

# Fayetteville Regional Airport – Airline Terminal Improvements – Part 3

Owner: City of Fayetteville  
Fayetteville, North Carolina  
Gordon Johnson Architecture

AP#2207

July 31, 2023

## NOTICE TO BIDDERS

Pursuant to N.C.G.S. 143-128 sealed proposals will be received from prequalified general contractors by the Fayetteville Regional Airport, on behalf of the City of Fayetteville, North Carolina, until 4:00 p.m., Thursday, August 31, 2023, in the Airport Conference Room, 1<sup>st</sup> floor, Main Terminal Building, 400 Airport Road, Fayetteville, North Carolina, for the project entitled **“Fayetteville Regional Airport – Airline Terminal Improvements – Part 3”**. A mandatory pre-bid conference will be held at 10:00 a.m., Tuesday, August 15, 2023, in the ground floor Conference Room of the Terminal Building, 400 Airport Road, Fayetteville, North Carolina 28306. A site visit will take place immediately following the pre-bid conference for those interested in seeing the project areas.

Plans, specifications and bid documents dated July 31, 2023 will be available online for downloading at [www.gordonjohnsonarchitecture.com](http://www.gordonjohnsonarchitecture.com) (look for the “Bid Sets and Addenda” tab on the upper right-hand corner of our home page) on Thursday August 03, 2023 or may be viewed in the Purchasing Office of the City of Fayetteville, City Hall Building, 433 Hay Street, Fayetteville, North Carolina 28301, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Plans and specifications will also be on file at [www.iSqFt.com](http://www.iSqFt.com).

Each Proposal shall be accompanied by cash, cashier’s check, or certified check drawn on a bank insured by the Federal Deposit Insurance Corporation or Savings Association Insurance Fund. Checks shall be made payable to the City of Fayetteville, North Carolina, in an amount not less than five percent (5%) of the total bid as a guarantee that a Contract, if awarded, will be entered into. In lieu thereof, a Bid Bond which conforms to the provisions of G.S. 143-129 as amended by Chapter 1104 of the Public Laws of 1951 may be submitted by the Bidder.

Performance and Payment Bonds will be required in the amount of 100% of the contract award amount and shall be furnished by the Contractor prior to start of work. All contractors are notified that North Carolina Statutory Provisions (Chapter 87, Article 1) pertinent to licensing of Contractors will be observed in receiving, reading, and awarding of contracts. Bids may not be withdrawn after the scheduled closing time for the receipt of proposals for a period of one hundred twenty (120) days. The Owner may make such investigations as deemed necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request.

The Contractor shall complete all work within three hundred sixty-five (365) calendar days. Failure to complete the work within this time frame will cause considerable damage to the City; therefore a liquidated damage charge of \$1,500.00 per day (or actual damages whichever is greater) for each day of overrun will be assessed to the Contractor.

This project will be funded in part with federal grant funds under the Federal Aviation Administration’s Airport Improvement Program. Certain federal contract requirements are included in Appendix D of the contract documents and are incorporated herein by reference, including but not limited to Buy American Preference, Foreign Trade Restriction, Davis Bacon, Affirmative Action, Government-wide Debarment and Suspension and Government-wide Requirements for Drug-free Workplace.

# Fayetteville Regional Airport – Airline Terminal Improvements – Part 3

Owner: City of Fayetteville  
Fayetteville, North Carolina  
Gordon Johnson Architecture

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July 31, 2023

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

The City of Fayetteville hereby notifies all bidders that in regard to any contract entered into pursuant to this advertisement, that the bidder shall make good faith efforts, as defined in Appendix A of 49 CFR Part 26, Regulations of the Office of the Secretary of Transportation, to subcontract 8.4% of the dollar value of the prime contract to Disadvantaged Business Enterprises (DBE's). Only firms certified as DBE's by the NCDOT Unified Certification Program may be applied to the goal. The apparent successful competitor will be required to submit with the bid information concerning the DBE firms that will participate in this contract. The information shall include the name and address of each DBE, a description of the work to be performed by each named firm, and the dollar value of the sub-contract. If the bidder fails to achieve the contract goal stated herein, they will be required to provide documentation demonstrating that it made good faith efforts in attempting to do so. A bid that fails to meet these requirements will be considered nonresponsive.

The successful bidder must provide written confirmation from each of the DBE firms the bidder lists in their commitment included in the bid. The written confirmation shall be made using the Letter of Intent form and shall be submitted within the time frame established in Appendix C of the contract documents.

The right is reserved to reject any or all bids and to waive all informalities concerning bid, or award bid to the lowest responsible bidder or bidders, taking into consideration quality, performance and the time specified in the proposals for the performance of the contract.

It is the policy of the City of Fayetteville to provide locals and minorities equal opportunity for participating in all aspects of the City's contracting and procurement programs, including but not limited to, construction projects, supplies and material purchase, and professional and personal service contracts.

The City of Fayetteville encourages and invites local, small, and/or minority owned businesses to participate in the City's procurement process.

**CITY OF FAYETTEVILLE**

Douglas J. Hewett, ICMA-CM  
City Manager

**Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville  
Fayetteville, North Carolina

**Bid Proposal:** For General Construction of the Fayetteville Regional Airport – Airline Terminal Improvements – Part 3; FAA AIP 3-37-0021-054-2022.

From: \_\_\_\_\_ License No. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To: City of Fayetteville  
433 Hay Street  
Fayetteville, NC 28301

Re: Fayetteville Regional Airport – Airline Terminal Improvements – Part 3

The undersigned, as bidder, hereby declares that the only person or persons interested in this proposal as principal or principals is or are named herein and that no person other than those herein mentioned, has any interest in the proposal or in the contract to be entered into; that this proposal is made without connection with any other person, company, or parties making a bid or proposal; and that it is in all respects fair and in good faith without collusion or fraud.

A bidder shall be considered disqualified for any of the following reasons, among others;

(a) Submitting more than one proposal from the same partnership, firm, or corporation under the same or different name.

(b) Evidence of collusion among bidders. Bidders participating in such collusion shall be disqualified as bidders for any future work of the City until any such participating bidder has been reinstated by the City as a qualified bidder.

The bidder further declares that he has examined the site of the work and informed himself fully in regard to all conditions pertaining to the place where the work is to be done, that he has examined the specifications for the work and the contract documents relative thereto, and has read the special provisions furnished prior to the opening of the bids; that he has satisfied himself relative to the work to be performed. In the case of conflict between words and figures, the words will govern.

The bidder proposes and agrees that if this proposal is accepted, to contract with the City of Fayetteville in the form of contract specified, to furnish all necessary materials, equipment, machinery, tools, apparatus, means of transportation, and labor necessary to perform all construction in full and complete agreement with the plans and specifications and contract documents entitled FAYETTEVILLE REGIONAL AIRPORT – AIRLINE TERMINAL IMPROVEMNETS – PART 3; F FAA PROJECT 3-37-0021-054-2022 to the full and entire satisfaction of the Fayetteville Regional Airport and City of Fayetteville for the stipulated sum indicated.

**Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville  
Fayetteville, North Carolina

The bidder further proposes and agrees that if this proposal is accepted, to commence work on the commencement date specified in the Notice to Proceed and to complete fully all work hereunder within the following consecutive calendar days:

Commencement date to Completion: 365 calendar days

Liquidated damages for failure to complete all work by the specified number of days are fixed at the sum of \$1,500.00 per calendar day.

Lump Sum Base Bid: \_\_\_\_\_  
\_\_\_\_\_ Dollars (\$\_\_\_\_\_)

MAJOR SUB CONTRACTS FOR SINGLE PRIME CONTRACTOR

For projects bid in the Single Prime Alternative list the names, bid, and license number of the major sub contractors here:

Mechanical \_\_\_\_\_ \$ \_\_\_\_\_ License #: \_\_\_\_\_  
Plumbing: \_\_\_\_\_ \$ \_\_\_\_\_ License #: \_\_\_\_\_  
Electrical: \_\_\_\_\_ \$ \_\_\_\_\_ License #: \_\_\_\_\_  
Fire Protection: \_\_\_\_\_ \$ \_\_\_\_\_ License #: \_\_\_\_\_

ALTERNATES

Should any of the alternates as described in the contract documents be accepted, the amount written below shall be the amount to be “added to” the Base Bid. Award of the contract will be the lowest responsive and qualified bidder based on any combination of Base Bid and Bid Alternates selected by the City at the time of initial contract. The City reserves the right to select the bid alternatives at a later date during the contract or not at all.

- 1. Alt. G-1: Provide reroofing work at Main Terminal Ticketing Wing as shown on plans.

ADD \_\_\_\_\_ Dollars (\$\_\_\_\_\_)

- 4. Alt. G-2: Provide property insurance (builder’s risk) as specified.

ADD \_\_\_\_\_ Dollars (\$\_\_\_\_\_)

**Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville  
Fayetteville, North Carolina

UNIT PRICES

These unit prices are applicable to lump sum work and are for changes in the work, or for unforeseen conditions encountered per Specification Section 01270.

A. Unit Price A-1 – Replace unsuitable soil per CY:

\_\_\_\_\_ Dollars (\$\_\_\_\_\_)

B. Unit Price A-2 – Undercut and replace with Stone per CY:

\_\_\_\_\_ Dollars (\$\_\_\_\_\_)

BOND:

The Undersigned agrees, if awarded the contract to furnish and deliver to the General Consultant within 10 days following receipt of notice of the award, a signed Contract, satisfactory Performance and Labor and Material Payment Bonds, each in an amount equal to 100% of the Contract Price, and all required certificates of insurance.

CERTIFIED CHECK OR BID BOND:

The bidder further agrees that in the case of failure on his part to execute said contract and provide required bonds within 10 consecutive calendar days after written notice is given of the award of the contract, that a check, cash, or bid bond in the amount of 5% shall accompany this bid and shall be paid into the hands of the City, as liquidated damages for such failure; otherwise, the check, cash, or bid bond accompanying this proposal shall be returned to the undersigned.

CONTRACTOR’S LICENSE:

The undersigned further states that he is a duly licensed Contractor in the State of North Carolina, and that all fees, licenses, permits, etc., pertinent to the submission of this bid have been paid for in full.

ADDENDUM RECEIPT:

The receipt of the following addenda to the Contract Documents is acknowledged:

ADDENDUM No. \_\_\_\_\_ DATE \_\_\_\_\_

ADDENDUM No. \_\_\_\_\_ DATE \_\_\_\_\_

ADDENDUM No. \_\_\_\_\_ DATE \_\_\_\_\_

**Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville  
Fayetteville, North Carolina

OWNER’S RIGHT OF REJECTION:

The City reserves the right to reject any or all bid(s), or sections thereof, as it appears in its judgment to be in the best interest of the City. The undersigned bidder understands that all bids may be rejected if the lowest responsive bid received exceeds the engineer’s estimate and it is determined by the City that an award of contract would not be in the best interest of the City.

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Bid Proposal from: \_\_\_\_\_(Company Name)

\_\_\_\_\_  
(Name of Bidder)

\_\_\_\_\_  
(Address of Bidder)

(Corporation)

by \_\_\_\_\_  
President

Attest: \_\_\_\_\_  
Secretary

Corporate Seal

(Partnership)

by \_\_\_\_\_

Title \_\_\_\_\_

Witness: \_\_\_\_\_

(Proprietorship)

\_\_\_\_\_ (Seal)

Witness: \_\_\_\_\_

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

\_\_\_\_\_  
Signature of Contractor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S. C. 1001.

**(Reference: 41 CFR § 60)**

## **TRADE RESTRICTION CERTIFICATION**

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

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

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

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

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

- (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 U.S.T.R. or
- (2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or
- (3) who incorporates in the public works project any product of a foreign country on such U.S.T.R. list;

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

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will



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

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

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

\_\_\_\_\_  
Signature of Contractor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

**(Reference: 49 U.S.C. § 50104; 49 CFR part 30)**

**CERTIFICATION OF OFFERER/BIDDER REGARDING DEBARMENT**  
(Bidder or Offeror Certification)

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

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

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

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

If the FAA later determines that a lower tier participant failed to 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.

\_\_\_\_\_  
Signature of Contractor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

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

## LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

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.

\_\_\_\_\_  
Signature of Contractor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

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

**CERTIFICATE OF BUY AMERICAN COMPLIANCE  
FOR TOTAL FACILITY**

**Certificate for Project Base Bid**

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e. not both) by inserting a checkmark (✓) or the letter "X".

(A) Bidder or offeror hereby certifies that it will comply with 49 USC. 50101 by:

- a) Only installing steel and manufactured products produced in the United States; or
- b) Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
- c) 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:

- 1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
- 2. To faithfully comply with providing US domestic products.
- 3. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

(B) The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

- 1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
- 2. 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.
- 3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
- 4. To furnish US domestic product for any waiver request that the FAA rejects.
- 5. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

## REQUIRED DOCUMENTATION

**Type 3 Waiver** - The cost of components and subcomponents produced in the United States is more than 60% of the cost of all components and subcomponents of the "facility". The required documentation for a type 3 waiver is:

- a) Listing of all manufactured products that are not comprised of 100% US 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).
- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- c) 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** - Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 waiver is:

- a) Detailed cost information for total project using US domestic product
- b) Detailed cost information for total project using non-domestic product

**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.

Certificate for Project Base Bid

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

\_\_\_\_\_

Company Name

\_\_\_\_\_

Title

**FORM OF NON-COLLUSION AFFIDAVIT**  
(This Affidavit is Part of the Proposal)

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

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

\_\_\_\_\_ being first duly sworn, deposes and says that he/she is

\_\_\_\_\_ *(Sole owner, a partner, president, secretary, etc.)*

of \_\_\_\_\_ the party making the foregoing Proposal that such Proposal is genuine and not collusive or sham; that said Offeror has not colluded, conspired, connived, or agreed directly or indirectly, with any Offeror or person, to put in a sham Proposal, or that such other person shall refrain from submitting a proposal and has not in any manner, directly or indirectly sought by agreement or collusion, or communication or conference, with any person, to fix the proposal price of affiant or any other Offeror, or to fix any overhead, profit or cost element of said proposal price, or of that of any other Offeror or to secure any advantage against OWNER any person interested in the proposed Contract; and that all statements in said Proposal are true; and further, that such Offeror has not, directly or indirectly submitted this proposal, or the contents thereof, or divulged information or data relative to any association or to any member or agent thereof.

\_\_\_\_\_  
*Signature of Offeror*

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

*(Official Seal)*

\_\_\_\_\_  
*Official Signature of Notary*

\_\_\_\_\_, Notary Public  
*Notary's Printed or Typed Name*

My Commission expires \_\_\_\_\_, 20\_\_

**Listing of DBE Subcontractors & Suppliers  
To Be Submitted With The Bid**

***Fayetteville Regional Airport  
Airline Terminal Improvements – Part 3***

The Bidder hereby proposes the following DBE participation in accordance with Appendix C:

DBE Subcontractor or Supplier Name and Address	NCDOT Reporting Number	Cert. Type (DBE)	Work To Be Performed	Subcontract Amount	Amount Applicable to Goal
Total Applicable DBE Participation					
Base Bid Amount					
DBE Participation Proposed (%)					
DBE Participation Goal (%)					<b>8.4%</b>

Bidder (Firm Name)	Signature	Date

Bidder must complete above "Listing of DBE Subcontractors" form and submit with bid. Letters of Intent must be submitted by the apparent low bidder for all DBE subcontractors no later than 2:00 pm of the fifth calendar day following opening of bids, unless the fifth day falls on Saturday, Sunday or an official state holiday. In that situation, it is due in the office of the Airport Director no later than 10:00 am on the next official state business day.

**Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville  
Fayetteville, North Carolina

**BIDDER INFORMATION**

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

Address \_\_\_\_\_

\_\_\_\_\_

Phone No. \_\_\_\_\_ Fax No. \_\_\_\_\_

E-Mail Address \_\_\_\_\_

Federal I.D. No. \_\_\_\_\_

DBE / Disadvantaged Business Enterprise      \_\_\_\_\_ Yes      \_\_\_\_\_ No

N. C. General Contractor License Number \_\_\_\_\_

Bid Submitted by: \_\_\_\_\_  
(Name Printed Out)

\_\_\_\_\_  
(Signature)

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

Date: \_\_\_\_\_



## APPENDIX 'C'

### DISADVANTAGED BUSINESS ENTERPRISE PROVISIONS (Local Government Agencies)

#### Description

The purpose of this Special Provision is to carry out the U.S. Department of Transportation's policy of ensuring nondiscrimination in the award and administration of contracts financed in whole or in part with Federal funds. This provision is guided by 49 CFR Part 26.

#### General

This appendix has been developed from NCDOT Special Provision SP1 G63, revised February 16, 2016. Certain additional provisions have been added, to facilitate the management of project data.

#### Definitions

*Additional DBE Subcontractors* - Any DBE submitted at the time of bid that will not be used to meet the DBE goal. No submittal of a Letter of Intent is required.

*Committed DBE Subcontractor* - Any DBE submitted at the time of bid that is being used to meet the DBE goal by submission of a Letter of Intent. Or any DBE used as a replacement for a previously committed DBE firm.

*Contract Goal Requirement* - The approved DBE participation at time of award, but not greater than the advertised contract goal.

*DBE Goal* - A portion of the total contract, expressed as a percentage, that is to be performed by committed DBE subcontractor(s).

*Disadvantaged Business Enterprise (DBE)* - A firm certified as a Disadvantaged Business Enterprise through the North Carolina Unified Certification Program.

*Goal Confirmation Letter* - Written documentation from the **City of Fayetteville** to the bidder confirming the Contractor's approved, committed DBE participation along with a listing of the committed DBE firms.

*Local Government Agency* – The City of Fayetteville, North Carolina, the entity letting the contract. When this provision refers to the Department or NCDOT, it shall also mean the City of Fayetteville, acting alone as Owner, or jointly with the Department/ NCDOT.

*Manufacturer* - A firm that operates or maintains a factory or establishment that produces on the premises, the materials or supplies obtained by the Contractor.

*Regular Dealer* - A firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. A regular dealer engages in, as its principal business and in its own name, the purchase and sale or lease of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns and operates distribution equipment for the products. Brokers and packagers are not regarded as manufacturers or regular dealers within the meaning of this section.

*North Carolina Unified Certification Program (NCUCP)* - A program that provides comprehensive services and information to applicants for DBE certification, such that an applicant is required to apply only once for a DBE certification that will be honored by all recipients of USDOT funds in the state and not limited to the Department of Transportation only. The Certification Program is in accordance with 49 CFR Part 26.

*Standard Specifications* - The general term comprising all directions, provisions, and requirements contained or referred to in the *North Carolina Department of Transportation Standard Specifications for Roads and Structures* and any subsequent revisions or additions to such book.

*United States Department of Transportation (USDOT)* - Federal agency responsible for issuing regulations (49 CFR Part 26) and official guidance for the DBE program.

Forms Referenced in this Provision

*DBE-IS Subcontractor Payment Information* – Form for reporting the payments made to all DBE firms working on the project.

*RF-1 DBE Replacement Request Form* – Form for replacing a committed DBE.

*JC-1 Joint Check Notification Form* – Form and procedures for joint check notification. The form acts as a written joint check agreement among the parties providing full and prompt disclosure of the expected use of joint checks.

*Letter of Intent* - Form signed by the Contractor and the DBE subcontractor, manufacturer or regular dealer that affirms that a portion of said contract is going to be performed by the signed DBE for the amount listed at the time of bid.

*Listing of DBE Subcontractors Form* - Form for entering DBE subcontractors on a project that will meet this DBE goal. This form is for paper bids only.

*Subcontractor Quote Comparison Sheet* - Spreadsheet for showing all subcontractor quotes in the work areas where DBEs quoted on the project. This sheet is submitted with good faith effort packages.

## **DBE Goal**

The following DBE goal for participation by Disadvantaged Business Enterprises is established for this contract:

Disadvantaged Business Enterprises **8.4%**

The Contractor shall exercise all necessary and reasonable steps to ensure that DBEs participate in at least the percent of the contract as set forth above as the DBE goal.

## **Directory of Transportation Firms (Directory)**

Real-time information is available about firms doing business with the Department and firms that are certified through NCUCP in the Directory of Transportation Firms. Only firms identified in the Directory as DBE certified shall be used to meet the DBE goal. The Directory can be found at the following link.

<https://partner.ncdot.gov/VendorDirectory/default.html>

The listing of an individual firm in the directory shall not be construed as an endorsement of the firm's capability to perform certain work.

## **Listing of DBE Subcontractors**

At the time of bid, bidders shall submit all DBE participation that they anticipate to use during the life of the contract. Only those identified to meet the DBE goal will be considered committed, even though the listing shall include both committed DBE subcontractors and additional DBE subcontractors. Additional DBE subcontractor participation submitted at the time of bid will be used toward the overall race-neutral goal. Only those firms with current DBE certification at the time of bid opening will be acceptable for listing in the bidder's submittal of DBE participation. The Contractor shall indicate the following required information:

**Blank forms will not be deemed to represent zero participation.** Bids submitted that do not have DBE participation indicated on the appropriate form will not be read publicly during the opening of bids. The Department **and the City of Fayetteville** will not consider these bids for award and the proposal will be rejected.

- (1) Bidders, at the time the bid proposal is submitted, shall submit a listing of DBE participation, including the names and addresses on *Listing of DBE Subcontractors* contained elsewhere in the contract documents in order for the bid to be considered responsive. Bidders shall indicate the total dollar value of the DBE participation for the contract.

- (2) If bidders have no DBE participation, they shall indicate this on the *Listing of DBE Subcontractors* by entering the word "None" or the number "0." This form shall be completed in its entirety.
- (3) The bidder shall be responsible for ensuring that the DBE is certified at the time of bid by checking the Directory of Transportation Firms. If the firm is not certified at the time of the bid-letting, that DBE's participation will not count towards achieving the DBE goal.

### **DBE Prime Contractor**

When a certified DBE firm bids on a contract that contains a DBE goal, the DBE firm is responsible for meeting the goal or making good faith efforts to meet the goal, just like any other bidder. In most cases, a DBE bidder on a contract will meet the DBE goal by virtue of the work it performs on the contract with its own forces. However, all the work that is performed by the DBE bidder and any other DBE subcontractors will count toward the DBE goal. The DBE bidder shall list itself along with any DBE subcontractors, if any, in order to receive credit toward the DBE goal.

For example, if the DBE goal is 45% and the DBE bidder will only perform 40% of the contract work, the prime will list itself at 40%, and the additional 5% shall be obtained through additional DBE participation with DBE subcontractors or documented through a good faith effort.

DBE prime contractors shall also follow Sections A or B listed under *Listing of DBE Subcontractor* just as a non-DBE bidder would.

### **Written Documentation – Letter of Intent**

The bidder shall submit written documentation for each DBE that will be used to meet the DBE goal of the contract, indicating the bidder's commitment to use the DBE in the contract. This documentation shall be submitted on the form titled *Letter of Intent*.

The documentation shall be received in the office of the Airport Director no later than 12:00 noon of the sixth calendar day following opening of bids, unless the sixth day falls on Saturday, Sunday or an official state holiday. In that situation, it is due in the office of the Airport Director no later than 12:00 noon on the next official state business day.

If the bidder fails to submit the Letter of Intent from each committed DBE to be used toward the DBE goal, or if the form is incomplete (i.e. both signatures are not present), the DBE participation will not count toward meeting the DBE goal. If the lack of this participation drops the commitment below the DBE goal, the Contractor shall submit evidence of good faith efforts, completed in its entirety, to the Airport Director no later than 12:00 noon on the eighth calendar day following opening of bids, unless the eighth day falls on Saturday, Sunday or an official state holiday. In that situation, it is due in the

office of the Airport Director no later than 12:00 noon on the next official state business day.

### **Submission of Good Faith Effort**

If the bidder fails to meet or exceed the DBE goal, the apparent lowest responsive bidder shall submit to the City of Fayetteville documentation of adequate good faith efforts made to reach the DBE goal.

One complete set and 3 copies of this information shall be received in the office of the Airport Director no later than 12:00 noon of the sixth calendar day following opening of bids, unless the sixth day falls on Saturday, Sunday or an official state holiday. In that situation, it is due in the office of the Airport Director no later than 12:00 noon on the next official state business day.

Note: Where the information submitted includes repetitious solicitation letters, it will be acceptable to submit a representative letter along with a distribution list of the firms that were solicited. Documentation of DBE quotations shall be a part of the good faith effort submittal. This documentation may include written subcontractor quotations, telephone log notations of verbal quotations, or other types of quotation documentation.

### **Consideration of Good Faith Effort for Projects with DBE Goals More Than Zero**

Adequate good faith efforts mean that the bidder took all necessary and reasonable steps to achieve the goal which, by their scope, intensity, and appropriateness, could reasonably be expected to obtain sufficient DBE participation. Adequate good faith efforts also mean that the bidder actively and aggressively sought DBE participation. Mere *pro forma* efforts are not considered good faith efforts.

The Department **and the City of Fayetteville** will consider the quality, quantity, and intensity of the different kinds of efforts a bidder has made. Listed below are examples of the types of actions a bidder will take in making a good faith effort to meet the goal and are not intended to be exclusive or exhaustive, nor is it intended to be a mandatory checklist.

- (A) Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising, written notices, use of verifiable electronic means through the use of the NCDOT Directory of Transportation Firms) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within at least 10 days prior to bid opening to allow the DBEs to respond to the solicitation. Solicitation shall provide the opportunity to DBEs within the market area where the project is located (NCDOT Highway Division 6 and the surrounding Divisions). The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

- (B) Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved.
  - (1) Where appropriate, break out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
  - (2) Negotiate with subcontractors to assume part of the responsibility to meet the contract DBE goal when the work to be sublet includes potential for DBE participation (2<sup>nd</sup> and 3<sup>rd</sup> tier subcontractors).
- (C) Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- (D)
  - (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.
  - (2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Bidding contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
- (E) Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The bidder's standing within its industry, membership in specific groups, organizations, or associates and political or social affiliations (for example, union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal.

- (F) Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or bidder.
- (G) Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- (H) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; Federal, State, and local minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs. Contact within 7 days from the bid opening NCDOT's Business Development Manager in the Business Opportunity and Work Force Development Unit to give notification of the bidder's inability to get DBE quotes.
- (I) Any other evidence that the bidder submits which shows that the bidder has made reasonable good faith efforts to meet the DBE goal.

In addition, the Department **and the City of Fayetteville** may take into account the following:

- (1) Whether the bidder's documentation reflects a clear and realistic plan for achieving the DBE goal.
- (2) The bidders' past performance in meeting the DBE goals.
- (3) The performance of other bidders in meeting the DBE goal. For example, when the apparent successful bidder fails to meet the DBE goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the DBE goal, but meets or exceeds the average DBE participation obtained by other bidders, the Department **and the City of Fayetteville** may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made a good faith effort.

If the City of Fayetteville does not award the contract to the apparent lowest responsive bidder, the City of Fayetteville reserves the right to award the contract to the next lowest responsive bidder that can satisfy to the Department **and the City of Fayetteville** that the DBE goal can be met or that an adequate good faith effort has been made to meet the DBE goal.

### **Non-Good Faith Appeal**

The City of Fayetteville will notify the contractor verbally and in writing of non-good faith. A contractor may appeal a determination of non-good faith made by the Airport Director. If a contractor wishes to appeal the determination made by the Airport Director, they shall

provide written notification to the Airport Director **and the City of Fayetteville**. The appeal shall be made within 2 business days of notification of the determination of non-good faith.

### **Counting DBE Participation Toward Meeting DBE Goal**

(A) Participation

The total dollar value of the participation by a committed DBE will be counted toward the contract goal requirement. The total dollar value of participation by a committed DBE will be based upon the value of work actually performed by the DBE and the actual payments to DBE firms by the Contractor.

(B) Joint Checks

Prior notification of joint check use shall be required when counting DBE participation for services or purchases that involves the use of a joint check. Notification shall be through submission of Form JC-1 (*Joint Check Notification Form*) and the use of joint checks shall be in accordance with the Department's Joint Check Procedures.

(C) Subcontracts (Non-Trucking)

A DBE may enter into subcontracts. Work that a DBE subcontracts to another DBE firm may be counted toward the contract goal requirement. Work that a DBE subcontracts to a non-DBE firm does not count toward the contract goal requirement. If a DBE contractor or subcontractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of standard industry practices, it shall be presumed that the DBE is not performing a commercially useful function. The DBE may present evidence to rebut this presumption to the Department **and the City of Fayetteville**. The Department's decision on the rebuttal of this presumption is subject to review by the Federal Aviation Administration but is not administratively appealable to USDOT.

(D) Joint Venture

When a DBE performs as a participant in a joint venture, the Contractor may count toward its contract goal requirement a portion of the total value of participation with the DBE in the joint venture, that portion of the total dollar value being a distinct clearly defined portion of work that the DBE performs with its forces.

(E) Suppliers

A contractor may count toward its DBE requirement 60 percent of its expenditures for materials and supplies required to complete the contract and obtained from a



DBE regular dealer and 100 percent of such expenditures from a DBE manufacturer.

(F) Manufacturers and Regular Dealers

A contractor may count toward its DBE requirement the following expenditures to DBE firms that are not manufacturers or regular dealers:

- (1) The fees or commissions charged by a DBE firm for providing a *bona fide* service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, provided the fees or commissions are determined to be reasonable and not excessive as compared with fees and commissions customarily allowed for similar services.
- (2) With respect to materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site (but not the cost of the materials and supplies themselves), provided the fees are determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.

**Commercially Useful Function**

(A) DBE Utilization

The Contractor may count toward its contract goal requirement only expenditures to DBEs that perform a commercially useful function in the work of a contract. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE shall also be responsible with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, the Department will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and any other relevant factors.

(B) DBE Utilization in Trucking

The following factors will be used to determine if a DBE trucking firm is performing a commercially useful function.

- (1) The DBE shall be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there shall not be a contrived arrangement for the purpose of meeting DBE goals.
- (2) The DBE shall itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- (3) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
- (4) The DBE may subcontract the work to another DBE firm, including an owner-operator who is certified as a DBE. The DBE who subcontracts work to another DBE receives credit for the total value of the transportation services the subcontracted DBE provides on the contract.
- (5) The DBE may also subcontract the work to a non-DBE firm, including from an owner-operator. The DBE who subcontracts the work to a non-DBE is entitled to credit for the total value of transportation services provided by the non-DBE subcontractor not to exceed the value of transportation services provided by DBE-owned trucks on the contract. Additional participation by non-DBE subcontractors receives credit only for the fee or commission it receives as a result of the subcontract arrangement. The value of services performed under subcontract agreements between the DBE and the Contractor will not count towards the DBE contract requirement.
- (6) A DBE may lease truck(s) from an established equipment leasing business open to the general public. The lease must indicate that the DBE has exclusive use of and control over the truck. This requirement does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. This type of lease may count toward the DBE's credit as long as the driver is under the DBE's payroll.
- (7) Subcontracted/leased trucks shall display clearly on the dashboard the name of the DBE that they are subcontracted/leased to and their own company name if it is not identified on the truck itself. Magnetic door signs are not permitted.

### **DBE Replacement**

When a Contractor has relied on a commitment to a DBE firm (or an approved substitute DBE firm) to meet all or part of a contract goal requirement, the contractor shall not terminate the DBE for convenience. This includes, but is not limited to, instances in which

the Contractor seeks to perform the work of the terminated subcontractor with another DBE subcontractor, a non-DBE subcontractor, or with the Contractor's own forces or those of an affiliate. A DBE may only be terminated after receiving the Department's written approval based upon a finding of good cause for the termination. The prime contractor must give the DBE firm five (5) calendar days to respond to the prime contractor's notice of termination and advise the prime contractor and the Department of the reasons, if any, why the firm objects to the proposed termination of its subcontract and why the Department should not approve the action.

All requests for replacement of a committed DBE firm shall be submitted to the Airport Director for approval on Form RF-1 (*DBE Replacement Request*). If the Contractor fails to follow this procedure, the Contractor may be disqualified from further bidding for a period of up to 6 months.

The Contractor shall comply with the following for replacement of a committed DBE:

(A) Performance Related Replacement

When a committed DBE is terminated for good cause as stated above, an additional DBE that was submitted at the time of bid may be used to fulfill the DBE commitment. A good faith effort will only be required for removing a committed DBE if there were no additional DBEs submitted at the time of bid to cover the same amount of work as the DBE that was terminated.

If a replacement DBE is not found that can perform at least the same amount of work as the terminated DBE, the Contractor shall submit a good faith effort documenting the steps taken. Such documentation shall include, but not be limited to, the following:

- (1) Copies of written notification to DBEs that their interest is solicited in contracting the work defaulted by the previous DBE or in subcontracting other items of work in the contract.
- (2) Efforts to negotiate with DBEs for specific subbids including, at a minimum:
  - (a) The names, addresses, and telephone numbers of DBEs who were contacted.
  - (b) A description of the information provided to DBEs regarding the plans and specifications for portions of the work to be performed.
- (3) A list of reasons why DBE quotes were not accepted.
- (4) Efforts made to assist the DBEs contacted, if needed, in obtaining bonding or insurance required by the Contractor.

(B) Decertification Replacement

- (1) When a committed DBE is decertified by the Department after the DBE has executed a subcontract, the City will not require the Contractor to solicit replacement DBE participation equal to the remaining work to be performed by the decertified firm. The participation equal to the remaining work performed by the decertified firm will count toward the contract goal requirement.
- (2) When a committed DBE is decertified prior to DBE executing a subcontract, the Contractor shall take all necessary and reasonable steps to replace the DBE subcontractor with another DBE subcontractor to perform at least the same amount of work to meet the DBE goal requirement. If a DBE firm is not found to do the same amount of work, a good faith effort must be submitted to FAYETTEVILLE REGIONAL AIRPORT (see A herein for required documentation).

**Changes in the Work**

When the Owner makes changes that result in the reduction or elimination of work to be performed by a committed DBE, the Contractor will not be required to seek additional participation. When the Owner makes changes that result in additional work to be performed by a DBE based upon the Contractor's commitment, the DBE shall participate in additional work to the same extent as the DBE participated in the original contract work.

When the Owner makes changes that result in extra work, which has more than a minimal impact on the contract amount, the Contractor shall seek additional participation by DBEs unless otherwise approved by the Airport Director.

When the Owner makes changes that result in an alteration of plans or details of construction, and a portion or all of the work had been expected to be performed by a committed DBE, the Contractor shall seek participation by DBEs unless otherwise approved by the Airport Director.

When the Contractor requests changes in the work that result in the reduction or elimination of work that the Contractor committed to be performed by a DBE, the Contractor shall seek additional participation by DBEs equal to the reduced DBE participation caused by the changes.

**Reports and Documentation**

The Department **and the City of Fayetteville** will require copies of actual subcontract agreements involving DBE subcontractors.

When using transportation services to meet the contract commitment, the Contractor shall submit a proposed trucking plan. The plan shall be submitted prior to beginning

construction on the project. The plan shall include the names of all trucking firms proposed for use, their certification type(s), the number of trucks owned by the firm, as well as the individual truck identification numbers, and the line item(s) being performed.

Within 30 calendar days of entering into an agreement with a DBE for materials, supplies or services, the Contractor shall furnish the Owner a copy of the agreement. The documentation shall also indicate the percentage (60% or 100%) of expenditures claimed for DBE credit.

### **Reporting Disadvantaged Business Enterprise Participation**

The Contractor shall provide the Airport Director with an accounting of payments made to all DBE firms, including material suppliers and contractors at all levels (prime, subcontractor, or second tier subcontractor). This accounting shall be furnished to the Airport Director for any given month by the end of the following month. Failure to submit this information accordingly may result in the following action:

- (A) Withholding of money due in the next partial pay estimate; or
- (B) Removal by the Department of an approved contractor from the prequalified bidders' list or the removal of other entities from the approved subcontractors list.

While each contractor (prime, subcontractor, 2nd tier subcontractor) is responsible for accurate accounting of payments to DBEs, it shall be the prime contractor's responsibility to report all monthly and final payment information in the correct reporting manner.

Failure on the part of the Contractor to submit the required information in the time frame specified may result in the disqualification of that contractor and any affiliate companies from further bidding until the required information is submitted.

Failure on the part of any subcontractor to submit the required information in the time frame specified may result in the disqualification of that contractor and any affiliate companies from being approved for work on future projects until the required information is submitted.

Contractors reporting transportation services provided by non-DBE lessees shall evaluate the value of services provided during the month of the reporting period only.

At any time, the Airport Director can request written verification of subcontractor payments.

The Contractor shall report the accounting of payments on the Department's DBE-IS (*Subcontractor Payment Information*) with each invoice. Invoices will not be processed for payment until the DBE-IS is received.

## **Failure to Meet Contract Requirements**

Failure to meet contract requirements in accordance with Subarticle 102-15(J) of the 2012 Standard Specifications may be cause for the Department to disqualify the Contractor from further bidding for a specified length of time.

## **Additional Project Requirements**

For this project, the Contractor shall provide additional management and documentation of project DBE participation data to assist the Owner with implementation of the airport's DBE Program, as follows.

The Contractor shall provide, prior to Notice-to-proceed, a detailed written description of the work to be performed by each committed DBE firm, to include specific work element(s), location(s) on the project and time frame(s) within the overall project schedule. For trucking/hauling DBE participation, describe in detail the material to be hauled and the start and end points (locations) of each hauling operation.

DBE payments shall be reported on the designated forms. Copies of dated DBE invoices, cancelled checks and/or other financial records shall be submitted as back-up documentation.

Prior to final acceptance of the work, the Contractor shall submit a signed and notarized statement from each committed DBE as to the total of all payments received for this contract.

In addition to DBE payment reporting, the Contractor shall prepare and submit a monthly written DBE participation progress report, listing the DBE firms which performed work on the project in the prior month, along with the dates, nature and status of that work; listing the project DBE participation for the following month (including firm name(s) and nature of work); provide dated photos and/or other records documenting when DBE equipment and workers are on site and delivery of goods by DBE suppliers or haulers; provide documentation of commercially useful function, including trucking documents; provide any information regarding DBE participation challenges, including non-performance, pending termination and replacement issues; describe any participation impacts of pending contract changes; describe any scheduling changes which may affect the relative timing of participation; and any other project considerations which could affect DBE participation. Failure to provide thorough and timely documentation and reporting may be cause for the Owner to delay processing of payments to the Contractor.



**DBE GOOD FAITH EFFORTS DOCUMENTATION**

THIS INFORMATION MUST BE SUBMITTED WITH YOUR BID PROPOSAL IF YOUR BID DOES NOT MEET THE PROJECT DBE REQUIREMENTS, OR WHEN REQUESTED BY FAYETTEVILLE REGIONAL AIRPORT

CONTRACT NAME \_\_\_\_\_  
DEPARTMENT \_\_\_\_\_ FAYETTEVILLE REGIONAL AIRPORT \_\_\_\_\_  
DATE BID SUBMITTED \_\_\_\_\_  
BIDDER'S NAME \_\_\_\_\_  
SIGNATURE \_\_\_\_\_  
TITLE \_\_\_\_\_  
DBE GOAL FROM BID PROPOSAL \_\_\_\_\_

## DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT NAME \_\_\_\_\_ SUBMITTED \_\_\_\_\_

IF THE MBE/WBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR FAYETTEVILLE REGIONAL AIRPORT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

NAMES OF CERTIFIED DBEs AND THE DATES ON WHICH THEY WERE SOLICITED TO BID ON THIS PROJECT

INCLUDE THE ITEMS OF WORK OFFERED AND THE DATES AND METHODS USED FOR FOLLOWING UP INITIAL SOLICITATIONS TO DETERMINE WHETHER OR NOT DBEs WERE INTERESTED.

NAMES AND FED. TAX ID. OF DBEs SOLICITED	DATE OF INITIAL SOLICITATION	ITEM(S) OF WORK	FOLLOW-UP METHODS AND DATES

**NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY ATTACH COPIES OF SOLICITATIONS, TELEPHONE RECORDS, FAX CONFIRMATIONS, ELECTRONIC INFORMATION, ETC.**



## DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT NAME \_\_\_\_\_ SUBMITTED \_\_\_\_\_

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR FAYETTEVILLE REGIONAL AIRPORT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

### TELEPHONE LOG

DBE(s) CALLED	TELEPHONE NUMBER	DATE CALLED	TIME CALLED	CONTACT PERSON OR VOICE MAIL STATUS

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY

## DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT NAME \_\_\_\_\_ SUBMITTED \_\_\_\_\_

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR FAYETTEVILLE REGIONAL AIRPORT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

### ITEM(S) OF WORK THAT THE BIDDER MADE AVAILABLE TO DBE FIRMS

IDENTIFY THOSE ITEM(S) OF WORK THAT THE BIDDER MADE AVAILABLE TO DBE FIRMS OR THOSE ITEM(S) THE BIDDER IDENTIFIED AND DETERMINED TO SUBDIVIDE INTO ECONOMICALLY FEASIBLE UNITS TO FACILITATE MBE/WBE PARTICIPATION. FOR EACH ITEM LISTED, SHOW THE DOLLAR VALUE AND PERCENTAGE OF THE TOTAL CONTRACT AMOUNT. IT IS THE BIDDER'S RESPONSIBILITY TO DEMONSTRATE THAT SUFFICIENT WORK TO MEET THE GOAL WAS MADE AVAILABLE TO MBE/WBE FIRMS.

ITEM(S) OF WORK MADE AVAILABLE	BIDDER NORMALLY PERFORMS ITEM(S) (Y/N)	ITEM(S) BROKEN DOWN TO FACILITATE PARTICIPATION (Y/N)	AMOUNT IN DOLLARS	PERCENTAGE OF CONTRACT

**NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY**

## DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT NAME \_\_\_\_\_ SUBMITTED \_\_\_\_\_

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR FAYETTEVILLE REGIONAL AIRPORT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

### ADDITIONAL INFORMATION REGARDING ITEM(S) OF WORK THAT THE BIDDER MADE AVAILABLE TO DBE FIRMS (Continued From Sheet 4)

ITEM(S) OF WORK MADE AVAILABLE, NAMES OF SELECTED FIRMS AND DBE STATUS, DBEs THAT PROVIDED QUOTES, PRICE QUOTE FOR EACH FIRM, AND THE PRICE DIFFERENCE FOR EACH DBE IF THE SELECTED FIRM IS NOT A DBE.

ITEM(S) OF WORK MADE AVAILABLE (CONT.)	NAME OF SELECTED FIRM AND FED. TAX ID	DBE OR NON-DEB	NAME OF REJECTED FIRM(S)	QUOTE IN DOLLARS	PRICE DIFFERENCE IN DOLLARS

**NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.**

**IF THE FIRM SELECTED FOR THE ITEM IS NOT A DBE, PROVIDE THE REASON(S) FOR THE SELECTION ON A SEPARATE PAGE AND ATTACH.**

**PROVIDE NAMES, ADDRESSES, AND TELEPHONE NUMBERS FOR THE FIRMS LISTED ABOVE.**

## DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT ID. NO. \_\_\_\_\_ DATE SUBMITTED \_\_\_\_\_

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR FAYETTEVILLE REGIONAL AIRPORT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

### ADVERTISEMENTS OR PROOFS OF PUBLICATION

NAMES AND DATES OF EACH PUBLICATION IN WHICH A REQUEST FOR DBE PARTICIPATION FOR THE PROJECT WAS PLACED BY THE BIDDER. ATTACH COPIES OF PUBLISHED ADVERTISEMENTS OR PROOFS OF PUBLICATION.

PUBLICATIONS	DATES OF ADVERTISEMENT

## DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT ID. NO. \_\_\_\_\_ DATE SUBMITTED \_\_\_\_\_

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR FAYETTEVILLE REGIONAL AIRPORT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

### NAMES OF AGENCIES CONTACTED TO PROVIDE ASSISTANCE

NAMES OF AGENCIES AND THE DATES THESE AGENCIES WERE CONTACTED TO PROVIDE ASSISTANCE IN CONTACTING, RECRUITING, AND USING DBE FIRMS. IF THE AGENCIES WERE CONTACTED IN WRITING, ATTACH COPIES OF SUPPORTING DOCUMENTS.

NAME OF AGENCY	METHOD AND DATE OF CONTACT	RESULTS

NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY.

## DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT ID. NO. \_\_\_\_\_ DATE SUBMITTED \_\_\_\_\_

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR FAYETTEVILLE REGIONAL AIRPORT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

### TECHNICAL ASSISTANCE AND INFORMATION PROVIDED TO MBE/WBEs

EFFORTS MADE TO PROVIDE INTERESTED DBEs WITH ADEQUATE INFORMATION ABOUT THE PLANS, SPECIFICATIONS, AND REQUIREMENTS OF THE BID DOCUMENTS TO ASSIST THE DBEs IN RESPONDING TO A SOLICITATION.

IDENTIFY THE MBE/WBEs ASSISTED, THE INFORMATION PROVIDED, AND THE DATE OF CONTACT. ATTACH COPIES OF SUPPORTING DOCUMENTS.

DBEs ASSISTED	INFORMATION PROVIDED	DATE OF CONTACT

## DBE GOOD FAITH EFFORTS DOCUMENTATION

CONTRACT ID. NO. \_\_\_\_\_ DATE SUBMITTED \_\_\_\_\_

IF THE DBE GOAL ESTABLISHED FOR THIS CONTRACT HAS NOT BEEN MET OR FAYETTEVILLE REGIONAL AIRPORT REQUESTS THE SUBMITTAL THEREOF, THE BIDDER IS REQUIRED TO SUBMIT GOOD FAITH EFFORTS AS OUTLINED IN THIS DOCUMENT.

THE BIDDER ACKNOWLEDGES AND CERTIFIES THAT THIS FORM ACCURATELY REPRESENTS THE INFORMATION CONTAINED HEREIN.

BIDDER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

TITLE \_\_\_\_\_

### EFFORTS MADE TO ASSIST DBEs OBTAIN BONDING, LINES OF CREDIT, INSURANCE, ETC.

EFFORTS MADE TO PROVIDE INTERESTED DBEs IN OBTAINING BONDING, LINES OF CREDIT, INSURANCE, NECESSARY EQUIPMENT, SUPPLIES, MATERIALS, OR RELATED ASSISTANCE OR SERVICES, EXCLUDING SUPPLIES AND EQUIPMENT THE SUBCONTRACTOR PURCHASES OR LEASES FROM THE PRIME CONTRACTOR OR ITS AFFILIATES.

DBEs ASSISTED	ASSISTANCE OFFERED	DATES SERVICES OFFERED AND/OR PROVIDED

**NOTE: ATTACH ADDITIONAL PAGES IF NECESSARY**





**DBE SUBCONTRACT CERTIFICATION  
Race Conscious / Goals Required**

**PROJECT NO.:** \_\_\_\_\_ **F. A. NO.:** \_\_\_\_\_ **COUNTY:** \_\_\_\_\_

**CONTRACT NO.:** \_\_\_\_\_ **T.I.P. NO.:** \_\_\_\_\_

\_\_\_\_\_  
(Contractor Name and Address)

\_\_\_\_\_  
(Subcontractor Name and Address)

<b>LINE CODE NO.</b>	<b>ITEM DESCRIPTION</b>	<b>QUANTITY</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>AMOUNT</b>
<b>TOTAL:</b>					

<p><b>SUBMITTED BY:</b> SUBCONTRACTOR: _____ BY: _____ TITLE: _____</p>	<p><b>RECOMMENDED BY:</b> CONTRACTOR: _____ BY: _____ TITLE: _____</p>
---	--

**INSTRUCTIONS FOR COMPLETING**  
**“DBE SUBCONTRACT CERTIFICATION” (FORMS RS-1-D)**  
**RACE CONSCIOUS / GOALS REQUIRED**

1. Fill out the blank portions of the “DBE Subcontract Certification” (Form RS-1-D).
2. The negotiated unit or lump sum price must be the actual price agreed upon between the Contractor and the Subcontractor.
3. This form shall be completed and attached to the “Request for Subcontract” (Form RS-1-A) or “Request for Second Tier Subcontract” (Form RS-1-B), whenever the proposed Subcontractor is certified DBE Subcontractor.
4. In lieu of attaching “DBE Subcontract Certification” (Form RS-1-D), a copy of the actual subcontract agreement between the Contractor and the Subcontractor can be submitted.
5. Signatures are required.

**R-200**

**City of Fayetteville  
Fayetteville Regional Airport**

**DBE VENDOR COMMITMENTS/AWARDS**

Airport Name:

Airport ID:

Project Number:

PO No:

Vendor ID:

<b>Awarded By Name</b>	<b>Awarded By Report ID</b>	<b>Vendor/Subcontractor Name</b>	<b>Vendor/Subcontractor Report ID</b>	<b>Service / Item Description</b>	<b>Anticipated Utilization (\$)</b>
			<b>TOTAL</b>		
<b>SUBMITTED BY:</b>		<b>SUB RECIPIENT:</b>		<b>BY:</b>	<b>TITLE:</b>

AV-POSTBID (AV-509) (10/06)

**CITY OF FAYETTEVILLE  
FAYETTEVILLE REGIONAL AIRPORT**

**DBE VENDOR PAYMENTS**

Airport Name:

Airport ID:

Project Number:

PO No:

Vendor ID:

<b>Payor Name</b>	<b>Payor Report ID</b>	<b>Vendor/Subcontractor Name</b>	<b>Vendor/Subcontractor Report ID</b>	<b>Amount Paid to Vendor/Subcontractor this Invoice</b>	<b>Date Paid to Vendor/Subcontractor this Invoice</b>
			<b>TOTAL</b>		
<b>SUBMITTED BY:</b>		<b>SUB RECIPIENT:</b>		<b>BY:</b>	<b>TITLE:</b>

AV-VENPAY (AV-510) (10/06)



LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR

CONTRACT: Fayetteville Regional Airport  
Airline Terminal Improvements Part 3

NAME OF BIDDER:

The undersigned intends to perform work in connection with the above contract upon execution of the bid and subsequent award of contract by the City of Fayetteville as:

Name of MBE/WBE/DBE Subcontractor \_\_\_\_\_

Address \_\_\_\_\_

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

Please check all that apply: Minority Business

Enterprise (MBE) \_\_\_\_\_

Women Business Enterprise (WBE) \_\_\_\_

Disadvantaged Business Enterprise (DBE) \_\_\_\_

The MBE /WBE /DBE status of the above named subcontractor is certified by the North Carolina Department of Transportation. The above named subcontractor is prepared to perform the work described below, in connection with the above contract upon award and execution of the contract by the City of Fayetteville. The above named subcontractor is prepared to perform the described work at the estimated Commitment Total for Subcontractor Price indicated below.

Commitment Total based on estimated Unit Prices and Quantities: Amount \$ \_\_\_\_\_

Work to be performed:

The above named bidder and subcontractor mutually accepts the Commitment Total shown above. This commitment total is based on estimated quantities of contract and sub-contract work and most likely will vary up or down as the project is completed. Final compensation will be based on actual quantities of work performed and accepted during the pursuance of work. The above listed amount represents the entire dollar amount quoted based on estimated quantities. No conversations, verbal agreements, and/or other forms of non-written representations shall serve to add, delete, or modify the terms as stated.

This document shall not serve in any manner as an actual subcontract between the two parties. A separate subcontractor agreement will describe in detail the contractual obligations of the bidder and the MBE/WBE/DBE subcontractor.

Affirmation

The above named MBE/ WBE/ DBE subcontractor affirms that it will perform the portion(s) of the contract for the estimated dollar value as stated above.

\_\_\_\_\_  
Name of MBE/ WBE/ DBE Subcontractor

\_\_\_\_\_  
Name of Bidder

\_\_\_\_\_  
Signature / Title

\_\_\_\_\_  
Signature / Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## **Appendix Federal Contract Provisions**

### **General**

**This project is funded in part with federal grant funds under the Airport Improvement Program (AIP) administered by the Federal Aviation Administration (FAA). The Contract Provisions contained herein have been developed from the FAA guidance document entitled “Required Contract Provisions for Airport Improvement Program and for Obligated Sponsors,” dated 2022. These provisions shall apply to all work of this contract, and shall apply to all subcontracts and sub- agreements as follows:**

- 1) The contractor and all subcontractors shall insert these contract provisions in each lower tier contract (e.g. subcontract or sub-agreement).
- 2) The contractor and all subcontractors shall incorporate the applicable requirements of these contract provisions by reference for work done under any purchase orders, rental agreements and other agreements for supplies or services.
- 3) The prime contractor shall be responsible for compliance with these contract provisions by any subcontractor, lower-tier subcontractor or service provider.

### **Failure to Comply with Provisions**

Contractor failure to comply with the terms of these contract provisions may be sufficient grounds to:

- 1) Withhold progress payments or final payment;
- 2) Terminate the contract for cause;
- 3) Seek suspension/debarment; or
- 4) Take other action determined to be appropriate by the sponsor or the FAA.

## **A – CONTRACT PROVISIONS**

A1 to A25

## **A1 ACCESS TO RECORDS AND REPORTS**

### **A1.1 SOURCE**

2 CFR § 200.333

2 CFR § 200.336

FAA Order 5100.38

### **A1.2 CONTRACT CLAUSE**

#### **ACCESS TO RECORDS AND REPORTS**

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

## **A2 AFFIRMATIVE ACTION REQUIREMENT**

### **A2.1 SOURCE**

41 CFR part 60-4

Executive Order 11246

### **A2.2 CONTRACT CLAUSE**

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

1. The 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:

#### **Timetables**

Goals for minority participation for each trade: 26.2%

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 **the City of Fayetteville, Cumberland County, North Carolina.**

### **A3 BREACH OF CONTRACT TERMS**

#### **A3.1 SOURCE**

2 CFR § 200 Appendix II(A)

#### **A3.2 CONTRACT CLAUSE**

##### **BREACH OF CONTRACT TERMS**

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

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

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

## **A4 BUY AMERICAN PREFERENCE**

### **A4.1 SOURCE**

Title 49 USC § 50101

### **A4.2 CONTRACT CLAUSE**

#### **A4.2.1 Buy American Preference Statement**

##### **BUY AMERICAN PREFERENCE**

The contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP funded projects are produced in the United States, unless the FAA 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.

A bidder or offeror must complete and submit the Buy America certification included herein with their bid or offer. The Owner will reject as nonresponsive any bid or offer that does not include a completed Certificate of Buy American Compliance.

#### **A4.2.2 Certificate of Buy American Compliance – Total Facility**

##### **CERTIFICATE OF BUY AMERICAN COMPLIANCE FOR TOTAL FACILITY**

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one of the following certification statements. These statements are mutually exclusive. Bidder 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 by:
- a) Only installing steel and manufactured products produced in the United States; or
  - b) Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - c) 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:

1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
2. To faithfully comply with providing US domestic products.
3. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

1. To submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
2. 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.
3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
4. To furnish US domestic product for any waiver request that the FAA rejects.
5. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

**Required Documentation**

**Type 3 Waiver** - The cost of components and subcomponents produced in the United States is more than 60% of the cost of all components and subcomponents of the “facility”. The required documentation for a type 3 waiver is:

- a) Listing of all manufactured products that are not comprised of 100% US 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)
- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- c) 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** – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

- a) Detailed cost information for total project using US domestic product
- b) Detailed cost information for total project using non-domestic product

**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.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Title

**A5 CIVIL RIGHTS - GENERAL**

**A5.1 SOURCE**

49 USC § 47123

**A5.2 CONTRACT CLAUSE**

**A5.2.1 Sponsor Contracts**

**GENERAL CIVIL RIGHTS PROVISIONS**

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

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

## **A6 CIVIL RIGHTS – TITLE VI ASSURANCE**

### **A6.1 SOURCE**

49 USC § 47123

FAA Order 1400.11

### **A6.2 CONTRACT CLAUSE**

#### **A6.2.1 Title VI Solicitation Notice**

##### **Title VI Solicitation Notice:**

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

## **A6.2.2 Title VI Clauses for Compliance with Nondiscrimination Requirements**

### **Compliance with Nondiscrimination Requirements**

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

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

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.



### **A6.2.3 Title VI List of Pertinent Nondiscrimination Acts and Authorities**

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

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

**A7 CLEAN AIR AND WATER POLLUTION CONTROL**

**A7.1 SOURCE**

2 CFR § 200, Appendix II(G)

**A7.2 CONTRACT CLAUSE**

**CLEAN AIR AND WATER POLLUTION CONTROL**

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

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

## **A8 CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

### **A8.1 SOURCE**

2 CFR § 200, Appendix II(E)

### **A8.2 CONTRACT CLAUSE**

#### **CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

##### **1. Overtime Requirements.**

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

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

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

##### **3. Withholding for Unpaid Wages and Liquidated Damages.**

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

##### **4. Subcontractors.**

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier

subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this clause.

**A9 COPELAND “ANTI-KICKBACK” ACT**

**A9.1 SOURCE**

2 CFR § 200, Appendix II(D)

29 CFR Parts 3 & 5

**A9.2 CONTRACT CLAUSE**

**COPELAND “ANTI-KICKBACK” ACT**

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

## **A10 DAVIS-BACON REQUIREMENTS**

### **A10.1 SOURCE**

2 CFR § 200, Appendix II(D)

29 CFR Part 5

### **A10.2 CONTRACT CLAUSE**

#### **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 Part 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; and

(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, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

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

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

## 2 Withholding.

The Federal Aviation Administration or the sponsor shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of work, all or part of the wages required by the contract, the Federal Aviation Administration may, after

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written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

### 3. Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

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

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

(2) That each laborer and mechanic (including each helper, apprentice and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations 29 CFR Part 3;

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

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

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

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

#### 4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, 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 Bureau of Apprenticeship and Training 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 Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, 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 which 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 Part 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 Part 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 U.S.C. 1001.

General Decision Number: NC20230025 04/21/2023  
 Superseded General Decision Number: NC20220025  
 State: North Carolina  
 Construction Type: Building  
 County: Cumberland County in North Carolina.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

Modification Number	Publication Date
0	01/06/2023
1	04/21/2023

CARP0312-001 10/01/2020

	Rates	Fringes
CARPENTER, Excludes Drywall Hanging, and Form Work	\$29.42	13.60

IRON0848-005 07/01/2022

	Rates	Fringes
IRONWORKER, STRUCTURAL	\$ 27.35	16.65

\* PLUM0421-001 07/01/2022

	Rates	Fringes
PLUMBER/PIPEFITTER	\$ 31.66	12.69

\* SUNC2011-006 08/24/2011

	Rates	Fringes
BRICKLAYER	\$ 19.00	0.00
CARPENTER (Drywall Hanging Only)	\$ 13.83 **	0.00
CARPENTER (Form Work Only)	\$ 13.38 **	1.80
CEMENT MASON/CONCRETE FINISHER	\$ 15.80 **	0.00
ELECTRICIAN	\$ 20.64	6.68
HVAC MECHANIC (HVAC Duct Installation Only)	\$ 17.37	1.82
LABORER: Common or General	\$ 10.54 **	0.52
LABORER: Landscape & Irrigation	\$ 9.13 **	0.28
LABORER: Pipelayer	\$ 13.35 **	2.80
LABORER: Mason Tender-Brick/Cement/Concrete	\$ 12.00 **	0.00
OPERATOR: Backhoe/Excavator/Trackhoe	\$ 18.47	2.41
OPERATOR: Bulldozer	\$ 16.00 **	1.87
OPERATOR: Crane	\$ 19.77	4.48
OPERATOR: Forklift	\$ 13.86 **	0.00
OPERATOR: Grader/Blade	\$ 15.72 **	1.49
OPERATOR: Loader	\$ 16.17 **	0.25
PAINTER: Brush, Roller and Spray	\$ 12.35 **	0.00
ROOFER	\$ 11.75 **	1.06
SHEET METAL WORKER, Excludes HVAC Duct Installation	\$ 15.81 **	1.40
TRUCK DRIVER	\$ 13.38 **	1.48

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$16.20) or 13658 (\$12.15). Please see the Note at the top of the wage determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state.

The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

## **A11 DEBARMENT AND SUSPENSION**

### **A11.1 SOURCE**

2 CFR part 180 (Subpart C)

2 CFR part 1200

DOT Order 4200.5

### **A11.2 CONTRACT CLAUSE**

#### **A11.2.1 Bidder or Offeror Certification**

##### **CERTIFICATION OF OFFERER/BIDDER REGARDING DEBARMENT**

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

#### **A11.2.2 Lower Tier Contract Certification**

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

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

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

If the FAA later determines that a lower tier participant failed to 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.



## **A12 DISADVANTAGED BUSINESS ENTERPRISE**

### **A12.1 SOURCE**

49 CFR part 26

### **A12.2 CONTRACT PROVISIONS**

#### **A12.2.1 Solicitation Language (Project Goal)**

The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR §26.53.

As a condition of bid responsiveness, the Bidder or Offeror must submit the following information with their proposal on the forms provided herein:

- (1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- (2) A description of the work that each DBE firm will perform;
- (3) The dollar amount of the participation of each DBE firm listed under (1)
- (4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal;
- (5) If Bidder or Offeror cannot meet the advertised project DBE goal; evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR Part 26.

The successful Bidder or Offeror must provide written confirmation of participation from each of the DBE firms the Bidder or Offeror lists in their commitment. This Bidder or Offeror must submit the DBE's written confirmation of participation within 5 days of receiving the Owners notice of award.

#### **A12.2.2 Contract Clause**

##### **DISADVANTAGED BUSINESS ENTERPRISES**

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

**Prompt Payment (§26.29)** - The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the City of Fayetteville. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame

may occur only for good cause following written approval of the City of Fayetteville. This clause applies to both DBE and non-DBE subcontractors.

**A12.2.3 RACE/GENDER NEUTRAL LANGUAGE**

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the City of Fayetteville to practice nondiscrimination based on race, color, sex or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

## **A13 DISTRACTED DRIVING**

### **A13.1 SOURCE**

Executive Order 13513

DOT Order 3902.10

### **A13.2 CONTRACT CLAUSE**

#### **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 FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

## **A14 ENERGY CONSERVATION REQUIREMENTS**

### **A14.1 SOURCE**

2 CFR § 200, Appendix II(H)

### **A14.2 CONTRACT CLAUSE**

#### **ENERGY CONSERVATION REQUIREMENTS**

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

## **A15 EQUAL EMPLOYEMENT OPPORTUNITY (E.E.O.)**

### **A15.1 SOURCE**

2 CFR 200, Appendix II(C)

41 CFR § 60-1.4

41 CFR § 60-4.3

Executive Order 11246

### **A15.2 MANDATORY CONTRACT CLAUSE**

#### **A15.2.1 E.E.O. Contract Clause**

##### **EQUAL OPPORTUNITY CLAUSE**

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

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

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

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) 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.

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

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said 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 or federally assisted construction 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.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) 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 the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### **A15.2.2 EEO Specification**

##### **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 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 shall 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 area 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 non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the contractor during the training period and the contractor shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall 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 female 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 a 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 workforce.
  - 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 non-segregated 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 groups 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
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for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the 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, 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 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 number, 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).

## **A16 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

### **A16.1 SOURCE**

29 U.S.C. § 201, et seq

### **A16.2 CONTRACT CLAUSE**

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

The *contractor* 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

## **A17 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES**

### **A17.1 SOURCE**

31 U.S.C. § 1352 – Byrd Anti-Lobbying Amendment

2 CFR part 200, Appendix II(J)

49 CFR part 20, Appendix A

### **A17.2 CONTRACT CLAUSE**

#### **CERTIFICATION REGARDING LOBBYING**

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.

## **A18 PROHIBITION of SEGREGATED FACILITIES**

### **A18.1 SOURCE**

41 CFR § 60

### **A18.2 CONTRACT CLAUSE**

#### **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 Opportunity clause in this contract.

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

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

## **A19 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

### **A19.1 SOURCE**

20 CFR part 1910

### **A19.2 CONTRACT CLAUSE**

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

## **A20 PROCUREMENT OF RECOVERED MATERIALS**

### **A20.1 SOURCE**

2 CFR § 200.322

40 CFR part 247

### **A20.2 CONTRACT CLAUSE**

#### **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 of products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

- a) The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or,
- b) 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/epawaste/conservation/tools/cpg/products/](http://www.epa.gov/epawaste/conservation/tools/cpg/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.

## **A21 RIGHT TO INVENTIONS**

### **A21.1 SOURCE**

2 CFR § 200, Appendix II(F)

37 CFR §401

### **A21.2 CONTRACT CLAUSE**

#### **RIGHTS TO INVENTIONS**

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



## **A22 SEISMIC SAFETY**

### **A22.1 SOURCE**

49 CFR part 41

### **A22.2 CONTRACT CLAUSE**

#### **A22.2.1 Construction Contracts**

##### **Seismic Safety**

The contractor agrees to ensure that all work performed under this contract, including work performed by subcontractors, conforms to a building code standard that provides a level of seismic safety substantially equivalent to standards established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety.

## **A23 TERMINATION OF CONTRACT**

### **A23.1 SOURCE**

2 CFR § 200 Appendix II(B)

FAA Advisory Circular 150/5370-10, Section 80-09

### **A23.2 CONTRACT CLAUSE**

#### **A23.2.1 Termination for Convenience**

##### **Termination for Convenience (Construction & Equipment Contracts)**

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

1. Contractor must immediately discontinue work as specified in the written notice.
2. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
3. Discontinue orders for materials and services except as directed by the written notice.
4. Deliver to the owner all fabricated and partially fabricated parts, completed and partially completed work, supplies, equipment and materials acquired prior to termination of the work and as directed in the written notice.
5. Complete performance of the work not terminated by the notice.
6. Take action as directed by the owner to protect and preserve property and work related to this contract that Owner will take possession.

Owner agrees to pay Contractor for:

- a) completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
- b) documented expenses sustained prior to the effective date of termination in performing work and furnishing labor, materials, or equipment as required by the contract documents in connection with uncompleted work;
- c) reasonable and substantiated claims, costs and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
- d) reasonable and substantiated expenses to the contractor directly attributable to Owner's termination action

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

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

#### **A23.2.2 Termination for Default**

##### **Termination for Default (Construction)**

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

**Termination for Default (Equipment)**

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

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

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

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

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

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

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

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

## **A24 TRADE RESTRICTION CERTIFICATION**

### **A24.1 SOURCE**

49 USC § 50104

49 CFR part 30

### **A24.2 CONTRACT CLAUSE**

#### **TRADE RESTRICTION CERTIFICATION**

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

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

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

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

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

- (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 U.S.T.R. or
- (2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or
- (3) who incorporates in the public works project any product of a foreign country on such U.S.T.R. list;

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

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

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

## **A25 VETERAN’S PREFERENCE**

### **A25.1 SOURCE**

49 USC § 47112(c)

### **A25.2 CONTRACT CLAUSE**

#### **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 U.S.C. 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

RFP Number (if applicable): \_\_\_\_\_

Name of Vendor or Bidder: \_\_\_\_\_

\_\_\_\_\_

**IRAN DIVESTMENT ACT CERTIFICATION  
REQUIRED BY N.C.G.S. 147-86.59**

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As of the date listed below, the vendor or bidder listed above is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 147-86.58.

The undersigned hereby certifies that he or she is authorized by the vendor or bidder listed above to make the foregoing statement.

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Signature	Date
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Printed Name	Title
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Notes to persons signing this form:

N.C.G.S. 147-86.59(a) requires this certification for bids or contracts with the State of North Carolina, a North Carolina local government, or any other political subdivision of the State of North Carolina. The certification is required at the following times:

- When a bid is submitted
- When a contract is entered into (if the certification was not already made when the ' vendor made its bid)
- When a contract is renewed or assigned

N.C.G.S. 147-86.59(b) requires that contractors with the State, a North Carolina local ; government, or any other political subdivision of the State of North Carolina must not ; ; utilize any subcontractor found on the State Treasurer's Final Divestment List.

The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address [www.nctreasurer.com/Iran](http://www.nctreasurer.com/Iran) and will be updated every 180 days.

**Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville  
Fayetteville, North Carolina

**CONSTRUCTION CONTRACT**

THIS CONTRACT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2023  
by, \_\_\_\_\_ hereinafter called Contractor, and the City of  
Fayetteville, North Carolina, hereinafter called City.

WITNESSETH

THAT WHEREAS, a Contract for **Fayetteville Regional Airport – Airline Terminal Improvements – Part 3** has recently been awarded to Contractor by City at and for \$ \_\_\_\_\_, a sum equal to the aggregate cost of the work to be done and for labor, materials, equipment, apparatus, and supplies furnished at the prices and rates respectively named therefore in the Proposal attached herewith;

AND WHEREAS, it was provided in said Award that a formal contract would be executed by and between Contractor and City, evidencing the terms of said Award, and agreement on a date to be specified in a written order of City and would complete all work as outlined under SPECIAL PROVISIONS and STANDARD SPECIFICATIONS and would complete all work as required within the schedule as shown in the SPECIAL PROVISIONS.

NOW, THEREFORE, Contractor doth hereby covenant and agree with City that it will well and faithfully perform and execute such work and furnish such labor, materials, equipment, apparatus and supplies, in accordance with each and every one of the conditions, covenants, stipulations, terms, and provisions contained in said Specifications and Provisions and in accordance with the Plans, at and for a sum equal to the aggregate cost of the work done and labor, materials, equipment, apparatus and supplies furnished at the prices and rates respectively named therefore in the proposal attached thereto, and will well and faithfully comply with and perform each and every obligation imposed upon it by said Plans and Specifications and the terms of said Award.

Contractor shall promptly make payments to all persons supplying materials in the prosecution of the work and to all laborers and others employed thereon.

Contractor shall be responsible for all damages to property of the City of Fayetteville, North Carolina, that may be consequent upon the normal procedure of its work or that may be caused by or result from the negligence of Contractor, its employees or agents, during the progress of or connected with the prosecution of the work, whether within the limits of the work or elsewhere. Contractor must restore all property so injured to a condition as good as it was when Contractor entered upon the work.

Contractor shall furthermore be responsible for and required to make good at its expense any and all damages of whatever nature to persons or property arising during the period of the Contract, caused by carelessness, neglect, or want of due precaution on the part of Contractor, its agents, employees or workmen. Contractor shall also indemnify and



### **Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville  
Fayetteville, North Carolina

save harmless the City of Fayetteville, North Carolina, and the officers and agents thereof from all claims, suits, and proceedings of every name and description which may be brought against the City of Fayetteville, North Carolina, or the officers and agents thereof, for or on account of any injuries or damages to persons or property received or sustained by any person or persons, firm or corporation, or by or in consequence of any materials used in said work or by or on account of any improper material or workmanship in its construction, or by or on account of any accident, or of any other act or omission of Contractor, its agents, employees, servants or workmen.

It is agreed and understood that the Invitation for Bids, Proposal, Standard Specifications, Special Provisions, and the enumerated addenda and drawings are parts and parcels of this Contract to the same extent as if incorporated herein in full.

It is further mutually agreed that if at any time after the execution of this agreement and the surety bonds hereto attached for its faithful performance, City shall deem the surety or sureties upon such bonds to be unsatisfactory, or if, for any reason, such bonds cease to be adequate to cover performance and payment of the work, Contractor shall, at its expense, within five days after the receipt of notice from the City so to do, furnish an additional bond or bonds in such form and amount, and with such surety or sureties as shall be satisfactory to City. In such event, no further payment to Contractor shall be deemed to be due under this agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to City.

It is further agreed that the Contractor will not discriminate against any employee or applicant because of race, color, creed, sex, or religion.

And City doth hereby covenant and agree with Contractor that it will pay to Contractor, when due payable under the terms of said Specifications and said Award, the above mentioned sum, and that it will well and faithfully comply with and perform each and every obligation imposed upon it by said Specifications and the terms of said Award.

It is also agreed that if the City shall determine that it is in the City's best interest, the City shall notify the Contractor to terminate the work within seven (7) days. The Contractor shall be entitled to compensation for all work properly executed and any expenses incurred in terminating the contract and vacating the construction site. No claim shall be made by the Contractor for any change order or termination, by reason of any variation between the approximate quantities and the quantity of work as done, or for lost profits.

Contractor shall furnish with each pay application on City provided forms, beginning not later than the second application for payment, an affidavit certifying the total cost of materials and North Carolina Sales Tax paid on such materials which are included in the application for payment.

**Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville  
Fayetteville, North Carolina

Whenever used herein, the singular shall include the plural, the plural the singular and the use of any gender shall be applicable to all genders as the context may require.

IN WITNESS WHEREOF, said Contractor has hereunto set its hand and seal (or) has caused these presents to be signed in its corporate name by its corporate seal to be hereto affixed and attested by its Secretary and the City of Fayetteville, North Carolina, has caused these presents to be signed in its corporate name by its authorized representative and seal to be hereto affixed and duly attested by its City Clerk, by authority of the City Council duly given, all as of the day and year first above written.

(Corporate Seal)

**(CONTRACTOR)**

(SEAL)

BY: \_\_\_\_\_

ATTEST:

TITLE: \_\_\_\_\_

\_\_\_\_\_  
Secretary

**CITY OF FAYETTEVILLE, NC**

ATTEST:

By: \_\_\_\_\_

\_\_\_\_\_

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
FINANCE OFFICER

This is to certify that I have examined the attached contract documents, that after such examination I am of the opinion that such documents conform to the laws of the State of North Carolina, that the execution of the contract and the contract bonds by **(CONTRACTOR)** are in due and proper form and that the foregoing agreements constitute valid and binding obligations on such parties.

\_\_\_\_\_  
ATTORNEY FOR THE CITY OF FAYETTEVILLE, NC

**Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville  
Fayetteville, North Carolina

**BONDS**

**PERFORMANCE BOND**

Date of Contract: \_\_\_\_\_

Date of Execution: \_\_\_\_\_

Name/Address of Principal: \_\_\_\_\_  
(Contractor) \_\_\_\_\_

Name/Address of Surety: \_\_\_\_\_  
\_\_\_\_\_

Name/Address of Contracting Body \_\_\_\_\_  
\_\_\_\_\_

Amount of Bond (Printed): \_\_\_\_\_

Project: Fayetteville Regional Airport – Airline Terminal Improvements – Part 3

KNOW ALL MEN BY THESE PRESENTS, that we, the PRINCIPAL and SURETY above named, are held and firmly bound unto the above named Contracting Body, hereinafter called the Contracting Body, in the penal sum of the amount stated above for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain contract with the Contracting Body, identified as shown above and hereto attached:

NOW THEREFORE, if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term of said contract and any extensions thereof that may be granted by the Contracting Body, with or without notice to the Surety, and during the life of any guaranty required under the contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, then, this obligation to be void; otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals on the date indicated above, the name and corporate

**Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville  
Fayetteville, North Carolina

seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

Executed in \_\_\_\_\_ counterparts.

Witness:

\_\_\_\_\_  
(Contractor: Trade or Corporate Name)

\_\_\_\_\_  
(Proprietorship or Partnership)

By: \_\_\_\_\_

Attest: (Corporation)

Title: \_\_\_\_\_  
(Owner, Partner, or Corp. Pres.  
or Vice Pres. Only)

By: \_\_\_\_\_

Title: \_\_\_\_\_  
(Corp Sec or Ass't Sec Only)

(Corporate Seal)

\_\_\_\_\_  
(Surety Company)

Witness:

By: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_  
(Attorney in Fact)

Countersigned:

(Surety Corporate Seal)

\_\_\_\_\_  
(N.C. Licensed Resident Agent)

\_\_\_\_\_  
(Name and Address - Surety Agency)

\_\_\_\_\_  
\_\_\_\_\_  
(Surety Company Name and NC Regional  
or Branch Office Address)

**Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville  
Fayetteville, North Carolina

PAYMENT BOND

Date of Contract: \_\_\_\_\_

Date of Execution: \_\_\_\_\_

Name/Address of Principal: \_\_\_\_\_  
(Contractor) \_\_\_\_\_

Name/Address of Surety: \_\_\_\_\_  
\_\_\_\_\_

Name/Address of Contracting Body: \_\_\_\_\_  
\_\_\_\_\_

Amount of Bond (Printed): \_\_\_\_\_

Project: Fayetteville Regional Airport – Airline Terminal Improvements – Part 3

KNOW ALL MEN BY THESE PRESENTS, that we, the PRINCIPAL and SURETY above named, are held and firmly bound unto the above named Contracting Body, hereinafter called the Contracting Body, in the penal sum of the amount stated above for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain contract with the Contracting Body, identified as shown above and hereto attached:

NOW THEREFORE, if the Principal shall promptly make payment to all persons supplying labor and material in the prosecution of the work provided for in said contract, and any and all duly authorized modifications of said contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, then, this obligation to be void; otherwise to remain in full force and virtue.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals on the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

**Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville  
Fayetteville, North Carolina

Executed in \_\_\_\_\_ counterparts.

Witness:

\_\_\_\_\_  
(Contractor: Trade or Corporate Name)

\_\_\_\_\_  
(Proprietorship or Partnership)

By: \_\_\_\_\_

Attest: (Corporation)

Title: \_\_\_\_\_  
(Owner, Partner, or Corp. Pres.  
or Vice Pres. Only)

By: \_\_\_\_\_

Title: \_\_\_\_\_  
(Corp Sec or Ass't Sec Only)

(Corporate Seal)

\_\_\_\_\_  
(Surety Company)

Witness:

By: \_\_\_\_\_

\_\_\_\_\_

Title: \_\_\_\_\_  
(Attorney in Fact)

Countersigned:

(Surety Corporate Seal)

\_\_\_\_\_  
(N.C. Licensed Resident Agent)

\_\_\_\_\_  
\_\_\_\_\_  
(Name and Address - Surety Agency)

\_\_\_\_\_  
\_\_\_\_\_  
(Surety Company Name and NC Regional  
or Branch Office Address)

**Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville

Fayetteville, North Carolina

**REQUIRED FORMS (POST AWARD)**

Change Order	See Supplemental Gen. Provisions para. 15
Standard Form for Payment Requests	See Supplemental Gen. Provisions para. 18
Sales & Use Tax Certificate	See Supplemental Gen. Provisions para. 22
Claims for Extra Cost/Time	See Supplemental Gen. Provisions para. 23
Release of Claims	See Supplemental Gen. Provisions para. 28

**Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville  
Fayetteville, North Carolina



**City of Fayetteville  
Purchasing Department  
433 Hay Street  
Fayetteville, NC 28301  
(910) 433-1942**

**CITY OF FAYETTEVILLE**

**CONTRACT CHANGE ORDER**

**Project: Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

**Contractor:**

**Address:**

**Effective Date:**

**Contract No.:**

**Change Order No.:**

**Account No.:**

**Previous Total:**

**Total Change:**

**Revised Total:**

**Time Change:**

**This change order is being written to:**

**Except as provided herein, all terms and conditions of the contract referenced above, as heretofore changed remains unchanged and in full force and effect.**

**Contractor Acceptance:**

**I certify that my bonding company will be notified forth-with that my contract has been changed by the amount of this change order, and that a copy of the approved change order will be mailed upon receipt by me to my surety.**

**By:** \_\_\_\_\_  
(Signature/Date)

\_\_\_\_\_  
**Type or Print Name**

**City Acceptance:**

**This instrument has been pre-audited in the manner required by the Local Government and Budget Fiscal Control Act.**

\_\_\_\_\_  
**Finance Officer (Signature/Date)**

\_\_\_\_\_  
**City Engineer (Signature/Date)**

\_\_\_\_\_  
**Contracting Officer (Signature/Date)**



**Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville  
Fayetteville, North Carolina

<b>Title</b>	
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**STANDARD FORM FOR PAYMENT REQUESTS**

Company Name:  
Company Address:

Project Name:  
Project Number:

Company Phone:

Pay Request #

**PART A**

	SCHEDULED	UNIT	SCHEDULED	PREVIOUS	CURRENT	TOTAL
ITEM#	DESCRIPTION	QUANTITY	PRICE	VALUE	QTY	VALUE
1.						
2.						
3.						
4.						
				SUB-TOTAL		SUB-TOTAL

**PART B**

	SCHEDULED	UNIT	SCHEDULED	PREVIOUS	CURRENT	TOTAL
ITEM#	DESCRIPTION	QUANTITY	PRICE	VALUE	QTY	VALUE
1.						
2.						
3.						
4.						
				SUB-TOTAL		SUB-TOTAL

TOTAL EARNINGS \$

**CONTRACT SUMMARY**

Original Contract Value \$  
Change Orders Approved \$  
Current Contract Value \$  
Total Earnings \$  
Less Retainage \$  
Less Previous Payments \$  
Due this estimate \$  
Balance to finish (+ retainage) \$

**Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville  
Fayetteville, North Carolina

PROJECT TITLE Fayetteville Regional Airport – Airline Terminal Improvements – Part 3 App # \_\_\_\_\_

**SALES/USE TAX CERTIFICATE**

(Use as many sheets as needed/sign affidavit of last sheet per pay estimate)

Analysis of consumed material **Manufactured or Purchased** by you. Sales and/or Use Tax Regulation Number 41 requires that the City of Fayetteville secure from each contractor certified statements setting forth the cost of the materials and supplies manufactured or purchased by you and consumed in construction. This form is provided for you to list the materials consumed in construction. Please complete this form by inserting the information required below.

<u>Vendor Name</u>	<u>Date Purchased</u>	<u>Invoice Number</u>	<u>Amount Less Tax</u>	<u>Sales Tax 4.75% State/2.25% Local</u>	<u>Invoice Total</u>	<u>County Paid</u>
_____	_____	_____	_____	_____/_____	_____	_____
_____	_____	_____	_____	_____/_____	_____	_____
_____	_____	_____	_____	_____/_____	_____	_____
_____	_____	_____	_____	_____/_____	_____	_____
_____	_____	_____	_____	_____/_____	_____	_____
_____	_____	_____	_____	_____/_____	_____	_____
_____	_____	_____	_____	_____/_____	_____	_____
_____	_____	_____	_____	_____/_____	_____	_____
			\$ _____	\$ _____	\$ _____	\$ _____

**AFFIDAVIT**

This is to certify that sales/use tax was or will be paid as stated above on materials and supplies purchased or manufactured by the **City of Fayetteville, North Carolina**, for the above mentioned project during the period and billed on this payment application # \_\_\_\_\_

\_\_\_\_\_  
(Contractor)

\_\_\_\_\_  
(Authorized Signature/Date)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(City, State, Zip)

\_\_\_\_\_  
(Fax Number)

Date: \_\_\_\_\_

Page \_\_\_\_\_ of \_\_\_\_\_

**Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville

Fayetteville, North Carolina

**CLAIM FOR EXTRA COST/TIME**



**PROJECT TITLE: Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

**CONTRACTOR:** \_\_\_\_\_

**FAX:** \_\_\_\_\_

City of Fayetteville  
433 Hay Street  
Fayetteville, NC 28301  
Phone (910) 433-1942

**CLAIM is made for \_\_\_\_\_ additional dollars/\_\_\_\_\_ additional days for the following reason:**

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

Phone: \_\_\_\_\_ Date: \_\_\_\_\_

**ACCEPTED/DENIED**

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

Phone: \_\_\_\_\_ Date: \_\_\_\_\_

**If Denied, Explanation or Counter proposal:**

**Counter Proposal Accepted/Denied  
City/Contractor**

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

Phone: \_\_\_\_\_ Date \_\_\_\_\_

**Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville  
Fayetteville, North Carolina

**RELEASE OF CLAIMS**

Contract/Purchase Order Number: \_\_\_\_\_

Title: Fayetteville Regional Airport – Airline Terminal Improvements – Part 3

Project Number: \_\_\_\_\_

To the best of my knowledge and belief, I certify that all items, units, quantities, prices of work and materials and NC Sales taxes shown on the attached final invoice are correct; that all work has been performed and materials supplied in accordance with the terms and conditions of the above stated contract, including any and all change orders, between the City of Fayetteville, and (Contractor) \_\_\_\_\_ . I further certify that all subcontracting obligations have been met. Below is a true and correct statement of the contract amount up to and including the last day of the period covered by the attached final invoice, and that no part of the "total amount due" has been received.

- (a) Total Contract Cost (Including Change Orders) \$ \_\_\_\_\_
- (b) Total Amount Previously Paid \$ \_\_\_\_\_
- (c) Total Amount Due (Including retainage) \$ \_\_\_\_\_

In consideration of the above stated sum to be paid by the City of Fayetteville for the noted contract, the undersigned contractor does release and discharge the City of Fayetteville, its officers, agents and employees, of and from all liabilities, obligations and claims whatsoever in law and equity arising out of or by virtue of said contract, except specified claims in stated amounts, or in estimated amounts when the amounts are not susceptible of exact statement by the contractor, as follows:

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

IN WITNESS WHEREOF, this release has been executed this \_\_\_\_\_ day of \_\_\_\_\_, 2019

(Imprint Corporate Seal below this line)

CONTRACTOR

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
(Secretary)

**Fayetteville Regional Airport – Airline Terminal Improvements – Part 3**

Owner: City of Fayetteville

Fayetteville, North Carolina

**ENGINEERING CERTIFICATION OF CHARGES**

I certify this \_\_\_\_\_ day of \_\_\_\_\_, 2023, that the attached final invoice is correct for payment, and that to the best of my knowledge and belief, it is a true and correct statement of work performed and materials supplied in accordance with the terms and conditions of the above noted contract.

CITY OF FAYETTEVILLE, NC

BY \_\_\_\_\_

TITLE \_\_\_\_\_