE LIGHT BASE CAN, INSTALLED IN NEW TAXIWAY SHOULDER PAVEMENT	EA	166			166		
41	L-115-5.5	L-867B ADJUSTABLE LIGHT BASE CAN, CORED IN EXISTING TAXIWAY SHOULDER PAVEMENT	EA	26			26		
42	L-115-5.6	L-868 MULTI-SECTION LIGHT BASE CAN, INSTALLED IN NEW FULL STRENGTH TAXIWAY PAVEMENT	EA	204			204		
43	L-125-5.1	PROCURE AND INSTALL L-861T(L), LED, TAXIWAY EDGE LIGHT	EA	121			121		
44	L-125-5.2	INSTALL EXISTING L-861T(L), LED ON NEW L-867B BASE CAN	EA	45			45		

**24-0080LB: AIRSIDE IMPROVEMENTS PAVING PACKAGE FOR RSW TERMINAL EXPANSION PHASE II**

45	L-125-5.3	PROCURE AND INSTALL L-858(L) LED AIRFIELD GUIDANCE SIGN SIZE 2 MODE 2, 2 MODULE	EA	1			1		
46	L-125-5.4	PROCURE AND INSTALL L-858(L) LED AIRFIELD GUIDANCE SIGN SIZE 2 MODE 2, 3 MODULE	EA	3			3		
47	L-125-5.5	PROCURE AND INSTALL L-858(L) LED AIRFIELD GUIDANCE SIGN, SIZE 3, MODE 2, 2 MODULE	EA	5			5		
48	L-125-5.6	PROCURE AND INSTALL L-858(L) LED AIRFIELD GUIDANCE SIGN, SIZE 3, MODE 2, 3 MODULE	EA	18			18		
49	L-125-5.7	PROCURE AND INSTALL L-852E(L) LED TAXIWAY CENTERLINE FIXTURE ON L-868 BASE CAN	EA	2			2		
50	L-125-5.8	PROCURE AND INSTALL L-852J(L) LED TAXIWAY CENTERLINE FIXTURE ON L-868 BASE CAN	EA	127			127		
51	L-125-5.9	INSTALL EXISTING L-852J(L) LED TAXIWAY CENTERLINE FIXTURE ON L-868 BASE CAN	EA	4			4		
52	L-125-5.10	PROCURE AND INSTALL L-852T(L), LED, TAXIWAY EDGE LIGHT FIXTURE ON L-867 BASE CAN	EA	2			2		
53	L-125-5.11	PROCURE AND INSTALL L-852C(L) LED TAXIWAY CENTERLINE FIXTURE ON L-868 BASE CAN	EA	57			57		
54	L-125-5.12	INSTALL EXISTING L-852C(L) LED TAXIWAY CENTERLINE FIXTURE ON L-868 BASE CAN	EA	2			2		
55	L-125-5.13	PROCURE AND INSTALL 1/2" GALVINIZED L-867 BLANK COVER ON EXISTING BASE CAN	EA	11			11		
56	L-125-5.14	PROCURE AND INSTALL 3/4" GALVINIZED L-868 BLANK COVER ON EXISTING BASE CAN	EA	2			2		
57	L-125-5.15	PROCURE AND INSTALL 3/4" GALVINIZED L-868 BLANK COVER FOR NEW CANS INSTALLED FOR FUTURE	EA	15			15		
58	L-125-5.16	ALCMS COMPUTER MODIFICATIONS	LS	1			1		
59	L-125-5.17	SIGN PANNEL REPLACEMENTS FOR EXISTING SIGNS	LS	1			1		
60	L-125-5.18	PROCURE AND INSTALL L-858(L) LED AIRFIELD GUIDANCE SIGN, SIZE 3 MODE 2 4 MODULE	EA	1			1		
61	L-131-1	PHOTOMETRIC TESTING	LS	1			1		
62		COMPACTOR GUIDE RAILS	EA	4			4		
63		COMPACTOR SKID PLATES	LF	220			220		
<b>BP-2 LANDSIDE</b>									
64	FDOT 0285-710	OPTIONAL BASE, BASE GROUP 10	SY	1,870			1870		
65	FDOT 0334-1-53	SUPERPAVE ASPHALTIC CONCRETE, TRAFFIC C, PG 76-22	TN	390			390		
66	FDOT 0337-7-82	ASPHALT CONCRETE FRICTION COURSE, TRAFFIC C, FC-9.5, PG 76-22	TN	110			110		
67	FDOT 0350-3-5	PLAIN CEMENT CONCRETE PAVEMENT, 6"	SY	580			580		
68	FDOT 0519-78	LANDSIDE BOLLARDS	EA	6			6		
69	FDOT 0521-72-56	PIER PROTECTION BARRIER	LF	64			64		

**24-0080LB: AIRSIDE IMPROVEMENTS PAVING PACKAGE FOR RSW TERMINAL EXPANSION PHASE II**

70	FDOT 0522-1	CONCRETE SIDEWALK AND DRIVEWAYS 4"	SY	75			75		
71	FDOT 0526-1101	PAVERS, ARCHITECTURAL, REMOVE EXISTING AND REINSTALL (REMOVAL ONLY)	SY	150			150		
72	FDOT 0700-1-11	SINGLE POST SIGN, F&I GROUND MOUNT, UP TO 12 SF (INCLUDES 5 FOR MOT)	AS	5			5		
73	FDOT 0711-15-201	THERMOPLASTIC, STANDARD-OPEN GRADED ASPHALT SURFACES, YELLOW, SOLID, 6"	GM	0.2			0.2		
74	FDOT 0711-15-231	THERMOPLASTIC, STANDARD-OPEN GRADED ASPHALT SURFACES, YELLOW, SKIP, 6"	GM	0.1			0.1		
75	FDOT 0715-540-000	LIGHT POLE COMPLETE - SPECIAL DESIGN, RELOCATE	EA	1					
76		WHEEL STOPS	EA	10					
77		CRASH BAR	EA	1					

	AMOUNT IN NUM	UNITS
TOTAL BID SCHEDULE A		
TOTAL BID SCHEDULE B		

**CHART IS FOR REFERENCE ONLY**

**END OF PART C**

## **PART D: CONSTRUCTION DOCUMENTS**

The following documents are considered part of the Construction Documents and are separate files uploaded to the same procurement site being used for the RFB.

In the event of any inconsistency or ambiguity between the various documents, the following order of precedence shall govern:

1. "RSW Terminal Expansion Phase II - Airside Improvements Paving Package Phasing Plan" - **TO BE ISSUED AT A LATER DATE**
2. Terminal Expansion Phase II - Airside Improvements Paving Bid Package 2 (BP2)
  - a. Issued for Bid Drawings - prepared by AtkinsRealis and dated June 14, 2024
  - b. Issued for Bid Technical Specifications - Volume 1 prepared by AtkinsRealis and dated June 14, 2024
  - c. Construction Safety and Phasing Plan (CSPP) - prepared by AtkinsRealis and dated April 2024
  - d. Taxiways, Connectors, Aprons, & Taxilanes Geotechnical Report - prepared by EGS dated March 2023 (22-128-22-06)
  - e. **For Reference Only** - Issued for Bid Drawings - Airside Improvements Site Preparation & Utilities Bid Package 1 (BP1) - prepared by AtkinsRealis and dated June 10, 2024

**END OF PART D**



## **PART E: GRANT REQUIREMENTS**

The following requirements are grant requirements that are applicable to this Request for Bid. For additional information, please refer to:

### **Reference**

FAA Airport (2023, January 20). Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects. Required Contract Provisions for Airport Improvement Program and for Obligated Sponsors, 20 January 2023.

<https://www.faa.gov/sites/faa.gov/files/2023-01/combined-federal-contract-provisions-2023-1-20.pdf>

### **AFFIRMATIVE ACTION REQUIREMENT**

#### **Notice of Requirement for Affirmative Action to ensure Equal Employment Opportunity**

1. Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for minority participation for each trade: 12%

Goals for female participation in each trade: 6.9%

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

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

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within ten (10) working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.
4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is **Florida, Lee County, and Fort Myers.**

Reference: 41 CFR Part 60-4; Executive Order 11246

**BUY AMERICAN PREFERENCES**

The successful Bidder (Contractor) certifies that all construction 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 polyvinyl chloride, 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.

All applications for an FAA Buy American Preference Waiver includes, at minimum, a completed Content Percentage Worksheet and Final Assembly Questionnaire. Additional information may be requested from the applicant by the FAA. Airport Sponsors, consultants, construction contractors, or equipment manufacturers are responsible for completing and submitting waiver applications. The FAA is unable to make a determination on waiver requests with incomplete information. Sponsors must confirm with the Bidder or offeror to assess the adequacy of the waiver request and associated information prior to forwarding a waiver request to the FAA for action. All FAA waivers forms are available from the FAA Buy American Requirements webpage.

Proprietary Confidentiality. Exemption 4 of the Freedom of Information Act protects "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential. Proprietary manufacturing and design information submitted to the Federal Aviation Administration for the purposes of receiving a Buy American Waiver shall not be disclosed outside the FAA. The FAA will provide a written notification to the Airport Sponsor, manufacturer(s), contractor(s) or supplier(s) when a waiver determination is complete.

Reference: Title 49 USC § 50101; Executive Order 14005; BABA

**CIVIL RIGHTS GENERAL**

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

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

If the Contractor transfers its obligation to another, the transferee is obligated in the same manner as the Contractor. The above provision obligates the Contractor for the period during which the property is owned, used or possessed by the Contractor and the airport remains obligated to the Federal Aviation Administration.

Reference: 49 USC § 47123

**CIVIL RIGHTS – TITLE VI ASSURANCES****Title VI List of Pertinent Non Discrimination Acts and Authorities:**

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

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

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

**Compliance with Nondiscrimination Requirements:**

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

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

3. Solicitations for Subcontracts, including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. Information and Reports: The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Authority 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 Authority or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Authority 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) Canceling, terminating, or suspending a contract, in whole or in part.
6. Incorporation of Provisions: The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Authority 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 Authority to enter into any litigation to protect the interests of the Authority. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

Reference: 49 USC § 47123, FAA Order 1400.11

### **DAVIS BACON REQUIREMENTS**

Davis-Bacon Requirements apply to the contract resulting from this solicitation. The following wage rate determination is provided as a convenience. Successful Bidder is responsible to verify and utilize the most current applicable wage rates in effect at the time of the agreement. Wage rates determination is posted at <https://sam.gov/content/wage-determinations>.

**General Decision Number: FL20240173 01/05/2024**

**Superseded General Decision Number: FL20230173**

**State: Florida**

**Construction Type: Highway**

**County: Lee County in Florida.**

**HIGHWAY CONSTRUCTION PROJECTS**

**DEBARMENT AND SUSPENSION****A11.3.1 Bidder Certification**

By submitting a bid under the solicitation for this contract, the Bidder must certify that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

**A11.3.2 Lower Tier Contract Certification****Certification of Lower Tier Contractors Regarding Debarment**

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

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

**DISADVANTAGED BUSINESS ENTERPRISE**

**Contract Assurance (§ 26.13)** – The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation-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 Authority 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 (§26.29)** – The prime Contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than [10 days] days from the receipt of each payment the prime contractor receives from [the Authority]. The prime contractor agrees further to return retainage payments to each subcontractor within [30 days] 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 [Authority]. This clause applies to both DBE and non-DBE subcontractors.

**Termination of DBE Subcontracts (49 CFR § 26.53(f))** – The prime Contractor must not terminate a DBE subcontractor listed in response to the solicitation (or an approved substitute DBE firm) without prior written consent of the Authority. This includes, but is not limited to, instances in which the prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The prime Contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the Contractor obtains written consent of the Authority. Unless Authority consent



is provided, the prime Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

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

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

The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise the Authority and the Contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the Authority should not approve the prime Contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the Authority may provide a response period shorter than five (5) days.

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

Reference: 49 CFR part 26

### **FEDERAL FAIR LABOR STANDARDS ACT**

The provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), are incorporated by reference 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.

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

### **FOREIGN TRADE RESTRICTION**

**TRADE RESTRICTION CERTIFICATION** - By accepting this contract the Contractor certifies the following statements are true:

- 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 Section 1001.

The Contractor must provide immediate written notice to the Authority if the 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 Contractor agrees 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 Contractor 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 Authority's cancellation of the contract or subcontract for default at no cost to the Authority or the FAA.

Reference: 49 USC § 50104, 49 CFR part 30

### **LOBBYING AND INFLUENCING FEDERAL EMPLOYEES**

Consultants and contractors that apply or bid for an award of \$100,000 or more must have certified that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or another award covered by 31 USC §1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

For an award over \$100,000, the Bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required

certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Reference: 31 USC § 1352 – Byrd Anti-Lobbying Amendment, 2 CFR part 200, Appendix II(I), 49 CFR part 20, Appendix A

### **RECOVERED MATERIALS**

**APPLICABILITY – Contract Types** – This provision applies to any contracts that include procurement of products designated in subpart B of 40 CFR part 247 where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000.

**Construction and Equipment** – all construction and equipment projects.

### **REQUIREMENT**

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 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](http://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.

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)

### **TAX DELINQUENCY AND FELONY CONVICTION**

The Contractor must have certified under the procurement process that resulted in the award of this contract that:

- Contractor has not been convicted of a Federal felony within the last twenty-four (24) months; or
- Contractor does not have any outstanding tax liability for which all judicial and administrative remedies have lapsed or been exhausted.

Reference: Sections 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

REVIEWED/APPROVED BY GOVERNMENT AFFAIRS & GRANTS: \_\_ji\_\_

**END OF PART E**

## **PART F: DBE PARTICIPATION**

### **Participation by Disadvantaged Business Enterprises (DBE)**

The Lee County Port Authority (Port Authority) is dedicated to promoting the full participation of Disadvantaged Business Enterprises (DBE) in all Port Authority projects. Therefore, for the purposes of this Request for Bid 24-0080LB Airside Improvements PAVING Package for RSW Terminal Expansion Phase II, any individual or firm who enters into an agreement with the Port Authority shall make every possible effort to meet or exceed the established Project DBE Goal. This includes, but is not limited to, subcontracting, and the expenditures for materials and supplies.

The Port Authority and its contractors agree to ensure that DBEs will have the maximum opportunity to participate in the performance of this Project. In this regard, contractors shall take all necessary and reasonable steps to ensure that DBEs have adequate opportunities to compete for and perform contracts under this project. The Port Authority and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of Department of Transportation-assisted and Port Authority contracts.

### **Participation Goals**

If awarded, the contractor will enter into a lump sum contract with the Port Authority. The attainment of the DBE goal established for this project is to be measured as a percentage of the total value of the base bid, including all contract amendments. The DBE goal established by the Port Authority under this project is anticipated at twelve percent (12%) participation.

### **Responsible and Responsive**

In order to be considered responsible and responsive, Bidder must make good faith efforts to meet the identified DBE goal. This may be accomplished in one of two ways:

1. By meeting the project DBE goal and documenting the commitments with the DBE firm(s); or
2. By providing documentation of the Bidder's good faith efforts to meet the project goal.

DBE participation or reasonable good faith efforts is a matter of responsiveness. Failure to provide this information may result in your bid being declared non-responsive. It is incumbent on the Bidder to submit appropriate documentation or to demonstrate that "good faith efforts" were made to reach out to DBEs to obtain participation. Additional information may be requested from the Bidder/Proposer regarding their proposed DBE participation.

### **Required Certification**

All DBE firms must be properly certified prior to the bid opening. The Port Authority only recognizes the following DBE certification under this project.

DBE firms certified under the Florida Unified Certification Program (FUCP) in the State of Florida shall be counted toward the established DBE goal. All DBE firms in Florida are listed in a single DBE UCP Directory. Contractors should refer to this directory to identify potential DBEs for the work. The FUCP Directory is found at:

<https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/CustomSearch.aspx>  
or <http://www.flylcpa.com/dbe>

Additional assistance may be obtained by calling the Port Authority's DBE Manager **Julio Rodriguez at 239-590-4625**.

## **DBE CONDITIONS**

The Lee County Port Authority (Port Authority) and its contractors agree to ensure that DBEs as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds. In this regard, contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. The Port Authority and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted and Port Authority contracts.

### **1. DEFINITIONS**

- A. Disadvantaged Business Enterprise (DBE) – This term, as used in this Request for Bids solicitation document shall have the same meaning as defined in paragraph 26.5 of Subpart A to 49 CFR Part 26.
- B. General Contractor – This term refers to the successful Bidder whose bid is awarded pursuant to this RFB.
- C. Good Faith Efforts – means the successful Bidder's efforts to achieve a DBE goal.

The following conditions apply to any contract resulting from this Request for Bids. Submission of a bid by a prospective contractor/subcontractor shall constitute full acceptance of these bid conditions:

### **2. DBE BID CONDITIONS**

- A. **Expenditures Counting Towards DBE Goal** – For non-DBE contractor(s) and subcontractor(s), the Port Authority and its CM/GC will count towards the DBE goal sixty percent (60%) of expenditures for materials and supplies required under the contract and obtained from a DBE established dealer, and one hundred percent (100%) of such expenditures obtained from a DBE manufacturer.
- B. **Responsible and Responsive** - In order to be considered responsible and responsive, Bidder must make good faith efforts to meet the identified DBE goal established for this project. This may be accomplished in one of two ways:
  - 1. By meeting the DBE Participation Goal and documenting the commitments of the DBE firms; or
  - 2. By documenting adequate Bidder's good faith efforts to meet the goal.

DBE participation or reasonable good faith efforts is a matter of responsiveness. Failure to provide this information may result in your bid being declared non-responsive. It is incumbent on the Bidder to submit appropriate documentation to demonstrate that "good faith efforts" (as defined in 49 Code of Federal Regulation Part 26, Appendix A, Subpart C 26.53) was made to reach out to DBEs to obtain participation.

- C. **DBE Forms** - Completed DBE Utilization Statement and Letter of Commitment(s) must be submitted with this Request for Bid. The Letter(s) of Commitment must be completed by each DBE firm proposed to be used in this project.

**Note: Additional information may be requested from any Bidder regarding their proposed DBE participation.**

- D. **DBE Required Certification** – All DBEs MUST BE PROPERLY CERTIFIED PRIOR TO THE BID OPENING. Only DBE firms certified under the Florida Unified Certification Program (FUCP) in the State of Florida shall be counted toward the established goal. DBE firms in Florida are listed in a single DBE FUCP directory. Bidders should refer to this directory to identify potential DBEs for the work.

The Directory is found at:

<https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory/CustomSearch.aspx>

Additional assistance may be obtained by calling the Port Authority's DBE Manager at 239-590-4625.

### 3. **DBE CONTRACT CONDITIONS**

- A. **Policy** - The policy of the Port Authority is to ensure nondiscrimination in the award and administration of DOT-assisted contracts; to create a level playing field on which DBEs can compete fairly for DOT-assisted contracts; to ensure that the DBE Program is narrowly tailored by utilizing race neutral/race conscious means; to ensure that only firms that fully meet the 49 CFR Part 23 and Part 26 eligibility standards are permitted to participate as DBEs; to help remove barriers to the participation of DBEs in DOT-assisted contracts; and to assist in the development of firms that can compete successfully in the marketplace outside the DBE Program.

- B. **Contract Assurances** - Each contractual agreement with a contractor (and each subcontract the Prime Contractor signs with a Subcontractor) must include the following assurance:

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

- C. **Prompt Payment and Release of Retainage Clause** - The Port Authority will include the following clause in each DOT-assisted prime contract, and the prime contractor will require all subcontractors to have this clause in their subcontracts:

*"The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than fifteen (15) days from the receipt of each payment the Prime Contractor receives from the Port Authority. The Prime Contractor agrees further to return retainage payments to each Subcontractor within forty-five (10) days after the Subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above-referenced timeframe may occur only for good cause following written approval of the Authority"*

**Note: This clause applies to both DBE and non-DBE subcontractors.**

- D. **DBE Signed Contracts** - The General Contractor/Consultant must submit copies of the signed contracts with the DBE(s) who will be utilized as subcontractors and are listed in its bid for work to be performed under the scope of services of the General Contractor/Consultant's contract with the Port Authority. Said contracts shall be submitted not later than fifteen (15) days after the General Contractor/Consultant is in receipt of their signed contract from the Port Authority. Said contracts shall be submitted not later than fifteen (15) days after the General Contractor is in receipt of their Notice-To-Proceed from the Port Authority.
- E. **Bidders List Data** – For all DOT-assisted contracts a list of all DBE and Non-DBE firms that bid on prime contracts, or bid or quote subcontracts and materials supplied shall be submitted to the Port Authority no later than fifteen (15) days after the General Contractor/Consultant is in receipt of their signed contract from the Lee County Port Authority. See attached Bid Opportunity List
- F. **Mobilization** – The General Contractor will provide the DBE Subcontractor with mobilization funds provided by the Port Authority based on the DBE's portion of work to be performed.

- The mobilization funds will be included as a part of the DBE Subcontractor's bid price. The total DBE mobilization funds will be indicated as a separate line item on the schedule of values.
- G. **On-Site Visits** – Upon request, the General Contractor will assist the Port Authority's DBE Office in conducting on-site monitoring of all DBE Subcontractors.
- H. **Prohibited** – Agreements between the General Contractor and a DBE in which the DBE promises not to provide subcontracting quotations to other Bidders are prohibited.
- I. **Replacements** - If the General Contractor deems it necessary to replace a DBE subcontractor/subconsultant, the General Contractor shall make an acceptable good faith effort to use another DBE subcontractor.
- Substitutions must be coordinated with and approved by the Port Authority at the Authority's sole discretion.**
- J. **Reporting** - The General Contractor must report all payments to all subcontractors through the Port Authority's Airport Diversity Management System. The system may be accessed via the following link: <https://flylcpa.dbesystem.com/> Upon receiving the Notice-To-Proceed, the General Contractor will be given notification with information about accessing the system. Payments must be reported on a monthly basis.

**END OF PART F**



## **PART G: INSURANCE, INDEMNIFICATION AND BOND REQUIREMENTS**

**Insurance Requirements.** Bidders should furnish proof of insurance or a written statement of assurance of Bidder's ability to meet the insurance coverage types and limits indicated below. No agreement will be approved or entered into pursuant to this Request for Bids until all insurance coverage(s) indicated herein have been obtained.

<b>Insurance / Bond Type</b>	<b>Required Limits</b>
<input checked="" type="checkbox"/> Automobile Liability:	<p>Coverage must be afforded under a per occurrence policy including coverage for owned, hired and non-owned vehicles.</p> <p>Airside Operations Area (AOA); the combined single limit will be <u>\$5,000,000</u>.</p> <p>Non Airside; the combined single limit will be <u>\$1,000,000</u></p>
<input checked="" type="checkbox"/> Commercial General Liability:	<p>Coverage shall be afforded under a per occurrence policy form.</p> <p><u>\$10,000,000</u> Single Limit per Occurrence;</p> <p><u>\$10,000,000</u> General Aggregate</p> <p><u>\$10,000,000</u> Products/Completed Operations Aggregate</p> <p><u>\$10,000,000</u> Personal and Advertising Injury Liability</p>
<input checked="" type="checkbox"/> Employer's Liability:	<p>\$1,000,000 Each accident</p> <p>\$1,000,000 Disease each employee</p> <p>\$1,000,000 Disease Policy Limit</p>
<input checked="" type="checkbox"/> Worker's Compensation:	Florida Statutory Limits of Chapter 440, Florida Statutes, and all Federal Government Statutory Limits & Requirements.
<input checked="" type="checkbox"/> Pollution Legal Liability	<p>Pollution Legal Liability Insurance shall be maintained by Bidder and providing complete professional service coverage, including coverage for pollution liability that is the result of a breach of professional duties, for losses caused by pollution conditions that arise from the operations of the contractor, with limits of at least \$2,000,000 each occurrence and \$4,000,000 annual aggregate, with an extended recovery period of at least two (2) years beyond the last day of the term of this lease, and including coverage for:</p> <p>(a) third-party claims for on and off-site bodily injury and property damage; and</p> <p>(b) claims resulting in bodily injury, property damage or cleanup costs.</p>
<input checked="" type="checkbox"/> Professional Liability	<p>Professional Liability and/or Errors and Omissions (E&amp;O). Coverage must be maintained by the Bidder, insuring its legal liability arising out of the performance of the professional services under this Agreement. Such insurance with limits of at least \$2,000,000 each occurrence and \$4,000,000 annual aggregate.</p>

Insurance / Bond Type	Required Limits
<input type="checkbox"/> Cyber Liability	<p>Successful Bidder must maintain network risk and cyber liability coverage (including coverage for unauthorized access, failure of security, breach of privacy perils, as well as notification costs and regulatory defense) with limits of at least \$2,000,000 per occurrence and \$4,000,000 annual aggregate. Such insurance shall be maintained in force at all times during the term of the agreement and for a period of two (2) years thereafter for services completed during the term of the agreement.</p>
<input type="checkbox"/> Other Insurance Required	<div> <input type="checkbox"/> Builders' Risk  Coverage must be afforded under a per occurrence policy form for limits not less than \$1,000,000 each Occurrence. </div> <div> <input type="checkbox"/> Liquor Liability  Coverage must be afforded under a per occurrence policy form for limits not less than \$1,000,000 Each Occurrence and \$2,000,000 Aggregate. </div> <div> <input type="checkbox"/> Garage Keeper's Liability  Coverage shall be required if the maintenance, servicing, cleaning or repairing of any motor vehicles is inherent or implied within the provision of the contract.   Coverage must be afforded under a per occurrence policy form for limits not less than equal to the full replacement value of the lot or garage. </div> <div> <input type="checkbox"/> Aircraft Liability  Coverage must be carried in limits of not less than \$5,000,000 each occurrence. </div> <div> <input type="checkbox"/> Warehouse Legal Liability  Coverage must be afforded under a per occurrence policy form for limits not less than \$1,000,000 Each Occurrence and \$2,000,000 Aggregate. </div> <div> <input type="checkbox"/> Motor Truck Cargo Policy - per agreement  <input type="checkbox"/> Property Insurance - per agreement </div>

Reviewed/Approved by Risk Manager: EWM

### **Bidders Insurance Requirements**

All Bidders should furnish proof of acceptable insurance. A copy of the Bidder's current insurance certificate or a statement from the Bidder's insurance company verifying the Bidder's ability to obtain the insurance coverage as stated herein, should be submitted with the bid.

No agreement will be approved or entered into pursuant to this Request for Bids until all insurance coverage(s) indicated herein have been obtained. The cost for obtaining insurance coverage is the sole responsibility of the successful Bidder. The successful Bidder must obtain and submit to the Procurement Office within five (5) calendar days from the date the notice of intent to award is issued, proof of the following minimum amounts of insurance on a standard ACORD form. The insurance provided will include

coverage for all parties employed by the Bidder. At the discretion of the Authority, all insurance limits may be re-evaluated and revised at any time during the term of the Agreement.

**Additional Insured**

Lee County Port Authority shall be named as an additional insured on all policies except for workers' compensation. The policy shall be endorsed to include the following language "The Lee County Port Authority, its officers, officials and employees, are to be covered as an additional insured with respect to liability arising out of the "work" or operations performed by or on behalf of the insured, including materials, parts or equipment furnished in connection with such Work or Operations."

**Acceptability of Insurers**

Insurance is to be placed with insurers duly licensed and authorized to do business in the State of Florida and with an AM Best rating of not less than A-Vii. The Authority in no way warrants that the above required minimum insurer rating is sufficient to protect the successful Bidder from potential insurer insolvency.

**Waiver of Subrogation**

Insurance will be primary and noncontributory and shall include a Waiver of Subrogation by both the successful Bidder and its insurers in favor of the Authority on all policies including general liability, auto liability and the workers' compensation policy, as well as any umbrella or excess policy coverage.

**Certificate of Insurance**

Prior to the execution of an agreement or the issuance of a Purchase Order, and then annually upon the anniversary date(s) of the insurance policy(s) renewal date for as long as the agreement is in effect, successful Bidder must furnish the Authority with a certificate of insurance using an ACORD form and containing the solicitation number with Lee County Port Authority named as an additional insured on the applicable coverage. A current insurance certificate or a statement from the successful Bidder's insurance company verifying the ability to obtain the insurance coverage as stated herein, should be submitted with the bid. The appointed insurance agent or carrier shall be duly licensed to provide coverage and honor claims within Florida. **Send the certificate of insurance with Lee County Port Authority as certificate holder to [riskmanagement@flylcpa.com](mailto:riskmanagement@flylcpa.com).**

The certificate of insurance must give the Authority prior notice of cancellation and state that the coverage is primary and noncontributory. A waiver of subrogation in favor of the Authority will also be required.

**Policy on Request**

In addition, when requested in writing by the Authority, the successful Bidder will provide the Authority with a certified copy of all applicable insurance policies.

**Change in Coverage**

The successful Bidder is required to provide a minimum of thirty (30) days written notice to the Port Authority Risk Manager of any cancellation, nonrenewal, termination, material change or reduction of any coverage called for herein. All such notices shall be sent directly to the Lee County Port Authority Risk Manager, 11000 Terminal Access Road, Suite 8671, Fort Myers, FL 33913. If the successful Bidder fails to meet the requirements set forth herein, the Authority may terminate any agreement it has with the successful Bidder.

**Subcontractor's Requirement**

The successful Bidder must ensure that its agents, representatives, and subcontractors comply with the insurance requirements set forth herein.

**Sovereign Immunity**

The successful Bidder understands and agrees that by entering into an agreement with the Authority, the Authority does not waive its sovereign immunity and nothing herein will be interpreted as a waiver of the Authority's rights, including the limitation of waiver of immunity, as set forth in section 768.28, Florida Statutes or any other statutes, and the Authority expressly reserves these rights to the fullest extent

allowed by law.

### **Indemnification, General Liability & Patent or Copyright**

The successful Bidder must indemnify and hold harmless the Lee County Port Authority and its officers and employees, from liabilities, damages, losses, and costs including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the successful Bidder in the performance of any contract awarded pursuant to this solicitation.

The successful Bidder represents that it knows of no allegations, claims, or threatened claims that the services, materials, or information that it proposes to be provided to the Authority under this RFB infringe any patent, copyright, or other proprietary right. The successful Bidder will indemnify and hold harmless the County and the Authority, and their respective Boards, Commissioners, employees, agents and other representatives of, from and against all losses, claims, damages, liabilities, costs, expenses and amounts arising out of or in connection with an assertion that any of Bidder's services, materials or information to be provided or the use therefore, infringe any patent, copyright or other proprietary right of any third party.

The successful Bidder's obligations to defend, indemnify and hold harmless the County and the Authority, and their respective Boards, Commissioners, employees, agents and other representatives, as stated in this section, will apply and extend to the performance of any services by successful Bidder to the Authority as contained in the submission and any negotiated agreement(s), and these obligations survive termination or the completion of the services contracted for, whether partially or fully performed.

**Bid Guaranty and Bond Requirements.** The following bonds and performance and payment guarantees are required if checked:

- ☒ **If checked.** Bidders must submit a bid bond, certified check, or cashier's check payable to Lee County Port Authority Board of Port Commissioners with the bid and in a dollar amount representing not less than five percent (5%) of the total amount bid. **Failure to submit a bid bond, certified check or cashier's check will cause the Bidder's bid to be non-responsive.**

Bidders are instructed to upload the bid bond, certified check or cashier's check with their bid, accompanying their electronic bid submission and then deliver the original, signed and sealed bid bond or check within five (5) business days from the bid submission date. A bid security in the form of a cashier's check must be an original document. Bidders should plan in advance to send the original bid bond or check to **Lee County Port Authority Procurement Office, 11000 Terminal Access Road, Suite 8671, Fort Myers, FL 33913**. Clearly indicate company name, RFB number, and title and state "BID GUARANTY" on the outside of the envelope.

Once a potential successful Bidder is identified, the potential successful Bidder must deliver its certificate of insurance and performance bonds for Authority approval within ten days from the date of issuance of the notice of intent to award and prior to award of the Agreement by the Authority. Potential successful Bidder will forfeit the entire bid guaranty for failure to provide the required certificates of insurance and performance bonds with surety(ies) acceptable to the Authority and enter into the Agreement with the Authority. In the event of forfeiture of the bid guaranty, the recommended Bidder will have no claim of any kind, including any right of recovery of costs against the Authority.

Certified checks and cashier's checks posted as the bid guaranty will be returned after the bid is awarded.

### **Performance & Payment Bond Requirements**

- ☒ **Performance Guarantee:** *If checked*, a performance guarantee, irrevocable letter of credit or security deposit in the amount of 100% of the total amount of the bid must be presented by the successful Bidder to the Authority within ten (10) days of issuance by the Authority of the written notice of intent to award the Agreement.

The purpose of the performance guarantee is to serve as a security guarantee for the full and faithful performance by the awarded Bidder of all terms, covenants, and conditions of the Agreement, throughout the term of the Agreement, including any renewal or extension periods.

The performance guarantee must be in form and substance and issued by a surety that is acceptable to the Authority. Failure to maintain the performance guarantee throughout the duration of the Agreement is cause for termination of the Agreement.

The performance guarantee must be issued by a surety acceptable to the Authority, or may be submitted in the form of an irrevocable letter of credit in favor of the Authority guaranteeing full and satisfactory performance.

- ☒ **Payment Guarantee:** *If checked*, a payment guarantee or security deposit in the amount of 100% of the total amount of the bid must be presented by the successful Bidder to the Authority within ten (10) days of issuance by the Authority of the written notice of intent to award the Agreement.

The purpose of the payment guarantee is to ensure the faithful payment of subcontractors and suppliers furnishing labor, material, supplies and services to the successful Bidder in connection with the requirements of the Agreement throughout the term of the Agreement, including any renewal or extension periods.

The payment guarantee must be in the form of a payment bond in form and substance issued by a surety acceptable to the Authority guaranteeing full and satisfactory performance for the entire term of the Agreement, including any renewal periods. Failure to maintain the payment guarantee is cause for termination of the Agreement.

- ☐ **Customs Bond Requirements** *If checked*, a customs bond in the amount of \$\_\_\_\_\_ of the total amount of the bid must be provided within ten (10) days of issuance by the Authority of the written notice of intent to award the Agreement.

### **Bond Provisions**

To be acceptable to the Authority, a Surety must comply with the following minimum provisions:

- a. Sureties must be authorized to do business in Florida;
- b. Attorneys-in-Fact who sign bid bonds or payment and performance must file with the bond a certified copy of their Power of Attorney to sign such bond;
- c. Agents of surety companies must list their name, address and telephone number on all bonds. A Florida registered agent must sign all bonds; and
- d. Surety must be in compliance with all provisions of the Florida Insurance Code and hold a currently valid certificate of authority issued by the United States Department of the Treasury under SS.31 U.S.C. 9304-9308.

Sureties rated through A.M. Best shall be rated as "A-" or better as to General Policyholders Rating and Class VII or better as to financial category by the most current Best's Key Rating Guide, published by A.M. Best Company. Further, surety must have fulfilled all of its obligations on all other bonds previously given to the Lee County Port Authority or Lee County, Florida.

**END OF PART G**

**PART H: FORMS****All forms must be submitted with the Bidder's submittal****FORM 1: BIDDER'S CERTIFICATION**

As an authorized representative of the Bidder, I have carefully examined this Request for Bids (RFB) which includes instructions for Bidders, special instructions and requirements, scope of work, Construction Documents, Grant Requirements, DBE participation, insurance, indemnification and bond requirements.

I acknowledge receipt and incorporation of the following addenda. The cost, if any, of such revisions has been included in the price of the bid.

Addendum # _____	Date: _____	Addendum # _____	Date: _____
Addendum # _____	Date: _____	Addendum # _____	Date: _____

I hereby propose to provide the items and/or services requested in this RFB. I agree to hold pricing for at least 120 calendar days to allow the Authority time to properly evaluate bids. I agree that the Authority terms and conditions herein will take precedence over any conflicting terms and conditions submitted with my bid and I agree to abide by all conditions of this RFB.

I certify that all information contained in my bid is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit a bid on behalf of the company as its agent and that the company is ready, willing and able to perform if awarded a contract and the undersigned executed this Certification with full knowledge and understanding of the details therein contained and was duly authorized to do so.

I certify that I attended the pre-bid meeting, if mandated, and I fully understand the requirements. I further certify, under oath, that this bid is made without prior understanding, agreement, connection, discussion, or collusion with any other person, company, or corporation submitting a bid for the same product or service; no officer, employee or agent of the Authority or of any other company who is interested in said bid; and that the undersigned executed this Bidder's Certification with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

I certify that the name and title of the authorized signatory, as completed below, is authorized to execute the Agreement resulting from this Request for Bids using electronic or digital signature. Further, I certify any affixed electronic signature of the authorized signatory is the act of and attributed to the authorized signatory. And, by signing the Agreement resulting from this RFB, if any, the authorized signatory adopts the electronic signature as his/her own and designates it for use as an official record by the Authority.

Finally, through my signature set forth below, I confirm that the bid fully meets the requirements set forth herein. If required, a copy of the bid bond is included in the electronic submission in accordance with Part F, Insurance, Indemnification and Bond Requirements.

---

 NAME OF BUSINESS

---

 MAILING ADDRESS

---

 AUTHORIZED SIGNATURE

---

 CITY, STATE & ZIP CODE

---

 NAME, TITLE, TYPED

---

 TELEPHONE NUMBER / FAX NUMBER

---

 FEDERAL IDENTIFICATION #

---

 E-MAIL ADDRESS



**FORM 2: OFFICIAL BID FORM (Part 1 of 2)****BIDDER'S NAME:** \_\_\_\_\_

The undersigned, as "Bidder," having become familiar with the local conditions, nature, and extent of the work, and having examined carefully the bid solicitation documents, including but not limited to, instructions for Bidders, special instructions and requirements, scope of work, Construction Documents, Grant requirements, DBE Participation, insurance, indemnification and bond requirements, forms, and other contract documents, agrees to furnish all labor, materials, equipment, and other incidental items, facilities and services necessary in full accordance with the RFB and contract documents for:

**AIRSIDE IMPROVEMENTS PAVING PACKAGE FOR  
RSW TERMINAL EXPANSION PHASE II**

**NOTE: THE BID SCHEDULE IN PART C.07 IS FOR REFERENCE ONLY.  
BIDDERS ARE TO ENTER THEIR OFFICIAL UNIT BID PRICING IN IONWAVE.  
BIDDER ARE TO ENTER THEIR TOTAL BID RESPONSE ONTO THIS FORM, AS THEIR  
GRAND TOTAL, AS INDICATED BELOW.**

And, if awarded, Bidder agrees to perform the work for the pricing submitted by Bidder electronically and as applicable, will complete all work within the time limits specified for the pricing awarded. The grand total base bid is expressed numerically and in writing as follows:

**GRAND TOTAL:**     \$ \_\_\_\_\_\_\_\_\_\_  
(Written)

- ☐ By checking this box, I certify that I have read and understand the quality guarantee and warranty requirements set forth in Part B and have enclosed a written copy of the labor and product warranty with my bid.
- ☐ By checking this box, I certify that I fully meet the requirements in Part B.01, Minimum Qualifications
- ☐ By checking this box, I certify that I have reviewed and agree with the Contract Time information provided in PART C: Scope of Work.
- ☐ By checking this box, I certify that I have reviewed all documents listed in PART D: Construction Documents.
- ☐ By checking this box, I certify that I have read and understand the Performance & Payment Guarantee requirements set forth in Part G - Insurance, Indemnification and Bond Requirements
- ☐ By checking this box, I certify that I have inspected the project site(s)

Bidder's Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

**FORM 2: OFFICIAL BID FORM (Part 2 OF 2)**

Bidders must demonstrate to the satisfaction of the Authority that the minimum qualifications set forth in Part B have been met. Each Bidder must provide the information requested below. Up-to-date and current contact information is the sole responsibility of the Bidder. Complete and accurate reference information must be provided where indicated on the Bid Form. The Authority will contact references to verify the Bidder has a minimum years of experience performing airside commercial projects similar in size, scope, and of equal difficulty.

Bidder is requested to provide reference information from current or recent accounts that are similar in scope to the scope of services set forth herein. The inability to perform reference checks due to the submission of inaccurate or outdated reference contact information will be viewed as a negative aspect of the Bidder's response and may affect the Authority's determination of responsiveness.

Bidders must demonstrate they have a minimum of five (5) years of experience performing projects similar in size, complexity and scope by providing the following reference information.

**Provide as many references as needed to substantiate to the Authority that the minimum five (5) year experience requirement has been met.** Add as many additional pages as needed.

**Project Reference Information**

1. \_\_\_\_\_  
REFERENCE COMPANY NAME                      DOLLAR VALUE OF PROJECT

\_\_\_\_\_  
REFERENCE CONTACT NAME/TITLE                      PROJECT TITLE

\_\_\_\_\_  
REFERENCE CONTACT PHONE                      LOCATION OF THE AIRPORT PROJECT

\_\_\_\_\_  
REFERENCE CONTACT EMAIL                      BEGIN AND END DATE OF THE PROJECT

\_\_\_\_\_

YOUR FIRM'S ROLE ON THIS REFERENCED PROJECT (PRIME or SUB)

PROJECT DESCRIPTION: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. \_\_\_\_\_  
REFERENCE COMPANY NAME                      DOLLAR VALUE OF PROJECT

\_\_\_\_\_  
REFERENCE CONTACT NAME/TITLE                      PROJECT TITLE

\_\_\_\_\_  
REFERENCE CONTACT PHONE                      LOCATION OF THE AIRPORT PROJECT

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REFERENCE CONTACT EMAIL

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BEGIN AND END DATE OF THE PROJECT

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YOUR FIRM'S ROLE ON THIS REFERENCED PROJECT (PRIME or SUB)PROJECT DESCRIPTION: 

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3.

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REFERENCE COMPANY NAME

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DOLLAR VALUE OF PROJECT

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REFERENCE CONTACT NAME/TITLE

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PROJECT TITLE

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REFERENCE CONTACT PHONE

---

LOCATION OF THE AIRPORT PROJECT

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REFERENCE CONTACT EMAIL

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BEGIN AND END DATE OF THE PROJECT

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YOUR FIRM'S ROLE ON THIS REFERENCED PROJECT (PRIME or SUB)PROJECT DESCRIPTION: 

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4.

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REFERENCE COMPANY NAME

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DOLLAR VALUE OF PROJECT

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REFERENCE CONTACT NAME/TITLE

---

PROJECT TITLE

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REFERENCE CONTACT PHONE

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LOCATION OF THE AIRPORT PROJECT

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REFERENCE CONTACT EMAIL

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BEGIN AND END DATE OF THE PROJECT

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YOUR FIRM'S ROLE ON THIS REFERENCED PROJECT (PRIME or SUB)PROJECT DESCRIPTION: 

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5. 

REFERENCE COMPANY NAME	DOLLAR VALUE OF PROJECT
REFERENCE CONTACT NAME/TITLE	PROJECT TITLE
REFERENCE CONTACT PHONE	LOCATION OF THE AIRPORT PROJECT
REFERENCE CONTACT EMAIL	BEGIN AND END DATE OF THE PROJECT

YOUR FIRM'S ROLE ON THIS REFERENCED PROJECT (PRIME or SUB)

PROJECT DESCRIPTION: 

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6. 

REFERENCE COMPANY NAME	DOLLAR VALUE OF PROJECT
REFERENCE CONTACT NAME/TITLE	PROJECT TITLE
REFERENCE CONTACT PHONE	LOCATION OF THE AIRPORT PROJECT
REFERENCE CONTACT EMAIL	BEGIN AND END DATE OF THE PROJECT

YOUR FIRM'S ROLE ON THIS REFERENCED PROJECT (PRIME or SUB)

PROJECT DESCRIPTION: 

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**FORM 3: LOBBYING AFFIDAVIT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ being first duly sworn, deposes and says that he or she is the (sole owner) (general partner) (joint venture partner) (president) (secretary) or (authorized representative) (circle one) of \_\_\_\_\_ (Bidder), maker of the attached bid and that neither the Bidder nor its agents have lobbied to obtain an award of the Agreement required by this Request for Bids from Lee County Board of Port Commissioners, members of the Airports Special Management Committee or employees of Lee County Port Authority, individually or collectively, regarding this Request for Bids.

The prospective Bidder further states that it has complied with the federal regulations concerning lobbying activities contained in 31 U.S.C., section 1352, 49 CFR Part 20 and Lee County Ordinance No. 03-14 relating to lobbying activities.

\_\_\_\_\_  
AFFIANT

**Notary Public**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ by means of ☐ physical presence or ☐ online notarization who produced the following as identification \_\_\_\_\_ (type of identification) or is personally known to me.

My Commission Expires \_\_\_\_\_

[stamp or seal]

\_\_\_\_\_  
[Signature of Notary Public]

\_\_\_\_\_  
[Typed or printed name]

**NOTE: THIS FORM MUST BE COMPLETED AND SUBMITTED BY ALL BIDDERS AND, IN THE CASE OF A JOINT VENTURE, FROM EACH PARTNER. PLEASE NOTE - THE LOBBYING PROHIBITION IS IN EFFECT UNTIL ISSUANCE OF A PURCHASE ORDER OR FINAL EXECUTION OF THE AGREEMENT RESULTING FROM THIS RFB, AS APPLICABLE.**

**FORM 4: PUBLIC ENTITY CRIMES CERTIFICATION**

**SWORN STATEMENT**  
**PURSUANT TO SECTION 287.133(3) (a), FLORIDA STATUTES**

A person, affiliate, or corporation who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, Florida Statutes, for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

The Bidder certifies by submission of this form that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any state or federal entity, department or agency.

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE PROCUREMENT AGENT FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

\_\_\_\_\_  
[Signature]

**Notary Public**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ by means of ☐ physical presence or ☐ online notarization who produced the following as identification \_\_\_\_\_ (type of identification) or is personally known to me.

My Commission Expires \_\_\_\_\_

[stamp or seal]

\_\_\_\_\_  
[Signature of Notary Public]\_\_\_\_\_  
[Typed or printed name]



**FORM 5: SCRUTINIZED COMPANIES CERTIFICATION**

Bidder hereby certifies under penalties of perjury as of the date of submission of its RFB to provide goods and services to Lee County Port Authority that it has not been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List as defined in section 287.135, Florida Statutes, is not engaged in business operations in Cuba and Syria; and will not engage in "Boycott Israel" activities, as defined in section 215.4725 (1)(a), Florida Statutes, that result in Bidder being placed on the Scrutinized Companies that Boycott Israel List created after October 1, 2016 and during the term of any contract awarded pursuant to this Request for Bids.

I further certify that I am duly authorized to submit this certification on behalf of the company as its agent and that the company is ready, willing and able to perform if awarded a contract.

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE PROCUREMENT OFFICE FOR LEE COUNTY PORT AUTHORITY IS FOR THAT PUBLIC ENTITY ONLY AND, THAT FALSIFICATION OF THIS CERTIFICATION MAY RESULT IN TERMINATION OF THE CONTRACT, DEBARMENT OF THE COMPANY FROM SUBMITTING A BID OR PROPOSAL FOR A PERIOD OF THREE (3) YEARS FROM THE DATE THE CERTIFICATION IS DETERMINED TO BE FALSE, CIVIL PENALTIES, AND THE ASSESSMENT OF ATTORNEY'S FEES AND COSTS AGAINST THE COMPANY. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM LEE COUNTY PORT AUTHORITY PRIOR TO ENTERING INTO A CONTRACT OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

\_\_\_\_\_  
[Signature]

**Notary Public**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ by means of ☐ physical presence or ☐ online notarization who produced the following as identification \_\_\_\_\_ (type of identification) or is personally known to me.

My Commission Expires \_\_\_\_\_

[stamp or seal]

\_\_\_\_\_  
[Signature of Notary Public]

\_\_\_\_\_  
[Typed or printed name]

**FORM 6: LOCAL PREFERENCE AFFIDAVIT - NOT APPLICABLE**

The firm submitting the attached bid is either (please check one):

- ☐ A Bidder whose principal place of business is located within the boundaries of Lee County, Florida. Please identify the firm name and physical address below:

Bidder Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ ST: \_\_\_\_\_ ZIP: \_\_\_\_\_

- ☐ A Bidder that has provided goods or services to Lee County or the Lee County Port Authority on a regular basis for the preceding consecutive three (3) years and has the personnel, equipment, and materials located within the boundaries of Lee County sufficient to constitute a present ability to perform the service or provide the goods for this project.

Please provide the following information:

- Number of Employees currently working in Lee County full time = \_\_\_\_\_

- Projects completed in Lee County over the last consecutive three (3) years: \_\_\_\_\_

Project Name \_\_\_\_\_ Began in 20\_\_\_\_ Completed in 20\_\_\_\_

Project Name \_\_\_\_\_ Began in 20\_\_\_\_ Completed in 20\_\_\_\_

Project Name \_\_\_\_\_ Began in 20\_\_\_\_ Completed in 20\_\_\_\_

Project Name \_\_\_\_\_ Began in 20\_\_\_\_ Completed in 20\_\_\_\_

- Specify the current Lee County location for equipment, materials and personnel that will be used full time on this project (attach additional pages if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- ☐ A Bidder whose principal place of business is located within the boundaries of an adjacent county with a reciprocal Local Vendor Preference agreement. Please identify the Bidder name and physical address below:

Bidder Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ ST: \_\_\_\_\_ ZIP: \_\_\_\_\_

Not a Local Vendor as defined by Lee County Ordinance 00-10, as amended by Lee County Ordinance Nos. 08-26 and 17-16.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

**Notary Public**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ by means of ☐ physical presence or ☐ online notarization who produced the following as identification \_\_\_\_\_ (type of identification) or is personally known to me.

My Commission Expires \_\_\_\_\_

[stamp or seal]

\_\_\_\_\_  
[Signature of Notary Public]

\_\_\_\_\_  
[Typed or printed name]

**[Remainder of page intentionally left blank]**

**FORM 7: BID BOND**

BID BOND NO. \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, that we \_\_\_\_\_, as Principal, and \_\_\_\_\_, a corporation licensed to do business in the State of Florida as a surety, are held firmly bound unto LEE COUNTY PORT AUTHORITY, LEE COUNTY, FLORIDA (obligee), in the sum of \$\_\_\_\_\_ (\$\_\_\_\_\_) for the payment whereof, well and truly to be made, we bind ourselves, our heirs, successors, personal representatives and assigns, jointly and severally, firmly, by these presents.

SIGNED AND SEALED this \_\_\_\_ day of \_\_\_\_\_, 2024.

WHEREAS, said Principal is herewith submitting a bid for RFB 24-0080LB AIRSIDE IMPROVEMENTS PAVING PACKAGE FOR RSW TERMINAL EXPANSION PHASE II.

NOW, THEREFORE, the condition of the above obligation is such that if said Principal will be awarded the contract upon said bid within the specified time and will enter into a written agreement, satisfactory in form, and must provide an acceptable Performance and Payment Bond from a Surety acceptable to the Authority as well as other insurance as may be required by the Authority within ten (10) calendar days from the issuance of the written Notice of Intent to Award date, or within such extended period as the Port Authority may grant, then this obligation will be null and void. Otherwise, said Principal and Surety must pay to said Authority in money the difference between the amount of the bid of said Principal and the amount for which said Authority may legally contract with another party to perform said work, if the latter amount be in excess of the former, together with any expenses and reasonable attorney's fees incurred by said Port Authority if suit be brought hereon, but in no event will said Surety's liability exceed the penal sum hereof plus such expenses and attorney's fees. For purposes of unsuccessful bid protests filed by the Principal herein, this obligation must bind the Surety to pay costs and damages associated with the bid protest or delays to the project upon finding from the Board of Port Commissioners for Lee County that the bid protest was frivolous and/or lacked merit.

Witness as to Principal: \_\_\_\_\_ (SEAL)  
\_\_\_\_\_  
(Principal)

\_\_\_\_\_  
(By)

Witness as to Surety: \_\_\_\_\_ (SEAL)  
\_\_\_\_\_  
(Surety's name)

\_\_\_\_\_  
(By-As Attorney in Fact, Surety)

**Affix Corporate Seals and attach proper Power of Attorney for Surety.**

## FORM 8: UTILIZATION STATEMENT

### Note: This form must be submitted with the Bidder's bid submittal

By completing this form you must identify and document whether you will meet the Port Authority's DBE participation goal for this project twelve percent (12%), and if not, you should identify and document your Good Faith Efforts (GFE) to meet the goal, as set forth in 49 CFR, Appendix A, Subpart C 26.53.

#### CERTIFIED DBE LIST

DBE Firm Name(s)	\$ Value of Work	% Percent of Total Project
1. _____	\$ _____	_____ %
Type of Work/Specialty: _____		
2. _____	\$ _____	_____ %
Type of Work/Specialty: _____		
3. _____	\$ _____	_____ %
Type of Work/Specialty: _____		
4. _____	\$ _____	_____ %
Type of Work/Specialty: _____		
5. _____	\$ _____	_____ %
Type of Work/Specialty: _____		

*Attach Additional Sheets as Necessary*

The undersigned Bidder/offeror has satisfied the requirements of the bid conditions in the following manner. (Please mark appropriate box)

- ☐ The Bidder/Offeror is committed to a minimum of 12% DBE utilization on this project.
- ☐ The Bidder/Offeror, while unable to meet the established goal, hereby commits to a minimum of \_\_\_\_\_ % DBE utilization on this project and also submits adequate documentation, as an attachment(s) demonstrating Good Faith Efforts.

A. Total Base Bid \$ \_\_\_\_\_

B. Total of DBE Subcontract Work \$ \_\_\_\_\_

**Total Anticipated DBE Participation** \_\_\_\_\_ % (B divided by A)

The undersigned hereby further assures that the information included herein is true and correct, and that the DBE firm(s) listed herein, have agreed to perform a commercially useful function as described in 49 CFR Part 26.55(c) in the work items noted for each firm. The undersigned further understands that no changes to this statement may be made without prior approval from the Lee County Port Authority.

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

# FORM 9: LETTER OF COMMITMENT

## LETTER OF COMMITMENT Disadvantaged Business Enterprise (This page shall be submitted for **each** proposed DBE firm)

**Bidder/Offeror** Company Name: \_\_\_\_\_

Project Name/#: \_\_\_\_\_

**DBE Firm:** Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip \_\_\_\_\_

**DBE Contact Person:** Name: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_

E-mail: \_\_\_\_\_

<i>Work items(s) to be performed by DBE Firm</i>	<i>Quantity/Unit Price</i>	<i>Total \$ Value of Work</i>
<b>Totals</b>		

The Bidder/Offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated participation is as follows:

Total DBE contract amount: \$ \_\_\_\_\_

### Affirmation:

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: \_\_\_\_\_  
(Signature of DBE Firm's Authorized Representative) (Date)

Company Title: \_\_\_\_\_

NOTE: In the event the Bidder/Offeror does not receive award of bid, any and all representations in this Letter of Commitment and Affirmation shall be null and void.



**FORM 10: CERTIFICATION OF COMPLIANCE****CERTIFICATION OF COMPLIANCE WITH  
FAA BUY AMERICAN PREFERENCE STATEMENT**

As a matter of bid responsiveness, the Bidder must complete, sign, date, and submit this certification statement with its bid. Bidder must indicate how it intends to comply with 49 USC § 50101, BABA and other related Made in America Laws, U.S. statutes, guidance, and FAA policies, by selecting one of the following certification statements. These statements are mutually exclusive.

Bidders must select one or the other (i.e., not both) by inserting a checkmark (✓) or the letter "X".

- ☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101, BABA and other related U.S. statutes, guidance, and policies of the FAA by:
- a) Only installing iron, steel and manufactured products produced in the United States;
  - b) Only installing construction materials defined as: 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 polyvinyl chloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
  - c) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - d) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the Bidder or offeror agrees:

- a) To provide to the Airport Sponsor or the FAA evidence that documents the source and origin of the iron, steel, and/or manufactured product.
- b) To faithfully comply with providing U.S. domestic products.
- c) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- d) Certify that all construction materials used in the project are manufactured in the U.S.

- ☐ Bidder hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for a Type 3 or Type 4 waiver under 49 USC § 50101(b).

By selecting this certification statement, the apparent Bidder with the apparent low bid agrees:

- a) To submit to the Airport Sponsor or FAA within fifteen (15) calendar days of being selected as the responsive Bidder, a formal waiver request and required documentation that supports the type of waiver being requested.
- b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.
- c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
- d) To furnish U.S. domestic product for any waiver request that the FAA rejects.
- e) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

**Required Documentation:**

**Type 2 Waiver (Nonavailability)** - The iron, steel, manufactured goods or construction materials or manufactured goods are not available in sufficient quantity or quality in the United States. The required documentation for the Nonavailability waiver is

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire
- b) Record of thorough market research, consideration where appropriate of qualifying alternate items, products, or materials including;
- c) A description of the market research activities and methods used to identify domestically manufactured items capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of sources.

**Type 3 Waiver** – The cost of components and subcomponents produced in the United States is more than sixty percent (60%) of the cost of all components and subcomponents of the “facility/project.” The required documentation for a Type 3 waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire including;
- b) Listing of all manufactured products that are not comprised of 100 percent U.S. domestic content (excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety).
- c) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- d) Percentage of non-domestic component and subcomponent cost as compared to total “facility” component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

**Type 4 Waiver (Unreasonable Costs)** - Applying this provision for iron, steel, manufactured goods or construction materials would increase the cost of the overall project by more than twenty-five percent (25%). The required documentation for this waiver is:

- a) A completed Content Percentage Worksheet and Final Assembly Questionnaire from
- b) At minimum two (2) comparable equal bids and/or offers;
- c) Receipt or record that demonstrates that supplier scouting called for in Executive Order 14005, indicates that no domestic source exists for the project and/or component;
- d) Completed waiver applications for each comparable bid and/or offer.

**False Statements:** Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

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Date

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Signature

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Company Name

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Title

**FORM 11: TRADE RESTRICTION CERTIFICATION**

By submission of a bid, the Bidder certifies that with respect to this solicitation and any resultant contract, the Bidder:

- 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 Bidder/Contractor must provide immediate written notice to the Owner if the Bidder/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 Bidder 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.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Title

**FORM 12: TAX DELINQUENCY AND FELONY CONVICTIONS****CERTIFICATION OF BIDDER  
REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS**

The Bidder must complete the following two (2) certification statements. The Bidder must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) or the letter "X" in the space following the applicable response. The Bidder 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 Bidder represents that it ☐ is or ☐ is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) The Bidder represents that it ☐ is or ☐ is not a corporation that was convicted of a criminal violation under any Federal law within the preceding twenty-four (24) months.

**Note**

If a Bidder responds in the affirmative to either of the above representations, the Bidder 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 Bidder 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**

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

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Date

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Signature

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Company Name

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Title

**FORM 13: CERTIFICATION OF OFFEROR/BIDDER REGARDING DEBARMENT/SUSPENSION****BIDDER CERTIFICATION REGARDING  
DEBARMENT, SUSPENSION, AND INELIGIBILITY  
LOWER TIER COVERED TRANSACTIONS****Bidder Certification**

By submitting a bid under the solicitation for this contract, the Contractor must have certified that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

**Lower Tier Contract Certification****CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT**

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

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

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Date

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Signature

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Company Name

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Title

**FORM 14: FOREIGN ENTITIES OF CONCERN CERTIFICATION**

**AFFIDAVIT-COMPLIANCE WITH 287.138,  
CONTRACTING WITH FOREIGN ENTITIES OF CONCERN**

Before me, the undersigned authority, personally appeared \_\_\_\_\_ (Name of Affiant) after being first duly sworn, deposes and says of his/her personal knowledge the following:

1. Affiant is the \_\_\_\_\_ (Title) of \_\_\_\_\_ (Business Name) which does business in the State of Florida, hereinafter called the "Bidder."
2. Bidder, pursuant to Section 287.138, Florida Statutes, certifies that (1) Bidder is not owned by a government of a foreign country of concern; (2) a government of a foreign country of concern does not have a "controlling interest" in Bidder, as defined by Section 287.138(1)(a), Florida Statutes; and (3) Bidder is not organized under the law of nor has its principal place of business in a foreign country of concern. For the purposes of this affidavit, foreign country of concern means the People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity of significant control of such foreign country of concern, as defined in Section 287.138(1)(c), Florida Statutes, as amended from time to time.
3. This Affidavit is executed in accordance with Section 287.138, Florida Statutes, for the purposes of preventing the Authority from entering into contracts with foreign entities of concern which would provide Bidder access to an individual's personal identifying information.

Signed and Delivered on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Affiant

\_\_\_\_\_  
Printed Name

**Notary Public**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ by means of ☐ physical presence or ☐ online notarization who produced the following as identification \_\_\_\_\_ (type of identification) or is personally known to me.

My Commission Expires \_\_\_\_\_

[stamp or seal]

\_\_\_\_\_  
[Signature of Notary Public]

\_\_\_\_\_  
[Typed or printed name]



## **DRAFT CONSTRUCTION AGREEMENT**

A Draft Construction Agreement intended to be used for this project is attached. General Conditions and Special Conditions that are also part of the agreement are part of the solicitation documents.

Contract No. \_\_\_\_\_

Vendor No. \_\_\_\_\_

**LEE COUNTY PORT AUTHORITY****BOARD OF PORT COMMISSIONERS****AIRSIDE IMPROVEMENTS PAVING PACKAGE FOR RSW TERMINAL EXPANSION PHASE II****AT SOUTHWEST FLORIDA INTERNATIONAL AIRPORT****DRAFT - CONSTRUCTION AGREEMENT 24-0080**

THIS CONSTRUCTION AGREEMENT (referred to as "Agreement") is entered this xx day of xxx, 2024, between the **LEE COUNTY PORT AUTHORITY**, a political subdivision and special district of the State of Florida, at 11000 Terminal Access Road, Suite 8671, Fort Myers, Florida, 33913 ("Authority"), and **XXX, LLC**, a XXX Company, ("Contractor") whose business address is XXXX, telephone number is XXXX, and Federal Employer Identification Number XXXX.

In consideration of the mutual covenants herein set forth, the Authority and the Contractor agree as follows:

**1. PROJECT DESCRIPTION**

The Contractor at its own cost and expense shall and will furnish all labor, services, materials, tools and equipment, insurance, permits and all incidentals, as shown on the bid documents (the "Work") required to complete the AIRSIDE IMPROVEMENTS PAVING PACKAGE FOR RSW TERMINAL EXPANSION PHASE II (the "Project") at the Southwest Florida International Airport ("Airport") in a satisfactory and workmanlike manner and in strict accordance with the terms of this Contract, the Request for Bids for RFB 24-0080LB (including all Parts and Forms attached thereto), the Contractor's bid, the General and Special Conditions, the Airside Improvements Phasing Plan; the construction drawings and Technical Specifications,

(collectively the "CONSTRUCTION DOCUMENTS").

## 2. CONTRACT DOCUMENTS

The Agreement includes and incorporates by reference as if specifically set forth in the Agreement the following documents: the advertisement for bids; the notice to Bidders; the Request for Bids (including Parts A-H and Forms 1-14); the Contractor's bid; the project manuals; the General and Special Conditions; the Federal Conditions; the Airside Improvements Phasing Plan; the construction drawings; the Technical Specifications; the Plans; the notice of award and any addenda issued before; and all amendments or other modifications issued after execution of this Agreement.

## 3. SCOPE

The Airside Improvements Paving Package Project consists of full-strength Taxiway and Taxilane construction with asphalt (Base Bid) or concrete (Bid Alt 1) paving. The apron hardstands will consist of full-strength concrete construction and paving. Other site improvements include fine grading, airfield electrical, pavement markings, and airfield MOT.

## 4. COMPENSATION

In consideration of the performance of the Agreement, the Authority agrees to pay the Contractor in current funds, the total Lump Sum of XXXX, (\$XXXX), as compensation for its services.

Notwithstanding the above, the Lump Sum above is based on estimated quantities contained in the Request for Bids and may be adjusted by the Authority as the following pay items shall be compensated based upon the final field verified quantity installed in place, assuming placement/installation of said items is deemed compliant to design intent by the CEI and Engineer of Record:

### **(UNIT PRICE TABLE TO BE PROVIDED BASED ON TABLE PROVIDED IN RFB DOCUMENT)**

Even though this is a Lump Sum Agreement, specific items of Work may be paid on a unit

price basis. Unit priced paid items of Work for this Agreement listed in the Project Request for Bids are identified above. Only quantities verified to have been incorporated into the Work for these items shall be paid to the Contractor under the Lump Sum agreement.

5. INSURANCE

Contractor shall maintain throughout the performance of the Work insurance coverages in the following minimum amounts subject to any specific terms and conditions outlined in the Request for Bids and the General Conditions.

Commercial General Liability	\$10,000,000	Per Occurrence
	\$10,000,000	General Aggregate
Business Automobile Liability	\$5,000,000	Bodily Injury
		Per Person/Per Accident
	\$5,000,000	Property Damage
		Per Person/Per Accident
Environmental Liability and/or Contractor's Pollution Liability and/or Error & Omissions Liability	OR	
	\$5,000,000	Combined Single Limits
		Per Accident
	\$2,000,000	Per Claim or Occurrence and
	\$2,000,000	Aggregate Per One Year Policy Period
Employer's Liability	\$1,000,000	Employee-Bodily Injury
	\$1,000,000	Employee-Disease
Worker's Compensation	In accordance with Statutory Requirements	

The Authority must be named as additional insured in all insurance policies required by this Agreement, to the full limits of the policy, even if those limits are in excess of the limits required by this Agreement. Contractor, Subcontractors and Independent Contractors insurance policies will be primary and noncontributory and include a waiver of subrogation in favor of the

Authority. Insurance requirements may only be adjusted with the approval of the Authority's Risk Manager. The Contractor shall furnish separate certificates and endorsements for each subcontractor. The Contractor must provide the Port Authority Risk Manager with a list of all subcontractors and independent contractors prior to beginning work on the Airport or for the benefit of the Port Authority. The Contractor shall require and ensure that all subcontractors and independent contractors carry insurance as required herein.

## **6. PUBLIC RECORDS**

### **1. Airport Security Plans**

Contractor acknowledges that the Airport Security Plan, and other critical operational materials designated by the Authority, are exempt from disclosure as public records under Sections 331.22, and 119.071(3)(a), Florida Statutes.

These materials include, but are not limited to, any photograph, map, blueprint, drawing, or similar material that depicts critical operational information that the Authority determines could jeopardize airport security if generally known.

### **2. Building Plans**

Contractor further acknowledges that Section 119.07(3)(b)1., Florida Statutes, exempts building plans, blueprints, schematic drawings, and diagrams depicting internal layouts and structural elements of a public building from the disclosure requirements of the Florida Public Records Law.

### **3. Airport Security Systems**

Section 281.301, Florida Statutes exempts information relating to the security systems for any property owned by or leased to the Authority and any information relating to the security systems for any privately-owned or leased property which is in Authority's possession, including all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to or

revealing such systems or information, and all meetings relating directly to or that would reveal such systems or information, is confidential and exempt from disclosure.

Section 119.071(3)(a)1., and 2., Florida Statutes reiterates the security system exemption and expands upon it to include threat assessments; threat response plans; emergency evacuation plans; shelter arrangements; security manuals; emergency equipment; and security training as confidential and exempt from disclosure.

4. Confidentiality

Contractor agrees not to divulge, furnish or make available to any third person, firm or organization, without Authority's prior written consent, or unless incidental to the proper performance of Contractor's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any confidential or exempt information concerning the services to be rendered by Contractor hereunder. Contractor shall require all of its employees, agents, subcontractors to comply with the provisions of this Section.

7. **CONTRACTOR'S COMPLIANCE WITH PUBLIC RECORDS LAW**

Contractor specifically acknowledges its obligations to comply with Section 119.0701, Florida Statutes with regard to public records, and agrees to:

- a) Keep and maintain public records that ordinarily and necessarily would be required by the Authority in order to perform the services required under this Agreement;
  - b) Upon request from the Authority, provide the Authority with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
  - c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law;
- and



- d) Meet all requirements for retaining public records and transfer, at no cost to the Authority, all public records in possession of Contractor upon termination of this Contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Authority in a format that is compatible with the information technology system of the Authority.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 239-590-4504, 11000 TERMINAL ACCESS ROAD, SUITE 8671, FORT MYERS, FLORIDA 33913, [publicrecords@flylcpa.com](mailto:publicrecords@flylcpa.com); <https://www.flylcpa.com/publicrecordsrequests/>**

#### **8. AIRPORT SECURITY REQUIREMENTS**

Contractor acknowledges that the Authority is subject to strict federal security regulations limiting access to secure areas of the airport and prohibiting violations of the adopted Airport Security Program. Contractor may need access to these secure areas to complete the work required by this Agreement.

Contractor therefore agrees, in addition to the other indemnification and assumption of liability provisions set out above, to indemnify and hold harmless the Authority and Lee County, Florida, and their respective commissioners, officers and employees, from any duty to pay any fine or assessment or to satisfy any punitive measure imposed on the Authority or Lee County, Florida by the FAA or any other governmental agency for breaches of security rules and regulations by Contractor, its agents, employees, subcontractors, or invitees.

Contractor further acknowledges that its employees and agents may be required to undergo background checks and take Airport Security and Access Procedures ("S.I.D.A.") training before receiving an Airport Security Identification Badge.

Immediately upon the completion of any work requiring airport security access under this Agreement, or upon the resignation or dismissal or conclusion of any work justifying airport security access to any agent, employee, subcontractor, or invitee of the Contractor, Contractor shall notify the Airport's Police Department that the Contractor's access authorization or that of any of Contractor's agents, employees, subcontractors, or invitees has changed. Contractor will confirm that notice, by written confirmation on company letterhead, within twenty-four (24) hours of providing initial notice to the Airport's Police Department.

Upon termination of this Agreement, or the resignation or dismissal of any employee or agent, or conclusion of any work justifying airport security access to any agent, employee, subcontractor, or invitee of the Contractor, Contractor shall surrender any Airport Security Identification Badge held by the Contractor or by Contractor's agents, employees, subcontractors, or invitees. Should the Contractor fail to surrender these items within five (5) days, the Contractor shall be assessed a fee of One Hundred Dollars (\$100.00) per identification badge not returned. This fee will be billed to the Contractor or deducted from any money owing to the Contractor, at the Authority's discretion.

#### **9. INDEMNIFICATION**

Contractor agrees to indemnify and hold harmless Authority and Lee County, Florida and their respective commissioners, officers, consultants, agents and employees and anyone directly or indirectly employed by either of them, from and against any and all liabilities, losses, actions, suits, proceedings, claims or demands for injury, damage, loss, liability, cost or expense, including attorney's fees, of any kind or nature whatsoever, which may be brought, made or filed against Lee County or the Authority, and their respective officers and employees, for monies, or other loss, allegedly caused or incurred, in whole or in part, as a result of any negligent, wrongful, or intentional act or omission by Contractor, or anyone performing work required of Contractor under this Agreement.

#### **10. AUTHORITY'S REMEDIES**

If the Contractor shall fail to comply with any of the terms, conditions, provisions, or stipulations of this Agreement, according to the true intent and meaning thereof, then the Authority may avail itself of any or all remedies provided in the Agreement or available under law and require Contractor to pay liquidated damages as provided in the Request for Bids, Bid Documents and any Addenda.

#### **11. DISCRIMINATION CLAUSE**

The Contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Contractor shall carry out all 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 Agreement, which may result in the termination of this Agreement or such other remedy as the recipient (Authority) deems appropriate.

#### **12. NONDISCRIMINATION CLAUSE**

Pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, the Restoration Action of 1987, the Florida Civil Rights Act of 1992, and as said Regulations may be amended, the Contractor must assure that "no person in the United States shall on the basis of race, color, national origin, sex, creed or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity," and in the selection and retention of subcontractors/subconsultants, including procurements of materials and leases of equipment.

The Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the Agreement covers any

activity, project, or program set forth in Appendix B of 49 CFR Part 21.

**13. GENERAL CIVIL RIGHTS CLAUSE**

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

This provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the Agreement. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

**14. PROMPT PAYMENT AND RELEASE OF RETAINAGE REQUIREMENTS**

The following requirement will apply to all contracts funded, either wholly or in-part, with DOT financial assistance:

Contractor agrees to pay each subcontractor under this Agreement for satisfactory performance of its Agreement no later than fifteen (15) days from the receipt of each payment the Contractor receives from Authority. Contractor agrees further to return retainage payment to each subcontractor within forty-five (45) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment beyond these time limits may occur only for good cause following written approval of the delay by the Authority. This clause applies to both DBE and non- DBE subcontractors.

**15. E-VERIFY CLAUSE**

Contractor certifies that it has registered and is using the U.S. Department of Homeland Security's E-Verify Program for Employment Verification in accordance with the terms governing use of the Program. The Contractor further agrees to provide the Authority with proof of such enrollment within thirty (30) days of the date of this Agreement. Contractor agrees to use the E-Verify Program to confirm the employment eligibility of:

15.1. All persons employed by Contractor during the term of this Agreement.

15.2. All persons, including contractors and subcontractors, assigned by the Contractor

to perform work or provide services or supplies under this Agreement.

Contractor further agrees that it will require each contractor or subcontractor performing work or providing services or supplies under this Contract to enroll in and use the U.S. Department of Homeland Security's E-Verify Program for Employment Verification to verify the employment eligibility of all persons employed by the contractor or subcontractor during the term of this Agreement.

Contractor agrees to maintain records of its participation and compliance with the provisions of the E-Verify Program, including participation by its contractors and subcontractors as provided above, and to make such records available to the Authority or other authorized state or federal agency consistent with the terms of this Agreement.

Compliance with the terms of this Section is made an express condition of this Agreement, and the Authority may treat failure to comply as a material breach of the Agreement and grounds for immediate termination.

#### **16. WARRANTIES**

Contractor shall obtain and assign to the Authority all required express warranties given to Contractor or any subcontractors by materialmen supplying materials, equipment or fixtures that are to be incorporated into the Project. Contractor further warrants to Authority that any materials, parts and equipment furnished under this Agreement will be new unless otherwise replace specified, and that all work will be of good quality, free from all defects and in conformance with the Agreement.

The Contractor agrees that all items furnished under this Agreement shall be warranted for a period of one (1) year from the date that a Certificate of Substantial Completion is issued, unless otherwise specified in the Agreement documents. If, within the warranty period, any work is found to be defective or not in conformance with the Agreement, Contractor shall correct or replace it promptly at no cost to Authority after receipt of written notice from Authority. Contractor

shall also be responsible for and pay for replacement or repair of any materials or work which may be damaged as a result of such replacement or repair. The warranties are in addition to those implied warranties to which Authority is entitled as a matter by law.

**17. FAA PROVISIONS**

The parties incorporate herein by reference all provisions lawfully required to be contained herein by the Federal Aviation Administration or any other governmental body or agency, attached as Exhibit A. If the FAA or any successor requires modifications or changes in this Agreement as a precedent to the granting of funds for the improvement of the Airport, or otherwise, Contractor agrees to consent to such amendments, modifications, revisions, supplements, or deletions of any of the terms, conditions, or requirements of this Contract as may be reasonably required.

**18. SOVEREIGN IMMUNITY**

The Contractor acknowledges and agrees that Authority does not waive its sovereign immunity by entering into this Agreement and that nothing herein shall be interpreted as a waiver of Authority's rights, including the limitation of waiver of immunity per Section 768.28, Florida Statutes, or any other statute, and Authority expressly reserves those rights to the fullest extent allowed by law.

**19. GOVERNING LAW AND VENUE**

This Agreement shall be governed by the laws, rules, and regulations of the State of Florida. Any suit or action brought by either party to this Agreement against the other party relating to or arising out of this Agreement shall be brought in the Florida state courts in Lee County, Florida. The prevailing party in any such suit or action, including any appeals, shall be entitled to recover from the other party their reasonable attorneys' fees and court costs.

**IN WITNESS WHEREOF**, the parties have executed this Agreement effective the day and year first



written above.

ATTEST: KEVIN C. KARNES  
Clerk of the Circuit Court

BOARD OF PORT COMMISSIONERS  
LEE COUNTY, FLORIDA

By:

\_\_\_\_\_  
Deputy Clerk

By:

\_\_\_\_\_  
Chair or Vice Chair

Approved as to Form for the  
Reliance of Lee County Port  
Authority Only:

By:

\_\_\_\_\_  
Port Authority Attorney's Office

Signed, Sealed and Delivered in the  
presence of:

(NAME OF CONTRACTOR)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Authorized Signature for Provider

\_\_\_\_\_  
Witness

By:

\_\_\_\_\_  
Printed Name

SEAL

\_\_\_\_\_  
Title

## **EXHIBIT A** **FAA PROVISIONS**

### **Access to Records and Reports**

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Authority, 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.

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

### **Affirmative Action Requirement**

#### **NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY**

Notice of Requirement for Affirmative Action

to ensure Equal Employment Opportunity

1. Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Goals for minority participation for each trade:

Goals for female participation in each trade:                      6.9%

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

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

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in

excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

4. As used in this notice and in the contract resulting from this solicitation, the “covered area” is **Florida, Lee County, and Fort Myers.**

Reference: 41 CFR Part 60-4; Executive Order 11246

### **Breach of Contract**

See Agreement.

### **Buy American Preferences**

The Contractor certifies that its bid/offer is in compliance with 49 USC § 50101, BABA and other related Made in America Laws,<sup>1</sup> 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 Contractor 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 polyvinyl chloride, 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.

All applications for an FAA Buy American Preference Waiver includes, at minimum, a completed Content Percentage Worksheet and Final Assembly Questionnaire. Additional information may be requested from the applicant by the FAA. Airport Sponsors, consultants, construction contractors, or equipment manufacturers are responsible for completing and submitting waiver applications. The FAA is unable to make a determination on waiver requests with incomplete information. Sponsors must confirm with the bidder or offeror to assess the adequacy of the waiver request and associated information prior to forwarding a waiver request to the FAA for action. All FAA waivers forms are available from the FAA Buy American Requirements webpage.

Proprietary Confidentiality. Exemption 4 of the Freedom of Information Act protects "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential. Proprietary manufacturing and design information submitted to the Federal Aviation Administration for

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<sup>1</sup> 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.

the purposes of receiving a Buy American Waiver shall not be disclosed outside the FAA. The FAA will provide a written notification to the Airport Sponsor, manufacturer(s), contractor(s) or supplier(s) when a waiver determination is complete.

Reference: Title 49 USC § 50101; Executive Order 14005; BABA

### **Civil Rights General**

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

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

If the Contractor transfers its obligation to another, the transferee is obligated in the same manner as the Contractor. The above provision obligates the Contractor for the period during which the property is owned, used or possessed by the Contractor and the airport remains obligated to the Federal Aviation Administration.

Reference: 49 USC § 47123

### **Civil Rights – Title VI Assurances**

#### **Title VI List of Pertinent Non Discrimination Acts and Authorities**

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

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to

include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- 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).

#### **Compliance with Nondiscrimination Requirements:**

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

- 1. Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Non Discrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- 2. Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- 3. Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the Contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
- 4. Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Authority 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 Authority or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

**5. Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Authority 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. Canceling, terminating, or suspending a contract, in whole or in part.

**6. Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Authority 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 Authority to enter into any litigation to protect the interests of the Authority. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

Reference: 49 USC § 47123, FAA Order 1400.11

#### **Clean Air/Water Pollution Control**

If the Agreement exceeds \$150,000, 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 Authority immediately upon discovery. The Authority 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.

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

#### **Contract Work Hours and Safety Standards**

Contract Work Hours and Safety Standards Act Requirements (CWHSSA) (40 USC §§ 3702 & 3704) requires contractors and subcontractors on covered contracts to pay laborers and mechanics employed in the performance of the contracts not less than one and one-half times their basic rate of pay for all hours worked over 40 in a workweek. CWHSSA prohibits unsanitary, hazardous, or dangerous working conditions on federally-assisted projects. The Wage and Hour Division (WHD) within the U.S. Department of Labor (DOL) enforces the compensation requirements of this Act, while DOL's Occupational Safety and Health Administration (OSHA) enforces the safety and health requirements.

#### **Contract Types –**

**Construction** – This provision applies to all contracts and lower tier contracts that exceed \$100,000, and employ laborers, mechanics, watchmen, and guards.

**Equipment** – This provision applies to any equipment project exceeding \$100,000 that involves installation of equipment onsite (e.g., electrical vault equipment). This provision does not apply to equipment acquisition projects where the manufacture of the equipment takes place offsite at the vendor plant (e.g., ARFF and SRE vehicles).

**Professional Services** – This provision applies to professional service agreements that exceed \$100,000 and employs laborers, mechanics, watchmen, and guards. This includes members of survey crews and exploratory drilling operations.

**Property** – While most land transactions do not involve employment of laborers, mechanics, watchmen, and guards, under certain circumstances, a property acquisition project could require such employment. Examples include the installation of property fencing or testing for environmental contamination

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 therefore 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 Authority 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.

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

**Copeland Anti-Kickback**

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 Authority, a weekly statement on the wages paid to each employee performing on covered work during the prior week. The Authority must report any violations of the Act to the Federal Aviation Administration.

Reference: 2 CFR Part 200, Appendix II(D); 29 CFR Parts 3 and 5.

### **Davis Bacon Requirements**

#### **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 Authority 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, Authority, 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, the Authority, 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, the Authority, 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, Authority, 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 Authority, 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, the Authority, 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.

Reference: 2 CFR Part 200, Appendix II(D); 29 CFR Part 5; 49 USC § 47112(b); 40 USC §§ 3141-3144, 3146, and 3147

### **Debarment and Suspension**

#### **A11.3.1 Bidder or Offeror Certification**

By submitting a bid/proposal under the solicitation for this contract, the Contractor must have certified that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

#### **A11.3.2 Lower Tier Contract Certification**

#### **CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT**

The Contractor, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, must verify each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The Contractor 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 Offerer/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.

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

### **Disadvantaged Business Enterprise**

**APPLICABILITY** – all contracts with Airports that have a DBE program on file with the FAA.

#### **Contract Assurance (§ 26.13) –**

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation-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 Authority 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 (§26.29)** – The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than [10 days] days from the receipt of each payment the prime contractor receives from [the Authority]. The prime contractor agrees further to return retainage payments to each subcontractor within [30 days] 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 [Authority]. This clause applies to both DBE and non-DBE subcontractors.

**Termination of DBE Subcontracts (49 CFR § 26.53(f)) –**

The prime Contractor must not terminate a DBE subcontractor listed in response to the solicitation (or an approved substitute DBE firm) without prior written consent of the Authority. This includes, but is not limited to, instances in which the prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

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

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

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

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

Reference: 49 CFR part 26

**Distracted Driving**

**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 Authority 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.

Reference: Executive Order 13513, DOT Order 3902.10

### **Prohibition on Certain Telecommunications and Video Surveillance Services and Equipment**

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

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

### **Domestic Preferences for Procurements**

The Contractor certifies by signing and submitting its bid or proposal that, to the greatest extent practicable, the Contractor has provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR § 200.322.

Reference: 2 CFR § 200.322; 2 CFR Part 200, Appendix II(L)

### **Drug Free Workplace Requirements**

The Drug-Free Workplace Act of 1988 requires some Federal contractors and *all* Federal grantees to agree that they will provide drug-free workplaces as a condition of receiving a contract or grant from a Federal agency. The Act does **not** apply to contractors, subcontractors, or subgrantees, although the Federal grantees workplace may be where the contractors, subcontractors, or subgrantees are working.

Reference: 49 CFR part 32, Drug-Free Workplace Act of 1988 (41 USC 8101-8106, as amended)

### **Equal Employment Opportunity**

The purpose of this provision is to provide equal opportunity for all persons, without regard to race, color, religion, sex, or national origin who are employed or seeking employment with contractors performing under a federally-assisted construction contract. There are two provisions — a construction clause and a specification clause.

The equal opportunity contract clause must be included in any contract or subcontract when the amount exceeds \$10,000. Once the equal opportunity clause is determined to be applicable, the contract or subcontract must include the clause for the remainder of the year, regardless of the amount or the contract.

#### ***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 identity, 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 therefore, 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 as 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).

### **Federal Fair Labor Standards Act**

The provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), are incorporated by reference 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.

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

### **Lobbying and Influencing Federal Employees**

Consultants and contractors that apply or bid for an award of \$100,000 or more must have certified that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or another award covered by 31 USC §1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

For an award over \$100,00, the Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

Reference: 31 USC § 1352 – Byrd Anti-Lobbying Amendment, 2 CFR part 200, Appendix II(I), 49 CFR part 20, Appendix A

### **Prohibition of Segregated Facilities**

- (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 washrooms, 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 restrooms 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.

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

### **Occupational Safety and Health Act**

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

Reference: 29 CFR part 1910

### **Procurement of Recovered Materials**

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

- 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](http://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.

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)

### **Tax Delinquency and Felony Conviction**

The Contractor must have certified under the procurement process that resulted in the award of this contract that:

- Contractor has not been convicted of a Federal felony within the last 24 months; or
- Contractor does not have any outstanding tax liability for which all judicial and administrative remedies have lapsed or been exhausted.

Reference: Sections 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

### **Termination of Contract**

See the attached Agreement.

Reference: 2 CFR § 200 Appendix II(B), FAA Advisory Circular 150/5370-10, Section 80-09

### **Foreign Trade Restriction**

#### **TRADE RESTRICTION CERTIFICATION**

By accepting this contract the Contractor certifies the following statements are true –

- 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 Section 1001.

The Contractor must provide immediate written notice to the Authority if the 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 Contractor agrees 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 Contractor 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 Authority's cancellation of the contract or subcontract for default at no cost to the Authority or the FAA. Reference: 49 USC § 50104, 49 CFR part 30

#### **Veteran's Preference**

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

#### **Reference**

FAA Airports (2023, January 20). Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects. Required Contract Provisions for Airport Improvement Program and for Obligated Sponsors, 20 January 2023.

<https://www.faa.gov/sites/faa.gov/files/2023-01/combined-federal-contract-provisions-2023-1-20.pdf>