



# NORTHERN COLORADO REGIONAL AIRPORT COMMISSION

4900 EARHART ROAD • LOVELAND, CO 80538

**MEETING AGENDA**  
**THURSDAY MAY 18, 2023**  
**3:30PM – 5:00PM**

**CALL TO ORDER**

**ROLL CALL**

**PUBLIC COMMENT**

**CONSENT AGENDA**

1. MINUTES FOR APRIL 20, 2023 & MAY 2, 2023, MEETINGS – P. 3
2. APRIL FINANCIAL STATEMENT – P. 11
3. APRIL AIRPORT DIRECTOR'S REPORT – P. 13
4. DRAFT GRANT AGREEMENT FROM THE FEDERAL AVIATION ADMINISTRATION FOR THE AIRPORT RUNWAY WIDENING PROJECT DESIGN #FAA AIP 43 – P. 36
5. DRAFT GRANT AGREEMENT FROM THE FEDERAL AVIATION ADMINISTRATION FOR THE NEW AIRPORT TERMINAL PROJECT #FAA AIP 44 – P. 75
6. GRANT FROM THE STATE OF COLORADO FOR THE AIRPORT RUNWAY WIDENING PROJECT DESIGN #CDAG 23-FNL-02 – P. 105

**APPROVAL OF CONSENT AGENDA**

**AIRPORT DIRECTOR'S REPORT HIGHLIGHTS**

**REGULAR AGENDA**

7. STRATEGIC ACTION PLAN ADOPTION & WORKPLAN – ACTION ITEM (30 MIN) – P. 123
8. NEW TERMINAL PROJECT UPDATE AND CONSTRUCTION MANAGER AT RISK GUARANTEED MAXIMUM PRICE CONTRACT RECOMMENDATION FOR APPROVAL – ACTION ITEM (30 MIN) – P. 141
9. EQUIPMENT DONATION ACCEPTANCE & TRANSFER OF FEDERAL GRANT OBLIGATIONS (15 MIN) – P. 431
10. BUSINESS FROM MEMBERS

**PULLED CONSENT AGENDA ITEMS**

**ADJOURN**



# NORTHERN COLORADO REGIONAL AIRPORT COMMISSION

## Meeting Planning Calendar

### June 15

- 2022 Financial Audit
- T-Hangar Investigation Presentation
- FCLWD Easement
- Airport Terminal Construction Management Contract

### July 20

- Preliminary Budget Presentation
- Airport Commission Roles and Responsibilities Training
- Land Use Plan Draft Presentation

### August 17

- Airport Staffing Support Presentation
- Budget Recommendation to Councils

Next Planning & Development Subcommittee Meeting: May 24 @ 3:30pm.

Agenda and materials will be made available at [www.flynoco.com/airport-commission/pdsc](http://www.flynoco.com/airport-commission/pdsc).





## Meeting Minutes for April 20, 2023

**Call to Order:** Chair Overcash called the meeting to order at 3:33 p.m.

**Roll Call:** Chair Overcash, Vice-Chair Fleming, Commissioners Adams, Arndt, Burgener, DiMartino, and Stooksbury were present.

**Public Comments:** None

### Consent Agenda

Vice-Chair Fleming moved to approve the Consent Agenda. The motion, seconded by Commissioner Adams carried with all the Commissioners present voting in favor thereof.

**Pulled Items** None

**Consent Follow up** None

### Monthly Report Follow-up:

- Estimated costs for the GMar contract will be finalized in May.
- Remote Tower is making headway, the 4k testing was completed with preliminary approvals looking positive. Searidge Technologies formally requested the withdrawal of the stop work order issued by the FAA. Letters of support to the FAA for the project are underway from the Governor, Senators, and CDOT.
- CDOT approved an overmatch grant of \$463k for the Airport's runway widening project.
- United diversions will be in the sky more frequently as the Director completed preliminary meetings to approve their diversion operations and we are entering storm season.

**Public Comments:** None

### Regular Agenda

#### 6. T-Hangar Lease Update With Consideration Of Tenant Lease Proposal With Possible Executive Session Consistent With C.R.S. 24-6-

On March 2nd, the Airport Commission took action to decommission the T-hangar units that are owned by the Cities and are rented to aircraft owners on a month-to-month basis. This difficult decision was made in response to safety and liability concerns that were identified during a structural analysis that was conducted during the recent hangar development request for proposals (RFP) investigation. Details on the decision are as follows:



**402(4)(A), C.R.S. 24-6-402(4)(B), And/Or C.R.S. 24-6-402(4)(E)(I)**

- May 10 vacation deadline was established for the A and B hangars
- July 10 vacation deadline was set for the C hangars.
- Airport to provide funding for up to 6 months of tie-down funding at the Airport for affected tenants, and rent waived for the final month of occupancy.
- The Commission provided an opportunity for the affected tenants to present information and proposals at the next two Commission meetings to address the safety concerns and potentially delay the decommissioning.

On March 9th, a town hall meeting was held at the jetCenter hangar. Tenants and other stakeholders shared thoughts and ideas and Airport staff shared information and answered questions.

Discussion of the T-hangar decommissioning continued at the March 16th Commission meeting. Rick Turley, representing the tenants, presented a proposal outline with the goals of:

- Continuing to occupy the C hangars, while reducing the risk/liability to the Cities by conducting a more thorough investigation and mitigating deficiencies.
- Creating a transition plan to migrate the existing A and B hangar tenants to vacant C units.
- Ensuring the timely creation of a new T-Hangar site for future development

The Airport Commission took action to delay the hangar vacation deadlines by a month to allow Airport staff to work with City staff and the tenants to conduct a more thorough structural analysis of the C hangars and develop recommendations to present to the Commission.

In the past month, the Cities have contracted Civil Innovations, LLC, a civil engineering company, and Knott Laboratories, LLC, a forensic engineering firm, to conduct a facility condition assessment with an emphasis on life safety and to identify potential repairs to extend the service lives of the buildings. They recently inspected the two C hangar buildings and are preparing a report with their findings and recommendations. It is still unknown if the decommissioning of the C hangars will be extended. The Cities are moving forward with the decommissioning of the A and B buildings. Tenants of those buildings who are in compliance with their lease terms will be moved to the C buildings. The following map shows vacant



units and units with tenants who are not in compliance with their lease terms.

**Public Comments:** The following public members provided comments on their unhappiness with the Commission's use of executive sessions as advised by Cities' Legal Departments, and repeated questions from the last several meetings regarding the City of Loveland's building code standards, big box hangars being more status symbols and unnecessary, how everyone needs to work together, that building code should not be a requirement, that current building conditions are from lack of maintenance and that the Airport was responsible for that maintenance despite the fact the deferred maintenance occurred during private ownership and that millions of dollars were stolen from the GA community to build the terminal and that millions of dollars have been wasted on the Remote tower project, despite those funds coming from the State of Colorado and not from either City or Airport funds, and requests for more time and additional studies on the A and B hangars: **Rick Turley**, hangar tenant; **Martin Brophy**, AOPA; **James Aden**, hangar tenant; **Howard Abraham**, Fort-Love Hangars; **Dave Hendrickson**, unknown affiliation; **Adam Woodward**, EAA. **Brad Schuster**, AOPA: Spoke on the national shortage of GA hangars and AOPA's support of the GA community. **Kaitlyn McHugh**, Discovery Air Lawyer: Requested the Commission withdraw their prior motion to vacate the hangars based on this latest study and announced a legal letter had been delivered to the Commission regarding Discovery Air's grievances. **Steve McClintock**, hangar tenant: Admitted to subletting a hangar that is not in accordance with lease requirements and requested special privileges be authorized despite being in violation of the terms of the hangar lease agreement.

**MOTION:** Commissioner Stooksbury moved to repeal the previous action for all three hangars based on the information received today and that the original engineering report needs to also be expanded to include a second study for A and B hangars as well with a commitment for a plan by July 20 for a cost analysis, who will pay for those improvements, and what will be required to keep the buildings in use such as an annual maintenance plan. The motion, was withdrawn by Commissioner Stooksbury.

**AMENDED FIRST MOTION:** Commissioner Stooksbury amended his motion to be split into to motions. Commissioner Stooksbury moved to extend the moratorium by an additional 30 days. The motion, seconded by Commissioner Arndt was restated by Commissioner DiMartino.

**AMENDED SECOND MOTION:** Commissioner Stooksbury moved to expand the study to include an additional analysis for A and B hangars and a commitment for a plan by July 20 with a cost analysis, responsibility for those improvement costs, and a maintenance plan to keep the buildings in use. The motion, seconded by Commissioner Arndt was restated by Commissioner DiMartino.



**MOTION:** Commissioner DiMartino moved to extend the C hangars moratorium by another 30 days, to October 10 with a commitment to have a plan by no later than the July 20 meeting which will include the cost analysis, responsibility for those costs, and a maintenance plan for ongoing use of the buildings. The motion, seconded by Commissioner Stooksbury was amended and carried with all the Commissioners present voting in favor thereof.

**AMENDED MOTION:** Commissioner Adams moved to amend the final motion to include prioritization of A and B hangar tenants in good standing to be relocated to available C hangars. The amended motion, seconded by Vice-Chair Fleming carried with all the Commissioners present voting in favor thereof.

**MOTION:** Vice-Chair Fleming moved to order an extended study of the A and B hangars as well. The motion, seconded by Commissioner Stooksbury carried forward with two no's from Chair Overcash and Commissioner Adams.

**MOTION:** Commissioner Arndt moved to release the latest C hangar structure analysis to the public. The motion, was withdrawn by Commissioner Arndt with the understanding that staff would try to complete final review of the report by the following Monday and release when final.

**Public Comments:** None

**Adjournment:** Meeting adjourned at 5:31 p.m.

**Respectfully Submitted,**

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**Vice-Chair, Tom Fleming**



# April 20, 2023 REGULAR MEETING SIGN IN SHEET

Please Print Your:

NAME

ORGANIZATION

|                      |  |
|----------------------|--|
| RICK TURLEY          | C HANGAR TENANT                        |
| Dallas Heltzell      | BizWest                                |
| Mike Plachy          | Lewis Roca                             |
| Nick Krautz          | Pilot                                  |
| Tat Ferner           | Coloradoan.                            |
| Jack's Marsh         | City of Loveland                       |
| Scott Helst          | Dixon AR                               |
| Cony McDaniel        | Hensel Phelps                          |
| James Aden           | C HANGAR TENANT - Future Buyer?        |
| Danny McIntire       | jet center                             |
| Roy Space            | EAA WIFNL                              |
| JASON Smitherman     | COL - RM                               |
| Michelle Martin      | Civil Innovations                      |
| Kas PAULD            | Civil Innovations                      |
| Mike Tasse           | CAP / Aerospace Division               |
| BRAD SCHUSTER (AOPA) | AIRCRAFT OWNERS AND PILOTS ASSOCIATION |
| Ben Vessey           |  |
| Rick Singleton       |  |
| Marty Brophy         | <del>FLPA</del> FNLPA / AOPA ASN       |
| Scott Schorling      | City of Loveland                       |
| Gary H. Sallan       | WE                                     |
| Adam Woodward        | GTA 515                                |
| Kelly Freeland       | The Flying School                      |
| Kelly Ritzley        | Cardinal Flyers LLC                    |
|                      |  |
|                      |  |
|                      |  |
|                      |  |



## May 4, 2023 Special Meeting Minutes

**Call to Order:** Chair Overcash called the meeting to order at 9:03 a.m.

**Roll Call:** Chair Overcash, Vice-Chair Fleming, Commissioners Adams, Arndt, Burgener, DiMartino, and Stooksbury were present.

**Public Comments:** None

### Regular Agenda

**1. Review of Letter from Discovery Air, LLC Dated April 20, 2023**

The Airport was served a letter by Discovery Air, LLC Dated April 20, 2023 at the Airport Commission Regularly scheduled April 20, 2023 meeting. This item has a possible executive session to receive legal advice on specific legal questions as authorized by Colorado Revised Statute § 24-6-402 (4)(b).

Matters relating to this item were discussed in executive session at the May 4 Special Airport Commission meeting. Legal staff m.

Vice-Chair Fleming moved to recess the Northern Colorado Regional Airport Commission recess into executive session for the purpose of discussing the letter to the Commission dated April 20, 2023 from Lewis Roca on behalf of Martin Lind, pursuant to Section 4(e) of the Northern Colorado Regional Airport Commission Bylaws,

- The purpose is, to discuss matters of attorney-client privilege and to receive legal advice from an attorney representing the Cities on specific legal questions, as authorized by Colorado Revised Statute § 24-6-402 (4)(b) and any applicable provisions of the Loveland and Fort Collins City Charters.

The motion, seconded by Commissioner Arndt carried with all the Commissioners present voting in favor thereof.

**Exited Public Session and Entered Executive Session:** 9:06 a.m.

**Executive Session Concluded** 10:37 a.m.

**Re-entered Public Session** 10:38 a.m.

The Commission's legal counsel and City of Loveland's Senior Assistant City Attorney Laurie Wilson made a statement when the Commission reentered the public session:



Based on the claims brought forth for the Commission, based on the information in the letter and the IGA, the role of the Commission and delegation of authority under the IGA, the Commission will not be responding regarding the request for mediation. However, it will be turned over to the two cities for further evaluation and to determine next steps.

**Adjournment:** Meeting adjourned at 10:39 a.m.

**Respectfully Submitted,**

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**Vice-Chair, Tom Fleming**

DRAFT



## May 4, 2023 REGULAR MEETING SIGN IN SHEET

**Please Print Your:**

NAME

## ORGANIZATION

[illegible]





# NORTHERN COLORADO REGIONAL AIRPORT

4900 Earhart Rd • Loveland, Colorado 80538

(970) 962-2850 • FAX (970) 962-2855 • TDD (970) 962-2620

**ITEM NUMBER:** 2

**MEETING DATE:** May 18, 2023

**PREPARED BY:** Jason R. Licon, Airport Director

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## **TITLE**

Monthly Financial Statement

## **RECOMMENDED AIRPORT COMMISSION ACTION**

Staff recommend acceptance of the preliminary financial statement as presented.

## **BUDGET IMPACT**

Neutral

## **SUMMARY**

Financial highlights for the month of April include:

- The monthly statement indicates just over \$9 million within the net position available for use. This amount includes \$6 million as approved by the Airport Commission and City Councils to be applied toward the terminal project. Within this amount \$2 million is from the CARES Act operations and maintenance grant, which has been fully drawn down and input in the account, \$2 million for the local matching contribution, and \$2 million in City Contributions that were approved by the City Councils which were just deposited.
  - An accurate net position available for use is \$3 million which is planned for future federal funding grant matches, specifically \$1 million for the \$14 million runway widening project in 2025, and the remainder maintaining the operational financial reserve.
- Aviation business lease deferral balance was paid down to \$109,470 for the period April 2020 – March 2023 with two companies in the program. The balances are being paid on a monthly schedule by one company and the other has agreed to pay at the end of the term. Both balances are accruing interest.

## **ATTACHMENT**

Preliminary monthly financial statement for April



# NORTHERN COLORADO REGIONAL AIRPORT

## Airport Statement of Revenues and Expenses From 01/01/2023 to 04/30/2023

PRELIMINARY

|   | Y-T-D 2023 Actual | Y-T-D 2022 Actual | Y-T-D 2023 Budget  | 2023 Total Budget   | % of Total Budget |
|---|-------------------|-------------------|--------------------|---------------------|-------------------|
| <b>OPERATING REVENUES</b>                             |                   |                   |                    |                     |                   |
| Hangar Rental   | 77,430            | 80,584            | 85,000             | 255,000             | 30%               |
| FBO Rent  | 31,391            | 31,391            | 31,379             | 94,134              | 33%               |
| Gas and Oil Commissions                               | 74,536            | 73,112            | 63,332             | 190,000             | 39%               |
| Aviation Fuel Tax Reimbursement                       | 97,426            | 76,538            | 55,500             | 166,500             | 59%               |
| Land Lease  | 205,046           | 134,427           | 166,668            | 500,000             | 41%               |
| Land Lease PD Training Ctr                            | 103,043           | 92,139            | 130,536            | 391,600             | 26%               |
| Terminal Lease and Landing Fees                       | 7,240             | 8,642             | 4,136              | 12,400              | 58%               |
| Parking   | 0                 | 0                 | 0                  | 0                   | 0%                |
| Miscellaneous   | 29,287            | 11,514            | 48,300             | 144,900             | 20%               |
| <b>TOTAL OPERATING REVENUES</b>                       | <b>625,399</b>    | <b>508,345</b>    | <b>584,851</b>     | <b>1,754,534</b>    | <b>36%</b>        |
| <b>OPERATING EXPENSES</b>                             |                   |                   |                    |                     |                   |
| Personal Services                                     | 254,384           | 221,599           | 363,180            | 1,089,540           | 23%               |
| Supplies  | 41,887            | 47,399            | 47,972             | 124,900             | 34%               |
| Purchased Services                                    | 75,708            | 113,131           | 492,619            | 1,496,860           | 5%                |
| <b>TOTAL OPERATING EXPENSES</b>                       | <b>371,978</b>    | <b>382,129</b>    | <b>903,771</b>     | <b>2,711,300</b>    | <b>14%</b>        |
| <b>OPERATING GAIN (LOSS)</b>                          | <b>253,421</b>    | <b>126,216</b>    | <b>(318,919)</b>   | <b>(956,766)</b>    |                   |
| <b>NONOPERATING REVENUES (EXPENSES)</b>               |                   |                   |                    |                     |                   |
| Passenger Facility Charge                             | 0                 | 0                 | 0                  | 0                   |                   |
| Interest Income                                       | 15,726            | 6,910             | 17,000             | 51,000              | 31%               |
| Capital Expenditures                                  | (148,751)         | (83,120)          | (10,297,224)       | (30,891,667)        | 0%                |
| Contribution - Loveland                               | 1,000,000         |                   | 1,000,000          | 1,000,000           | 100%              |
| Contribution - Fort Collins                           | 1,000,000         |                   | 1,000,000          | 1,000,000           | 100%              |
| <b>TOTAL NONOPERATING REVENUES (EXPENSES)</b>         | <b>1,866,976</b>  | <b>(76,210)</b>   | <b>(8,280,224)</b> | <b>(28,840,667)</b> |                   |
| <b>NET INCOME (LOSS) BEFORE CAPITAL CONTRIBUTIONS</b> | <b>2,120,396</b>  | <b>50,006</b>     | <b>(8,599,143)</b> | <b>(29,797,433)</b> |                   |
| Capital Contributions                                 | 1,151,770         | 900               | 10,416,000         | 31,248,000          | 4%                |
| <b>CHANGE IN NET POSITION</b>                         | <b>3,272,167</b>  | <b>50,906</b>     | <b>1,816,857</b>   | <b>1,450,567</b>    |                   |
| NET POSITION, Beginning                               | 21,237,480        | 19,864,422        |                    |                     |                   |
| NET POSITION, Ending                                  | 24,509,647        | 19,915,328        |                    |                     |                   |
| Investment in Capital Assets                          | 15,440,026        | 15,805,175        |                    |                     |                   |
| Net Position Available for use                        | 9,069,621         | 4,110,153         |                    |                     |                   |



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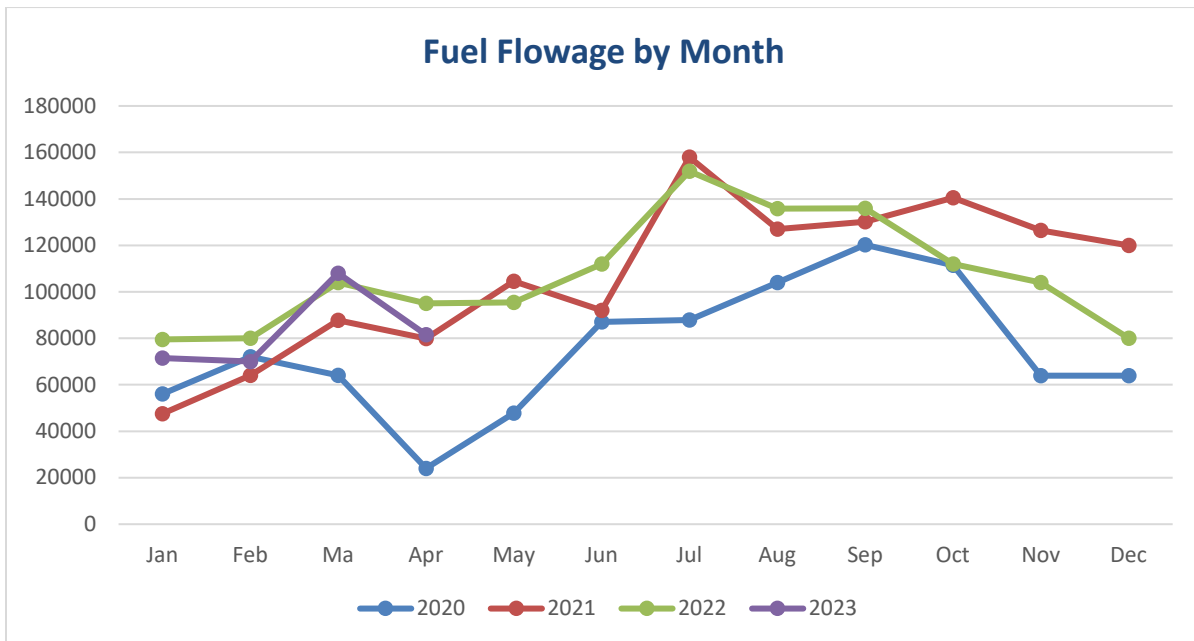
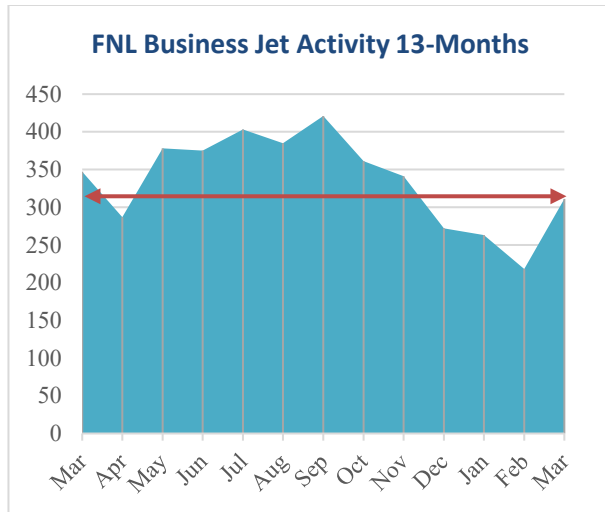
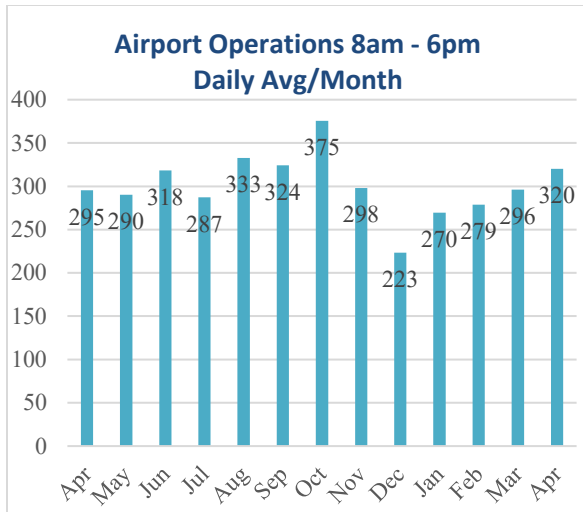
Date: May 15, 2023  
To: Northern Colorado Regional Airport Commission  
From: Jason R. Licon, Airport Director  
Re: April Airport Report

## Report Highlights

- The FAA has extended the stop work order by another six months allowing Searidge Technologies to implement system upgrades and submission of critical documentation necessary for the continued certification process of the remote tower system. This extension will allow the FAA to continue supporting air traffic control services being provided at the airport.
- Letters of support for the Remote Tower Project were sent to the FAA Acting Administrator and USDOT Secretary of Transportation Buttigieg from both Senators, Representatives Buck and Neguse, and Governor Polis.
- The Airport Director has negotiated a deal with the Sun Valley Idaho airport for the acquisition of a relatively new piece of snow removal equipment originally valued at \$579,000 to be donated to the Airport.
- The T-hangar evaluation was completed by structural engineering consultants for the C-hangars and presented to the Airport Commission. Direction to evaluate the A & B hangars was given to staff in addition to obtaining pricing estimates for repairs to the C-hangars and design for implementation of said repairs.
- City of Loveland Public Works Stormwater Division began work on a regional stormwater channel located on the south end of the airport. This channel existed previously and was sized larger to support additional flows resulting from adjacent development and planned future development. Work on this project will be completed at the end of May.

## April Airport Activity Dashboard

- Flight operations for the month of April averaged 320 per day, and the twelve-month rolling average is 301.
- Wholesale fuel ordered by the jetCenter FBO was 81,510 gallons for the month of April, a significant decrease of 14.1% compared to the previous April at 94,987 gallons.
  - Total fuel for jetCenter is down 7% year over year
  - Total fuel flowage through April is 331,082 gal compared to 358,605 gal in 2022
- Business jet activity for March compared to the same month in 2022 dropped by 10.4% to 311 operations from 347.



## Airport Owned T-Hangars Update

The Airport Commission provided staff with direction at their regular meeting on April 20 to further investigate the cost and design needed to extend the service life of the 40-unit T-Hangar buildings commonly referred to as the C-Unit hangars. With assistance from the Cities engineering department staff, the Airport has engaged Engineering firm Civil Innovations and Knott Laboratory to update their contractual scope to include the Commission's additional tasks of a second evaluation of the A and B hangars and repair estimates necessary to keep the C hangars usable.

Multiple meetings to discuss the scope of work addition and cost negotiation were accomplished during the last week of April, and the updated contract was signed the first week

in May. The consultants began work on Tuesday May 9 to perform another onsite visit to inspect the A & B hangars. Following this inspection, they will also be creating the design and cost estimating for the repairs needed for the C-hangars. The contract items are expected to take approximately 30 days to complete at a cost of \$23,200. The total cost for the work that has been performed to date and for the new contract is \$38,200.

### **Remote Tower**

The FAA has approved a six-month time extension for Searidge Technologies to install new cameras and technology that will enable the system to meet the new criteria for visibility. It will also allow Searidge to perform the other items that were identified as discrepancies with the system as a result of the previous system testing. The new visibility requirements are the most significant issue to overcome, and this issue seems to have been solved with the demonstration by Searidge to the FAA that used new cameras and displays that concluded in early April.

What this means for FNL is the FAA will provide the funding for another six months of air traffic control services, which is an estimated value of \$350,000. Further this will provide the time for Searidge to install, develop and submit all requested items the FAA needs to restart the operational testing and evaluation for the goal of system certification.

The airport was also successful in obtaining letters of support for the Remote Tower Project from both Senators, Representatives Buck and Neguse, and Governor Polis that were sent to the FAA Acting Administrator Nolan and USDOT Secretary of Transportation Buttigieg. Copies of these letters are attached to the report. David Ulane, the Aeronautics Director for the State of Colorado was a great partner in working with the Airport Director to request the letters of support.

### **Terminal**

Progress on the design efforts for the new terminal project is almost complete! The 95% design milestone was reached on May 4 by the design team as scheduled. The construction contract has also been finalized and negotiated with Hensel Phelps, which will be brought forward to the Airport Commission for their review and recommendation to the City Council of Loveland for approval. The project is still tracking well with timelines and budget.

### **Airport Equipment Donation**

The Airport will be receiving a very generous donation of a relatively new piece of snow removal equipment from the Sun Valley Idaho Friedman Memorial Airport (SUN). This is tremendous news as we have identified a need for a high speed runway broom truck for the past few years. Within the Airport's approved Capital Improvement Plan for 2024 it includes a \$400,000 line item for acquiring a new similar unit. The FAA requires that Airports have adequate equipment to remove snow within a certain amount of time to achieve regulatory standards and safety for airport users. The Airport utilizes two high speed runway brooms to

achieve these regulatory standards, one is a surplus unit that is 24 years old, and the other was purchased new by the airport and is 16 years old.

The manager of the SUN Airport, Chris Pomeroy, had to shift his strategy for dealing with snow removal as a result of demands from airport users. They elected to transition to another much larger and more expensive combination type of snow removal unit that includes both the plow and broom to keep up with the snowfall they typically experience. The acquisition of the new equipment type made this unit no longer necessary for their needs, and because it was acquired using federal funds, another commercially certified airport may only receive it. Our airport will need to approve the donation, and possibly obtain city council approval for acceptance. It will also require that the federal obligations that were originally assumed by SUN will be transferred to us for the remaining service life of the unit.



## Honor Flight

The Airport hosted the High Plains Honor Flight on April 30. This is part of the national Honor Flight Network, which coordinates trips to Washington, D.C., for veterans from World War II and the Korea and Vietnam wars, as well as Purple Heart recipients from Operation Enduring Freedom and Operation Iraqi Freedom to participate in a "day of honor at our nation's memorials" at no cost to them. This trip from Northern Colorado Regional Airport served 120 veterans from Colorado, Wyoming and Nebraska.



**Airport Scheduled Events**

- May 30 – June 5 Commemorative Air Force (CAF) “Flying Legends of Victory Tour 2023”
- June 11-15, June 25-July 1, July 23-29 CSU Drone Training, Airport Tours, & Aims Flights
- June 14 Larimer County Career Road Trip – Aeronautical careers tour
- August 12 Aims Aviation Day
- October 6-7 Colorado State University’s “Colorado Drone Airshow 2023”

**Attachments**

1. Remote Tower
  - a. Project Report for April from WEPA
  - b. Colorado Delegation Letter of Support for the Remote Tower Project
  - c. Governor Polis Letter of Support for the Remote Tower Project
2. Loveland Fire and Rescue Authority ARFF monthly report
3. News Articles:
  - a. Colorado Airport’s Remote Tower on Life Support
  - b. Colorado Airport Hopes to Retain Remote Tower Capabilities
  - c. Aircraft owner New NoCo hangar study ‘everything I expected’



April 30, 2023

From: William E. Payne, P.E.

To: Colorado Division of Aeronautics

## Section A – Remote Air Traffic Control Contract Progress Report #22

Re: Period: April 1 through April 30, 2023

| Colorado Remote Tower Project<br>Activity Status |                                     |                            |  |
|--|-------------------------------------|----------------------------|--|
| Activity   | Status/Start<br>Date<br>(Projected) | Finish Date<br>(Projected) | Remarks                                |
| <b>Remote Tower Implementation</b>               |                                     |                            |  |
| STARS Operational at FNL                         | 11/25/2022                          | 12/15/2022                 | Local Adaption and Mapping Complete    |
| <b>Remote Tower System</b>                       |                                     |                            |  |
| System Upgrade - Tech Refresh                    | In-Progress                         | TBD                        | Ongoing                                |
| <b>Remote Tower Testing</b>                      |                                     |                            |  |
| <b>FAA Stop Work Order</b>                       | <b>10/7/2022</b>                    | <b>11/11/2022</b>          | <b>Vendor Addressing Deficiencies</b>  |
| OVR Ver 2.1                                      | 3/4/2023                            | 3/4/2023                   | Delivered to Vendors                   |
| 4K Camera and Display Test at FNL                | 3/27/2023                           | 3/31/2023                  | Complete                               |
| Vendor Requests Extension of Stop Work Order     | 4/14/2023                           | 4/14/2023                  | FAA Consider Request on 4/27/2023      |
| FAA Considers Stop Work Order Extension          | 4/27/2023                           | 4/27/2023                  | FAA Grants 6 Month Extension           |
| Install Full System Upgrades                     | June 2023                           | TBD                        |  |
| Phase 1B - Passive Re-testing                    | TBD                                 | TBD                        |  |
| Safety Risk Manage Panel                         | TBD                                 | TBD                        | FAA Forecast Schedule 1 week duration  |
| Safety Risk Management Document Signed           | TBD                                 | TBD                        | FAA Forecast Schedule 6 months         |
| Phase 2 - Active Testing                         | TBD                                 | TBD                        | Subject to FAA Phase 1 SRMD Signatures |
| Safety Risk Manage Panel                         | TBD                                 | TBD                        |  |
| Safety Risk Management Document Signed           | TBD                                 | TBD                        |  |
| Phase 3 - Validation & Verification              | TBD                                 | TBD                        | Subject to FAA Phase 2 SRMD Signatures |
| Safety Risk Manage Panel                         | TBD                                 | TBD                        |  |
| Safety Risk Management Document Signed           | TBD                                 | TBD                        |  |
| Operational Viability Decision (OVD)             | TBD                                 | TBD                        |  |
| Phase 4 - Post OVD Validation & Verification     | TBD                                 | TBD                        | Subject to FAA Phase 3 SRMD Signatures |
| Safety Risk Manage Panel                         | TBD                                 | TBD                        |  |
| Safety Risk Management Document Signed           | TBD                                 | TBD                        |  |
| <b>Certification/Commissioning</b>               | <b>TBD</b>                          | <b>TBD</b>                 |  |

Note: All dates reflect latest FAA proposed schedule and are subject to change based on FAA SME's ability to travel to FNL



## **Remote Tower Project Narrative:**

With the failure of the vendor to certify the Leesburg Executive Airport (JYO) remote tower system, a success at the Northern Colorado Regional Airport (FNL) will not only be a win for the State of Colorado and the airport but also the FAA, which is under considerable pressure from Congress to deliver on the mandate to develop a remote tower Pilot Program as contained in the 2018 FAA Reauthorization Act.

There are 18 system deficiencies which have been identified by the team, the major one being the visual acuity which has been addressed with the change from 1080P cameras and HD displays to 4K cameras and displays. Of the remaining deficiencies, some are minor and others are more impactful. Searidge has indicated that they can and will address all deficiencies.

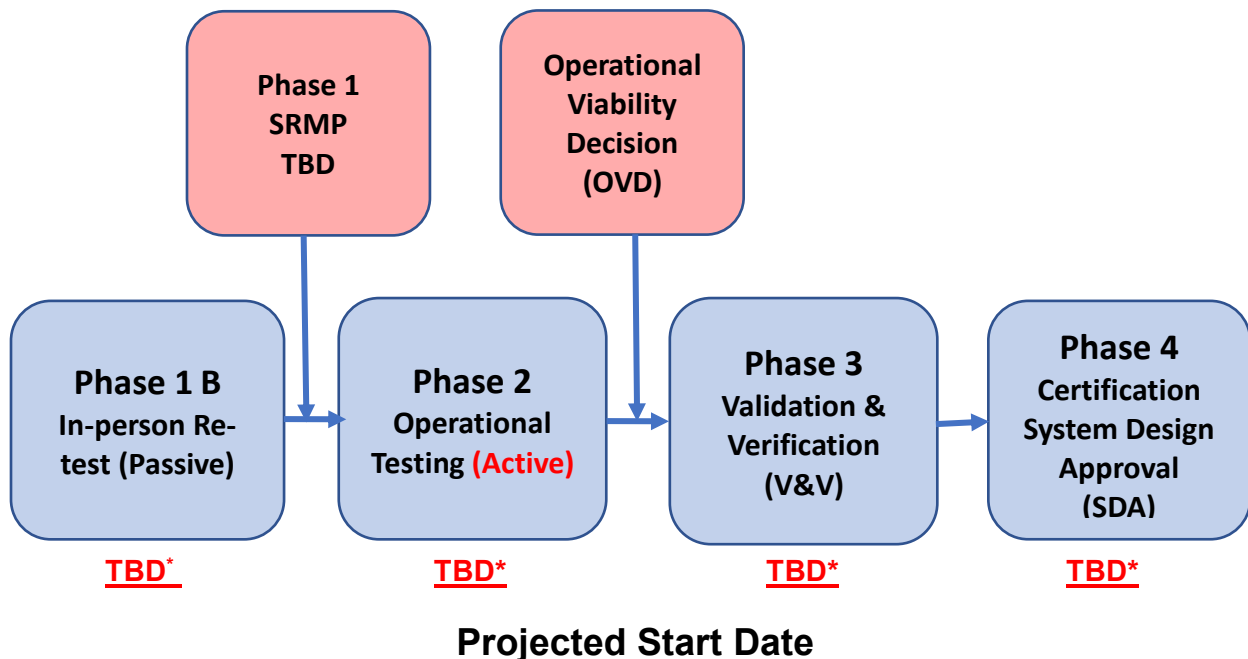
Searidge sent a letter to the FAA on April 14, 2023 outlining what has been accomplished to date and requesting an extension of the 6 months stop work order and the possibility of lifting the stop work order entirely. In addition, they had 7 other items for which they wished clarification by the agency.

With the success of the 4K demonstration, the FAA has granted Searidge a 6-month extension of the stop work order. This still leaves the “elephant in the room”, that being the System Design Approval (SDA) intake documents, which must be prepared by Searidge. The FAA has indicated that there must be substantial improvement over what has been done to date before the stop work order will be lifted and we are allowed to proceed with testing. To move forward and begin testing, the SDA intake documents do not have to be fully approved--only meet the form and substantively meet the requirements by FAA Technical Operations.

The goal is to restart Phase 1 testing and to receive Operational Viability Decision, at which point the mobile ATCT can be removed and full air traffic control services will be provided by the remote tower system.

The State of Colorado and the FAA have invested considerable funds at FNL for infrastructure and the facility in support of the Colorado Remote Tower Program. It would be a huge mistake to simply abandon the project at this stage, wasting taxpayers' money and forcing the airport to site, design and construct a legacy airport traffic control tower (ATCT).

## Proposed Remote Tower Testing Phases:



**\*Dependent on local resources' ability to travel to FNL and COVID status**

**Schedule Note:** This status is based on the latest proposed schedule and is dependent upon availability of FAA resources to staff the remote tower and support the Phase 1 SRMP.

Note: The FAA has replaced the term Initial Operating Capability (IOC) with Operational Viability Decision (OVD). This may change again as the terminology of remote tower certification is in flux.

## REMOTE TOWER PROJECT PROGRAM MANAGEMENT

### Program Description/Background

The Program Manager for this project, William E. Payne, will serve as a technical subject matter expert to represent the Division's investment and interest in the Remote Tower and facilitate the project's forward progress to FAA certification and deployment. The Program Manager will participate in and assist with the development of all evaluation, testing, and certification activities, as well as attend all project meetings, and will serve as the technical representative for the Division of Aeronautics during all phases of the project as enumerated below.

Tasks:

### **1. Provide Technical Representation and Oversight of the Project**

Effort this Period: Review test reports of 4K demonstration and meetings with FAA and the vendor.

**2. Participate in Development of the FAA's Operational Safety Assessment (OSA) Basis for Evaluation of Non-Federal Remote Tower Equipment**

Effort this Period: The OSA is still in draft form and is continuing to be developed as both remote tower projects proceed toward an Operational Viability Decision (OVD) and System Design Approval.

**3. Participate in Development of the Operational Visual Requirements (OVR)**

Effort this Period: The OVR Version 2.1 has been issued.

**4. Participate in Development of the Requirements/Specifications for Non-Federal Tower Equipment**

Effort this Period: Participated in the FAA TechOps review and comment on the Remote Tower Requirements Document and prepared comments on OVR 2.1.

**5. Assist with Development of System Configuration**

Effort this Period: The system configuration has been modified based on lessons learned during Phase 1. Installed 4K cameras and displays for demonstration the week of March 27, 2023.

**6. Modify System Configuration Based on Testing Phase Comments**

Effort this Period: Modifications to the runway end camera presets were necessary before Phase 1, including moving two of the pan-tilt-zoom cameras, one each to the end masts. Completed by Searidge.

**7. Run Periodic Tests of the Remote Air Traffic Control Tower System During Periods of Evaluation/Testing Inactivity**

Effort this Period: Demonstration testing week of March 27, 2023.

**8. Attend System FAA Technical Interchange Meetings (TIM)**

Effort this Period: Provided SME representation in the recent FAA discussion of OVR 2.1

**9. Participate in FAA Configuration Review Board (CRB) Activities**

Effort this Period: NextGen has yet to establish the CRB. This effort may be rolled into development of the Remote Tower AC.

**10. Evaluate an Air Situation Display in Preparation for Testing Against Standard Terminal Automation Replacement System Radar Equipment (STARS)**

Effort this Period: Evaluation of the Air Situation Display (ASD) based on data from the FAA's System Wide Information Management (SWIM) system was evaluated during the Phase 1 Period 1 testing. This system will be removed from the controller working position displays when the STARS become operational.

**11. Collaborate with FAA on Alternate Phase 1 Virtual/Remote Testing**

Effort this Period: Complete - Phase 1 in-person testing complete April 28, 2022.

**12. Work with FAA to develop and Implement Phase 1 Passive Remote Tower Testing**

Effort this Period: Phase 1 in-person testing complete April 28, 2022.

**13. Work with FAA to Develop and Implement Phase 2 Active Remote Tower Testing**

Effort this Period: There has been no activity on this task this period. Phase 2 Active Remote Tower Testing will begin after the conclusion of Phase 1 Passive Remote Tower testing and the SRMD has been signed.

**14. Work with FAA and FNL on Phase 3 Industry-Led Initial Operational Capability (IOC)**

Effort this Period: This task has been renamed Validation & Verification (V&V.) There has been no activity on this task this period. Phase 3 Active Remote Tower Testing will begin after Phase 2 Active Remote Tower testing is complete and the SRMD has been signed.

**15. Work with FAA on Phase 4 Remote Tower System Certification and Commissioning**

Effort this Period: There has been no activity on this task this period. Phase 4 System Design Approval and Commissioning will begin after the conclusion of Phase 3 V&V and the SRMD has been signed.

**16. Participate in Development of the FAA's Advisory Circular (AC) for Remote Tower Systems for Non-Federal Applications**

Effort this Period: Continue participation in the FAA TechOps TIM to review and comment on the Remote Tower Advisory Circular.

**17. Provision of Regular Written Reports, Presentations and Updates on the Project's Progress to Internal and External Stakeholders**

Effort this Period: Preparation of the monthly Program status report.

**18. Travel as Needed (In-State and Out of State) for Meetings with FAA, Airport and Division Personnel**

Effort this Period: No travel this period.

**DEVELOPMENT OF POTENTIAL ENHANCED SITUATIONAL AWARENESS TOOLS FOR NON-TOWERED AIRPORTS**

Tasks:

- 1. Explore the Potential Development of a System Consisting of Existing and New Surveillance Sources that can be Deployed, Owned and Operated by Non-Towered Airports to Provide Airport Staff with Improved Visibility into the Local Airspace and on the Airport Surface, with the Ultimate Goal of Improving Aviation Safety and System Efficiency.**

Effort this Period: No activity this period.

- 2. Prepare System Requirements to be Used by Airports and/or the Division when Seeking Vendor Proposals to Implement a Situational Awareness System.**

Effort this Period: No activity this period.

## **Glossary of Project Technical Acronyms**

|         |  |
|---------|--|
| ADS-B   | Automatic Dependent Surveillance – Broadcast               |
| AGL     | Above Ground Level   |
| ARTCC   | Air Route Traffic Control Center                           |
| ASDE-X  | Airport Surface Detection Equipment – Model X              |
| ASOS    | Automatic Surface Observation System                       |
| ASR-9   | Airport Surveillance Radar – Model 9                       |
| AWOS    | Automatic Weather Observation System                       |
| ATC     | Air Traffic Control  |
| ATIS    | Automatic Terminal Information System                      |
| AJT     | Air Traffic Services                                       |
| AJI     | Safety Technical Training Services                         |
| AJV     | Mission Support Policies and Procedures                    |
| CTAF    | Common Traffic Advisory Frequency                          |
| ERAM    | En Route Automation Modernization                          |
| FAA     | Federal Aviation Administration                            |
| FAT     | Factory Acceptance Test (alternately - First Article Test) |
| FDIO    | Flight Data Input/Output                                   |
| FTI     | Federal Communications Infrastructure (Harris Corp.)       |
| GA      | General Aviation   |
| HITL    | Human In the Loop  |
| HMI     | Human Machine Interface                                    |
| ILS     | Instrument Landing System                                  |
| IOC     | Initial Operating Capability                               |
| IMC     | Instrument Meteorological Condition                        |
| LOA     | Letter of Agreement  |
| MLAT    | Multilateration  |
| MSL     | Mean Sea Level (above)                                     |
| NAS     | National Air Space   |
| NATCA   | National Air Traffic Controllers Association               |
| NESG    | NAS Enterprise Security Gateway                            |
| NextGen | Next Generation Air Transportation System                  |
| NORDO   | No Radio   |
| OTW     | Out of the Window  |
| OVD     | Operational Viability Decision                             |
| RSA     | Runway Safety Area   |
| SAT     | Site Acceptance Test                                       |
| SDA     | System Design Approval                                     |
| SMR     | Surface Movement Radar                                     |
| SMS     | Safety Management System                                   |
| SRA     | Safety Risk Assessment                                     |
| SRMD    | Safety Risk Management Document                            |
| SRMDM   | Safety Risk Management Document Memorandum                 |
| SRMP    | Safety Risk Management Panel                               |
| SHA     | System Hazard Analysis                                     |
| SSHA    | Sub-System Hazard Analysis                                 |
| STARS   | Standard Terminal Automation Replacement System            |
| SWIM    | System Wide Information Management                         |
| TAMR    | Terminal Automation Modernization and Replacement          |
| TRACON  | Terminal Radar Control Facility                            |
| UHF     | Ultra High Frequency                                       |
| VFR     | Visual Flight Rules  |
| VHF     | Very High Frequency  |
| VMC     | Visual Meteorological Condition                            |

**Congress of the United States**  
**Washington, D.C. 20510**

May 1, 2023

Pete Buttigieg  
Secretary  
U.S. Department of Transportation  
1200 New Jersey Ave, SE  
Washington, D.C. 20590

Billy Nolen  
Acting Administrator  
Federal Aviation Administration  
800 Independence Avenue, SW  
Washington, D.C. 20591

Dear Secretary Buttigieg and Acting Administrator Nolen,

We write to express our continued support for the Colorado Remote Tower Project and to underscore the importance of this project to Colorado and the National Airspace System. The Colorado Remote Tower Project is a collaborative effort between the Colorado Department of Transportation's Division of Aeronautics, the Northern Colorado Regional Airport (FNL) and the Federal Aviation Administration (FAA) to develop, install and certify a remote air traffic control tower system at a Colorado airport.

In 2013, the Colorado Division of Aeronautics invested \$8,800,000 of state funds to the FAA to develop, implement and certify a remote air traffic control tower at a Colorado airport. In 2015, the Northern Colorado Regional Airport (FNL) in Loveland, Colorado was selected from a list of five candidate airports as the site for a remote tower system. After robust consultation with the public, the project's installation was completed in October 2018 and testing began soon after. As FNL became the busiest non-towered airport in the state, a mobile air traffic control tower (ATCT) was installed in March 2020 on an interim basis to ensure air traffic safety was maintained during the testing period. This mobile tower continues to provide airport traffic control services at FNL.

The publication of certain FAA guidelines for remote towers in 2020 and 2021 came after the remote air traffic control tower was fully installed at FNL in 2018. It draws our concern that the FAA has now changed its approach to certifying and approving remote tower projects again by requiring future testing of equipment to be brought to the FAA Technical Center in New Jersey.

Substantial FNL and State of Colorado funds and efforts have been expended to install the necessary airfield equipment and modernize facilities to operate the remote tower system and provide safe aviation operations. Requiring remote tower certification to only be completed at the FAA's Technical Center would miss the opportunity to evaluate the complete system and supporting infrastructure already in place at the Northern Colorado Regional Airport and raise further uncertainties about transferring lessons learned at the Technical Center back to the candidate airport. This new requirement risks significant and unnecessary delays and places the

United States behind the rest of the world, where this emerging technology is being successfully adopted.

We respectfully ask the FAA to move forward expeditiously with testing and certification of the Colorado Remote Tower Project at FNL to enhance the safety of Northern Colorado's airspace through the Remote Tower Pilot Program. Thank you for your attention to this matter of importance to Colorado and to the future of our National Airspace System.

Sincerely,



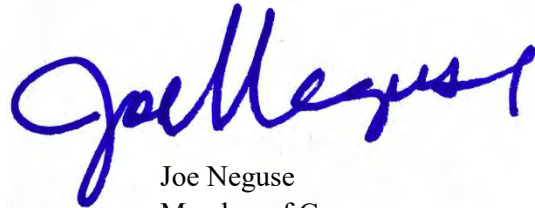
John Hickenlooper  
United States Senator



Michael F. Bennet  
United States Senator



Ken Buck  
Member of Congress



Joe Neguse  
Member of Congress



**JARED POLIS**  
GOVERNOR



136 STATE CAPITOL  
DENVER, COLORADO 80203

TEL 303-866-2471  
FAX 303-866-2003

April 26, 2023

The Honorable Pete Buttigieg, Secretary  
U.S. Department of Transportation  
1200 New Jersey Avenue SE  
Washington, D.C. 20590

Mr. Billy Nolen, Acting Administrator  
Federal Aviation Administration  
800 Independence Avenue, SW  
Washington, DC 20591

Dear Secretary Buttigieg and Acting Administrator Nolen,

As Governor of Colorado, I write today to express my continued support for the Colorado Remote Tower Project and to elicit your support in ensuring that this important project to the State of Colorado and the National Airspace System continues to move forward. The Colorado Remote Tower Project is a collaborative effort between the Colorado Department of Transportation's Division of Aeronautics, the Northern Colorado Regional Airport (FNL) and the Federal Aviation Administration (FAA) to develop, install and certify a remote air traffic control tower system at a Colorado airport.

In 2013 the Colorado Department of Transportation's Division of Aeronautics provided \$8,800,000 of state funds to the FAA to develop, implement and certify the remote tower concept at a Colorado airport. The Northern Colorado Regional Airport (FNL) in Loveland, Colorado was selected in 2015 from a list of five candidate airports as the site for our remote tower system. After publishing a Request for Information and following a formal selection process, Searidge Technologies was selected by FAA as the vendor to install the remote tower system at FNL. Installation was completed in October 2018 and testing began soon after. In March 2020 a mobile air traffic control tower (ATCT) was installed and became operational as the safety mitigator during testing. This mobile tower continues to provide much needed airport traffic control services at FNL, which prior to March 2020 was the state's busiest non-towered airport, and since then has become significantly busier.

As with any new paradigm, evolving technology issues were discovered during the various testing periods relating primarily to visual acuity of the video system. Searidge is in the process of correcting system deficiencies in preparation for resumption of testing, and I am optimistic that the FAA will enthusiastically support testing when resumed.

Substantial FAA, FNL and state of Colorado funds have been expended by the Program to install the airfield infrastructure, remodel a building to house the remote tower system and provide airport traffic control services. We should not squander these significant investments especially when so much time and effort has been put into this project.

The vendor of the only other remote tower project in the United States at the Leesburg Executive Airport in Leesburg, Virginia has elected to not complete the certification process there. Without

full certification, the FAA has no choice but to decommission or close that remote tower project, thereby soon leaving the Colorado Remote Tower Project as the only viable remote tower project currently being evaluated by the FAA.

The state of Colorado has expended significant taxpayer funds to develop a remote tower at FNL. Following halt of the Leesburg remote tower project and the likely reset of the FAA's approach to testing remote towers at the FAA Technical Center instead of at candidate airports such as FNL, remote tower implementation will be delayed three to five years or more, further delaying an already lengthy development process.

I am asking the FAA to move forward expeditiously with testing and certification of the Colorado Remote Tower Project at FNL to preserve the safety of the airport, and the investments and effort expended by the State of Colorado, the FAA and FNL to date in support of this most important initiative.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jared Polis".

Jared Polis  
Governor  
State of Colorado

# May!

## ARFF:

- Continued work on accreditation documents
- May/June – Live burns at Denver Int'l Airport training grounds
  - May 18<sup>th</sup>
  - May 25<sup>th</sup>
  - June 8<sup>th</sup>

**FAA Annual Inspection: May 22-24<sup>th</sup>**. Gina will be assigned to cover the ARFF portion of the inspection on May 23<sup>rd</sup>.

## Airport:

- Airport Commission meeting will be held on May 18th, 3:30-5:00pm at the Fire Station conference room
- Please see the [www.flynoco.com](http://www.flynoco.com) website for all airport commission updates involving the upcoming terminal construction!

## High Plains Honor Flights

A sincere Thank You to everyone involved with these flights! What an amazing turnout, and a true honor for NoCo Regional Airport and all of our emergency services to be part of such a special event. Many pictures were posted in Facebook and Instagram, and hopefully we'll see some more sent out.



## \*\*\*Scheduled Air-Carrier Flights for May:

- Sun Country Casino flights:
  - May 27
  - May 31
- Flying Legends of Victory Tour May 30-June 4! See attached flyer!

*Sincerely,*

**Gina Gonzales**  
**ARFF Lead Engineer**

Loveland Fire Rescue Authority  
LFRA Fire Station 4, Northern Colorado Regional Airport  
970-568-6026 – business cell – for messages as well  
[gina.gonzales@lfra.org](mailto:gina.gonzales@lfra.org) - email  
[www.lfra.org](http://www.lfra.org)



# Colorado Airport's Remote Tower on Life Support

by David Hughes

April 11, 2023, 10:48 AM



*The Searidge-supplied remote tower at the Northern Colorado Regional Airport is in limbo until the FAA can establish a path to certification for the system. (Photo: Colorado Department of Transportation)*

The Colorado Department of Transportation aims to keep a remote tower operating at Northern Colorado Regional Airport (KFNL) if a path to FAA certification surfaces. Searidge Technologies is supplying the remote tower equipment at KFNL and also at London Heathrow (EGLL), Hong Kong International (HKIA), and Singapore Changi (WSSS) airports. The FAA said the Searidge system at KFNL is “under evaluation.”

“We will be able to save it if Searidge can provide the required system design approval documents and the FAA supports the KFNL system,” said Bill Payne, who is managing the project for the Colorado DOT. “It will be a shame if the system does not complete the certification process after the state invested \$8.8 million and the FAA did four years of testing.”

The FAA approved the installation of the system but later issued new requirements for increased visual acuity. In response, Searidge replaced some 1040 HD cameras and displays at KFNL with 4K models to meet these new requirements.

But now, the FAA wants remote tower systems to be tested first at the FAA Technical Center in Atlantic City, New Jersey. Meanwhile, Saab pulled out of the remote tower project at Virginia's Leesburg Executive Airport (KJYO) last month after six years of testing there when the company concluded it could not finish the FAA certification process. The FAA plans to discontinue the system at KJYO in June.

# Colorado Airport Hopes To Retain Remote Tower Capabilities

By **Mark Phelps** - Published: April 11, 2023 Updated: April 12, 2023



According to the Colorado Department of Transportation, it

wants to keep the remote-control tower at Loveland's Northern Colorado Regional Airport (KFNL) open. The agency is hoping the FAA can find a way to coordinate with the system's equipment designer, Ottawa, Ontario-based Searidge Technologies, to get the tower certified. The FAA said the Searidge system at KFNL is "under evaluation."

Bill Payne, who is managing the project for the Colorado DOT, said, "We will be able to save it if Searidge can provide the required system design approval documents and the FAA supports the KFNL system." He added, "It will be a shame if the system does not complete the certification process after the state invested \$8.8 million and the FAA did four years of testing."

The FAA initially approved Searidge's hardware and installation, but later revised the requirements to include higher-definition cameras. Searidge replaced some of the cameras with updated higher-resolution versions, but news reports indicate the FAA is now asking for all remote tower systems to be evaluated at the FAA Technical Center in Atlantic City, New Jersey, before approval.

According to the Colorado DOT, the project "pioneers the next generation of air traffic control technology. This test project is the first to combine visual/camera input and radar/track-based input, allowing for control of air traffic at airports from a remote location. The result of this project will enhance safety and efficiency at airports, while also reducing the construction and operating costs of a traditional air traffic control tower."

According to the Searidge Technologies website, "A digital tower can be whatever an airport needs it to be—from a turnkey solution that replicates operations more cost-efficiently, to something underpinned by industry-leading [artificial intelligence] that addresses complex and specific operational challenges."



# Aircraft owner: New NoCo hangar study 'everything I expected'



Dallas Heltzell



Rick Turley, who represented the owners of potentially displaced private aircraft at Northern Colorado Regional Airport, stands next to his Cessna 182 in his T-hangar space in the C building, one of the four structures the airport commission wanted to raze.. Dallas Heltzell/BizWest

LOVELAND – A **detailed engineering report** on two condemned hangar buildings at Northern Colorado Regional Airport, released Tuesday, seemed to confirm what many owners of aircraft housed there had suspected: With some repairs and maintenance, the 46-year-old “C” hangars can be used at least for a few more years.

The 49-page report by Centennial-based Knott Laboratory concluded that the general health of the structures is satisfactory with no immediate life-safety issues identified if specific maintenance of the structures begins immediately.

It found load-bearing columns inside the hangars to be “generally intact” but noticed “isolated instances of buckled or missing horizontal braces” and “isolated cases of detached or missing bracing elements,” and that vertical bracing systems were “generally observed to be damaged and in need of engineered repair.” But otherwise, it simply called for “tightening of existing bolts and replacement of missing ones” as well as more careful periodic monitoring.

“I thought it was everything I expected,” said Richard “Rick” Turley, a hangar tenant in one of the C buildings who has represented the nearly four dozen owners of private aircraft who had **faced eviction** after the airport’s governing commission reviewed an initial report from Fort Collins-based Ditesco Project and Construction Services, discussed it in executive session March 2 with risk managers, legal counsel and insurance providers for the cities of Loveland and Fort Collins, which jointly own the airport, and emerged to declare that the A, B and two C hangar buildings needed to be retired because of safety and liability concerns.

At that time, tenants were given until April 10 to vacate the A and B hangars and July 10 to leave the C hangars.

The tenants responded at a **March 9 town hall** and the commission’s **regular March 16 meeting** that Ditesco had made an assumption based on what it saw in the older A and B hangars that all four needed to be demolished. Led by a presentation by Turley, the aircraft owners persuaded the commission to delay the evictions by a month and hire a structural engineering firm to do a more-detailed analysis of the two 20-space C hangar buildings.

The Ditesco report’s “damning information that looked most onerous was all identified in A and B,” Turley said. “Issues in C seemed to be much less concerning, but they lumped all of the hangars together instead of talking about them as individual buildings.”

The Knott Laboratory report “was written from an engineering perspective. No commentary, just the facts,” Turley said after reading the new report. “I thought it was very consistent with what we had seen with other engineers who had walked through.”

Added Martin Lind, who owns the Discovery Air service and hangar at the airport and **worked with the city of Loveland to secure funds for a U.S. Customs facility there**, “It’s crystal clear that there’s absolutely nothing wrong with those hangars that can’t be fixed with a tiny bit of maintenance. I’m shocked that this wasn’t the report they asked for initially.

"What's the motivation? Why did they go into a secret meeting with ill-prepared documents? What was it that made them come out with an immediate termination and eviction notice? And why all the secrecy? It's crystal clear that the airport has things going on out there they don't want the public to know about," Lind said.

"I really don't have a grievance. I don't have an airplane in those hangars," he said, "But I see loyal customers to the airport for decades being dismissed and treated as though they're irrelevant. That's the bigger issue for me. This is a public facility and it should be dealt with in the public light of transparency. If it was a safety issue, those pilots should have known about it, and it's pretty obvious now it wasn't a safety issue."

The airport's hangar area has been identified as a location for commercial redevelopment in the 2007 and 2020 airport master plans.

Many tenants continue to allege that the airport wants to squeeze out general aviation in favor of larger and more-lucrative corporate jets. A news release issued Friday by the city of Loveland disputed that contention.

"The **Airport Master Plan** identifies this area for larger hangars," said airport director Jason Licon in the release. "There has been a significant misconception that this space would be dedicated to corporate jets, which is one of multiple possible uses for this area. It is more likely that this would serve the needs of the airport's small businesses who provide services such as aircraft maintenance, avionics, or for flight schools. These locally owned small businesses are in significant need of more space and this location would be ideal for these types of uses. Until this time comes, it is our goal to find a path that allows the extended use of the hangars, and to allow for the creation of a new location that would better serve these demands into the future."

The release said the airport "intends to develop and implement an infrastructure plan to create shovel-ready property in the northeast area of the airport to support the private-sector development of new general-aviation hangars. A 23-unit hangar project is being constructed at the airport, with completion anticipated in late 2023 or early 2024. Other projects are planned as well. This will help to alleviate the shortage of hangar space."

At the commission's **regular meeting Thursday**, it heard Scott Hargrove, engineering manager at Knott Laboratory, summarize his report's findings, then voted to delay the decommissioning of C hangar buildings, extending tenant leases to Oct. 10.

It also voted to direct the airport staff to analyze the cost to make the repairs the Knott study recommended and review code requirements, with findings due by the commission's July 20 meeting. It also directed the staff to prioritize transitions of A and B tenants into C hanger buildings and commission a similar facility condition analysis on both A and B buildings – possibly conducted by Hargrove's Knott Laboratory team.

That motion for a new look at A and B passed over opposition by commission chairman Don



Overcash and member Steve Adams.

"Governments are good at spending money to validate things at times," Overcash told BizWest on Tuesday, "I firmly believe the decisions regarding A and B are unlikely to change."

Overcash stood by the decision on A and B hangars that was reached after the panel's executive session. "We were unanimous to take the action we took," he said, "but since that action, our intent was to help solve a larger problem while still respecting some very critical information we were provided" – information that remains unknown to the pilots and public.

"Hence the welcoming suggestions from Rick Turley," Overcash said. "We knew that was part of resolving an ongoing issue, even though there was a bit of pain in the original decision. We're eager to continue to work on alleviating a lot of pain it caused. Sometimes you get a diagnosis you don't like, but the outcome is better health going forward. The situation with A and B is going to produce a much better solution for C."

The hangars are an example of aging public infrastructure across the country, said Overcash, who also serves as Loveland's mayor pro tem. "Capital dedication for replacement has simply not occurred due to, most of the time, a lack of funding. It becomes an issue of resources, time and money. In particular in this case, it's money."

Some commissioners at Thursday's meeting wanted the text of the Knott Laboratory report released immediately, but Overcash requested that airport staff review it first. According to Nicole Yost, the city of Loveland's director of communication and engagement, staff comments were submitted to Knott by the end of business on Monday and the final report was provided to the public late Tuesday morning. That report included no redactions, and Yost told BizWest in an email Wednesday that airport staff made only "two small accuracy changes to the content – one is changing some dimensions to be more legible (they were too small to read prior) and the second is correcting the date of airport ownership of the hangars."



# NORTHERN COLORADO REGIONAL AIRPORT

4900 Earhart Rd • Loveland, Colorado 80538

(970) 962-2850 • FAX (970) 962-2855 • TDD (970) 962-2620

**ITEM NUMBER:** 4

**MEETING DATE:** May 18, 2023

**PREPARED BY:** Jason Licon, Airport Director

---

## **TITLE**

Draft Grant From The Federal Aviation Administration For The Airport Runway Widening Project Design #AIP43

## **RECOMMENDED AIRPORT COMMISSION ACTION**

Make a motion to adopt Resolution R-03-2023 approving and recommending that the City Managers sign a grant agreement with the Federal Aviation Administration (Project No. 3-08-0023-043-2023).

## **BUDGET IMPACT**

Positive, the grant resources will add financial resources to be applied toward the design project

## **SUMMARY**

The Airport has applied for a grant from the Federal Aviation Administration's Airport Improvement Program to design improvements to the main runway 15-33. This project will provide a higher level of safety for aircraft operators.

This FAA grant will provide the Airport with federal funding in the amount of \$238,235. This grant requires a local funding match of \$13,238.28 and state match of \$13,238.28 to pay for the additional costs for construction administration and management. This project will also include \$500,000 in funding that is additionally provided by CDOT Aeronautics at a 90% level or \$450,000 from the state and \$50,000 grant match from local funding resources.

The Amended and Restated Intergovernmental Agreement for the Joint Operation of the Airport approved by both City Councils grants the Airport Commission the authority to enter into grant agreements to the extent permitted by grantors, so long as such grant agreements:

- i. do not include commitment of Airport revenues and funds for grant matches of more than \$300,000 from appropriated funds included in the approved Airport budget;*
- ii. do not involve capital construction projects unless such projects are included in the approved Airport budget; and*
- iii. are approved by the City Managers, to the extent the City Managers are authorized by their respective City Councils to do so.*

These funds have been budgeted for and appropriated through the two City Councils within the adopted 2023 Airport Budget. The project is also included in the adopted Airport Master Plan and Capital Improvement Plan. City Legal staff have verified that this grant may be signed by the City Managers.

### **ATTACHMENTS**

Resolution R-03-2023

FAA DRAFT Grant Offer 3-08-0023-043-2023

## **RESOLUTION # R- 03 -2023**

### **A RESOLUTION APPROVING THE 2023 GRANT AGREEMENT (AIP PROJECT NO. 3-08-0023-043-2023) WITH THE FEDERAL AVIATION ADMINISTRATION FOR THE RUNWAY 15-33 WIDENING DESIGN PROJECT AT THE NORTHERN COLORADO REGIONAL AIRPORT**

**WHEREAS**, the Cities of Fort Collins and Loveland (the “Cities”) jointly own and operate the Northern Colorado Regional Airport (the “Airport”); and

**WHEREAS**, the Cities desire to begin a capital improvement project consisting of the design for the widening of Runway 15-33 at the Airport (the “Project”); and

**WHEREAS**, the Federal Aviation Administration (“FAA”) has provided grant funding through the Bipartisan Infrastructure Law to eligible airports to enable those airports to maintain, repair, and construct various areas of Airport pavement in order to support the aeronautical uses at the Airport; and

**WHEREAS**, the Cities have applied for \$238,235 in FAA grant funding (“2023 Grant Funding”) for the Project. The total cost of the Project is \$763,460.00, and Cities are required to provide a local match of \$13,238.28 and a state match of \$13,238.28. Such local matching funds have been previously approved in the Airport Budget and appropriated by the two Cities’ governing bodies. In order to accept the 2023 Grant Funding, the Cities are required to execute a grant agreement with the FAA (the “FAA Grant Agreement”); and

**WHEREAS**, the Northern Colorado Airport Commission supports the Project and recommends that the Cities, through their City Managers, approve and sign any documents necessary to accept the 2023 Grant Funding, including the FAA Grant Agreement.

### **NOW THEREFORE BE IT RESOLVED BY THE NORTHERN COLORADO REGIONAL AIRPORT COMMISSION AS FOLLOWS:**

**Section 1.** That the 2023 Grant Funding and any documents necessary to accept the same, including the FAA Grant Agreement, are approved. The Commission recommends that the City Manager of Fort Collins and the City Manager of Loveland sign such documents on behalf of their respective cities.

**Section 2.** That this Resolution shall take effect as of the date and time of its adoption.

ADOPTED this 18th day of May, 2023.

---

Don Overcash, Chair of the  
Northern Colorado Regional Airport Commission

ATTEST:

\_\_\_\_\_  
Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Senior Assistant City Attorney



U.S. Department  
of Transportation  
Federal Aviation  
Administration

Airports Division  
Northwest Mountain Region  
Colorado, Utah, Wyoming

Denver Airports District  
Office:  
26805 E 68th Ave, Ste 224  
Denver, CO 80249-6339

**XXXX**

Mr. Stephen Adams, City Manager  
City of Loveland  
500 East 3rd Street  
Suite 300  
Loveland, Colorado 80537

Ms. Kelly DiMartino, City Manager  
City of Fort Collins  
300 La Porte Avenue  
Fort Collins, Colorado 80522

Dear Mr. Adams and Ms. DiMartino:

The Grant Offer for the Bipartisan Infrastructure Law (BIL) - Airport Infrastructure Grant (AIG) Project No. 3-08-0023-043-2023 at Northern Colorado Regional Airport is attached for execution. This letter outlines the steps you must take to properly enter into this agreement and provides other useful information. Please read the conditions, special conditions, and assurances that comprise the grant offer carefully

**You may not make any modification to the text, terms or conditions of the grant offer.**

***Steps You Must Take to Enter Into Agreement.***

To properly enter into this agreement, you must do the following:

1. The governing body must give authority to execute the grant to the individual(s) signing the grant, i.e., the person signing the document must be the sponsor's authorized representative(s) (hereinafter "authorized representative").
2. The authorized representative must execute the grant by adding their electronic signature to the appropriate certificate at the end of the agreement.
3. Once the authorized representative has electronically signed the grant, the sponsor's attorney(s) will automatically receive an email notification.
4. On the **same day or after** the authorized representative has signed the grant, the sponsor's attorney(s) will add their electronic signature to the appropriate certificate at the end of the agreement.
5. If there are co-sponsors, the authorized representative(s) and sponsor's attorney(s) must follow the above procedures to fully execute the grant and finalize the process. Signatures must be obtained and finalized no later than **XXXX**.
6. The fully executed grant will then be automatically sent to all parties as an email attachment.

**Payment.** Subject to the requirements in 2 CFR § 200.305 (Federal Payment), each payment request for reimbursement under this grant must be made electronically via the Delphi eInvoicing System. Please see the attached Grant Agreement for more information regarding the use of this System.

**Project Timing.** The terms and conditions of this agreement require you to complete the project without undue delay and no later than the Period of Performance end date (1,460 days from the grant execution date). We will be monitoring your progress to ensure proper stewardship of these Federal funds. We expect you to submit payment requests for reimbursement of allowable incurred project expenses consistent with project progress. Your grant may be placed in “inactive” status if you do not make draws on a regular basis, which will affect your ability to receive future grant offers. Costs incurred after the Period of Performance ends are generally not allowable and will be rejected unless authorized by the FAA in advance.

**Reporting.** Until the grant is completed and closed, you are responsible for submitting formal reports as follows:

- For all grants, you must submit by December 31st of each year this grant is open:
  1. A signed/dated SF-270 (Request for Advance or Reimbursement for non-construction projects) or SF-271 or equivalent (Outlay Report and Request for Reimbursement for Construction Programs), and
  2. An SF-425 (Federal Financial Report).
- For non-construction projects, you must submit [FAA Form 5100-140, Performance Report](#) within 30 days of the end of the Federal fiscal year.
- For construction projects, you must submit [FAA Form 5370-1, Construction Progress and Inspection Report](#), within 30 days of the end of each Federal fiscal quarter.

**Audit Requirements.** As a condition of receiving Federal assistance under this award, you must comply with audit requirements as established under 2 CFR part 200. Subpart F requires non-Federal entities that expend \$750,000 or more in Federal awards to conduct a single or program specific audit for that year. Note that this includes Federal expenditures made under other Federal-assistance programs. Please take appropriate and necessary action to ensure your organization will comply with applicable audit requirements and standards.

**Closeout.** Once the project(s) is completed and all costs are determined, we ask that you work with your FAA contact indicated below to close the project without delay and submit the necessary final closeout documentation as required by your Region/Airports District Office.

**FAA Contact Information.** [Selection Criteria: Point of Contact Name, Phone, Email] is the assigned program manager for this grant and is readily available to assist you and your designated representative with the requirements stated herein.

We sincerely value your cooperation in these efforts and look forward to working with you to complete this important project.

Sincerely,

**XXXX**

John P. Bauer  
Manager



U.S. Department  
of Transportation  
Federal Aviation  
Administration

## FY 2023 AIRPORT INFRASTRUCTURE GRANT

### GRANT AGREEMENT

#### Part I - Offer

|                                     |   |
|-------------------------------------|---|
| Federal Award Offer Date            | XXXX  |
| Airport/Planning Area               | Northern Colorado Regional Airport  |
| Airport Infrastructure Grant Number | 3-08-0023-043-2023 Contract #: XXXX   |
| Unique Entity Identifier            | EJKMMHAX3VU6  |
| TO:                                 | Cities of Fort Collins and Loveland<br>(herein called the "Sponsor") (For Co-Sponsors, list all Co-Sponsor names. The word "Sponsor" in this Grant Agreement also applies to a Co-Sponsor.) |
| FROM:                               | <b>The United States of America</b> (acting through the Federal Aviation Administration, herein called the "FAA")   |

**WHEREAS**, the Sponsor has submitted to the FAA a Project Application dated January 11, 2023, for a grant of Federal funds for a project at or associated with the Northern Colorado Regional Airport, which is included as part of this Grant Agreement; and

**WHEREAS**, the FAA has approved a project for the Northern Colorado Regional Airport (herein called the "Project") consisting of the following:

#### **Widen Runway 15/33 (phase I-design)**

which is more fully described in the Project Application.

**NOW THEREFORE**, Pursuant to and for the purpose of carrying out the Infrastructure Investment and Jobs Act (Public Law 117-58) of 2021 referred to as the Bipartisan Infrastructure Law (BIL); and the representations contained in the Project Application; and in consideration of: (a) the Sponsor's adoption and ratification of the Grant Assurances attached hereto; (b) the Sponsor's acceptance of this Offer; and (c) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurance and conditions as herein provided;



THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay ninety 90% of the allowable costs incurred accomplishing the Project as the United States share of the Project.

Assistance Listings Number (Formerly CFDA Number): 20.106

This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

### CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$ 238,235.00.  
The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):  
\$ 0 for planning  
\$ 0 for airport development or noise program implementation; and,  
\$ 0 for land acquisition.
2. **Grant Performance.** This Grant Agreement is subject to the following Federal award requirements:
  - a. Period of Performance:
    1. Shall start on the date the Sponsor formally accepts this Agreement and is the date signed by the last Sponsor signatory to the Agreement. The end date of the Period of Performance is 4 years (1,460 calendar days) from the date of acceptance. The Period of Performance end date shall not affect, relieve, or reduce Sponsor obligations and assurances that extend beyond the closeout of this Grant Agreement.
    2. Means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions or budget periods.(2 Code of Federal Regulations (CFR) § 200.1).
  - b. Budget Period:
    1. For this Grant is 4 years (1,460 calendar days) and follows the same start and end date as the Period of Performance provided in Paragraph 2(a)(1). Pursuant to 2 CFR § 200.403(h), a sponsor may charge to the Grant only allowable costs incurred up to the end of the Budget Period. Eligible project-related costs incurred on or after November 15, 2021 that comply with all Federal funding procurement requirements and FAA standards are allowable costs.
    2. Means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which the Sponsor is authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to 2 CFR § 200.308.
  - c. Close Out and Termination
    1. Unless the FAA authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later than 120 calendar days after the end date of the Period of Performance. If the Sponsor does not submit all required closeout documentation within this time period, the FAA will

proceed to close out the grant within one year of the period of performance end date with the information available at the end of 120 days. (2 CFR § 200.344).

2. The FAA may terminate this Grant, in whole or in part, in accordance with the conditions set forth in 2 CFR § 200.340, or other Federal regulatory or statutory authorities as applicable.
3. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
4. **Indirect Costs - Sponsor.** The Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the project application as accepted by the FAA, to allowable costs for Sponsor direct salaries and wages.
5. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with 49 U.S.C. § 47109, the regulations, policies, and procedures of the Secretary, and any superseding legislation. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
6. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this Agreement, BIL (Public Law 117-58), the regulations, and the Secretary of Transportation's ("Secretary's") policies and procedures. Per 2 CFR § 200.308, the Sponsor agrees to report and request prior FAA approval for any disengagement from performing the project that exceeds three months or a 25 percent reduction in time devoted to the project. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the grant assurances, which are part of this Agreement.
7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before XXXX, or such subsequent date as may be prescribed in writing by the FAA.
9. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner for any project upon which Federal funds have been expended. For the purposes of this Grant Agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor, that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.
10. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this Grant Agreement.

**11. System for Award Management (SAM) Registration and Unique Entity Identifier (UEI).**

- a. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR § 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this Grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).
- b. Unique entity identifier (UEI) means a 12-character alpha-numeric value used to identify a specific commercial, nonprofit or governmental entity. A UEI may be obtained from SAM.gov at <https://sam.gov/content/entity-registration>.

**12. Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this Agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.

**13. Informal Letter Amendment of BIL Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.

The FAA can, subject to the availability of Federal funds, also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA's authority to increase the maximum obligation does not apply to the "planning" component of Condition No. 1, Maximum Obligation.

The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.

An informal letter amendment has the same force and effect as a formal grant amendment.

**14. Air and Water Quality.** The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this Grant Agreement.

**15. Financial Reporting and Payment Requirements.** The Sponsor will comply with all Federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.

**16. Buy American.** Unless otherwise approved in advance by the FAA, in accordance with 49 U.S.C. § 50101, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for which funds are provided under this Grant. The Sponsor will include a provision implementing Buy American in every contract and subcontract awarded under this Grant.

**17. Build America, Buy American.** The sponsor must comply with the requirements under the Build America, Buy America Act (Public Law 117-58).

18. **Maximum Obligation Increase.** In accordance with 49 U.S.C. § 47108(b)(3), as amended, the maximum obligation of the United States, as stated in Condition No. 1, Maximum Obligation, of this Grant Offer:
- a. May not be increased for a planning project;
  - b. May be increased by not more than 15 percent for development projects if funds are available;
  - c. May be increased by not more than the greater of the following for a land project, if funds are available:
    1. 15 percent; or
    2. 25 percent of the total increase in allowable project costs attributable to acquiring an interest in the land.

If the sponsor requests an increase, any eligible increase in funding will be subject to the United States Government share as provided in BIL (Public Law 117-58), or other superseding legislation if applicable, for the fiscal year appropriation with which the increase is funded. The FAA is not responsible for the same Federal share provided herein for any amount increased over the initial grant amount. The FAA may adjust the Federal share as applicable through an informal letter of amendment.

19. **Audits for Sponsors.**

PUBLIC SPONSORS. The Sponsor must provide for a Single Audit or program-specific audit in accordance with 2 CFR Part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. Upon request of the FAA, the Sponsor shall provide one copy of the completed audit to the FAA. Sponsors that expend less than \$750,000 in Federal awards and are exempt from Federal audit requirements must make records available for review or audit by the appropriate Federal agency officials, State, and Government Accountability Office. The FAA and other appropriate Federal agencies may request additional information to meet all Federal audit requirements.

20. **Suspension or Debarment.** When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:

- a. Verify the non-Federal entity is eligible to participate in this Federal program by:
  1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if the non-Federal entity is excluded or disqualified; or
  2. Collecting a certification statement from the non-Federal entity attesting they are not excluded or disqualified from participating; or
  3. Adding a clause or condition to covered transactions attesting the individual or firm are not excluded or disqualified from participating.
- b. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions with their contractors and sub-contractors.
- c. Immediately disclose in writing to the FAA whenever (1) the Sponsor learns they have entered into a covered transaction with an ineligible entity or (2) the Public Sponsor suspends or debar a contractor, person, or entity.

**21. Ban on Texting While Driving.**

- a. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
  - 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
  - 2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
    - i. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
    - ii. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- b. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts, and subcontracts funded with this Grant.

**22. Trafficking in Persons.**

- a. *Posting of contact information.*
  - 1. The Sponsor must post the contact information of the national human trafficking hotline (including options to reach out to the hotline such as through phone, text, or TTY) in all public airport restrooms.
- b. *Provisions applicable to a recipient that is a private entity.*
  - 1. You as the recipient, your employees, subrecipients under this Grant, and subrecipients' employees may not:
    - i. Engage in severe forms of trafficking in persons during the period of time that the Grant and applicable conditions are in effect;
    - ii. Procure a commercial sex act during the period of time that the Grant and applicable conditions are in effect; or
    - iii. Use forced labor in the performance of the Grant or any subgrants under this Grant.
  - 2. We as the Federal awarding agency, may unilaterally terminate this Grant, without penalty, if you or a subrecipient that is a private entity –
    - i. Is determined to have violated a prohibition in paragraph (a) of this Grant Condition; or
    - ii. Has an employee who is determined by the agency official authorized to terminate the Grant to have violated a prohibition in paragraph (a) of this Grant Condition through conduct that is either –
      - a) Associated with performance under this Grant; or
      - b) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are

provided in 2 CFR Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR Part 1200.

- c. *Provision applicable to a recipient other than a private entity.* We as the Federal awarding agency may unilaterally terminate this Grant, without penalty, if a subrecipient that is a private entity –
  - 1. Is determined to have violated an applicable prohibition in paragraph (a) of this Grant Condition; or
  - 2. Has an employee who is determined by the agency official authorized to terminate the Grant to have violated an applicable prohibition in paragraph (a) of this Grant Condition through conduct that is either –
    - i. Associated with performance under this Grant; or
    - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR Part 1200.
- d. *Provisions applicable to any recipient.*
  - 1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph (a) of this Grant Condition.
  - 2. Our right to terminate unilaterally that is described in paragraph (a) or (b) of this Grant Condition:
    - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended [22 U.S.C. § 7104(g)], and
    - ii. Is in addition to all other remedies for noncompliance that are available to us under this Grant.
  - 3. You must include the requirements of paragraph (a) of this Grant Condition in any subgrant you make to a private entity.
- e. *Definitions.* For purposes of this Grant Condition:
  - 1. “Employee” means either:
    - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this Grant; or
    - ii. Another person engaged in the performance of the project or program under this Grant and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
  - 2. “Force labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

## 3. "Private entity":

- i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR § 175.25.
- ii. Includes:
  - a) A nonprofit organization, including any nonprofit institute of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR § 175.25(b).
  - b) A for-profit organization.

## 4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).

23. **BIL Funded Work Included in a PFC Application.** Within 120 days of acceptance of this Grant Agreement, the Sponsor must submit to the FAA an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC project also covered under this Grant Agreement as described in the project application. The airport sponsor may not make any expenditure under this Grant Agreement until project work addressed under this Grant Agreement is removed from an approved PFC application by amendment.

24. **Exhibit "A" Property Map.** The Exhibit "A" Property Map dated June 2020, is incorporated herein by reference or is submitted with the project application and made part of this Grant Agreement.

25. **Employee Protection from Reprisal.**

## a. Prohibition of Reprisals

1. In accordance with 41 U.S.C. § 4712, an employee of a Sponsor, grantee, subgrantee, contractor, or subcontractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in subparagraph (a)(2) below, information that the employee reasonably believes is evidence of:
  - i. Gross mismanagement of a Federal grant;
  - ii. Gross waste of Federal funds;
  - iii. An abuse of authority relating to implementation or use of Federal funds;
  - iv. A substantial and specific danger to public health or safety; or
  - v. A violation of law, rule, or regulation related to a Federal grant.
2. Persons and bodies covered. The persons and bodies to which a disclosure by an employee is covered are as follows:
  - i. A member of Congress or a representative of a committee of Congress;
  - ii. An Inspector General;
  - iii. The Government Accountability Office;
  - iv. A Federal employee responsible for contract or grant oversight or management at the relevant agency;
  - v. A court or grand jury;
  - vi. A management official or other employee of the Sponsor, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct; or



- vii. An authorized official of the Department of Justice or other law enforcement agency.
- b. Investigation of Complaints.
  - 1. Submission of Complaint. A person who believes that they have been subjected to a reprisal prohibited by paragraph (a) of this Condition may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.
  - 2. Time Limitation for Submittal of a Complaint. A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.
  - 3. Required Actions of the Inspector General. Actions, limitations, and exceptions of the Inspector General's office are established under 41 U.S.C. § 4712(b).
- c. Remedy and Enforcement Authority.
  - 1. Assumption of Rights to Civil Remedy. Upon receipt of an explanation of a decision not to conduct or continue an investigation by the OIG, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c)(2).
- 26. **Co-Sponsor.** The Co-Sponsors understand and agree that they jointly and severally adopt and ratify the representations and assurances contained therein and that the word "Sponsor" as used in the application and other assurances is deemed to include all Co-Sponsors.
- 27. **Prohibited Telecommunications.** Sponsor agrees to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)] and 2 CFR § 200.216.

## SPECIAL CONDITIONS

28. **Lighting.** The Sponsor must operate and maintain the lighting system during the useful life of the system in accordance with applicable FAA standards.
29. **Airport - Owned Visual or Electronic Navigation Aids in Project.** The Sponsor agrees that it will:
  - a. Provide for the continuous operation and maintenance of any navigational aid funded under this Grant Agreement during the useful life of the equipment;
  - b. Prior to commissioning, assure the equipment meets the FAA's standards; and
  - c. Remove, relocate, lower, mark, or light each obstruction to obtain a clear approach as indicated in the 14 CFR Part 77 aeronautical survey.
30. **Plans and Specifications Prior to Bidding.** The Sponsor agrees that it will submit plans and specifications for FAA review prior to advertising for bids.
31. **Design Grant.** This Grant Agreement is being issued in order to complete the design of the project. The Sponsor understands and agrees that within 2 years after the design is completed that the Sponsor will accept, subject to the availability of the amount of Federal funding identified in the Airport Capital Improvement Plan (ACIP), a grant to complete the construction of the project in order to provide a useful and useable unit of work. The Sponsor also understands that if the FAA has provided Federal funding to complete the design for the project, and the Sponsor has not completed the design within four (4) years from the execution of this Grant Agreement, the FAA may suspend or terminate grants related to the design.
32. **Mothers' Rooms.** As a small, medium or large hub airport, the sponsor certifies it is in compliance with 49 U.S.C. § 47107(w).
33. **Buy American Executive Orders.** The Sponsor agrees to abide by applicable Executive Orders in effect at the time this Grant Agreement is executed, including Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers.
34. **Final Project Documentation.** The Sponsor understands and agrees that in accordance with 49 USC 47111, and with the Airport District Office's (ADO) concurrence, that no payments totaling more than 90.0 percent of United States Government's share of the project's estimated allowable cost may be made before the project is determined to be substantially complete. Substantially complete means the following: (1) The project results in a complete, usable unit of work as defined in the grant agreement and (2) The sponsor submits necessary documents showing that the project is substantially complete per the contract requirements, or has a plan (that FAA agrees with) that addresses all elements contained on the punch list. Furthermore, no payments totaling more than 97.5 percent of the United States Government's share of the project's estimated allowable cost may be made until: (1) The sponsor submits all necessary closeout documentation and (2) The sponsor receives final payment notification from the ADO.
35. **Airports Geographic Information System (AGIS) Requirements.** AGIS requirements, as specified in Advisory Circular 150/5300-18, apply to the project included in this grant offer. Final construction as-built information or planning deliverables must be collected according to these specifications and submitted to the FAA. The submittal must be reviewed and accepted by the FAA before the grant can be administratively closed.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the Grant Assurances, terms, and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

**Please read the following information:** By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.<sup>1</sup>

**UNITED STATES OF AMERICA  
FEDERAL AVIATION ADMINISTRATION**

XXXX

(Signature)

XXXX

(Typed Name)

XXXX

(Title of FAA Official)

<sup>1</sup> Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

## Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the Grant Assurances, terms, and conditions in this Offer and in the Project Application.

**Please read the following information:** By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.<sup>2</sup>

Dated XXXX

City of Loveland, Colorado

*(Name of Sponsor)*

XXXX

*(Signature of Sponsor's Authorized Official)*

By:

XXXX

*(Typed Name of Sponsor's Authorized Official)*

Title:

XXXX

*(Title of Sponsor's Authorized Official)*

<sup>2</sup> Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

### CERTIFICATE OF SPONSOR'S ATTORNEY

I, XXXX, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Colorado. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative, who has been duly authorized to execute this Grant Agreement, which is in all respects due and proper and in accordance with the laws of the said State; the Infrastructure Investment and Jobs Act (Public Law 117-58) of 2021 referred to as the Bipartisan Infrastructure Law (BIL), Division J, Title VIII; and the representations contained in the Project Application. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

**Please read the following information:** By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.<sup>3</sup>

Dated at XXXX

By: XXXX  
(Signature of Sponsor's Attorney)

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<sup>3</sup> Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the Grant Assurances, terms, and conditions in this Offer and in the Project Application.

**Please read the following information:** By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.<sup>4</sup>

Dated XXXX

City of Fort Collins, Colorado

*(Name of Sponsor)*

XXXX

*(Signature of Sponsor's Authorized Official)*

**By:**

XXXXXX

*(Typed Name of Sponsor's Authorized Official)*

**Title:**

XXXX

*(Title of Sponsor's Authorized Official)*

<sup>4</sup> Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

### CERTIFICATE OF SPONSOR'S ATTORNEY

I, XXXXX, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Colorado. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative, who has been duly authorized to execute this Grant Agreement, which is in all respects due and proper and in accordance with the laws of the said State; the Infrastructure Investment and Jobs Act (Public Law 117-58) of 2021 referred to as the Bipartisan Infrastructure Law (BIL), Division J, Title VIII; and the representations contained in the Project Application. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

**Please read the following information:** By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.<sup>5</sup>

Dated at XXX

By: XXXXX  
(Signature of Sponsor's Attorney)

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<sup>5</sup> Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

## **ASSURANCES**

### **AIRPORT SPONSORS**

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#### **A. General.**

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Public Law 117-58, Division J, Title VIII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

#### **B. Duration and Applicability.**

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this Grant Agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph (1) also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.**

Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25, 30, 32, 33, 34, and 37 in Section C apply to planning projects. The terms, conditions, and assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

#### **C. Sponsor Certification.**

The sponsor hereby assures and certifies, with respect to this grant that:



## 1. General Federal Requirements

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Grant including but not limited to the following:

### FEDERAL LEGISLATION

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- a. 49, U.S.C. subtitle VII, as amended.
- b. Davis-Bacon Act, as amended — 40 U.S.C. §§ 3141-3144, 3146, and 3147, et seq.<sup>1</sup>
- c. Federal Fair Labor Standards Act - 29 U.S.C. § 201, et seq.
- d. Hatch Act – 5 U.S.C. § 1501, et seq.<sup>2</sup>
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601, et seq.<sup>1, 2</sup>
- f. National Historic Preservation Act of 1966 – Section 106 - 54 U.S.C. § 306108.1.<sup>1</sup>
- g. Archeological and Historic Preservation Act of 1974 - 54 U.S.C. § 312501, et seq.<sup>1</sup>
- h. Native Americans Grave Repatriation Act - 25 U.S.C. § 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended - 42 U.S.C. § 7401, et seq.
- j. Coastal Zone Management Act, P.L. 92-583, as amended - 16 U.S.C. § 1451, et seq.
- k. Flood Disaster Protection Act of 1973 – Section 102(a) - 42 U.S.C. § 4012a.<sup>1</sup>
- l. 49 U.S.C. § 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. § 794.
- n. 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);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. § 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968, as amended - 42 U.S.C. § 4151, et seq.<sup>1</sup>
- s. Powerplant and Industrial Fuel Use Act of 1978 – Section 403 - 42 U.S.C. § 8373.<sup>1</sup>
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. § 3701, et seq.<sup>1</sup>
- u. Copeland Anti-kickback Act - 18 U.S.C. § 874.<sup>1</sup>
- v. National Environmental Policy Act of 1969 - 42 U.S.C. § 4321, et seq.<sup>1</sup>
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271, et seq.
- x. Single Audit Act of 1984 - 31 U.S.C. § 7501, et seq.<sup>2</sup>
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. §§ 8101 through 8105.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

- aa. Civil Rights Restoration Act of 1987, P.L. 100-259.
- bb. Build America, Buy America Act, P.L. 117-58, Title IX.

#### **EXECUTIVE ORDERS**

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- a. Executive Order 11246 – Equal Employment Opportunity<sup>1</sup>
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted New Building Construction<sup>1</sup>
- f. Executive Order 12898 – Environmental Justice
- g. Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency
- h. Executive Order 13985 – Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- i. Executive Order 13988 – Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation
- j. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America’s Workers
- k. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

#### **FEDERAL REGULATIONS**

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- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.<sup>4, 5</sup>
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.
- d. 14 CFR Part 13 – Investigative and Enforcement Procedures.
- e. 14 CFR Part 16 – Rules of Practice for Federally-Assisted Airport Enforcement Proceedings.
- f. 14 CFR Part 150 – Airport Noise Compatibility Planning.
- g. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.
- h. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.
- i. 29 CFR Part 1 – Procedures for Predetermination of Wage Rates.<sup>1</sup>
- j. 29 CFR Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States.<sup>1</sup>

- k. 29 CFR Part 5 – Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).<sup>1</sup>
- l. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-assisted contracting requirements).<sup>1</sup>
- m. 49 CFR Part 20 – New Restrictions on Lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.<sup>1, 2</sup>
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.<sup>1</sup>
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
- t. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 38 – Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.
- x. 49 CFR Part 41 – Seismic Safety.

#### **FOOTNOTES TO ASSURANCE (C)(1)**

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- <sup>1</sup> These laws do not apply to airport planning sponsors.
- <sup>2</sup> These laws do not apply to private sponsors.
- <sup>3</sup> 2 CFR Part 200 contains requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- <sup>4</sup> Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- <sup>5</sup> Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

#### **SPECIFIC ASSURANCES**

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Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this Grant Agreement.

## **2. Responsibility and Authority of the Sponsor.**

### **a. Public Agency Sponsor:**

It has legal authority to apply for this Grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

### **b. Private Sponsor:**

It has legal authority to apply for this Grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

## **3. Sponsor Fund Availability.**

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this Grant Agreement which it will own or control.

## **4. Good Title.**

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

## **5. Preserving Rights and Powers.**

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. Subject to the FAA Act of 2018, Public Law 115-254, Section 163, it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Grant Agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Grant Agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or

document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Grant Agreement.

- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in this Grant Agreement and shall ensure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of 49 U.S.C. § 47107(s) and the sponsor assurances.

#### **6. Consistency with Local Plans.**

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

#### **7. Consideration of Local Interest.**

It has given fair consideration to the interest of communities in or near where the project may be located.

#### **8. Consultation with Users.**

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

## **9. Public Hearings.**

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

## **10. Metropolitan Planning Organization.**

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

## **11. Pavement Preventive Maintenance.**

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

## **12. Terminal Development Prerequisites.**

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under 49 U.S.C. § 44706, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

## **13. Accounting System, Audit, and Record Keeping Requirements.**

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United

States not later than six (6) months following the close of the fiscal year for which the audit was made.

#### **14. Minimum Wage Rates.**

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor under 40 U.S.C. §§ 3141-3144, 3146, and 3147, Public Building, Property, and Works), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

#### **15. Veteran's Preference.**

It shall include in all contracts for work on any project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in 49 U.S.C. § 47112. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

#### **16. Conformity to Plans and Specifications.**

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this Grant Agreement, and, upon approval of the Secretary, shall be incorporated into this Grant Agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this Grant Agreement.

#### **17. Construction Inspection and Approval.**

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

#### **18. Planning Projects.**

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.



- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

#### **19. Operation and Maintenance.**

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:
  - 1. Operating the airport's aeronautical facilities whenever required;
  - 2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
  - 3. Promptly notifying aviators of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

#### **20. Hazard Removal and Mitigation.**

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

## 21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

## 22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:
  1. Furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
  2. Charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.

- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

### **23. Exclusive Rights.**

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

### **24. Fee and Rental Structure.**

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a Grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

### **25. Airport Revenues.**

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
  - 1. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the

revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

2. If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
3. Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at 49 U.S.C. § 47102), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.

## **26. Reports and Inspections.**

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this Grant Agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
  1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
  2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

**27. Use by Government Aircraft.**

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that:

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

**28. Land for Federal Facilities.**

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

**29. Airport Layout Plan.**

- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the airport showing:
  1. boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
  2. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
  3. the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
  4. all proposed and existing access points used to taxi aircraft across the airport's property boundary.

Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and

which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

- b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary:
  1. eliminate such adverse effect in a manner approved by the Secretary; or
  2. bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

### 30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, color, and national origin (including limited English proficiency) 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); creed and sex (including sexual orientation and gender identity) per 49 U.S.C. § 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this Grant.

- a. Using the definitions of activity, facility, and program as found and defined in 49 CFR §§ 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
- b. Applicability
  1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
  2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
  3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.
- c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or

structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
  2. So long as the sponsor retains ownership or possession of the property.
- d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this Grant Agreement and in all proposals for agreements, including airport concessions, regardless of funding source:
- “The **Cities of Fort Collins and Loveland, Colorado**, 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 or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.”
- e. Required Contract Provisions.
1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation (DOT), and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
  2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
  3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
  4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
    - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
    - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.



- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

### **31. Disposal of Land.**

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
  1. Reinvestment in an approved noise compatibility project;
  2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
  3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. § 47114, 47115, or 47117, or under Public Law 117-58, Division J, Title VIII; or
  4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport.

If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
  1. Reinvestment in an approved noise compatibility project;
  2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
  3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117, or under Public Law 117-58, Division J, Title VIII; or
  4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport.
- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-

sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

- d. Disposition of such land under (a), (b), or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

### **32. Engineering and Design Services.**

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., or Public Law 117-58, Division J, Title VIII it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U.S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

### **33. Foreign Market Restrictions.**

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

### **34. Policies, Standards, and Specifications.**

It will carry out any project funded under an Airport Infrastructure Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars (<https://www.faa.gov/airports/aip/media/aip-pfc-checklist.pdf>) for AIG projects as of January 11, 2023.

### **35. Relocation and Real Property Acquisition.**

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C of 49 CFR Part 24 and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

### **36. Access By Intercity Buses.**

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

**37. Disadvantaged Business Enterprises.**

The sponsor shall not discriminate on the basis of race, color, national origin, sex, in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).

**38. Hangar Construction.**

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

**39. Competitive Access.**

- a. If the airport owner or operator of a medium or large hub airport (as defined in 49 U.S.C. § 47102) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that:
  1. Describes the requests;
  2. Provides an explanation as to why the requests could not be accommodated; and
  3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.



# NORTHERN COLORADO REGIONAL AIRPORT

4900 Earhart Rd • Loveland, Colorado 80538

(970) 962-2850 • FAX (970) 962-2855 • TDD (970) 962-2620

**ITEM NUMBER:** 5  
**MEETING DATE:** May 18, 2023  
**PREPARED BY:** Jason Licon, Airport Director

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## **TITLE**

Draft Grant Agreement from the Federal Aviation Administration for the New Airport Terminal Project #AIP 44

## **RECOMMENDED AIRPORT COMMISSION ACTION**

Make a motion to adopt Resolution R-04-2023 approving and recommending that the City Managers sign a grant agreement with the Federal Aviation Administration (Project No. 3-08-0023-044-2023).

## **BUDGET IMPACT**

Positive, the grant will provide additional federal funding to the full \$16,865,798 awarded through the 2020 Cares Act allocation.

## **SUMMARY**

The Airport has applied for the final grant from the Federal Aviation Administration's CARES grant funds to design and construct the new terminal building. The project was designed at the request of the FAA with multiple award schedules to allow for greater ease in possibly having to phase the project using available funding.

This FAA grant will provide the Airport with federal funding in the amount of \$3.8 million.

The Amended and Restated Intergovernmental Agreement for the Joint Operation of the Airport approved by both City Councils grants the Airport Commission the authority to enter into grant agreements to the extent permitted by grantors, so long as such grant agreements:

- i. *do not include commitment of Airport revenues and funds for grant matches of more than \$300,000 from appropriated funds included in the approved Airport budget;*
- ii. *do not involve capital construction projects unless such projects are included in the approved Airport budget; and*

- iii. are approved by the City Managers, to the extent the City Managers are authorized by their respective City Councils to do so.*

These funds have been budgeted for and appropriated through the two City Councils within the adopted 2023 Airport Budget. City Legal staff have verified that this grant may be signed by the City Managers.

#### **ATTACHMENTS**

- Resolution R-04-2023
- FAA DRAFT Grant Offer 3-08-0023-044-2023
- CARES Act Funding Spending Plan

## **RESOLUTION # R-04-2023**

### **A RESOLUTION APPROVING THE 2023 GRANT AGREEMENT (CARES ACT DEVELOPMENT ADDENDUM NO. 3-08-0023-044-2023) WITH THE FEDERAL AVIATION ADMINISTRATION FOR THE TERMINAL BUILDING CONSTRUCTION PROJECT AT THE NORTHERN COLORADO REGIONAL AIRPORT**

**WHEREAS**, the Cities of Fort Collins and Loveland (the “Cities”) jointly own and operate the Northern Colorado Regional Airport (the “Airport”) pursuant to that certain Amended and Restated Intergovernmental Agreement dated January 22, 2015 (the “IGA”), as amended; and

**WHEREAS**, in 2020, the Airport was awarded \$16,865,798 in grant funds through the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (the “CARES Act Grant Funds”). The Cities determined to apply such grant funds to the design and construction of a much-needed new terminal building at the Airport, and have now awarded a contract for the construction of such project (the “Terminal Project”); and

**WHEREAS**, the Cities have applied for the final portion of the CARES Act Grant Funds in the amount of Three Million Seven-Hundred Seventy Thousand Seven Hundred Thirty-Two Dollars (\$3,770,732) now that the construction contract has been awarded. In order to accept the final portion of the CARES Act Grant Funds, the Cities are required to execute a grant agreement with the FAA (the “FAA Grant Agreement”); and

**WHEREAS**, the Northern Colorado Airport Commission supports the Project and recommends that the Cities, through their City Managers, approve and sign any documents necessary to accept the CARES Act Grant Funds, including the FAA Grant Agreement.

### **NOW THEREFORE BE IT RESOLVED BY THE NORTHERN COLORADO REGIONAL AIRPORT COMMISSION AS FOLLOWS:**

**Section 1.** That the CARES Act Grant Funds and any documents necessary to accept the same, including the FAA Grant Agreement, are approved. The Commission recommends that the City Manager of Fort Collins and the City Manager of Loveland sign such documents on behalf of their respective cities.

**Section 2.** That this Resolution shall take effect as of the date and time of its adoption.

ADOPTED this 18th day of May, 2023.

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Don Overcash, Chair of the  
Northern Colorado Regional Airport Commission

ATTEST:

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Secretary

APPROVED AS TO FORM:

  
Senior Assistant City Attorney





U.S. Department  
of Transportation  
Federal Aviation  
Administration

Airports Division  
Northwest Mountain Region  
Colorado, Utah, Wyoming

FAA DEN ADO  
26805 E 68th Ave, Suite 224  
Denver, CO 80249

XXXX

Mr. Stephen Adams, City Manager  
City of Loveland  
500 East 3rd Street, Suite 300  
Loveland, Colorado 80537

Ms. Kelly DiMartino, City Manager  
City of Fort Collins  
300 La Porte Avenue  
Fort Collins, Colorado 80522

SUBJECT: Coronavirus Aid, Relief, and Economic Security Act (CARES Act) Development Addendum

Dear Mr. Adams and Ms. DiMartino:

Please find the following electronic CARES Act Development Addendum Offer, Addendum No. 3-08-0023-044-2023 for Northern Colorado Regional Airport. This letter outlines expectations for success. Please read and follow the instructions carefully.

To properly enter into this agreement, you must do the following:

- a. The governing body must provide authority to execute the addendum to the individual signing the addendum; i.e. the sponsor's authorized representative.
- b. The sponsor's authorized representative must execute the addendum, followed by the attorney's certification, no later than XXXX in order for the addendum to be valid.
- c. You may not make any modification to the text, terms or conditions of the addendum offer.
- d. The addendum offer must be digitally signed by the sponsor's legal signatory authority and then the addendum offer will be routed via email to the sponsor's attorney. Once the attorney has digitally attested to the addendum, an email with the executed addendum will be sent to all parties.

Subject to the requirements in 2 CFR §200.305, each payment request for reimbursement under this addendum must be made electronically via the Delphi eInvoicing System. The terms and conditions of this agreement require you drawdown and expend these funds within four years.

The terms and conditions of this addendum require you to complete the project without undue delay. To ensure proper stewardship of Federal funds, **you are expected to submit payment requests for reimbursement of allowable incurred project expenses in accordance with project progress.** Should you fail to make draws on a regular basis, your grant may be placed in "inactive" status, which will affect your ability to receive future grant offers.

Until the addendum is completed and closed, you are responsible for submitting formal reports as follows:

- A signed/dated SF-270 (non-construction projects) or SF-271 or equivalent (construction projects) and SF-425 annually, due 90 days after the end of each federal fiscal year in which this grant is open (due December 31 of each year this grant is open); and
- Performance Reports, which are due within 30 days of the end of a reporting period as follows:
  1. Non-construction project: Due annually at the end of the Federal fiscal year.
  2. Construction project: Submit FAA form 5370-1, Construction Progress and Inspection Report at the end of each fiscal quarter.

Once the project is completed and all costs are determined, we ask that you close the project without undue delay and submit the final closeout report documentation as required by FAA's Denver Airports District Office.

As a condition of receiving Federal assistance under this award, you must comply with audit requirements as established under 2 CFR part 200. Subpart F requires non-Federal entities that expend \$750,000 or more in Federal awards to conduct a single or program specific audit for that year. Note that this includes Federal expenditures made under other Federal-assistance programs. Please take appropriate and necessary action to assure your organization will comply with applicable audit requirements and standards. **A copy of a "Single Audit Certification Form" will be sent separately via email.** Please complete and return a copy to our office with the executed Development Addendum. Please make a copy for your files.

Todd Minnich is the assigned program manager for this addendum and is readily available to assist you and your designated representative with the requirements stated herein. If you should have any questions, please contact Todd at 303-342-1279.

We sincerely value your cooperation in these efforts and look forward to working with you to complete this important project.

Sincerely,

XXXX

John P. Bauer  
Manager, Denver Airports District Office

Enclosures



U.S. Department  
of Transportation  
Federal Aviation  
Administration

## CARES ACT AIRPORT GRANT AGREEMENT

### DEVELOPMENT ADDENDUM

#### Part I - Offer

Federal Award Offer Date XXXX

Airport/Planning Area Northern Colorado Regional Airport

CARES Addendum Number 3-08-0023-044-2023

Unique Entity Identifier EJKMMHAX3VU6

TO: Cities of Fort Collins and Loveland  
(herein called the "Sponsor") (For Co-Sponsors, list all Co-Sponsor names. The word "Sponsor" in this Development Addendum also applies to a Co-Sponsor.)

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

**WHEREAS**, the Sponsor has submitted to the FAA an application to amend Coronavirus Aid, Relief, and Economic Security Act (CARES Act or "the Act") Airport Grant Agreement 3-08-0023-039-2020 by application dated March 30, 2023, to fund Development at or associated with the Northern Colorado Regional Airport, included as part of this CARES Act Airport Grant Agreement Development Addendum 3-08-0023-044-2023, ("Development Addendum");

**WHEREAS**, the FAA has agreed with the Sponsor to amend its CARES Act Airport Grant Agreement 3-08-0023-039-2020 to reallocate \$ 3,770,732 of funds awarded under 3-08-0023-039-2020 to fund specific eligible airport project(s) constituting airport Development at an eligible airport under the Sponsor's control;

**WHEREAS**, the Sponsor has accepted the terms of the FAA's CARES Act Airport Grant Agreement Development Addendum offer;

**WHEREAS**, no other terms, conditions, or assurances of the 3-08-0023-039-2020 shall be negated as a result of this Development Addendum, including provisions regarding revenue use, Buy American, and reporting requirements;

**WHEREAS**, in consideration of the promises, representations and assurances provided by the Sponsor, the FAA has approved the Development Addendum for the Northern Colorado Regional Airport consisting of the following:

**Construct Terminal Building**

which is more fully described in the Project Grant Application;

**WHEREAS**, this Development Addendum hereby amends 3-08-0023-039-2020 for the purpose of reallocating \$3,770,732 of the funds originally provided under 3-08-0023-039-2020 to permit Northern Colorado Regional Airport to use not more than that amount to reimburse Northern Colorado Regional Airport for expenses incurred no earlier than March 27, 2020, until the specified Development funds have been fully expended, provided such expenses are directly related to eligible Development described in the Project Grant Application and listed below; and

**NOW THEREFORE**, in accordance with the applicable provisions of the CARES Act, Public Law 116-136, the representations contained in the Project Grant Application, and in consideration of, (a) the Sponsor's acceptance of this Offer for the Development described in the Project Grant Application for 3-08-0023-044-2023, the terms, conditions, and assurances of which are hereby attached to and made part of the terms, conditions, and assurances agreed to under 3-08-0023-039-2020; and, (b) the benefits to accrue to the United States and the public from the accomplishment of the Development Addendum, and in compliance with the conditions as herein provided.

**THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay 100 percent of the allowable costs incurred accomplishing the Development as a result of and in accordance with this Development Addendum.**

**Assistance Listings Number (Formerly CFDA Number): 20.106**

This Offer is made on and **SUBJECT TO THE FOLLOWING ADDITIONAL TERMS AND CONDITIONS:**

**CONDITIONS**

**SUPPLEMENTAL TO CARES ACT AIRPORT GRANT AGREEMENT 3-08-0023-039-2020 CONDITIONS #1-23**

- 1a. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$3,770,732.

The following amounts represent the calculation(s) of the maximum total obligation by funding group, as originally allocated under 3-08-0023-039-2020, made available under the provisions of Public Law 116-136, which are hereby reallocated from 3-08-0023-039-2020 and assigned to 3-08-0023-044-2023 for the Development identified in the application:

Northern Colorado Regional FNL XXXX XXXX

- 2a. **Grant Performance.** This Development Addendum is subject to the following Federal award requirements:

a. Period of Performance:

1. Remains the same as initial CARES Agreement 3-08-0023-039-2020, which is 4 years (1,460 calendar days) from the date of acceptance of that Grant Agreement. The Period of Performance end date shall not affect, relieve, or reduce Sponsor obligations and assurances that extend beyond the closeout of the Grant Agreement or this Development Addendum.

2. Means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions or budget periods. (2 Code of Federal Regulations (CFR) § 200.1).
- b. Budget Period:
1. For this Addendum follows the same start and end date as the Period of Performance provided in Paragraph a.1. Pursuant to 2 CFR § 200.403(h), the Sponsor may charge to the Grant only allowable costs incurred during the Budget Period.
  2. Means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which the Sponsor is authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to § 200.308.
- c. Close Out and Termination:
1. Unless the FAA authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later than 120 calendar days after the end date of the Period of Performance. If the Sponsor does not submit all required closeout documentation within this time period, the FAA will proceed to close out the grant within one year of the Period of Performance end date with the information available at the end of 120 days. (2 CFR § 200.344).
  2. The FAA may terminate this Development Addendum, in whole or in part, in accordance with the conditions set forth in 2 CFR § 200.340, or other Federal regulatory or statutory authorities as applicable.
- 6a. **Completing the Development Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the Development without undue delays and in accordance with this Development Addendum, and the regulations, policies, and procedures of the Secretary of Transportation ("Secretary"). Per 2 CFR § 200.308, the Sponsor agrees to report to the FAA any disengagement from performing the Development under the Development Addendum that exceeds three months or a 25 percent reduction in time devoted to the project, and request prior approval from FAA. The report must include a reason for the Development stoppage. The Sponsor agrees to comply with the attached assurances, which are part of this Development Addendum and any other addendum that may be attached hereto at a later date by mutual consent. All terms, conditions, and assurances are hereby attached to and made part of the terms, conditions, and assurances agreed to under 3-08-0023-039-2020.
- 7a. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
- 8a. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the Development unless this offer has been accepted by the Sponsor on or before **XXXX**, or such subsequent date as may be prescribed in writing by the FAA.
- 12a. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this Development Addendum electronically via the Delphi invoicing System for Department of Transportation (DOT) Financial Assistance Awardees.
22. **Air and Water Quality.** The Sponsor is required to comply with all applicable air and water quality standards for all Development in this Development Addendum. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this Development Addendum.

23. **Exhibit "A" Property Map.** The Exhibit "A" Property Map dated June 2020, is incorporated herein by reference or is submitted with the Project Grant Application and made part of this Development Addendum.
24. **Informal Letter Amendment of CARES Development.** The FAA can issue an informal letter amendment that modifies the Development description in the Project Grant Application to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.

An informal letter amendment has the same force and effect as a formal grant amendment.

DRAFT

**SPECIAL CONDITIONS****SUPPLEMENTAL TO CARES ACT AIRPORT GRANT AGREEMENT 3-08-0023-039-2020 SPECIAL  
CONDITIONS, AS APPLICABLE**

7. **Airport Layout Plan.** The Sponsor will update the Airport Layout Plan to reflect new airport Development to assure a safe airport operating environment by properly coordinating and planning potential hazards and obstructions with the FAA and to assure safety of operations both on the airport and in the airspace surrounding the airport. CARES Act funds may be used to update the Airport Layout Plan.
8. **Surveillance and Imaging Equipment.** The Sponsor certifies cameras acquired and installed under this Development Addendum will be for the sole use of the Airport Sponsor and its personnel for airport purposes. Equipment purchased and installed under this Development Addendum may not be operated by TSA, airlines, or other federal, state, or municipal agencies except those included in a mutual aid agreement that provides active surveillance and incident response.
9. **Buy American Executive Orders.** The Sponsor agrees to abide by applicable Executive Orders in effect at the time this Development Addendum is executed, including Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Grant Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Development Addendum, as provided by the CARES Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Development and compliance with the assurances and conditions as provided herein. Such Development Addendum shall become effective upon the Sponsor's acceptance of this Offer.

**Please read the following information:** By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.<sup>1</sup>

**UNITED STATES OF AMERICA  
FEDERAL AVIATION ADMINISTRATION**

XXXX

(Signature)

XXX

(Typed Name)

XXX

(Title of FAA Official)

<sup>1</sup> Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.



## Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Grant Application and incorporated materials referred to in the foregoing Offer under this Development Addendum, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer, and hereby acknowledges all terms, conditions and assures in any CARES Act Airport Grant Agreements previously or concurrently executed for any other purpose are attached to this Development Addendum.

**Please read the following information:** By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.<sup>2</sup>

Executed this day of XXXX

City of Loveland, Colorado

*(Name of Sponsor)*

xxx

*(Signature of Sponsor's Authorized Official)*

By:

xxx

*(Typed Name of Sponsor's Authorized Official)*

Title:

xxx

*(Title of Sponsor's Authorized Official)*

<sup>2</sup> Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

### CERTIFICATE OF SPONSOR'S ATTORNEY

I, XXXX, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Project Grant Amendment under the laws of the State of Colorado. Further, I have examined the foregoing Development Addendum and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the CARES Act. In addition, for grants involving Development to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. The Sponsor understands funding made available under this Development Addendum may only be used for the Development identified herein and all terms, conditions and assurances in any CARES Act Airport Grant Agreements previously or concurrently executed for any other purpose are attached to this Development Addendum. Further, it is my opinion that the said Development Addendum and all CARES Act Grant Agreements attached hereto constitute a legal and binding obligation of the Sponsor in accordance with the terms thereof.

**Please read the following information:** By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.<sup>3</sup>

Dated this day of XXXX

By: XXXX  
(Signature of Sponsor's Attorney)

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<sup>3</sup> Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the Grant Assurances, terms, and conditions in this Offer and in the Project Application.

**Please read the following information:** By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.<sup>4</sup>

Dated XXXX

City of Fort Collins, Colorado

*(Name of Sponsor)*

xxx

*(Signature of Sponsor's Authorized Official)*

**By:**

xxx

*(Typed Name of Sponsor's Authorized Official)*

**Title:**

xxx

*(Title of Sponsor's Authorized Official)*

<sup>4</sup> Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

## **ASSURANCES**

### **AIRPORT SPONSORS**

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#### **SUPPLEMENTAL TO CARES ACT AIRPORT GRANT AGREEMENT 3-08-0023-039-2020 AIRPORT SPONSOR ASSURANCES #1-11 IN ADDITION TO THE (A) GENERAL AND (B) SPONSOR CERTIFICATIONS**

#### **A. General.**

1. These assurances are required to be submitted as part of the Project Grant Application by sponsors requesting funds under the provisions of the Coronavirus Aid, Relief, and Economic Security Act of 2020 (CARES Act or "the Act"), Public Law 116-136 for eligible Airport Development. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
2. Upon acceptance of this Development Addendum by the sponsor, these assurances are incorporated in and become part of this Development Addendum and all CARES Act Airport Grant Agreements 3-08-0023-039-2020, previously or concurrently executed and attached hereto.

#### **B1. Development Addendum Sponsor Certification.**

The sponsor hereby assures and certifies, with respect to this Development Addendum that:

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this Development Addendum, in addition to all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements included in all CARES Act Airport Grant Agreements 3-08-0023-039-2020, previously or concurrently executed and attached hereto, and including but not limited to the following:

#### **FEDERAL LEGISLATION**

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- y. Davis-Bacon Act – 40 U.S.C. 276(a), et seq.

#### **FEDERAL REGULATIONS**

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- r. 14 CFR Part 150 – Airport noise compatibility planning.
- s. 49 CFR Part 23 – Participation of Disadvantaged Business Enterprise in Airport Concessions.
- t. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.

#### **C. Duration and Applicability.**

1. Airport Development or Noise Compatibility Program Projects.

The terms, conditions and assurances of this Development Addendum and all CARES Act Airport Grant Agreements attached hereto shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights,

Airport Revenue Use and Civil Rights so long as the airport is used as an airport. Also, there shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

### **SPECIFIC ASSURANCES**

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Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this Development Addendum, in addition to those included in all CARES Act Airport Grant Agreements 3-08-0023-039-2020, previously or concurrently executed.

**3A. Good Title.**

For Development, including noise compatibility program projects, to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

**4. Preserving Rights and Powers.**

- d. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Development Addendum without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Development Addendum and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the Sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Development Addendum and all CARES Act Airport Grant Agreements previously or concurrently executed and attached hereto.

**8A. Reports and Inspections.**

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;

- c. for noise compatibility program projects, make records and documents relating to the Development and continued compliance with the terms, conditions, and assurances of this Development Addendum and all CARES Act Airport Grant Agreements previously or concurrently executed and attached hereto, including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
  - 1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
  - 2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

#### **12. Sponsor Fund Availability.**

It has sufficient funds available to assure operation and maintenance of items funded under this Development Addendum which it will own or control.

#### **13. Minimum Wage Rates.**

It shall include, in all contracts in excess of \$2,000 for work on any Development funded under this Development Addendum which involves labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a through 276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

#### **14. Veterans' Preference.**

It shall include in all contracts for work on any Development funded under this Development Addendum which involves labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

#### **15. Planning for Development Projects.**

In carrying out planning Development:

- a. It will execute the Development in accordance with the approved program narrative contained in the Project Grant Application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning Development and planning work activities.
- c. It will include in all published material prepared in connection with the planning Development a notice that the material was prepared using federal funds provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.

- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this Development Addendum.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the Development, only if the employees are not qualified.
- h. It understands and agrees that the Secretary's approval of this Development Addendum or the Secretary's approval of any planning material developed as part of this Development Addendum does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

#### **16. Operation and Maintenance.**

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for—
  - 1. Operating the airport's aeronautical facilities whenever required;
  - 2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
  - 3. Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

#### **17. Hazard Removal and Mitigation.**

As required by 49 U.S.C. 40103, the safety of air transportation has been delegated to the FAA. To assure safety of flight, the airport sponsor will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

**18. Airport Layout Plan.**

- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, and to assure safe and efficient operation of aircraft or safety of people on the ground related to aircraft operations, the sponsor will update the airport layout plan to reflect changes to it if any of the funds provided by the CARES Act affect the following:
  - 1. Boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
  - 2. The location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
  - 3. The location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
  - 4. All proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
- b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

**19. Policies, Standards, and Specifications.**

It will carry out any project funded under an Airport Improvement Program Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars for AIP projects as of March 30, 2023.

**20. Relocation and Real Property Acquisition.**

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.



- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

## **21. Disadvantaged Business Enterprises.**

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its DBE and ACDBE programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this Development Addendum and all CARES Act Airport Grant Agreements previously or concurrently executed and attached hereto. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this Development Addendum. Upon notification to the Sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

## **Current FAA Advisory Circulars Required for Use in AIP Funded and PFC Approved Projects**

View the most current versions of FAA's Advisory Circulars (A/Cs) here:

[https://www.faa.gov/regulations\\_policies/advisory\\_circulars/](https://www.faa.gov/regulations_policies/advisory_circulars/)

Airports A/Cs are found in the 150 series. In addition Airspace A/Cs, found in the 70 series, also may apply for certain projects.

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## CARES Comprehensive Spending Plan

# Executive Summary

This comprehensive spending plan is used to track the \$16,865,798 CARES Grant as the funds are awarded and utilized. The plan includes a project tracking list and detailed description and status of each project. The funds are being utilized on the following programs or projects:

- Operations and Maintenance Program
- Commercial Apron Expansion and Taxiway E Construction Project
- Terminal Building Design and Construction Project



# Funding and Project Tracking

- AIP 39 is fully drawn down and will be closed when all CARES addendum are complete
- AIP 41 is being used for the terminal design & construction
- AIP 42 is fully drawn down and will be closed with all CARES addendum are complete
  - \$59,763 from AIP 42 credit will be applied to AIP 44
- AIP 44 is pending award for the terminal construction
- Construction Manager at Risk (CMaR) has been selected with a Guaranteed Maximum Price

|                                       |              |              |              |                  |            |              |              |         |               |               |              |               |
|---------------------------------------|--------------|--------------|--------------|------------------|------------|--------------|--------------|---------|---------------|---------------|--------------|---------------|
| FNL CARES Act Funding                 | \$16,865,798 |              |              |                  |            |              |              |         |               |               |              |               |
| Existing Grants                       |              |              |              |                  |            |              |              |         |               |               |              |               |
|                                       | Requested    | Project Cost | Awarded      | Funding Utilized |            |              |              |         | Spent to Date | \$ Remaining  | \$ Recovered | \$ Total      |
|                                       |              |              |              | CY 2020          | CY 2021    | CY 2022      | CY 2023      | CY 2024 |               |               |              |               |
| AIP 39 Operations and Maintenance     | \$ 2,000,000 | \$ 2,000,000 | \$ 2,000,000 |                  |            | \$ 1,198,958 | \$ 801,042   |         | \$ 2,000,000  |               |              | \$ 2,000,000  |
| AIP 41 Terminal Design & Construction | \$10,602,404 | \$22,000,000 | \$10,602,404 |                  | \$ 553,934 | \$ 847,069   | \$ 298,519   |         | \$ 1,699,522  | \$ 8,902,882  |              | \$ 10,602,404 |
| AIP 42 Commercial Apron & TXY E       | \$ 552,425   | \$ 2,984,499 | \$ 552,425   |                  |            | \$ 492,662   |              |         | \$ 492,662    |               | \$ 59,763    | \$ 552,425    |
| Existing Grants Subtotal              | \$13,154,829 | \$26,984,499 | \$13,154,829 |                  | \$ 553,934 | \$ 2,538,689 | \$ 1,099,561 |         | \$ 4,192,184  | \$ 8,902,882  | \$ 59,763    | \$ 13,154,829 |
|                                       |              |              |              |                  |            |              |              |         |               |               |              |               |
| Future Grants                         |              |              |              |                  |            |              |              |         |               |               |              |               |
|                                       | Requested    | Project Cost | Awarded      | Funding Utilized |            |              |              |         | Spent to Date | \$ Remaining  | \$ Recovered | \$ Total      |
|                                       |              |              |              | CY 2020          | CY 2021    | CY 2022      | CY 2023      | CY 2024 |               |               |              |               |
| AIP 44 Terminal Development Addendum  | \$ 3,770,732 | See AIP 41   |              |                  |            |              |              |         |               | \$ 3,710,969  |              | \$ 3,710,969  |
| Future Grants Subtotal                | \$ 3,770,732 |              |              |                  |            |              |              |         |               | \$ 3,710,969  |              | \$ 3,710,969  |
|                                       |              |              |              |                  |            |              |              |         |               |               |              |               |
| Total CARES Act Funding               | \$16,925,561 | \$26,984,499 | \$13,154,829 | 99               | \$ 553,934 | \$ 2,538,689 | \$ 1,099,561 |         | \$ 4,192,184  | \$ 12,613,851 | \$ 59,763    | \$ 16,865,798 |



## AIP 39: Operations and Maintenance Program

- The \$2,000,000 grant was requested to provide for O&M costs that were unknown at the time.
- The grant has been fully drawn down.
- Drawdowns for 2021 reimbursements were completed in 2022 totaling \$1,198,958.
- Drawdown for 2022 reimbursement up to the limit were completed in early 2023 totaling \$801,042.



## AIP 41: Terminal Design & Construction Project

- The grant was awarded for \$10,602,404, which was the capped initial grant amount remaining
- This project began in 2021 and is projected to complete design in May of 2023
- The new facility will utilize a construction manager at risk (CMaR) delivery method
- The total cost for phase one of the terminal project is \$22,000,000

## AIP 42: Commercial Apron & Taxiway E Project

- This grant was originally applied for at \$552,425, and only required \$492,662 a difference of \$59,763
- It was used as a portion of a \$2,984,499 Apron expansion and taxiway construction project
- The project was completed in late 2021 and has been fully drawn down and is awaiting closeout
- The funding balance of \$59,763 has been included in the AIP 44 final grant request that will utilize remaining Cares funding



# AIP 44: Terminal Project Development Addendum

- This is a grant that is being applied for totaling \$3,770,732, which is the remaining balance of the Cares Act funding as shown below
  - \$3,710,969 remains in the Cares Act funding balance
  - \$59,763 is to be recovered from AIP 42 and is included in the AIP 44 grant request
- The total cost of the terminal facility is \$22 million and the AIP 41 & AIP 44 grants will provide \$14,373,136 toward this project

# Summary

- The Airport is on track to spend the CARES Act grant allocation of \$16,865,798 by the July 2024 deadline
- As of April 2023, the Airport has spent \$4,192,184 of the CARES Act grants and has a balance of \$12,673,614 remaining
  - This funding is to be fully utilized on finalizing design and starting construction in June 2023 on a new Terminal
  - The Airport has applied for the remaining \$3,770,732 as a development addendum (AIP44) to be used as part of the Terminal Construction Project.
    - Without this remaining funding, the project will not be able to move forward to construction.





# NORTHERN COLORADO REGIONAL AIRPORT

4900 Earhart Rd • Loveland, Colorado 80538

(970) 962-2850 • FAX (970) 962-2855 • TDD (970) 962-2620

**ITEM NUMBER:** 6

**MEETING DATE:** May 18, 2023

**PREPARED BY:** Jason Licon, Airport Director

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## **TITLE**

Grant from the State of Colorado for the Airport Runway Widening Project Design  
#CDAG 23-FNL-02

## **RECOMMENDED AIRPORT COMMISSION ACTION**

Make a motion to approve Resolution R-05-2023 authorizing the Chair to sign a grant offer for \$463,235.28 from the Colorado Department of Transportation Division of Aeronautics

## **BUDGET IMPACT**

Positive: The grant agreements will provide financial resources for the design of the Runway 15-33 Widening Project

## **SUMMARY**

The Airport has identified in its adopted Airport Master Plan and Capital Improvement Plan a project that will enhance its ability to support the critical design aircraft for the Airport. Runway width requirements have changed as a result of continued modifications to the narrowbody passenger aircraft that the Airport is designed to support. The Airport's critical design aircraft according to the Master Plan is the Airbus A-320 series and Boeing 737 series aircraft, which continue to be lengthened and widened for every new generation that is released. The modifications of these aircraft have put the Airport's FAA runway classification requiring it to be widened from 100' to 150' in order to maintain the required safety envelope for these aircraft operations.

This grant from the CDOT Aeronautics Division provides the Airport with \$463,235.28 in total funding that includes a 5% match of \$13,235.28 towards the \$238,235.00 FAA funding component. Airport funding will provide the additional 5% match or \$13,235.28. Further the grant will provide \$450,000 in state approved overmatch funding for the Airport, requiring an additional local match of \$50,000. In total \$63,235.28 in Airport funding will be used to leverage a combined total of \$701,470.28 in Federal and State funding for this project. All funding for this project has been appropriated in the Airport's 2023 budget. Project details include the following primary components:

- Project will include widening existing 100' wide runway 15/33 to 150'

- Existing 100' pavement section will remain, with 25' added to each side
- Relocate and replace runway lighting with efficient high intensity LED lights
- Relocate and replace runway signage with efficient LED lighting
- Relocate NAVAIDs/VISAs to include one PAPI on runway 15 that is airport owned and a reimbursable agreement for the FAA owned PAPI for runway 33
- Modify geometry for taxiway connections to runway 15/33 for A1, A2, A3, A4, & A5 taxiways
- Relocate taxiway lighting for new taxiway connections
- Sealcoat and restripe of all pavement surfaces and adjacent taxiways and blast pads to create uniformity
- Install drainage improvements and grading along pavement edges and within safety areas

The Amended and Restated IGA for the Joint Operation of the Airport approved by both City Councils in 2016 allows the Airport Commission the authority to enter into grant agreements to the extent permitted by grantors, so long as such grant agreements:

- i. do not include commitment of Airport revenues and funds for grant matches of more than \$300,000 from appropriated funds included in the approved Airport budget;
- ii. do not involve capital construction projects unless such projects are included in the approved Airport budget; and
- iii. are approved by the City Managers, to the extent the City Managers are authorized by their respective City Councils to do so.

## **ATTACHMENTS**

- Resolution R-05-2023: A Resolution Approving the 2023 Grant Agreement with the State of Colorado Division of Aeronautics (CDAG #23-FNL-02) for Runway 15-33 Widening Design project at the Northern Colorado Regional Airport
- Colorado Division of Aeronautics Discretionary Grant Resolution & Grant Agreement

## **RESOLUTION # R-05-2023**

### **A RESOLUTION APPROVING THE 2023 GRANT AGREEMENT WITH THE STATE OF COLORADO DIVISION OF AERONAUTICS (CDAG #23-FNL-02) FOR RUNWAY 15-33 WIDENING DESIGN PROJECT AT THE NORTHERN COLORADO REGIONAL AIRPORT**

**WHEREAS**, the General Assembly of the State of Colorado declared in Title 43 of the Colorado Revised Statutes, Article 10, 1991 in CRS §43-10-101 (the Act) “... that there exists a need to promote the safe operations and accessibility of general aviation in this state; that improvements to general aviation transportation facilities will promote diversified economic development across the state; and that accessibility to airport facilities for residents of this state is crucial in the event of a medical or other type of emergency...;” and

**WHEREAS**, the Act created the Colorado Aeronautical Board (“the Board”) to establish policy and procedures for distribution of monies in the Aviation Fund and created the Division of Aeronautics (“the Division”) to carry out the directives of the Board, including technical and planning assistance to airports and the administration of the state aviation system grant program. SEE CRS §43-10-103 and C.R.S. §43-10-105 and CRS §43-10-108.5 of the Act; and

**WHEREAS**, any eligible entity operating an FAA-designated public-use airport in the state may file an application for and be recipient of a grant to be used solely for aviation purposes. The Division is authorized to assist such airports and request assistance by means of a Resolution passed by the applicant’s duly-authorized governing body, which understands that all funds shall be used exclusively for aviation purposes and that it will comply with all grant procedures, grant assurances and requirements as defined in the Division’s Programs and Procedures Manual, (“the Manual”) and the Airport Sponsor Assurances for Colorado Discretionary Aviation Grant Funding (“Grant Assurances”) attached hereto as **Exhibit B** for the project detailed in the Discretionary Aviation Grant Application (“Application”) attached hereto as **Exhibit A** and in conjunction with CDOT’s Small Dollar Grant Award Terms and Conditions attached hereto as **Exhibit C**; and

**WHEREAS**, the City of Fort Collins and the City of Loveland (“the Cities”) own and operate in the State the Northern Colorado Regional Airport (“the Airport”) pursuant to that certain Amended and Restated Intergovernmental Agreement for the Joint Operation of the Fort Collins-Loveland Municipal Airport dated January 22, 2015, as amended (“Airport IGA”); and

**WHEREAS**, the Cities have applied for grant CDAG #23-FNL-02 (the “Grant Agreement”) from the Division for the purpose of funding runway widening design at the Northern Colorado Regional Airport (the “Project”); and

**WHEREAS**, the Grant Agreement provides to the Airport Four Hundred Sixty-Three Thousand Two Hundred Thirty-Five Dollars and Twenty-Eight Cents (\$463,235.28) (the “State Grant”) representing the five percent (5%) match of \$13,235.28 towards the \$238,235.00 in FAA funding for the planning phase for the Project, subject to the Airport providing the other five percent (5%) local match plus \$50,000 towards the state overmatch of \$450,000.00 for the Project; and

**WHEREAS**, a total of Sixty-Three Thousand Two Hundred Thirty-Five Dollars and Twenty-Eight Cents (\$63,235.28) of local funding in the Airport Fund will be applied toward this Project, in addition to this State Grant, which additional funding has previously been appropriated and approved by the Northern Colorado Regional Airport Commission and both City Councils through the adoption of the 2023 Airport Budget; and

**WHEREAS**, pursuant to Section 4.J of the Airport IGA, the Commission is authorized to sign grant agreements to the extent permitted by grantors, so long as such grant agreements meet the standards set forth therein, including approval by the City Managers of both Cities to the extent they are authorized by their respective City Councils to do so.

**NOW THEREFORE BE IT RESOLVED BY THE NORTHERN COLORADO REGIONAL AIRPORT COMMISSION AS FOLLOWS:**

**Section 1.** The Northern Colorado Regional Airport Commission (the “Commission”), as a duly authorized governing body of the grant applicant, hereby formally requests assistance from the Colorado Aeronautical Board and the Division of Aeronautics in the form of a state aviation system grant. The Commission states that such grant shall be used solely for aviation purposes, as determined by the State, and as generally described in the Application. By signing this Grant Resolution, the applicant commits to keep open and accessible for public use all grant funded facilities, improvements and services for their useful life, as determined by the Division and stated in the Grant Assurances.

**Section 2.** The Commission, on behalf of the Cities, hereby designates Jason Licon as the Project Director, as described in the Manual and authorizes the Project Director to act in all matters relating to the work project proposed in the Application, including execution of any amendments.

**Section 3.** The Cities have appropriated or will otherwise make available in a timely manner all funds, if any, that are required to be provided by the applicant as shown on the Application.

**Section 4.** The Commission, on behalf of the Cities, hereby accepts all guidelines, procedures, standards, and requirements described in the Manual as applicable to the performance of the grant work and hereby approves this Grant Resloution, including all terms and conditions contained therein.

**Section 5.** That this Resolution shall be effective as of the date and time of its adoption.

ADOPTED this 18th day of May, 2023.

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Don Overcash, Chair of the Northern Colorado Regional  
Airport Commission

ATTEST:

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Secretary

APPROVED AS TO FORM:

  
Senior Assistant City Attorney



## Colorado Division of Aeronautics Discretionary Aviation Grant Resolution

### RESOLUTION

#### WHEREAS:

The General Assembly of the State of Colorado declared in Title 43 of the Colorado Revised Statutes, Article 10, 1991 in CRS §43-10-101 (the Act) "... that there exists a need to promote the safe operations and accessibility of general aviation in this state; that improvements to general aviation transportation facilities will promote diversified economic development across the state; and that accessibility to airport facilities for residents of this state is crucial in the event of a medical or other type of emergency..."

The Act created the Colorado Aeronautical Board ("the Board") to establish policy and procedures for distribution of monies in the Aviation Fund and created the Division of Aeronautics ("the Division") to carry out the directives of the Board, including technical and planning assistance to airports and the administration of the state aviation system grant program. SEE CRS §43-10-103 and C.R.S. §43-10-105 and CRS §43-10-108.5 of the Act.

Any eligible entity operating an FAA-designated public-use airport in the state may file an application for and be recipient of a grant to be used solely for aviation purposes. The Division is authorized to assist such airports and request assistance by means of a Resolution passed by the applicant's duly-authorized governing body, which understands that all funds shall be used exclusively for aviation purposes and that it will comply with all grant procedures, grant assurances and requirements as defined in the Division's Programs and Procedures Manual, ("the Manual") and the Airport Sponsor Assurances for Colorado Discretionary Aviation Grant Funding ("Grant Assurances") attached hereto as **Exhibit B** for the project detailed in the Discretionary Aviation Grant Application ("Application") attached hereto as **Exhibit A** and in conjunction with CDOT's Small Dollar Grant Award Terms and Conditions attached hereto as **Exhibit C**.

#### NOW, THEREFORE, BE IT RESOLVED THAT:

The **Cities of Ft. Collins/Loveland**, as a duly authorized governing body of the grant applicant, hereby formally requests assistance from the Colorado Aeronautical Board and the Division of Aeronautics in the form of a state aviation system grant. The **Cities of Ft. Collins/Loveland** states that such grant shall be used solely for aviation purposes, as determined by the State, and as generally described in the Application.

By signing this Grant Resolution, the applicant commits to keep open and accessible for public use all grant funded facilities, improvements and services for their useful life, as determined by the Division and stated in the Grant Assurances.

#### FURTHER BE IT RESOLVED:

That the **Cities of Ft. Collins/Loveland** hereby designates **Jason Licon** as the Project Director, as described in the Manual and authorizes the Project Director to act in all matters relating to the work project proposed in the Application, including execution of any amendments.

#### FURTHER:

The **Cities of Ft. Collins/Loveland** has appropriated or will otherwise make available in a timely manner all funds, if any, that are required to be provided by the applicant as shown on the Application.

#### FINALLY:

The **Cities of Ft. Collins/Loveland** hereby accepts all guidelines, procedures, standards, and requirements described in the Manual as applicable to the performance of the grant work and hereby approves this Grant Resolution, including all terms and conditions contained therein.

By: Don Overcash, Chairman, Northern Colorado Regional Airport Commission

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

**ATTEST** (if needed)

By: Shawn Battmer, Secretary, Northern Colorado Regional Airport Commission



## EXHIBIT A



# Colorado Division of Aeronautics Discretionary Aviation Grant Application

### APPLICANT INFORMATION

|  |   |                                |
|--|---|--------------------------------|
| <b>APPLICANT SPONSOR:</b><br>Cities of Ft. Collins/Loveland      | <b>AIRPORT:</b><br>Northern Colorado Regional Airport | <b>IDENTIFIER:</b><br>FNL      |
| <b>PROJECT DIRECTOR:</b> Jason Licon                             |   |                                |
| <b>MAILING ADDRESS:</b><br>4900 Earhart Rd<br>Loveland, CO 80538 | <b>EMAIL ADDRESS:</b>                                 | jason.licon@cityofloveland.org |
|  | <b>PHONE NUMBER:</b>                                  | (970) 962-2852                 |

### GRANT NAME AND TERMS

|                  |                 |                                   |
|------------------|-----------------|-----------------------------------|
| <b>23-FNL-02</b> | <b>TERMS</b>    |                                   |
|                  | Execution Date: | Expiration Date:<br>June 30, 2026 |

### FUNDING SUMMARY

| Funding Source          | Funding Amount |
|-------------------------|----------------|
| State Aviation Grant:   | \$463,235.28   |
| Local Cash:             | \$63,235.28    |
| Local In-Kind:          | \$0.00         |
| Federal Aviation Grant: | \$238,235.00   |
| Total Project Funding:  | \$764,705.56   |

### PROJECT SCHEDULE & BUDGET

| ELEMENT DESCRIPTION  | STATE FUNDING       |              | LOCAL FUNDING      |        | FEDERAL FUNDING     |        | TOTAL               |
|--|---------------------|--------------|--------------------|--------|---------------------|--------|---------------------|
| <b>A.</b> BIL - Participate in Federally Funded Runway 15-33 Design Project                | \$13,235.28         | Up to 5.00%  | \$13,235.28        | 5.00%  | \$238,235.00        | 90.00% | \$264,705.56        |
| <b>B.</b> Overmatch - Participate in Federally Funded Runway 15-33 Widening Design Project | \$450,000.00        | Up to 90.00% | \$50,000.00        | 10.00% | \$0.00              | 0.00%  | \$500,000.00        |
| <b>TOTALS</b>  | <b>\$463,235.28</b> |              | <b>\$63,235.28</b> |        | <b>\$238,235.00</b> |        | <b>\$764,705.56</b> |

## EXHIBIT B, GRANT ASSURANCES

### Airport Sponsor Assurances for Colorado Discretionary Aviation Grant Funding

Approved by CAB January 22, 2018

#### I. APPLICABILITY

- a. These assurances shall be complied with by Airport Sponsors in the performance of all projects at airports that receive Colorado Department of Transportation – Division of Aeronautics (Division) Colorado Discretionary Aviation Grant (CDAG) funding for projects including but not limited to: master planning, land acquisition, equipment acquisition or capital improvement projects (Project). It is not the intent of these Assurances to expand existing Federal Aviation Administration (FAA) Grant Assurances for airports included in the National Plan of Integrated Airport Systems (NPIAS); as similar assurances already exist for acceptance of FAA funding.
- b. Upon acceptance of this grant agreement these assurances are incorporated in and become a part thereof.

#### II. DURATION

- a. The terms, conditions and assurances of the grant agreement shall remain in full force and effect throughout the useful life of the Project as defined in Table 1 (Useful Life), or if the airport for which the Project is funded ceases to function as a public airport, for twenty (20) years from the date of Project completion, whichever period is greater. However, there shall be no limit on the duration of the assurances with respect to real property acquired with CDAG Project funds.

#### III. COMPLIANCE

- a. Should an Airport Sponsor be notified to be in non-compliance with any terms of this agreement, they may become ineligible for future Division funding until such non-compliance is cured.
- b. If any Project is not used for aviation purposes during its Useful Life, or if the airport for which the Project is funded ceases to function as a public airport, for twenty (20) years from the date of Project completion or at any time during the estimated useful life of the Project as defined in Table 1, whichever period is greater, the Airport Sponsor may be liable for repayment to the Division of any or all funds contributed by the Division under this agreement. If the airport at which the Project is constructed is abandoned for any reason, the Division may in its discretion discharge the Airport Sponsor from any repayment obligation upon written request by the Airport Sponsor.

#### IV. AIRPORT SPONSOR GRANT ASSURANCES

1. **Compatible Land Use.** Compatible land use and planning in and around airports benefits the state aviation system by providing opportunities for safe airport development, preservation of airport and aircraft operations, protection of airport approaches, reduced potential for litigation and compliance with appropriate airport design standards. The airport will take appropriate action, to the extent reasonable, to restrict the use of land adjacent to, in the immediate vicinity of, or on the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft.
2. **On-Airport Hazard Removal and Mitigation.** The airport will take appropriate action to protect aircraft operations to/from the airport and ensure paths are adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.
3. **Safe, Efficient Use, and Preservation of Navigable Airspace.** The airport shall comply with 14 CFR Part 77 for all future airport development and anytime an existing airport development is altered.
4. **Operation and Maintenance.** In regards to Projects that receive Division funding, the airport sponsor certifies that it has the financial or other resources that may be necessary for the preventive maintenance, maintenance, repair and operation of such projects during their Useful Life.

The airport and all facilities which are necessary to serve the aeronautical users of the airport shall be operated at all times in a safe and serviceable condition. The airport will also have in effect arrangements for:

- a. Operating the airport's aeronautical facilities whenever required;
  - b. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
  - c. Promptly notifying airmen of any condition affecting aeronautical use of the airport.
5. **Airport Revenues.** All revenues generated by the airport will be expended by it for the capital or operating costs of the airport, the local airport system, or other local facilities owned or operated by the owner or operator of the airport for aviation purposes.
6. **Airport Layout Plan (ALP).** Once accomplished and as otherwise may be required to develop, it will keep up-to-date a minimum of an ALP of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and (3) the location of all existing improvements thereon.
7. **Use for Aviation Purposes.** The Airport Sponsor shall not use runways, taxiways, aprons, seeded areas or any other appurtenance or facility constructed, repaired, renovated or maintained under the terms of this Agreement for activities other than aviation purposes unless otherwise exempted by the Division.

**TABLE 1**

| <b>Project Type</b>   | <b>Useful Life</b> |
|---|--------------------|
| <b>a.</b> All construction projects (unless listed separately below)      | 20 years           |
| <b>b.</b> All equipment and vehicles                                      | 10 years           |
| <b>c.</b> Pavement rehabilitation (not reconstruction, which is 20 years) | 10 years           |
| <b>d.</b> Asphalt seal coat, slurry seal, and joint sealing               | 3 years            |
| <b>e.</b> Concrete joint replacement                                      | 7 years            |
| <b>f.</b> Airfield lighting and signage                                   | 10 years           |
| <b>g.</b> Navigational Aids   | 15 years           |
| <b>h.</b> Buildings   | 40 years           |
| <b>i.</b> Land  | Unlimited          |

# STATE CONTROLLER

## MODEL SMALL DOLLAR GRANT AWARDS AND CONTENT

This is a State Controller Contract, Grant, and Purchase Order Policy under the State Fiscal Rules. All Small Dollar Grant Awards shall use one of the approved models Small Dollar Grant Award or Grant Agreement forms described in Fiscal Rule 3-4 unless the State Agency or Institution of Higher Education (IHE) has obtained the prior written approval from the Office of the State Controller (OSC).

**1) Available Model Small Dollar Grant Awards.** The following model Small Dollar Grant Awards may be used by State Agencies and IHEs without additional approval from the OSC:

- a. Financial System Generated Small Dollar Grant Awards.** This model is the system-generated document resulting from a Colorado Operations Resource Engine (CORE) POGG1 encumbrance or through another approved state financial system, which also explicitly references a link to the State of Colorado Small Dollar Grant Award Terms and Conditions that are attached to this policy. This model does not include other documents with a similar or the same appearance as one of these documents that is not generated within the financial system
- b. Other Approved Forms.** A State Agency or IHE, at the discretion of the State Agency's or IHE's Procurement Official or State Controller delegate, may request other approved forms from the OSC.
- c. Backup Forms.** If CORE or the approved state financial system used by the State Agency or IHE is unavailable for an extended period of time when a Small Dollar Grant Award must be issued, the State Agency or IHE, with the prior approval of the OSC, may use a backup form with the same or substantially similar appearance as one of the documents described in §1)a.

**2) Modifications of Model Small Dollar Grant Awards.** A State Agency or Institution of Higher Education issuing a Small Dollar Grant Award may not modify the State of Colorado Small Dollar Grant Award Terms and Conditions attached to this policy, including Addendum 1: Additional Terms & Conditions for Information Technology ("Addendum"), in any way without prior written approval of the OSC.

- a. Exception.** The Office of Information Technology (OIT) may modify the provisions of Addendum for the State of Colorado Small Dollar Grant Awards specifically issued by OIT with the prior written approval of the Procurement Official of OIT or authorized delegate, without obtaining additional approval from OSC.
- b. Unauthorized Modifications.** Except as described in §2)a., the failure of a State Agency or IHE to obtain approval from the OSC prior to issuing a Small Dollar Grant Award with modified the State of Colorado Small Dollar Grant Award Terms and Conditions shall constitute a violation of Fiscal Rule 3-4, §§ 4.1.7. and 5.1.

**3) Small Dollar Grant Award Exhibits and References.** All Small Dollar Grant Awards shall either include or specifically reference the State of Colorado Small Dollar Grant Award Terms and Conditions by hyperlink or, if modified in accordance with §2), attach the modified State of Colorado Small Dollar Grant Award Terms and Conditions and shall clarify on the Small Dollar Grant Award that the attached modified State of Colorado Small Dollar Grant Award Terms and Conditions shall govern the Small Dollar Grant Award in lieu of the State of Colorado Small Dollar Grant Award Terms and Conditions referenced by hyperlink. Small Dollar Grant Awards shall also include any additional exhibits, based on the nature of the work performed under the Small Dollar Grant Award, as required by any other state

## STATE CONTROLLER

and/or federal agency with authority over that type of work or by any entity providing funding for the Small Dollar Grant Award, including, but not limited to, the following:

- a. Additional information technology provisions required by OIT.
- b. Additional provisions required to comply with the Office of Management and Budget Uniform Guidance, or the Federal Funding Accountability and Transparency Act, or any other applicable federal terms and conditions.
- c. Any federally required attachments relating to confidential information, such as a Health Information Portability and Accountability Act (HIPAA) Business Associate Addendum or a Federal Tax Information Exhibit.



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**Robert Jaros, CPA, MBA, JD State  
Controller**

# STATE CONTROLLER

## State of Colorado Small Dollar Grant Award Terms and Conditions

1. **Offer/Acceptance.** This Small Dollar Grant Award, together with these terms and conditions (including, if applicable, Addendum 1: Additional Terms and Conditions for Information Technology below), and any other attachments, exhibits, specifications, or appendices, whether attached or incorporated by reference (collectively the "Agreement") shall represent the entire and exclusive agreement between the State of Colorado, by and through the agency identified on the face of the Small Dollar Grant Award ("State") and the Subrecipient identified on the face of the Small Dollar Grant Award ("Grantee"). If this Agreement refers to Grantee's bid or proposal, this Agreement is an ACCEPTANCE of Grantee's OFFER TO PERFORM in accordance with the terms and conditions of this Agreement. If a bid or proposal is not referenced, this Agreement is an OFFER TO ENTER INTO AGREEMENT, subject to Grantee's acceptance, demonstrated by Grantee's beginning performance or written acceptance of this Agreement. Any COUNTER-OFFER automatically CANCELS this Agreement, unless a change order is issued by the State accepting a counter-offer. Except as provided herein, the State shall not be responsible or liable for any Work performed prior to issuance of this Agreement. The State's financial obligations to the Grantee are limited by the amount of Grant Funds awarded as reflected on the face of the Small Dollar Grant Award.
2. **Order of Precedence.** In the event of a conflict or inconsistency within this Agreement, such conflict or inconsistency shall be resolved by giving preference to the documents in the following order of priority: (1) the Small dollar Grant Award document; (2) these terms and conditions (including, if applicable, Addendum 1 below); and (3) any attachments, exhibits, specifications, or appendices, whether attached or incorporated by reference. Notwithstanding the above, if this Agreement has been funded, in whole or in part, with a Federal Award, in the event of a conflict between the Federal Grant and this Agreement, the provisions of the Federal Grant shall control. Grantee shall comply with all applicable Federal provisions at all times during the term of this Agreement. Any terms and conditions included on Grantee's forms or invoices not included in this Agreement are void.
3. **Changes.** Once accepted in accordance with §1, this Agreement shall not be modified, superseded or otherwise altered, except in writing by the State and accepted by Grantee.
4. **Definitions.** The following terms shall be construed and interpreted as follows: (a) **"Award"** means an award by a Recipient to a Subrecipient; (b) **"Budget"** means the budget for the Work described in this Agreement; (c) **"Business Day"** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in CRS §24-11-101(1); (d) **"UCC"** means the Uniform Commercial Code in CRS Title 4; (e) **"Effective Date"** means the date on which this Agreement is issued as shown on the face of the Small Dollar Grant Award; (f) **"Federal Award"** means an award of federal financial assistance or a cost-reimbursement contract, by a Federal Awarding Agency to the Recipient. "Federal Award" also means an agreement setting forth the terms and conditions of the Federal Award, which terms and conditions shall flow down to the Award unless such terms and conditions specifically indicate otherwise. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program; (g) **"Federal Awarding Agency"** means a Federal agency providing a Federal Award to a Recipient; (h) **"Grant Funds"** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement; (i) **"Matching Funds"** mean the funds provided by the Grantee to meet cost sharing requirements described in this Agreement; (j) **"Recipient"** means the State agency identified on the face of the Small Dollar Grant Award; (k) **"Subcontractor"** means third parties, if any, engaged by Grantee to aid in performance of the Work; (l) **"Subrecipient"** means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a program, but does not include an individual that is a beneficiary of such program; (m) **"Uniform Guidance"** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, identified as the 2 C.F.R. (Code of Federal Regulations) Part 200, commonly known as the "Super Circular," which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular a-50 on Single Audit Act follow-up; and (n) **"Work"** means the goods delivered or services, or both, performed pursuant to this Agreement and identified as Line Items on the face of the Small Dollar Grant Award.
5. **Delivery.** Grantee shall furnish the Work in strict accordance with the specifications and price set forth in this Agreement. The State shall have no liability to compensate Grantee for the performance of any Work not specifically set forth in the Agreement.
6. **Rights to Materials.** *[Not Applicable to Agreements issued either in whole in part for Information Technology, as defined in CRS § 24-37.5-102(2); in which case Addendum 1 §2 applies in lieu of this section.]* Unless specifically stated otherwise in this Agreement, all materials, including without limitation supplies, equipment, documents, content, information, or other material of any type, whether tangible or intangible (collectively "Materials"), furnished by the State to Grantee or delivered by Grantee to the State in performance of its obligations under this Agreement shall be the exclusive property the State. Grantee shall return or deliver all Materials to the State upon completion or termination of this Agreement.
7. **Grantee Records.** Grantee shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work (including, but not limited to the operation of programs) performed under this Agreement (collectively "Grantee Records"). Unless otherwise specified by the State, the Grantee shall retain Grantee Records for a period (the "Record Retention Period") of three years following the date of submission to the State of the final expenditure report, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims or audit finding have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight, or indirect costs, and the State, may notify Grantee in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three years following final disposition of such property. Grantee shall permit the State, the federal government, and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and transcribe Grantee Records during the Record Retention Period. Grantee shall make Grantee Records available during normal business hours at Grantee's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State. The State, in its discretion, may monitor Grantee's performance of its obligations under this Agreement using procedures as determined by the State. The federal government and any other duly authorized agent of a governmental agency, in its discretion, Grantee shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Grantee and this Agreement, and the State shall have the right, in its discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State will monitor Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work. Grantee shall promptly submit to the State a copy of any final audit report of an audit performed

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on Grantee Records that relates to or affects this Agreement or the Work, whether the audit is conducted by Grantee, a State agency or the State's authorized representative, or a third party. If applicable, the Grantee may be required to perform a single audit under 2 CFR 200.501, *et seq.* Grantee shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

**8. Reporting.** If Grantee is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Grantee's ability to perform its obligations under this Agreement, Grantee shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State. Grantee shall disclose, in a timely manner, in writing to the State and the Federal Awarding Agency, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Award. The State or the Federal Awarding Agency may impose any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

**9. Conflicts of Interest.** Grantee acknowledges that with respect to this Agreement, even the appearance of a conflict of interest is harmful to the State's interests. Absent the State's prior written approval, Grantee shall refrain from any practices, activities, or relationships that reasonably may appear to be in conflict with the full performance of Grantee's obligations to the State under this Agreement. If a conflict or appearance of a conflict of interest exists, or if Grantee is uncertain as to such, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement. Grantee certifies that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Agreement. Grantee has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Grantee's Services and Grantee shall not employ any person having such known interests.

**10. Taxes.** The State is exempt from federal excise taxes and from State and local sales and use taxes. The State shall not be liable for the payment of any excise, sales, or use taxes imposed on Grantee. A tax exemption certificate will be made available upon Grantee's request. Grantee shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Grantee may wish to have in place in connection with this Agreement.

**11. Payment.** Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Grantee any amount under this Agreement that exceeds the Document Total shown on the face of the Small Dollar Grant Award. The State shall pay Grantee in the amounts and in accordance with the schedule and other conditions set forth in this Agreement. Grantee shall initiate payment requests by invoice to the State, in a form and manner approved by the State. The State shall pay Grantee for all amounts due within 45 days after receipt of an Awarding Agency's approved invoicing request, or in instances of reimbursement grant programs a request for reimbursement, compliant with Generally Accepted Accounting Principles (GAAP) and, if applicable Government Accounting Standards Board (GASB) of amount requested. Amounts not paid by the State within 45 days of the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate set forth in CRS §24-30-202(24) until paid in full. Interest shall not accrue if a good faith dispute exists as to the State's obligation to pay all or a portion of the amount due. Grantee shall invoice the State separately for interest on delinquent amounts due, referencing the delinquent payment, number of day's interest to be paid, and applicable interest rate. The acceptance of an invoice shall not constitute acceptance of any Work performed under this Agreement. Except as specifically agreed in this Agreement, Grantee shall be solely responsible for all costs, expenses, and other charges it incurs in connection with its performance under this Agreement.

**12. Term.** The parties' respective performances under this Agreement shall commence on the "Service From" date identified on the face of the Small Dollar Grant Award, unless otherwise specified, and shall terminate on the "Service To" date identified on the face of the Small Dollar Grant Award unless sooner terminated in accordance with the terms of this Agreement.

**13. Payment Disputes.** If Grantee disputes any calculation, determination or amount of any payment, Grantee shall notify the State in writing of its dispute within 30 days following the earlier to occur of Grantee's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Grantee and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

**14. Matching Funds.** Grantee shall provide Matching Funds, if required by this Agreement. If permitted under the terms of the grant and per this Agreement, Grantee may be permitted to provide Matching Funds prior to or during the course of the project or the match will be an in-kind match. Grantee shall report to the State regarding the status of such funds upon request. Grantee's obligation to pay all or any part of any Matching Funds, whether direct or contingent, only extend to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Grantee and paid into Grantee's treasury or bank account. Grantee represents to the State that the amount designated "Grantee's Matching Funds" pursuant to this Agreement, has been legally appropriated for the purposes of this Agreement by its authorized representatives and paid into its treasury or bank account. Grantee does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of Grantee. Grantee shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Grantee's laws or policies.

**15. Reimbursement of Grantee Costs.** If applicable, the State shall reimburse Grantee's allowable costs, not exceeding the maximum total amount described in this Agreement for all allowable costs described in the grant except that Grantee may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as the Grantee provides notice to, and received approval from the State of the change, the change does not modify the total maximum amount of this Agreement, and the change does not modify any requirements of the Work. If applicable, the State shall reimburse Grantee for the properly documented allowable costs related to the Work after review and approval thereof, subject to the provisions of this Agreement. However, any costs incurred by Grantee prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs. Grantee's costs for Work performed after the "Service To" date identified on the face of the Small Dollar Grant Award, or after any phase performance period end date for a respective phase of the Work, shall not be reimbursable. The State shall only reimburse allowable costs described in this Agreement and shown in the Budget if those costs are (a) reasonable and necessary to accomplish the Work, and (b) equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the costs actually incurred).

**16. Close-Out.** Grantee shall close out this Award within 45 days after the "Service To" date identified on the face of the Small Dollar Grant Award, including any modifications. To complete close-out, Grantee shall submit to the State all deliverables (including documentation) as defined



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in this Agreement and Grantee's final reimbursement request or invoice. In accordance with the Agreement, the State may withhold a percentage of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete.

**17. Assignment.** Grantee's rights and obligations under this Agreement may not be transferred or assigned without the prior, written consent of the State and execution of a new agreement. Any attempt at assignment or transfer without such consent and new agreement shall be void. Any assignment or transfer of Grantee's rights and obligations approved by the State shall be subject to the provisions of this Agreement.

**18. Subcontracts.** Grantee shall not enter into any subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Grantee shall submit to the State a copy of each subcontract upon request by the State. All subcontracts entered into by Grantee in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement.

**19. Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations in accordance with the intent of the Agreement.

**20. Survival of Certain Agreement Terms.** Any provision of this Agreement that imposes an obligation on a party after termination or expiration of the Agreement shall survive the termination or expiration of the Agreement and shall be enforceable by the other party.

**21. Third Party Beneficiaries.** Except for the parties' respective successors and assigns, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.

**22. Waiver.** A party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

**23. Indemnification. [Not Applicable to Inter-governmental agreements]** Grantee shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Grantee, or its employees, agents, Subcontractors, or assignees in connection with this Agreement. This shall include, without limitation, any and all costs, expenses, claims, damages, liabilities, court awards and other amounts incurred by the Indemnified Parties in relation to any claim that any work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right or any claim for loss or improper disclosure of any confidential information or personally identifiable information. If Grantee is a public agency prohibited by applicable law from indemnifying any party, then this section shall not apply.

**24. Notice.** All notices given under this Agreement shall be in writing, and shall be delivered to the contacts for each party listed on the face of the Small Dollar Grant Award. Either party may change its contact or contact information by notice submitted in accordance with this section without a formal modification to this Agreement.

**25. Insurance.** Except as otherwise specifically stated in this Agreement or any attachment or exhibit to this Agreement, Grantee shall obtain and maintain insurance as specified in this section at all times during the term of the Agreement: (a) workers' compensation insurance as required by state statute, and employers' liability insurance covering all Grantee employees acting within the course and scope of their employment, (b) Commercial general liability insurance written on an Insurance Services Office occurrence form, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows: \$1,000,000 each occurrence; \$1,000,000 general aggregate; \$1,000,000 products and completed operations aggregate; and \$50,000 any one fire, and (c) Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit. If Grantee will or may have access to any protected information, then Grantee shall also obtain and maintain insurance covering loss and disclosure of protected information and claims based on alleged violations of privacy right through improper use and disclosure of protected information with limits of \$1,000,000 each occurrence and \$1,000,000 general aggregate at all times during the term of the Small Dollar Grant Award. Additional insurance may be required as provided elsewhere in this Agreement or any attachment or exhibit to this Agreement. All insurance policies required by this Agreement shall be issued by insurance companies with an AM Best rating of A-VIII or better. If Grantee is a public agency within the meaning of the Colorado Governmental Immunity Act, then this section shall not apply and Grantee shall instead comply with the Colorado Governmental Immunity Act.

**26. Termination Prior to Grantee Acceptance.** If Grantee has not begun performance under this Agreement, the State may cancel this Agreement by providing written notice to the Grantee.

**27. Termination for Cause.** If Grantee refuses or fails to timely and properly perform any of its obligations under this Agreement with such diligence as will ensure its completion within the time specified in this Agreement, the State may notify Grantee in writing of non-performance and, if not corrected by Grantee within the time specified in the notice, terminate Grantee's right to proceed with the Agreement or such part thereof as to which there has been delay or a failure. Grantee shall continue performance of this Agreement to the extent not terminated. Grantee shall be liable for excess costs incurred by the State in procuring similar Work and the State may withhold such amounts, as the State deems necessary. If after rejection, revocation, or other termination of Grantee's right to proceed under the Colorado Uniform Commercial Code (CUCC) or this clause, the State determines for any reason that Grantee was not in default or the delay was excusable, the rights and obligations of the State and Grantee shall be the same as if the notice of termination had been issued pursuant to termination under **\$28**.

**28. Termination in Public Interest.** The State is entering into this Agreement for the purpose of carrying out the public interest of the State, as determined by its Governor, General Assembly, Courts, or Federal Awarding Agency. If this Agreement ceases to further the public interest of the State as determined by its Governor, General Assembly, Courts, or Federal Awarding Agency, the State, in its sole discretion, may terminate this Agreement in whole or in part and such termination shall not be deemed to be a breach of the State's obligations hereunder. This section shall not apply to a termination for cause, which shall be governed by **\$27**. A determination that this Small Dollar Grant Award should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. The State shall give written notice of termination to Grantee specifying the part of the Agreement terminated and when termination becomes effective. Upon receipt of notice of termination, Grantee shall not incur further obligations except as necessary to mitigate costs of performance. The State shall pay the Agreement price or rate for Work performed



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and accepted by State prior to the effective date of the notice of termination. The State's termination liability under this section shall not exceed the total Agreement price.

**29. Termination for Funds Availability.** The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Grantee beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Grant Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Grant Funds, the State's obligation to pay Grantee shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Grant Funds, and the State's liability for such payments shall be limited to the amount remaining of such Grant Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Work performed and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in §28.

**30. Grantee's Termination Under Federal Requirements.** If the Grant Funds include any federal funds, then Grantee may request termination of this Grant by sending notice to the State, or to the Federal Awarding Agency with a copy to the State, which includes the reasons for the termination and the effective date of the termination. If this Grant is terminated in this manner, then Grantee shall return any advanced payments made for Work that will not be performed prior to the effective date of the termination.

**31. Governmental Immunity.** Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, CRS §24-10-101, *et seq.*, the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, CRS §§24-30-1501, *et seq.* No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

**32. Grant Recipient.** Grantee shall perform its duties hereunder as a grant recipient and not as an employee. Neither Grantee nor any agent or employee of Grantee shall be deemed to be an agent or employee of the State. Grantee shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Grantee and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Grantee or any of its agents or employees. Grantee shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. Grantee shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the State, and (c) be solely responsible for its acts and those of its employees and agents.**

**33. Compliance with Law.** Grantee shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

**34. Choice of Law, Jurisdiction and Venue. [Not Applicable to Inter-governmental agreements]** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver. Any provision incorporated herein by reference which purports to negate this or any other provision in this Agreement in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision or for any other reason shall not invalidate the remainder of this Agreement, to the extent capable of execution. Grantee shall exhaust administrative remedies in CRS §24-109-106, prior to commencing any judicial action against the State regardless of whether the Colorado Procurement Code applies to this Agreement.

**35. Prohibited Terms.** Nothing in this Agreement shall be construed as a waiver of any provision of CRS §24-106-109. Any term included in this Agreement that requires the State to indemnify or hold Grantee harmless; requires the State to agree to binding arbitration; limits Grantee's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with that statute in any way shall be void ab initio.

**36. Public Contracts for Services. [Not Applicable to offer, issuance, or sale of securities, investment advisory services, fund management services, sponsored projects, intergovernmental grant agreements, or information technology services or products and services]** Grantee certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Agreement, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c). Grantee shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract or agreement with a Subcontractor that fails to certify to Grantee that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Grantee shall (a) not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants during performance of this Agreement, (b) notify Subcontractor and the State within three days if Grantee has actual knowledge that Subcontractor is employing or contracting with an illegal alien for work under this Agreement, (c) terminate the subcontract if Subcontractor does not stop employing or contracting with the illegal alien within three days of receiving notice, and (d) comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Grantee participates in the Department program, Grantee shall deliver to the State a written, notarized affirmation that Grantee has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Grantee fails to comply with any requirement of this provision or CRS §8-17.5-101 *et seq.*, the State may terminate this Agreement for breach and, if so terminated, Grantee shall be liable for damages.

**37. Public Contracts with Natural Persons.** Grantee, if a natural person 18 years of age or older, hereby swears and affirms under penalty of perjury that the person (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS §24-76.5-101 *et seq.*, and (c) has produced a form of identification required by CRS §24-76.5-103 prior to the date Grantee begins Work under terms of the Agreement.

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## ADDENDUM 1:

### Additional Terms & Conditions for Information Technology

IF ANY PART OF THE SUBJECT MATTER OF THIS AGREEMENT IS INFORMATION TECHNOLOGY, AS DEFINED IN CRS § 24-37.5-102 (2), THE FOLLOWING PROVISIONS ALSO APPLY TO THIS AGREEMENT.

**A. Definitions.** The following terms shall be construed and interpreted as follows: (a) **"CJI"** means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended, and all Criminal Justice Records as defined under CRS §24-72-302; (b) **"Incident"** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, pursuant to CRS §§24-37.5-401 *et seq.*; (c) **"PCI"** means payment card information including any data related to credit card holders' names, credit card numbers, or the other credit card information as may be protected by state or federal law; (d) **"PHI"** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual including, without limitation, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act; (e) **"PII"** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records, including, without limitation, all information defined as personally identifiable information in CRS §24-72-501; (f) **"State Confidential Information"** means any and all State data, information, and records, regardless of physical form; (g) **"State Fiscal Rules"** means those fiscal rules promulgated by the Colorado State Controller pursuant to CRS §24-30-202(13)(a); (h) **"State Fiscal Year"** means a 12 month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year; (i) **"State Records"** means any and all State data, information, and records, regardless of physical form; (j) **"Tax Information"** means federal and State of Colorado tax information including, without limitation, federal and State tax returns, return information, and such other tax-related information as may be protected by federal and State law and regulation, including, without limitation all information defined as federal tax information in Internal Revenue Service Publication 1075; and (k) **"Work Product"** means the tangible and intangible results of the delivery of goods and performance of services, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, information, and any other results of the Work, but does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

**B. Intellectual Property.** Except to the extent specifically provided elsewhere in this Agreement, any State information, including without limitation pre-existing State software, research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials; or Work Product prepared by Grantee in the performance of its obligations under this Agreement shall be the exclusive property of the State (collectively, "State Materials"). All State Materials shall be delivered to the State by Grantee upon completion or termination of this Agreement. The State's exclusive rights in any Work Product prepared by Grantee shall include, but not be limited to, the right to copy, publish, display, transfer, and prepare derivative works. Grantee shall not use, willingly allow, cause or permit any State Materials to be used for any purpose other than the performance of Grantee's obligations hereunder without the prior written consent of the State. The State shall maintain complete and accurate records relating to (a) its use of all Grantee and third party software licenses and rights to use any Grantee or third party software granted under this Agreement and its attachments to which the State is a party and (b) all amounts payable to Grantee pursuant to this Agreement and its attachments and the State's obligations under this Agreement or any amounts payable to Grantee in relation to this Agreement, which records shall contain sufficient information to permit Grantee to confirm the State's compliance with the use restrictions and payment obligations under this Agreement or to any third party use restrictions to which the State is a party. Grantee retains the exclusive rights, title and ownership to any and all pre-existing materials owned or licensed to Grantee including, but not limited to all pre-existing software, licensed products, associated source code, machine code, text images, audio, video, and third party materials, delivered by Grantee under the Agreement, whether incorporated in a deliverable or necessary to use a deliverable (collectively, "Grantee Property"). Grantee Property shall be licensed to the State as set forth in a State-approved license agreement (a) entered into as exhibits or attachments to this Agreement, (b) obtained by the State from the applicable third party Grantee, or (c) in the case of open source software, the license terms set forth in the applicable open source license agreement. Notwithstanding anything to the contrary herein, the State shall not be subject to any provision incorporated in any exhibit or attachment attached hereto, any provision incorporated in any terms and conditions appearing on any website, any provision incorporated into any click through or online agreements, or any provision incorporated into any other document or agreement between the parties that (a) requires the State or the State to indemnify Grantee or any other party, (b) is in violation of State laws, regulations, rules, State Fiscal Rules, policies, or other State requirements as deemed solely by the State, or (c) is contrary to this Agreement.

**C. Information Confidentiality.** Grantee shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Grantee shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Agreement, permitted by law, or approved in writing by the State. If Grantee will or may have access to any State Confidential Information or any other protected information, Grantee shall provide for the security of all State Confidential Information in accordance with all applicable laws, rules, policies, publications, and guidelines. Grantee shall comply with all Colorado Office of Information Security ("OIS") policies and procedures which OIS has issued pursuant to CRS §§24-37.5-401 through 406 and 8 CCR §1501-5 and posted at <http://oit.state.co.us/ois>, all information security and privacy obligations imposed by any federal, state, or local statute or regulation, or by any industry standards or guidelines, as applicable based on the classification of the data relevant to Grantee's performance under this Agreement. Such obligations may arise from: Health Information Portability and Accountability Act (HIPAA); IRS Publication 1075; Payment Card Industry Data Security Standard (PCI-DSS); FBI Criminal Justice Information Service Security Addendum; Centers for Medicare & Medicaid Services (CMS) Minimum Acceptable Risk Standards for Exchanges; and Electronic Information Exchange

# STATE CONTROLLER

Security Requirements and Procedures for State and Local Agencies Exchanging Electronic Information with The Social Security Administration. Grantee shall immediately forward any request or demand for State Records to the State's principal representative.

**D. Other Entity Access and Nondisclosure Agreements.** Grantee may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the work, but shall restrict access to State Confidential Information to those agents, employees, assigns, and Subcontractors who require access to perform their obligations under this Agreement. Grantee shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force at all times the agent, employee, assign, or Subcontractors has access to any State Confidential Information. Grantee shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions if requested by the State.

**E. Use, Security, and Retention.** Grantee shall use, hold, and maintain State Confidential Information in compliance with any and all applicable laws and regulations only in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information. Grantee shall provide the State with access, subject to Grantee's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

**F. Incident Notice and Remediation.** If Grantee becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Grantee can establish none of Grantee or any of its agents, employees, assigns or Subcontractors are the cause or source of the Incident, Grantee shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Grantee shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State. The State may adjust or direct modifications to this plan, in its sole discretion and Grantee shall make all modifications as directed by the State. If Grantee cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Grantee shall reimburse the State for the reasonable actual costs thereof.

**G. Data Protection and Handling.** Grantee shall ensure that all State Records and Work Product in the possession of Grantee or any Subcontractors are protected and handled in accordance with the requirements of this Agreement at all times. Upon request by the State made any time prior to 60 days following the termination of this Agreement for any reason, whether or not this Agreement is expiring or terminating, Grantee shall make available to the State a complete and secure download file of all data that is encrypted and appropriately authenticated. This download file shall be made available to the State within 10 Business Days following the State's request, and shall contain, without limitation, all State Records, Work Product, and any other information belonging to the State. Upon the termination of Grantee's services under this Agreement, Grantee shall, as directed by the State, return all State Records provided by the State to Grantee, and the copies thereof, to the State or destroy all such State Records and certify to the State that it has done so. If legal obligations imposed upon Grantee prevent Grantee from returning or destroying all or part of the State Records provided by the State, Grantee shall guarantee the confidentiality of all State Records in Grantee's possession and will not actively process such data. The State retains the right to use the established operational services to access and retrieve State Records stored on Grantee's infrastructure at its sole discretion and at any time.

**H. Compliance.** If applicable, Grantee shall review, on a semi-annual basis, all OIS policies and procedures which OIS has promulgated pursuant to CRS §§ 24-37.5-401 through 406 and 8 CCR § 1501-5 and posted at <http://oit.state.co.us/ois>, to ensure compliance with the standards and guidelines published therein. Grantee shall cooperate, and shall cause its Subcontractors to cooperate, with the performance of security audit and penetration tests by OIS or its designee.

**I. Safeguarding PII.** If Grantee or any of its Subcontractors will or may receive PII under this Agreement, Grantee shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, all State requirements relating to non-disclosure, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Grantee shall take full responsibility for the security of all PII in its possession or in the possession of its Subcontractors, and shall hold the State harmless for any damages or liabilities resulting from the unauthorized disclosure or loss thereof. Grantee shall be a "Third-Party Service Provider" as defined in CRS §24-73-103(1)(i) and shall maintain security procedures and practices consistent with CRS §§24-73-101 *et seq.*

**J. Software Piracy Prohibition.** The State or other public funds payable under this Agreement shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Grantee hereby certifies and warrants that, during the term of this Agreement and any extensions, Grantee has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Grantee is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Agreement, including, without limitation, immediate termination of this Agreement and any remedy consistent with federal copyright laws or applicable licensing restrictions.

**K. Information Technology.** To the extent that Grantee provides physical or logical storage of State Records; Grantee creates, uses, processes, discloses, transmits, or disposes of State Records; or Grantee is otherwise given physical or logical access to State Records in order to perform Grantee's obligations under this Agreement, the following terms shall apply. Grantee shall, and shall cause its Subcontractors, to: Provide physical and logical protection for all hardware, software, applications, and data that meets or exceeds industry standards and the requirements of this Agreement; Maintain network, system, and application security, which includes, but is not limited to, network firewalls, intrusion detection (host and network), annual security testing, and improvements or enhancements consistent with evolving industry standards; Comply with State and federal rules and regulations related to overall security, privacy, confidentiality, integrity, availability, and auditing; Provide that security is not compromised by unauthorized access to workspaces, computers, networks, software, databases, or other physical or electronic environments; Promptly report all Incidents, including Incidents that do not result in unauthorized disclosure or loss of data integrity, to a designated representative of the OIS; Comply with all rules, policies, procedures, and standards issued by the Governor's Office of Information Technology (OIT), including project lifecycle methodology and governance, technical standards, documentation, and other requirements posted at [www.oit.state.co.us/about/policies](http://www.oit.state.co.us/about/policies). Grantee shall not allow remote access to State Records from outside the United States, including access by

## STATE CONTROLLER

Grantee's employees or agents, without the prior express written consent of OIS. Grantee shall communicate any request regarding non-U.S. access to State Records to the State. The State, acting by and through OIS, shall have sole discretion to grant or deny any such request.



# NORTHERN COLORADO REGIONAL AIRPORT

4900 Earhart Rd • Loveland, Colorado 80538

(970) 962-2850 • FAX (970) 962-2855 • TDD (970) 962-2620

**ITEM NUMBER:** 7

**MEETING DATE:** May 18, 2023

**PREPARED BY:** Jason Licon, Airport Director

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## **TITLE**

2023-2024 Strategic Plan

## **RECOMMENDED AIRPORT COMMISSION ACTION**

Adopt the Strategic Plan as presented

## **BUDGET IMPACT**

Not Applicable

## **SUMMARY**

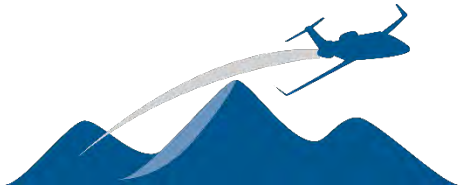
Strategic plans are a critical tool for policy makers to update and adopt on a regular basis. The purpose of this document is to clearly articulate the strategy for the operation and development of Northern Colorado Regional Airport and to outline the major work priorities for the next two years: 2023-2024. This plan was created by the Planning & Development Subcommittee and Airport Commission in late 2022 and early 2023. This plan is intended to guide the staff, the Planning & Development Subcommittee (PDSC), the Airport Commission, and Airport partners in moving toward our vision for the Airport's future.

Members of the Planning and Development Subcommittee and staff have worked since the January 19 Airport Commission facilitated strategic planning meeting to finalize the plan and create an Action Plan that incorporates discussion and feedback from Airport Commissioners. To reflect recent priority shifts the hangar related goals were shifted and the Gantt chart was also updated. Staff will walk Airport Commissioners through the final plan for adoption, with emphasis on the action plan of the document. This item has been delayed for two months due to other priorities on the agenda.

## **ATTACHMENT**

2023-2024 Strategic Plan





NORTHERN COLORADO  
REGIONAL AIRPORT

## 2023-24 STRATEGIC ACTION PLAN



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### ***Northern Colorado Regional Airport Commission***

*Don Overcash – Chair – Loveland Mayor Pro Tem*  
*Tom Fleming – Vice-chair - Fort Collins Appointed Citizen Member*  
*Jeni Arndt – Commissioner – Fort Collins Mayor*  
*Kelly DiMartino – Commissioner – Fort Collins City Manager*  
*Steve Adams – Commissioner – Loveland City Manager*  
*Jerry Stooksbury – Commissioner – Jointly Appointed Citizen Member*  
*Curt Burgener – Commissioner – Loveland Appointed Citizen Member*

### ***Planning & Development Subcommittee***

*Jason Licon – Chair – Airport Director*  
*Tom Fleming – Vice-chair - Fort Collins Appointed Citizen Member*  
*Aaron Ehle – Member – Airport Planning & Business Development Specialist*  
*Josh Birks – Member – Fort Collins Deputy Sustainability Director*  
*Diane Jones – Member – Citizen Member*  
*Troy Bliss – Member – Loveland Senior Planner*  
*Scott Schorling – Member – Loveland Business Development Project Manager*  
*James Hays – Member – FNL Pilots Association President*

# ***INTRODUCTION AND OVERVIEW***

## **PURPOSE**

The purpose of this document is to clearly articulate the strategy for the operation and development of Northern Colorado Regional Airport and to outline the major work priorities for the next two years: 2023-2024. This plan was created by the Planning & Development Subcommittee and Airport Commission in late 2022 and early 2023 and presented to the Airport Commission for input and feedback in February 2023.

This plan is intended to guide the staff, the Planning & Development Subcommittee (PDSC), the Airport Commission, and Airport partners in moving toward our vision for the Airport's future.

## **OVERVIEW**

Northern Colorado Regional Airport (FNL) is centrally located in the Northern Colorado Front Range urban corridor. The region is a hub for a robust mix of residential, commercial, retail, logistics, technology, education and research, and aviation activity.

Located 55 miles north of Denver, the Airport is adjacent to the Interstate 25 and US Highway 34 travel corridors and is the closest airport to Rocky Mountain National Park. Approximately 827,000 people live, work, and play within 30 miles of the Airport.

With approximately 300 based aircraft and more than 100,000 annual operations, the Airport supports a wide range of commercial and general aviation activities. FNL is home to several flight schools and other aeronautical businesses. A 2020 study by the Colorado Department of Transportation estimated the economic impact of the Airport to be \$296 million annually.

## **VISION**

**Northern Colorado Regional Airport:** sparking innovative transportation and leading-edge economic development, training, research, and education throughout the region.



## **MISSION**

Serving the region, we are a catalyst for innovation in ground and air transportation, a driving force in business and training, and a global gateway to a magnificent Colorado.



# ***PART I: STRATEGIC PLAN FOR NORTHERN COLORADO REGIONAL AIRPORT***

The Strategic Plan is divided into three sections of increasing detail. Immediately following are the four major “Focus Areas” that support the vision and represent key areas of continuing concern and emphasis.

The second section on “Strategic Objectives” represents the desired outcomes necessary to support the Focus Areas in achieving the vision. While many can and should be completed in the two-year timeframe of this plan, some may extend further into the future or even be continuing areas of emphasis, much as are the Focus Areas themselves.

The third and final section is a compilation of “Projects & Action Items,” those specific items that need to be accomplished to achieve the desired outcomes detailed in Section 2. These are prioritized according to their overall importance to the Airport in the near term, factoring in deadlines, interdependencies, and anticipated resources.

## **FOCUS AREAS**

Operation and development activities at Northern Colorado Regional Airport (FNL) fall into four general categories or Focus Areas. They are derived from previous facilitated strategic planning sessions held by the Airport Commission and are focused on a five-to-ten-year time horizon. These areas are:

- A. Safe, Secure, & Financially Sustainable Operations
- B. Multi-modal Transportation
- C. Economic Development & Impact
- D. Education, Training, and Innovation

The Focus Areas are overarching and intended to guide the realization of the vision of Northern Colorado Regional Airport. They are overlapping and mutually supportive. They are not prioritized, as they are all important.

**Safe, Secure, & Financially Sustainable Operations** - If an airport, like any public entity, is not both safe and secure, then little else matters. The Airport is committed to operating in a safe, secure, and effective manner in all areas, every day. It is managed in a financially sustainable way that ensures it has the necessary resources for ongoing operations and maintenance, while also being able to respond to unexpected events and changes in the industry.

**Multi-modal Transportation** - The Airport maintains critical infrastructure such as runways and taxiways and is a hub for many types of transportation: general and commercial aviation, private automobile, mass transit, rail, and combinations of these

modes. In addition to the Airport infrastructure, FNL is located next to the busy transit corridors of Interstate 25 and U.S. Highway 34 and a Union Pacific rail line, opening possibilities for integrating transportation modes to meet the needs of residents and businesses as well as those from out of state.

**Economic Development & Impact** - The Airport supports a variety of aviation and non-aviation-related businesses. It plays a key role in supporting the economic vitality of the region and is an important transportation link for business, recreation, and tourism. Fostering partnerships is important to realize the Strategic Objectives.

**Education, Training, and Innovation** - Among other things, this plan is based on the proposition that this community, like most communities, would benefit significantly from enhanced focus on education, training, and innovation. The Airport, both because of its focus on aviation and its central location in Northern Colorado, seems ideal for hosting a variety of activities, facilities, and businesses that emphasize one or more of these areas. Additionally, the Airport is committed to incorporating new technologies and innovative approaches wherever and however they may benefit Airport stakeholders and the region.

## STRATEGIC OBJECTIVES

This plan has developed a set of 10 Strategic Objectives in support of the four Focus Areas. Some of these objectives will support more than one focus area, a reflection of the interdependent nature of the Focus Areas.

The list of Objectives that follows outlines many of the outcomes necessary to realize the Airport's long-term vision. Obviously, some of these Objectives will be ongoing and few of them will be completed in the timeframe of this plan (2023-24). However, sufficient progress should be realized and measured by key performance indicators.

While all the Objectives are important, some are more important and/or more time sensitive than others. Thus, both the Strategic Objectives and Projects & Action Items are prioritized based on both their importance and the relative urgency of their accomplishment. Naturally, these priorities may change over time based on available resources and related circumstances.

The following guidelines were used to help identify and prioritize the Strategic Objectives and Projects & Action Items. They are not themselves prioritized.

- Advances the overall vision of the Airport.
- Enhances the economic impact of the Airport to the region.
- Supports the regional mindset that the Airport adds significant value to the community.
- Reflects thoughtful financial and environmental sustainability.

### Strategic Objectives:

1. Construct commercial transportation support facilities that will attract scheduled airline services, expand multi-modal transportation options, and positively represent the region.

2. The Airport has exceptional safety and security practices.
3. The Airport has quality, sustainable, and well-maintained facilities.
4. The Airport maintains a well-developed land use plan and leasing policy for a range of aviation activities and business opportunities, characterized by capital improvement projects that reflect the Airport vision.
5. Off-site transportation facilities link seamlessly to the Airport and its flight operations, reflecting its status as a multi-modal transportation hub.
6. The Airport is a catalyst for and supporter of emerging technologies such as sustainable aviation fuel (SAF), electrification of aircraft, air traffic control alternatives, and Unmanned Aerial Systems (UAS).
7. The Airport and its immediate environs house and support businesses that provide and complement aviation services; create jobs and positive economic impact; attract technology, education, and research, and expand workforce skillsets to attract private investment.
8. The Airport is run efficiently and is financially self-sustaining for ongoing operational and maintenance. It is viewed as an asset and is appropriately supported by the FAA, State, County, owner Cities, and the public.
9. The Airport is supported by a team of well-trained, highly motivated, and appropriately compensated employees who operate in an efficient and consistently exceptional manner.
10. The Airport is engaged with the community and views of stakeholders, local businesses, and government entities are carefully considered and appropriately reflected in Airport operations and planning.

A matrix illustrating how these Strategic Objectives support the four Focus Areas can be found in Appendix B.

## **PROJECTS & ACTION ITEMS (2023-2024)**

The following prioritized list of Projects & Action Items for 2023-24 is intended to highlight major projects or initiatives of high impact to the Airport. They describe broadly what needs to be done to address the Strategic Objectives previously mentioned. Generally, they each have a specific start and finish point. Some of these projects can be completed in the two-year period of this plan, while others will be continued into the future as defined in future plans or in updates to this plan. In this section, they are briefly described, to include a short statement of WHY they made this “short list.”

In Part II of this Document, these items are displayed in a matrix which includes specific tasks and relevant information and is intended to track progress. They are listed in the order of their assigned importance at this time. This priority may change at any time in the next two years as circumstances dictate and the Airport Commission approves.

It must be noted that planning and executing the Projects & Action Items listed here comprise only a portion of the Airport staff's, PDSC's, and Airport Commission's time and focus. A significant amount of Airport staff time and resources are dedicated to the safe, secure, and effective operation of the Airport. Airport operations are performed 365 days per year and must meet federal requirements, as well as adapt to seasonal weather conditions and changes in economic circumstances. Additionally, as experience demonstrates, there are always unanticipated requirements that arise without warning and that must be addressed. Though these other continuing requirements are not specifically listed in this plan, they are important and time consuming in their own right and reduce the time available to address these Projects & Action Items.

1. **Remote Tower** - Continue support for the project and FAA certification. Develop contingency plan(s) to ensure that air traffic control is provided at the Airport in the event that the Remote Tower project is unable to achieve operational viability/certification.

Why did this make the list: The Remote Tower is essential to airspace safety and efficiency and the return of commercial service. It is a new technology and there are few "champions" of this project outside of the Airport and the Colorado Department of Transportation (CDOT) Division of Aeronautics. Thus, we need to continue to educate the local public and government authorities at all levels to assure progress toward certification and continued federal funding support. Air traffic control services have been provided since March of 2020 using a temporary tower, resulting in increased safety and efficiency. Going back to being a non-towered airport is not an option. There is no guarantee that the Remote Tower will be a long-term solution, so alternatives need to be considered.



2. **New Terminal** - Finish the design, ensure financing, engage in the construction, and complete the terminal project by July 2024.

Why did this make the list: The federal funding for this project (\$17 million) has a firm timeline attached. Deadlines must be met, and funding lined up to complete this

important project. It also provides a strong incentive for the return of commercial air service, will improve the experience of travelers, and impart a “warm Colorado welcome” to visitors.



3. **Commercial Air Service** - Secure a carrier for sustainable, high quality commercial air service.

*Why did this make the list:* Commercial air service is central to long-term sustainability and success of the Airport. The number of travelers seeking commercial air service continues to grow in our region, as does driving time to Denver International Airport. Commercial service at the Airport would benefit the citizens of our region as well as the local economy in general.

4. **Hangar Redevelopment** - Develop a plan for general aviation hangar redevelopment & replacement projects.

*Why did this make the list:* Hangar development and redevelopment are integral to the Airport’s 2020 Master Plan. The experience this past year with an unsolicited proposal, followed by the issuance of an RFP for hangar development created consternation among developers and other Airport stakeholders. That experience has signaled a need for a set of procedures to guide redevelopment and build-out of Airport hangars.

5. **Updated Land Use Plan and Leasing Process** - Develop a comprehensive land use plan that builds off the Airport Layout Plan (ALP) along with an infrastructure plan to encourage development of Airport property. Update policies and procedures for leases of Airport land to eliminate confusion and streamline the approval process.

*Why did this make the list:* Airport Commissioners have expressed the desire for a more detailed land use plan to guide development. The Airport has a relatively new issue of having a lack of shovel-ready land for certain development types, which has been identified as a barrier to new development. Leases for development of Airport property are becoming more frequent, complex, and often contentious. We need to have policies and guidelines that are clear and consistent.

6. **Enhance/Increase Airport Staffing Support** - to meet the Strategic Objectives.

*Why did this make the list:* The Airport staff are the absolute key to achieving everything we hope to accomplish. Staff are the backbone with the expertise, relationships, and focus to accomplish our Objectives. Right now, they are absolutely “maxed out.” We must approach the Projects and Action items realistically in relation to the resources required and resources available.

7. **Runway 15-33 Widening Design & Construction** - Align resources and advocate for federal and state funding.

*Why did this make the list:* The project to widen runway 15-33 (the Airport’s primary runway) is a top priority in the 2023-24 Airport Capital Improvement Project Plan. Funding sources (federal, state, and local) are in place for this project’s design but not yet for the construction. This supports the operation of major commercial aircraft and enhances overall safety of Airport operations. It directly supports flight operations by major commercial carriers who are reluctant to operate from narrower runways.

8. **Governance Study** - Assess the effectiveness of the current governance structure, investigate other models, and provide recommendations.

*Why did this make the list:* Joint municipal ownership, as is the case with FNL, is rare. Since 2015, the Airport has been governed by a commission that was established through an intergovernmental agreement. As the Airport evolves into a regional multimodal transportation hub, it is important to evaluate the capabilities and limitations of this structure and to explore how other structures may be more beneficial to the Airport and Cities.

9. **Multimodal Links to Air Transportation Network** - Advocate for procedural and (if necessary) legislative changes to allow Landline/United passengers to complete security screening at FNL rather than at Denver International, thus facilitating direct transfer to departure gates at Denver.

*Why did this make the list:* Landline service to DIA continues to grow. Securing TSA security access at FNL would drastically reduce customers’ time to get to their gates and create a more convenient and attractive service.

10. **Community Engagement** – Communicate why the Airport is important, how it benefits the region, and what the long-term vision is. Create more promotional and event opportunities to increase the relevance of the Airport to the region (open houses, aviation days, static aviation displays, fly-ins, holiday themed events).

*Why did this make the list:* The Airport is a publicly owned and operated facility. It supports a wide range of aviation activities and businesses. We should promote public awareness of the Airport and how it impacts work, travel, recreation, education, and business of the region.

11. **Technology and Innovation Center** – Engage in partnerships and encourage the

development of a new Technology and Innovation Center on or near Airport property.

*Why did this make the list:* Part of the Airport's vision and mission is to act as a catalyst for innovation and education, particularly supporting aviation-related technology and training. A technology and innovation center supports a wide range of community interests and adds value to the region.

## ***PART II: AIRPORT ACTION PLAN***

### **KEY PERFORMANCE INDICATORS**

The following high-level outcomes are intended to help evaluate the overall success of the plan.

**1. Remote Tower**

Critical air traffic control services are sustained at the Airport

**2. New Terminal**

The new terminal is constructed and deadlines for the use of federal funding are met

**3. Commercial Air Service**

The Airport has a commitment or statement of interest from a commercial air carrier

**4. Updated Land Use Plan and Leasing Policy**

Plan and Policy approved by the Airport Commission

**5. Enhance/Increase Airport Staffing Support**

Staffing analysis completed and approved by Airport Commission and submitted for budgetary appropriation

**6. Runway 15-33 Widening Design & Construction**

Design completed and funding is secured for 2025 construction start

**7. Governance Study**

Completed study with options and recommendations & Cities determine best path forward

**8. Multimodal Links to Air Transportation Network**

Demonstrate positive trends in multimodal ridership to/from the Airport

**9. Community Engagement**

Increased community understanding and support for the vision of the Airport

**10. Technology and Innovation Center**

Identify location(s) for facility and partner for a successful implementation

**11. Hangar Redevelopment**

Develop and infrastructure plan and create new sites for general aviation hangar development and create a plan to redevelop the T-hangar area



# PART III: APPENDICIES

## APPENDIX A: 2023-2024 CAPITAL PROJECTS

### 2023 ACIP Projects



#### 2023

- 1 New Terminal Construction**
    - Cost: \$18,431,527
    - Funding Sources: Federal – CARES/BIL, State, Local
  - 2 Runway 15-33 Widening Design**
    - Cost: \$666,666
    - Funding Sources: Federal – AIP, State, Local
  - 3 General Aviation Hangar Area Environmental Review**
    - Cost: \$20,000
    - Funding Sources: Local
- Equipment Replacement: Operations Vehicle**
- Cost: \$40,000

### 2024 ACIP Projects



#### 2024


- 1 New Terminal Construction**
  - Cost: \$1,111,110
  - Funding Sources: Federal – BIL, State, Local
- 2 Runway 15-33 Widening Construction**
  - Cost: \$13,854,972
  - Funding Sources: Federal – AIP, State, Local
- 3 Taxiway Stearman Upgrades**
  - Cost: \$300,000
  - Funding Sources: Local



- 4 Fuel Farm Capacity Expansion Environmental & Design**
    - Cost: \$250,000
    - Funding Sources: State, Local
  - 5 Taxiway B & D Reconstruct**
    - Cost: \$600,000
    - Funding Sources: Local
  - 6 General Aviation Hangar Area Design & Construction**
    - Cost: \$945,000
    - Funding Sources: Local
- Broom Truck SRE**
- Cost: \$400,000
  - Funding Sources: Local



## APPENDIX B: STRATEGIC OBJECTIVES – FOCUS AREAS MATRIX

|  <b>NORTHERN COLORADO<br/>REGIONAL AIRPORT</b> |  | Focus Areas  |                            |                               |                                     |
|---|--|--|----------------------------|-------------------------------|-------------------------------------|
|   |  | Safe, Secure, & Financially Sustainable Operations | Multi-modal Transportation | Economic Development & Impact | Education, Training, and Innovation |
|   | Prioritized Strategic Objectives   |  |                            |                               |                                     |
| 1   | Construct commercial transportation support facilities that will attract scheduled airline services, expand multi-modal transportation options, and positively represent the region.   |  |                            |                               |                                     |
| 2   | The Airport has exceptional safety and security practices.   |  |                            |                               |                                     |
| 3   | The Airport has quality, sustainable, and well-maintained facilities.  |  |                            |                               |                                     |
| 4   | The Airport maintains a well-developed land use plan and leasing policy for a range of aviation activities and business opportunities, characterized by capital improvement projects that reflect the Airport vision.  |  |                            |                               |                                     |
| 5   | Off-site transportation facilities link seamlessly to the airport and its flight operations, reflecting its status as a multi-modal transportation hub.  |  |                            |                               |                                     |
| 6   | The Airport is a catalyst for and supporter of emerging technologies such as sustainable aviation fuel (SAF) and electrification of aircraft, air traffic control alternatives, and Unmanned Aerial Systems (UAS).   |  |                            |                               |                                     |
| 7   | The Airport and its immediate environs house and support businesses that provide and complement aviation services; create jobs and economic impact; attract technology, education, and research, and expand workforce skillsets to attract private investment. |  |                            |                               |                                     |
| 8   | operational and maintenance. It is viewed as an asset and is appropriately supported by the FAA, State, County, owner Cities, and the public.  |  |                            |                               |                                     |
| 9   | The Airport is supported by a team of well-trained, highly motivated, and appropriately compensated employees who operate in an efficient and consistently exceptional manner.   |  |                            |                               |                                     |
| 10  | The views of stakeholders, local businesses, and government entities are carefully considered and appropriately reflected in Airport operations and planning.  |  |                            |                               |                                     |

## APPENDIX C: STRATEGIC ACTION PLAN GANTT CHART




# NORTHERN COLORADO REGIONAL AIRPORT

[illegible]




# NORTHERN COLORADO REGIONAL AIRPORT

|  NORTHERN COLORADO<br>REGIONAL AIRPORT |                   |   |                   | 1st Quarter,<br>2023 |             |             |             | 2nd<br>Quarter,<br>2023 |             |             |             | 3rd Quarter,<br>2023 |             |             |             | 4th<br>Quarter,<br>2023 |             |             |             | 1st Quarter,<br>2024 |             |             |             | 2nd<br>Quarter,<br>2024 |             |             |             | 3rd Quarter,<br>2024 |  |  |  | 4th Quarter,<br>2024 |  |  |  |
|--|-------------------|---|-------------------|----------------------|-------------|-------------|-------------|-------------------------|-------------|-------------|-------------|----------------------|-------------|-------------|-------------|-------------------------|-------------|-------------|-------------|----------------------|-------------|-------------|-------------|-------------------------|-------------|-------------|-------------|----------------------|--|--|--|----------------------|--|--|--|
| TASK   | LEAD              | STAFF PRIORITY<br>(HIGH - MED -<br>LOW -<br>CONTINGENT) | ONGOING<br>Y or N | J<br>A<br>N          | F<br>E<br>B | M<br>A<br>R | A<br>P<br>R | M<br>A<br>Y             | J<br>U<br>N | J<br>U<br>L | A<br>U<br>G | S<br>E<br>P          | O<br>C<br>T | N<br>O<br>V | D<br>E<br>C | J<br>A<br>N             | F<br>E<br>B | M<br>A<br>R | A<br>P<br>R | M<br>A<br>Y          | J<br>U<br>N | J<br>U<br>L | A<br>U<br>G | S<br>E<br>P             | O<br>C<br>T | N<br>O<br>V | D<br>E<br>C |                      |  |  |  |                      |  |  |  |
| <b><u>Hangar Redevelopment</u></b>   |                   |   |                   |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Create plan for existing Airport-owned T-hangars   |                   |   |                   |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Determine the overall condition of the buildings and identify potential safety issues                                  | Aaron             | HIGH  | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Develop phased plan to vacate and decommission buildings   | Aaron             | HIGH  | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Issue new RFP & marketing plan for eventual redevelopment of the area (may be beyond timeframe of plan)                | Aaron             | CONTINGENT  | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Facilitate new hangar development in NE area of the Airport to offset loss old T-hangars                               |                   |   |                   |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Conduct environmental review of new general aviaiton development site  | Aaron             | MED   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Determine infrastructure needs and cost estimates  | Aaron/ Consultant | MED   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Construct infrastructure (if applicable)   | Aaron/ Consultant | CONTINGENT  | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Execute land leases for development  | Aaron             | CONTINGENT  | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| <b><u>Updated Land Use Plan and Leasing Policy</u></b>   |                   |   |                   |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Determine who will create plans & policies   | Aaron - Jason     | HIGH  | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Create leasing policy  |                   |   |                   |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Develop a leasing policy for non-aeronautical, revenue sharing   | Aaron             | MED   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Present policy to Airport Commission for review and approval   | Aaron             | MED   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Develop land use plan in alignment with guiding documents and policies   |                   |   |                   |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Define detail of "land use" or "zoning" for purposed of on-Airport development   | Aaron             | HIGH  | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Create a map showing desired future uses for undeveloped airport property  | Aaron             | HIGH  | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Estimate infrastructure needs, costs, timeline   | Aaron             | HIGH  | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Present plan to Airport Commission for review and approval   | Aaron             | HIGH  | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Develop landside improvement plan  | Aaron             | MED   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Reexamine through-the-Fence Agreements   | Aaron             | LOW   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| <b><u>Enhance/Increase Airport Staffing Support</u></b>  |                   |   |                   |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Complete staffing analysis once governance & compensation studies are complete   |                   |   |                   |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Define current needs and available resources   | Jason             | HIGH  | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Align support needs with finances, & objectives and present them   | Jason             | HIGH  | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Identify and justify required/requested staffing boost & Identify funding required                                     | Jason             | HIGH  | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Recruit & fill approved positions  | Jason             | HIGH  | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Work with HR on market compensation study & adjustment   | Jason             | HIGH  | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |



# NORTHERN COLORADO REGIONAL AIRPORT

|  NORTHERN COLORADO<br>REGIONAL AIRPORT |                  |   |                   | 1st Quarter,<br>2023 |             |             |             | 2nd<br>Quarter,<br>2023 |             |             |             | 3rd Quarter,<br>2023 |             |             |             | 4th<br>Quarter,<br>2023 |             |             |             | 1st Quarter,<br>2024 |             |             |             | 2nd<br>Quarter,<br>2024 |             |             |             | 3rd Quarter,<br>2024 |  |  |  | 4th Quarter,<br>2024 |  |  |  |
|--|------------------|---|-------------------|----------------------|-------------|-------------|-------------|-------------------------|-------------|-------------|-------------|----------------------|-------------|-------------|-------------|-------------------------|-------------|-------------|-------------|----------------------|-------------|-------------|-------------|-------------------------|-------------|-------------|-------------|----------------------|--|--|--|----------------------|--|--|--|
| TASK   | LEAD             | STAFF PRIORITY<br>(HIGH - MED -<br>LOW -<br>CONTINGENT) | ONGOING<br>Y or N | J<br>A<br>N          | F<br>E<br>B | M<br>A<br>R | A<br>P<br>R | M<br>A<br>Y             | J<br>U<br>N | J<br>U<br>L | A<br>U<br>G | S<br>E<br>P          | O<br>C<br>T | N<br>O<br>V | D<br>E<br>C | J<br>A<br>N             | F<br>E<br>B | M<br>A<br>R | A<br>P<br>R | M<br>A<br>Y          | J<br>U<br>N | J<br>U<br>L | A<br>U<br>G | S<br>E<br>P             | O<br>C<br>T | N<br>O<br>V | D<br>E<br>C |                      |  |  |  |                      |  |  |  |
| <b><u>Runway 15-33 Widening Design &amp; Construction</u></b>  |                  |   |                   |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Obtain grant funding for design  | Jason            | HIGH  | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Complete design  | Jason            | MED   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Obtain grant funding for Construction (2025 construction)  | Jason            | MED   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| <b><u>Governance Study</u></b>   |                  |   |                   |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Form a committee with representatives from each City   | City Managers    | HIGH  | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Define scope, secure consultant(s) & being work  | Committee/ Jason | HIGH  | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Conduct Governance Study   |                  |   |                   |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Develop budget and resource  | Committee/ Jason | MED   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Assess effectiveness of current governance structure   | Committee/ Jason | MED   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Investigate other governance structures  | Committee/ Jason | MED   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Create financial models  | Committee/ Jason | MED   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Provide recommendations to the Commission/Councils   | Committee/ Jason | MED   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| <b><u>Multimodal Links to Air Transportation Network</u></b>   |                  |   |                   |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Work with Landline & TSA to determine obstacles to secure to secure functionality                                      |                  |   |                   |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Develop Talking Points to support this & Identify appropriate officials to push them                                   | Jason            | MED   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Obtain TSA support for Airport standard operating procedures   | Jason            | MED   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Advocate for legislative changes on security and enplanement qualifications  | Jason            | MED   | Y                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Link transit services to new terminal (City supported when demand warrants)  | Jason            | LOW   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| <b><u>Community Engagement</u></b>   |                  |   |                   |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Form appropriate group to study opportunities, obstacles, & approaches   | Jason/ Shawn     | MED   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Identify promotional & event opportunities   |                  |   |                   |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Support at least 2 per year of more than 1,000 attendees   | Shawn            | LOW   | Y                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Participate in area events to educate the communities  |                  |   |                   |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Target 3 per year  | Shawn            | LOW   | Y                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Create a transportation hub brand for the Airport  | Shawn            | MED   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| <b><u>Technology &amp; Innovation Center</u></b>   |                  |   |                   |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Partner with Aims & other entities to expand education and training opportunities                                      | Jason            | LOW   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Clarify roles & responsibilities for support   | Jason            | LOW   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Understand needs and expand on site options  | Jason            | LOW   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |
| Determine the level of public support required for this facility   | Jason            | LOW   | N                 |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |             |             |             |                         |             |             |             |                      |  |  |  |                      |  |  |  |

APPENDIX D: STRATEGIC ACTION PLAN REPORTING MATRIX

| # | Project                                  | Task  | Completion<br>Target /<br>Deadline | Progress                    | Status      | Financial Estimates (not including staff time) |              |            | Staffing Lead & Support        | Notes  |
|---|--|---|------------------------------------|-----------------------------|-------------|--|--------------|------------|--------------------------------|--|
|   |  |   |                                    |                             |             | Cost   | Budget       | Delta      |                                |  |
| 1 | Remote Tower                             | Continue moving program towards system certification  |                                    |                             |             |  |              |            |                                |  |
|   |  | Develop talking points to support Tower & ID appropriate officials to inform  | 5/2023                             | <div><div></div></div> 50%  | On Track    |  |              |            | Jason/ CDOT Aeronautics        |  |
|   |  | Maintain direct contact with FAA officials & project team to advance project  | Ongoing                            | <div><div></div></div> N/A  | On Track    |  |              |            | Jason/ CDOT Aeronautics        |  |
|   |  | Support vendor in achieving new visibility criteria   | 7/2023                             | <div><div></div></div> 50%  | On Track    |  |              |            | Jason/ CDOT Aeronautics        | Preliminary reconfiguration testing is in process  |
|   |  | Identify ATC contingencies & opportunities for success  |                                    |                             |             |  |              |            |                                |  |
|   |  | Continue advocating for inclusion in Federal Contract Tower Program once certified  | Ongoing                            | <div><div></div></div> 0%   | Contingent  |  |              |            | Jason/ CDOT Aeronautics        |  |
|   |  | Create strategy for maintaining ATC if Remote Tower doesn't provide long-term solution  | 7/2023                             | <div><div></div></div> 0%   | Contingent  |  |              |            | Jason/ CDOT Aeronautics        | This should not formally begin unless remote tower testing fails   |
| 2 | New Terminal                             | Finalize budget and resources for phase 1 construction  | 4/2023                             | <div><div></div></div> 100% | Complete    |  |              |            | Jason                          | FC CC approval still officially pending- will resolve April 18   |
|   |  | Complete design & permitting  | 5/2023                             | <div><div></div></div> 66%  | On Track    | \$3,800,000                                    | \$3,800,000  |            | Jason/ Design Team             |  |
|   |  | Construct building within funding deadlines   | 7/2024                             | <div><div></div></div> 33%  | On Track    | \$18,100,000                                   | \$18,100,000 |            | Jason/ Design Team/ Contractor |  |
|   |  | Seek funding for landside components removed from scope   | Ongoing                            | <div><div></div></div> N/A  | On Track    |  |              |            | Jason                          | To be revised in 2023 ACIP   |
|   |  | Build a white paper that explains rationale behind this project   | 6/2023                             | <div><div></div></div> 0%   | Not Started |  |              |            | Jason                          |  |
| 3 | Commercial Air Service                   | Develop briefing on benefits of commercial air service (and relation to terminal/Remote Tower/Runway widening) for Commission, Councils, etc. | 6/2023                             | <div><div></div></div> 0%   | Not Started |  |              |            | Jason                          | Dependent on Remote Tower, Terminal, Runway  |
|   |  | Continue communication with airlines and identify new potential contacts  | Ongoing                            | <div><div></div></div> N/A  | On Track    |  |              |            | Jason /Consultant              | Dependent on Remote Tower, Terminal, Runway  |
|   |  | Apply for Small Community Air Service Development Grant (SCASDG) with U.S. Department of Transportation                                       | 5/2024                             | <div><div></div></div> 20%  | On Track    | \$250,000                                      | \$0          | -\$250,000 | Jason                          | Preliminary investigations and planning complete, NOFO published due 5/17/23, need local grant match external of airport |
|   |  | Increase air service development efforts  |                                    |                             |             |  |              |            |                                |  |
|   |  | Hire staff/consultant for air service development   | 6/2023                             | <div><div></div></div> 0%   | On Track    | \$100,000                                      | \$0          | -\$100,000 | Jason                          | Consultant contracts are approximately \$100K annually, Starting to draft RFP  |
|   |  | Validate market & create a community survey   | 9/2023                             | <div><div></div></div> 0%   | Not Started | \$20,000                                       | \$0          | -\$20,000  | Shawn/ Consultant              | Financial estimate is based on a small outreach effort   |
| 4 | Hangar Redevelopment                     | Create plan for existing Airport-owned T-hangars  |                                    |                             |             |  |              |            |                                |  |
|   |  | Determine the overall condition of the buildings and identify any potential safety issues   | 3/2023                             | <div><div></div></div> 100% | Complete    |  |              |            | Aaron                          |  |
|   |  | Develop phased plan to vacate and decommission buildings  | 3/2023                             | <div><div></div></div> 100% | Complete    |  |              |            | Aaron                          |  |
|   |  | Issue new RFP & marketing plan for redevelopment of area (may be beyond timeframe of this plan)   | Contingent                         | <div><div></div></div> 0%   | Contingent  |  |              |            | Aaron                          |  |
|   |  | Facilitate new hangar development in NE area of the Airport to offset loss old T hangars  |                                    |                             |             |  |              |            |                                |  |
|   |  | Conduct environmental review of new general aviaiton development site   | 7/2023                             | <div><div></div></div> 5%   | On Track    | \$20,000                                       | \$20,000     |            | Jason/ Consultant              |  |
|   |  | Determine infrastructure needs and cost estimates   | 10/2023                            | <div><div></div></div> 0%   | Not Started |  |              |            | Aaron/ Consultant              |  |
|   |  | Construct infrastructure (if applicable)  | Contingent                         | <div><div></div></div> 0%   | Contingent  |  |              |            | Aaron/ Consultant              |  |
|   |  | Execute land leases for development   | Contingent                         | <div><div></div></div> 0%   | Contingent  |  |              |            | Aaron                          |  |
| 5 | Updated Land Use Plan and Leasing Policy | Determine who will create plans & policies  | 4/2023                             | <div><div></div></div> 100% | Complete    |  |              |            | Aaron/ Jason                   | Present at March PDSC Meeting  |
|   |  | Create leasing policy   |                                    |                             |             |  |              |            |                                |  |
|   |  | Develop a leasing policy for aeronautical, non-aeronautical, revenue sharing  | 9/2023                             | <div><div></div></div> 0%   | Not Started | \$20,000                                       | \$0          | -\$20,000  | Aaron                          | Cost TBD if outside support is needed  |
|   |  | Present policy to Airport Commission for review and approval  | 9/2023                             | <div><div></div></div> 0%   | Not Started |  |              |            | Aaron                          |  |
|   |  | Develop land use plan   |                                    |                             |             |  |              |            |                                |  |
|   |  | Define detail of "land use" or "zoning" for purposed of on-Airport development  | 5/2023                             | <div><div></div></div> 25%  | On Track    |  |              |            | Aaron                          |  |
|   |  | Create a map showing desired future uses for undeveloped airport property   | 6/2023                             | <div><div></div></div> 10%  | On Track    |  |              |            | Aaron                          |  |
|   |  | Estimate infrastructure needs, costs, timeline  | 6/2023                             | <div><div></div></div> 5%   | On Track    |  |              |            | Aaron                          |  |
|   |  | Present plan to Airport Commission for review and approval  | 7/2023                             | <div><div></div></div> 10%  | On Track    |  |              |            | Aaron                          |  |
|   |  | Develop landside improvement plan   | 10/2023                            | <div><div></div></div> 0%   | Not Started |  |              |            | Aaron                          |  |
|   |  | Reexamine through-the-fence agreements  | 11/2024                            | <div><div></div></div> 0%   | Not Started |  |              |            | Aaron                          |  |

|  |  |  |             |                             |             |           |                  |     |                              |   |
|--|--|--|-------------|-----------------------------|-------------|-----------|------------------|-----|------------------------------|---|
| 6  | Enhance Airport Staffing Support               | Complete staffing analysis aligned with governance study   |             |                             |             |           |                  |     | Jason                        | Preliminary staffing analysis conducted, governance study & HR market comp study will provide needed data & will apply needs with the adoption of this plan |
|  |  | Define current needs and available resources   | 9/ 2023     | <div><div></div></div> 60%  | On Track    |           |                  |     | Jason                        | Started creation of strategic plan aligned recommendations  |
|  |  | Align support needs with financial sustainability/strategic objectives and present them for review                       | 6/ 2023     | <div><div></div></div> 35%  | On Track    |           |                  |     | Jason/ COL HR                |   |
|  |  | Identify and justify required/requested staffing & Identify funding and infrastructure required                          | 12/2023     | <div><div></div></div> 0%   | Not Started |           |                  |     | Jason/ COL HR                |   |
|  |  | Recruit & fill approved positions  | 3/2024      | <div><div></div></div> 0%   | Not Started |           |                  |     | Jason/ COL HR                |   |
|  |  | Work with HR parners on market compensation study  | 6/2023      | <div><div></div></div> 70%  | On Track    |           |                  |     | Jason/ COL HR                | Staff have been working with COL HR in this process   |
|  |  |  |             |                             |             |           |                  |     |                              |   |
| 7  | Runway 15-33 Widening Design & Construction    | Obtain grant funding for design  | 4/2023      | <div><div></div></div> 100% | Complete    |           |                  |     | Jason                        | Obtained FAA & CDOT Grant offers, to be executed once funding is made available   |
|  |  | Complete design  | 6/2024      | <div><div></div></div> 0%   | Not Started | \$765,000 | \$765,000        | \$0 | Jason /Consultant            |   |
|  |  | Obtain grant funding for Construction (2025 construction)  | Q3 2024     | <div><div></div></div> 0%   | Not Started |           |                  |     | Jason /Consultant            |   |
|  |  |  |             |                             |             |           |                  |     |                              |   |
| 8  | Governance Study                               | Form committee with representatives from each City   | 5/2023      | <div><div></div></div> 100% | Complete    |           |                  |     | City Managers                | Committee formed  |
|  |  | Define scope, secure consultant(s) & being work  | 6/2023      | <div><div></div></div> 25%  | On Track    |           |                  |     | Committee/ Jason             |   |
|  |  | Conduct study  |             |                             |             |           |                  |     |                              |   |
|  |  | Develop budget & resource  | 5/2023      | <div><div></div></div> 60%  | On Track    | \$50,000  | \$50,000         | \$0 | Committee/ Jason             | Applied for and received \$25,000 CDOT Aeronautics Grant  |
|  |  | Assess effectiveness of current governance structure   | 9/2023      | <div><div></div></div> 0%   | Not Started |           |                  |     | Committee/ Jason             |   |
|  |  | Investigate other governance structures  | 9/2023      | <div><div></div></div> 0%   | Not Started |           |                  |     | Committee/ Jason             |   |
|  |  | Create financial models  | 10/2023     | <div><div></div></div> 0%   | Not Started |           |                  |     | Committee/ Jason             |   |
| Provide recommendations to the Commission/Councils | 10/2023  | <div><div></div></div> 0%  | Not Started |                             |             |           | Committee/ Jason |     |                              |   |
|  |  |  |             |                             |             |           |                  |     |                              |   |
| 9  | Multimodal Links to Air Transportation Network | Work with Landline & TSA to determine obstacles  |             |                             |             |           |                  |     |                              |   |
|  |  | Develop Talking Points to support this & Identify appropriate officials to push them                                     | 5/2023      | <div><div></div></div> 60%  | On Track    |           |                  |     | Jason/ Landline              |   |
|  |  | Obtain TSA support for Airport standard operating procedures   | 10/2023     | <div><div></div></div> 50%  | On Track    |           |                  |     | Jason/ DEN/ Landline         |   |
|  |  | Advocate for legislative changes on security and enplanement qualifications  | Ongoing     | <div><div></div></div> N/A  | On Track    |           |                  |     | Jason/ Landline / Consultant |   |
|  |  | Link transit services to new terminal (City supported when demand warrants)  | Q4 2024     | <div><div></div></div> 20%  | On Track    |           |                  |     | Jason                        | COL Transit has identified this as a future bus stop in their planning  |
|  |  |  |             |                             |             |           |                  |     |                              |   |
| 10   | Community Engagement                           | Form group to study opportunities, obstacles, & approaches   | 7/2023      | <div><div></div></div> 0%   | Not Started |           |                  |     | Jason/ Shawn                 |   |
|  |  | Identify promotional & event opportunities   | Ongoing     | <div><div></div></div> N/A  | On Track    |           |                  |     | Shawn                        |   |
|  |  | Participate in area events to educate the communities  | Ongoing     | <div><div></div></div> N/A  | On Track    |           |                  |     | Shawn                        |   |
|  |  | Create a transportation hub brand for the Airport  | 11/2023     | <div><div></div></div> 0%   | Not Started | \$25,000  | \$25,000         | \$0 | Shawn                        | Hire PR Firm to assist  |
|  |  |  |             |                             |             |           |                  |     |                              |   |
| 11   | Technology & Innovation Center                 | Partner with Aims/other area educational institutions and/or companies to expand on education and training opportunities | 7/2023      | <div><div></div></div> N/A  | On Hold     |           |                  |     | Jason/ Aaron                 |   |
|  |  | Clarify roles & responsibilities for support   | 6/2023      | <div><div></div></div> 0%   | Not Started |           |                  |     | Aaron                        |   |
|  |  | Understand needs and expand on site options  | Q3 2023     | <div><div></div></div> 25%  | On Track    |           |                  |     | Aaron                        |   |
|  |  | Attempt to determine the level of public support for this facility   | Q3 2023     | <div><div></div></div> 0%   | Not Started |           |                  |     | Aaron                        |   |
|  |  |  |             |                             |             |           |                  |     |                              |   |



# NORTHERN COLORADO REGIONAL AIRPORT

4900 Earhart Rd • Loveland, Colorado 80538

(970) 962-2850 • FAX (970) 962-2855 • TDD (970) 962-2620

**ITEM NUMBER:** 8

**MEETING DATE:** May 18, 2023

**PREPARED BY:** Jason Licon, Airport Director

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## **TITLE**

New Terminal Project Update and Construction Manager at Risk Guaranteed Maximum Price Contract Recommendation for Approval

## **RECOMMENDED AIRPORT COMMISSION ACTION**

Make a motion to recommend approval of the Guaranteed Maximum Price Contract with Hensel Phelps to the Loveland City Council.

## **BUDGET IMPACT**

Negative

## **SUMMARY**

Since the start of the terminal design, inflation and supply chain issues as a result of the pandemic created instability in the building materials and labor markets resulted in a sharp increase in cost estimates and construction price trends. These unanticipated cost escalations prompted staff to present options for the Airport Commission to consider in early fall of last year to reduce scope and costs. The Airport Commission selected a smaller version of the original design that will provide functionality for a new airport terminal and instructed staff to continue working to find funding sources to align with the estimated budget. Since this time staff have worked to secure \$25 million in total funding for the two phased project, which includes a 4% contribution of \$1 million from each of the Cities.

The terminal design team reached the 95% design milestone on Thursday May 4. In anticipation of the finalization of the design, the project team and Airport staff have been working in parallel on the negotiation of a guaranteed maximum price contract with Hensel Phelps, the selected contractor for the project. A comprehensive cost estimating, and reconciliation process has concluded, and the Hensel Phelps team and Airport consultants have arrived at a recommended price of \$14,864,000, or \$766 per square foot and an owner-controlled contingency of \$2,086,894 (includes contractor and owner estimated contingencies).

The design option selected by the Airport Commission incorporates phasing of the terminal by deferring landside improvements for automobile parking, landscaping, access roads, and signage. The Commission also requested that LEED certification level remain at silver for the new terminal, which is included in the contract price. The size of the new terminal is 19,400 square feet, and the price includes all baggage handling equipment and automated exit lane mechanical systems. The total number of calendar days to complete the project is 422 days and is scheduled to begin on Monday July 10, 2023. The estimated completion date according to this schedule would be Wednesday September 4, 2024. The schedule will allow for the full expenditure of the time constrained federal Cares Act funding by the July 2024 deadline.

### **ATTACHMENTS**

- New Terminal Presentation
- New Terminal Contract Documents with Hensel Phelps Construction Company



# FNL

## NEW TERMINAL

PRECONSTRUCTION UPDATE  
AIRPORT COMMISSION





# CURRENT STATISTICS

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**SIZE:** 19,400 SF

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**BUDGET:** \$22M PROJECT BUDGET

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**SCHEDULE:** COMPLETED BY Q4 OF 2024

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**GATES:** 2 - SERVING A320 AIRCRAFT

---

**GOAL:** COMMERCIAL AIR TRAVEL

---

**LEED:** STRIVING FOR SILVER

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# BUDGET

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**DESIGN and CONSTRUCTION ADMIN:**  
\$3,600,000

---

**PERMITTING:** \$850,000

---

**CONSTRUCTION:** \$14,900,000

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**FURNISHINGS:** \$450,000

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**CONTINGENCY:** \$2,200,000

---

**TOTAL:** \$22,000,000

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# FLOOR PLAN

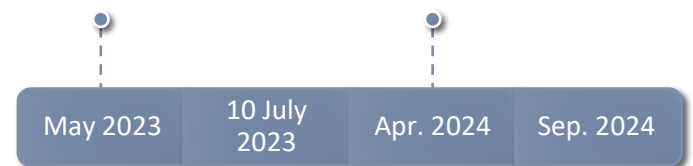




# SCHEDULE

CONTRACT APPROVAL  
& 95% PLAN SET

BUILDING DRY-IN



START OF  
CONSTRUCTION

PROJECT COMPLETION



## RECOMMENDATION

---

- Approve Contract with Hensel Phelps
- Recommend Approval to Loveland City Council
- Celebrate Groundbreaking!



# THANK YOU







NORTHERN COLORADO  
REGIONAL AIRPORT

## **NORTHERN COLORADO REGIONAL AIRPORT**

### **NEW TERMINAL**

**60% Contract Documents  
IGMP**

**May 2023**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

05/03/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

|   |                     |   |  |   |                     |   |       |   |       |  |       |   |       |   |       |
|---|---------------------|---|--|---|---------------------|---|-------|---|-------|--|-------|---|-------|---|-------|
| <b>PRODUCER</b><br>Flood and Peterson<br>PO Box 578<br><br>Greeley CO 80632   |                     | <b>CONTACT NAME:</b> Denise Hill-Holligan<br><b>PHONE (A/C, No, Ext):</b> (970) 356-0123<br><b>FAX (A/C, No):</b> (970) 330-1867<br><b>E-MAIL ADDRESS:</b> Dhillholligan@floodpeterson.com  |  |   |                     |   |       |   |       |  |       |   |       |   |       |
| <b>INSURED</b><br>Hensel Phelps Construction Co.<br>Plains District<br>12121 Grant Street, Ste 410<br>Thornton CO 80241 |                     | <b>INSURER(S) AFFORDING COVERAGE</b><br><table border="1"><tr><td><b>INSURER A:</b> Zurich American Insurance Company</td><td><b>NAIC #</b> 16535</td></tr><tr><td><b>INSURER B:</b> American Zurich Insurance Company</td><td>40142</td></tr><tr><td><b>INSURER C:</b> American Guarantee and Liability Ins. Co.</td><td>26247</td></tr><tr><td><b>INSURER D:</b> XL Insurance America, Inc.</td><td>24554</td></tr><tr><td><b>INSURER E:</b> National Fire &amp; Marine Ins. Co.</td><td>20079</td></tr><tr><td><b>INSURER F:</b> Steadfast Insurance Co.</td><td>26387</td></tr></table> |  | <b>INSURER A:</b> Zurich American Insurance Company | <b>NAIC #</b> 16535 | <b>INSURER B:</b> American Zurich Insurance Company | 40142 | <b>INSURER C:</b> American Guarantee and Liability Ins. Co. | 26247 | <b>INSURER D:</b> XL Insurance America, Inc. | 24554 | <b>INSURER E:</b> National Fire & Marine Ins. Co. | 20079 | <b>INSURER F:</b> Steadfast Insurance Co. | 26387 |
| <b>INSURER A:</b> Zurich American Insurance Company   | <b>NAIC #</b> 16535 |   |  |   |                     |   |       |   |       |  |       |   |       |   |       |
| <b>INSURER B:</b> American Zurich Insurance Company   | 40142               |   |  |   |                     |   |       |   |       |  |       |   |       |   |       |
| <b>INSURER C:</b> American Guarantee and Liability Ins. Co.   | 26247               |   |  |   |                     |   |       |   |       |  |       |   |       |   |       |
| <b>INSURER D:</b> XL Insurance America, Inc.  | 24554               |   |  |   |                     |   |       |   |       |  |       |   |       |   |       |
| <b>INSURER E:</b> National Fire & Marine Ins. Co.   | 20079               |   |  |   |                     |   |       |   |       |  |       |   |       |   |       |
| <b>INSURER F:</b> Steadfast Insurance Co.   | 26387               |   |  |   |                     |   |       |   |       |  |       |   |       |   |       |

**COVERAGES****CERTIFICATE NUMBER:** X24 60M UMB / CPPI**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE   | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS  |               |
|----------|---|-----------|----------|---------------|-------------------------|-------------------------|---|---------------|
| A        | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY  |           |          | GLO369726418  | 01/01/2023              | 01/01/2024              | EACH OCCURRENCE   | \$ 6,000,000  |
|          | <input checked="" type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR                     |           |          |               |                         |                         | DAMAGE TO RENTED PREMISES (Ea occurrence)                                       | \$ 500,000    |
|          |   |           |          |               |                         |                         | MED EXP (Any one person)  | \$            |
|          |   |           |          |               |                         |                         | PERSONAL & ADV INJURY   | \$ 6,000,000  |
|          | GEN'L AGGREGATE LIMIT APPLIES PER:  |           |          |               |                         |                         | GENERAL AGGREGATE   | \$ 10,000,000 |
|          | <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC      |           |          |               |                         |                         | PRODUCTS - COMP/OP AGG  | \$ 10,000,000 |
|          | OTHER:  |           |          |               |                         |                         |   | \$            |
| A        | <b>AUTOMOBILE LIABILITY</b>   |           |          | BAP369726118  | 01/01/2023              | 01/01/2024              | COMBINED SINGLE LIMIT (Ea accident)   | \$ 5,000,000  |
|          | <input checked="" type="checkbox"/> ANY AUTO  |           |          |               |                         |                         | BODILY INJURY (Per person)  | \$            |
|          | <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS                 |           |          |               |                         |                         | BODILY INJURY (Per accident)  | \$            |
|          | <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY |           |          |               |                         |                         | PROPERTY DAMAGE (Per accident)  | \$            |
|          |   |           |          |               |                         |                         |   | \$            |
| C        | <input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB             |           |          | AUC928038421  | 01/01/2023              | 01/01/2024              | EACH OCCURRENCE   | \$ 10,000,000 |
|          | <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE   |           |          |               |                         |                         | AGGREGATE   | \$ 10,000,000 |
|          | DED RETENTION \$  |           |          |               |                         |                         | (Add'l Limits Attached)   | \$            |
| B        | <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>  |           |          | WC369726519   | 01/01/2023              | 01/01/2024              | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER |               |
|          | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)                                   | Y/N       | N/A      |               |                         |                         | E.L. EACH ACCIDENT  | \$ 1,000,000  |
|          | If yes, describe under DESCRIPTION OF OPERATIONS below  |           |          |               |                         |                         | E.L. DISEASE - EA EMPLOYEE  | \$ 1,000,000  |
|          |   |           |          |               |                         |                         | E.L. DISEASE - POLICY LIMIT   | \$ 1,000,000  |
| F        | Professional and Pollution Liability  |           |          | EOC937461719  | 01/01/2023              | 01/01/2024              | Each Occurrence   | \$25,000,000  |
|          |   |           |          |               |                         |                         | Aggregate   | \$25,000,000  |

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Northern Colorado Regional Airport - New Terminal

City of Loveland, officers, directors, members, partners, and employees are included as Additional Insured as required by written contract. The coverage is primary and non-contributory including both ongoing and completed operations. Waiver of subrogation applies, and 10 days written notice will be provided to Owner for cancellation, changes, or renewals.

**CERTIFICATE HOLDER****CANCELLATION**

|  |   |
|--|---|
| City of Loveland<br>500 East Third<br>Suite 230<br>Loveland CO 80537 | <b>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</b><br><br><b>AUTHORIZED REPRESENTATIVE</b><br> |
|--|---|

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AGENCY CUSTOMER ID: \_\_\_\_\_

LOC #: \_\_\_\_\_

**ADDITIONAL REMARKS SCHEDULE**

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

|                              |           |   |  |
|------------------------------|-----------|---|--|
| AGENCY<br>Flood and Peterson |           | NAMED INSURED<br>Hensel Phelps Construction Co. |  |
| POLICY NUMBER<br>Various     |           |   |  |
| CARRIER<br>Various           | NAIC CODE | EFFECTIVE DATE: 01/01/2023                      |  |

**ADDITIONAL REMARKS****THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,****FORM NUMBER:** 25 **FORM TITLE:** Certificate of Liability Insurance: Notes

2 - D) XL Insurance America, Inc. Umbrella US00095537LI23A \$15,000,000 Each Occurrence / Aggregate

3 - C) American Guarantee and Liability Ins. Co. AEC422694503 \$15,000,000 Each Occurrence / Aggregate

4 - E) National Fire &amp; Marine Ins. Co. 42-XSF-31308603 \$20,000,000 Each Occurrence / Aggregate

TOTAL UMBRELLA POLICY LIMITS: \$60,000,000 EACH OCCURRENCE / \$60,000,000 AGGREGATE





**ZURICH**

## **Additional Insured – Automatic – Owners, Lessees Or Contractors**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

Policy No. GLO369726418

Effective Date: 1/01/2023

This endorsement modifies insurance provided under the:

### **Commercial General Liability Coverage Part**

**A. Section II – Who Is An Insured** is amended to include as an additional insured any person or organization whom you are required to add as an additional insured under a written contract or written agreement executed by you, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" and subject to the following:

1. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

- a. The Insurance Services Office (ISO) ISO CG 20 10 (10/01 edition); or
- b. The ISO CG 20 37 (10/01 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" arises out of:

- (1) Your ongoing operations, with respect to Paragraph 1.a. above; or
- (2) "Your work", with respect to Paragraph 1.b. above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 1., insurance afforded to such additional insured:

- (a) Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
- (b) Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

2. If such written contract or written agreement specifically requires that you provide that the person or organization be named as an additional insured under one or both of the following endorsements:

- a. The Insurance Services Office (ISO) ISO CG 20 10 (07/04 edition); or
- b. The ISO CG 20 37 (07/04 edition),

such person or organization is then an additional insured with respect to such endorsement(s), but only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part, by:

- (1) Your acts or omissions; or
- (2) The acts or omissions of those acting on your behalf,

in the performance of:

- (a)** Your ongoing operations, with respect to Paragraph 2.a. above; or
- (b)** "Your work" and included in the "products-completed operations hazard", with respect to Paragraph 2.b. above,

which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 2., insurance afforded to such additional insured:

- (i)** Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
- (ii)** Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.

- 3.** If neither Paragraph 1. nor Paragraph 2. above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:

- a.** Under the ISO CG 20 10 (04/13 edition, any subsequent edition or if no edition date is specified); or
- b.** With respect to ongoing operations (if no form is specified),

such person or organization is then an additional insured only to the extent that "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part by:

- (1)** Your acts or omissions; or
- (2)** The acts or omissions of those acting on your behalf,

in the performance of your ongoing operations, which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 3., insurance afforded to such additional insured:

- (a)** Only applies to the extent permitted by law;
- (b)** Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured; and
- (c)** Only applies if the "bodily injury", "property damage" or "personal and advertising injury" offense occurs during the policy period and subsequent to your execution of the written contract or written agreement.

- 4.** If neither Paragraph 1. nor Paragraph 2. above apply and such written contract or written agreement requires that you provide that the person or organization be named as an additional insured:

- a.** Under the ISO CG 20 37 (04/13 edition, any subsequent edition or if no edition date is specified); or
- b.** With respect to the "products-completed operations hazard" (if no form is specified),

such person or organization is then an additional insured only to the extent that "bodily injury" or "property damage" is caused, in whole or in part by "your work" and included in the "products-completed operations hazard", which is the subject of the written contract or written agreement.

However, solely with respect to this Paragraph 4., insurance afforded to such additional insured:

- (1)** Only applies to the extent permitted by law;
- (2)** Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured;
- (3)** Only applies if the "bodily injury" or "property damage" occurs during the policy period and subsequent to your execution of the written contract or written agreement; and
- (4)** Does not apply to "bodily injury" or "property damage" caused by "your work" and included within the "products-completed operations hazard" unless the written contract or written agreement specifically requires that you provide such coverage to such additional insured.



- B. Solely with respect to the insurance afforded to any additional insured referenced in Section A. of this endorsement, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services including:

1. The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

- C. Solely with respect to the coverage provided by this endorsement, the following is added to Paragraph 2. **Duties In The Event Of Occurrence, Offense, Claim Or Suit** of Section IV – **Commercial General Liability Conditions**:

The additional insured must see to it that:

- (1) We are notified as soon as practicable of an "occurrence" or offense that may result in a claim;
- (2) We receive written notice of a claim or "suit" as soon as practicable; and
- (3) A request for defense and indemnity of the claim or "suit" will promptly be brought against any policy issued by another insurer under which the additional insured may be an insured in any capacity. This provision does not apply to insurance on which the additional insured is a Named Insured if the written contract or written agreement requires that this coverage be primary and non-contributory.

- D. Solely with respect to the coverage provided by this endorsement:

1. The following is added to the **Other Insurance** Condition of Section IV – **Commercial General Liability Conditions**:

**Primary and Noncontributory insurance**

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured provided that:

- a. The additional insured is a Named Insured under such other insurance; and
- b. You are required by written contract or written agreement that this insurance be primary and not seek contribution from any other insurance available to the additional insured.

2. The following paragraph is added to Paragraph 4.b. of the **Other Insurance** Condition under Section IV – **Commercial General Liability Conditions**:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by a written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

- E. This endorsement does not apply to an additional insured which has been added to this Coverage Part by an endorsement showing the additional insured in a Schedule of additional insureds, and which endorsement applies specifically to that identified additional insured.

- F. Solely with respect to the insurance afforded to an additional insured under Paragraph A.3. or Paragraph A.4. of this endorsement, the following is added to Section III – **Limits Of Insurance**:

**Additional Insured – Automatic – Owners, Lessees Or Contractors Limit**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the written contract or written agreement referenced in Section A. of this endorsement; or
2. Available under the applicable Limits of Insurance shown in the Declarations, whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All other terms, conditions, provisions and exclusions of this policy remain the same.



**ZURICH**

## Waiver Of Subrogation (Blanket) Endorsement

| Policy No.   | Eff. Date of Pol. | Exp. Date of Pol. | Eff. Date of End. | Producer | Add'l. Prem | Return Prem. |
|--------------|-------------------|-------------------|-------------------|----------|-------------|--------------|
| GLO369726418 | 1/01/2023         | 1/01/2024         | 1/01/2023         |          | \$ N/A      | \$ N/A       |

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the:

**Commercial General Liability Coverage Part**

The following is added to the **Transfer Of Rights Of Recovery Against Others To Us Condition**:

If you are required by a written contract or agreement, which is executed before a loss, to waive your rights of recovery from others, we agree to waive our rights of recovery. This waiver of rights shall not be construed to be a waiver with respect to any other operations in which the insured has no contractual interest.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **DESIGNATED INSURED FOR COVERED AUTOS LIABILITY COVERAGE**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM  
BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" for Covered Autos Liability Coverage under the Who Is An Insured provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

**Named Insured:** Hensel Phelps Construction Co.

**Endorsement Effective Date:** 1/01/2023

### **SCHEDULE**

**Name Of Person(s) Or Organization(s):**

**ANY PERSON OR ORGANIZATION TO WHOM OR WHICH YOU ARE REQUIRED TO PROVIDE ADDITIONAL INSURED STATUS OR ADDITIONAL INSURED STATUS ON A PRIMARY, NON-CONTRIBUTORY BASIS, IN A WRITTEN CONTRACT OR WRITTEN AGREEMENT EXECUTED PRIOR TO LOSS, EXCEPT WHERE SUCH CONTRACT OR AGREEMENT IS PROHIBITED BY LAW.**

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Each person or organization shown in the Schedule is an "insured" for Covered Autos Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Paragraph A.1. of Section II – Covered Autos Liability Coverage in the Business Auto and Motor Carrier Coverage Forms and Paragraph D.2. of Section I – Covered Autos Coverages of the Auto Dealers Coverage Form.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM  
BUSINESS AUTO COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

**Named Insured:** Hensel Phelps Construction Co.

**Endorsement Effective Date:** 1/01/2023

### **SCHEDULE**

**Name(s) Of Person(s) Or Organization(s):**

ALL PERSONS AND/OR ORGANIZATIONS THAT ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT WITH THE INSURED, EXECUTED PRIOR TO THE ACCIDENT OR LOSS, THAT WAIVER OF SUBROGATION BE PROVIDED UNDER THIS POLICY.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The **Transfer Of Rights Of Recovery Against Others To Us** condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

**Schedule**

ALL PERSONS AND/OR ORGANIZATIONS THAT ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT WITH THE INSURED, EXECUTED PRIOR TO THE ACCIDENT OR LOSS, THAT WAIVER OF SUBROGATION BE PROVIDED UNDER THIS POLICY FOR WORK PERFORMED BY YOU FOR THAT PERSON AND/OR ORGANIZATION.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement

Effective Policy No. WC369726519

Endorsement No.

Insured Hensel Phelps Construction Co.

Premium \$ N/A

Insurance Company American Zurich Insurance Co.

Countersigned by Nancy Keiser, Account Manager

## SECTION 00520

### AGREEMENT BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)

THIS AGREEMENT is by and between City of Loveland ("Owner") and  
Hensel Phelps Construction Co.  
12121 Grant Street, Suite 410 ("Contractor").  
Thornton, CO 80241

Owner and Contractor hereby agree as follows:

#### ARTICLE 1 – WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

The Work consists of construction of a new commercial passenger terminal for the existing FNL Northern Colorado Regional Airport, together with related site improvements. The terminal will accommodate two ground-loaded gates, TSA security functions, shell space for future concessions, rental car counters and services for up to two airline carriers.

The Project is designed to qualify for certain U.S. Green Building Council's (USGBC) LEED (Leadership in Energy & Environmental Design) prerequisites and credits needed for the Project to obtain LEED certification. The Work includes sustainable design reporting requirements, special project procedures, and special material and product requirements necessary to apply for and obtain LEED certification.

#### ARTICLE 2 – THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows:

The project includes furnishing necessary labor, materials and equipment for the construction of a new commercial passenger terminal at the existing FNL, Northern Colorado Regional Airport.

#### ARTICLE 3 – ENGINEER

- 3.01 The part of the Project that pertains to the Work has been designed by Dibble Engineering, Inc.
- 3.02 The Owner has retained Dibble Engineering, Inc. ("Engineer") to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority, other than change order approval, assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

## ARTICLE 4 – CONTRACT TIMES

### 4.01 *Time of the Essence*

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

### 4.02 *Contract Times: Days*

- A. The number of calendar days to achieve Final Completion is 452. The number of calendar days to achieve Substantial Completion is 422. These days are specifically defined as the construction phase of the project and measured from the date at which the Notice to Proceed is issued.

### 4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
  - 1. Substantial Completion: Contractor shall pay Owner \$1,300.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
  - 2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$500.00 for each day that expires after such time until the Work is completed and ready for final payment.
  - 3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.
  - 4. The liquidated damages specified in Paragraph 4.02.A are Owner's sole remedy for Contractor's delay on the Project."

### 4.04 *Special Damages*

- ~~A. In addition to the amount provided for liquidated damages, Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.~~
- ~~B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in~~



~~Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.~~

## **ARTICLE 5 – CONTRACT PRICE**

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:
- A. For all Work, an initial guaranteed maximum price of: (\$14,864,000), Fourteen million, eight hundred sixty-four thousand dollars, in accordance with the Initial Guaranteed Maximum Price (IGMP) Cost Proposal, attached and incorporated herein by this reference (**Exhibit A**). The IGMP cost proposal is based on incomplete contract documents (60% Design Development – Northern Colorado Regional Airport Terminal). The Owner and Contractor agree to modify the IGMP to a Guaranteed Maximum Price contract (GMP) through issuance of change directives at the time the contract documents are complete.
  - B. All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.
  - C. Financial obligations of the Owner are contingent upon funds for the purpose being appropriated, budgeted, and otherwise made available.
  - D. The Contractor shall be paid for the performance of the Agreement, subject to any additions and deductions as provided for in this agreement, the General Conditions, and the Supplementary Conditions.
  - E. Open book accounting. The Contractor shall, on a monthly basis, coordinated with pay application submittals, make available cost reports reasonably detailing all job costs for the project that fully support the costs presented in each pay application including the Contractor's fee. The form of such cost reports shall be agreeable by the Owner and Engineer.

## **ARTICLE 6 – PAYMENT PROCEDURES**

### **6.01 Submittal and Processing of Payments**

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

### **6.02 Progress Payments; Retainage**

- A. In accordance with and subject to State law owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 1st day of each month during performance of the Work, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed).
- B. Retainage shall be held at a rate of five percent (5%) of each progress payment. The Owner shall hold retainage until the contract is completed satisfactorily and finally accepted, and shall release retainage in accordance with and subject to State law.

- C. Upon Contractor's written request, Owner will endeavor to release retainage attributable to a particular subcontractor or supplier when the subcontractor's or supplier's entire scope of work is complete, inspected and accepted by the Owner and Engineer, and the subcontractor or supplier has furnished a conditional final release in the form required by this Agreement.

#### **6.03 Final Payment**

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

### **ARTICLE 7 – INTEREST**

#### **7.01 (NOT USED)**

### **ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS**

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
  - A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
  - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
  - C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
  - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
  - E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.
  - F. Based on the information and observations referred to in the preceding paragraph – 8.01.E, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
  - G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.



- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that currently exist that Contractor has discovered in the Contract Documents.
- I. The Contract Documents are generally sufficient in their current condition to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. At the time of execution of this Agreement, Owner has contracted with Engineer to produce 60% complete contract documents. It is expected that the Initial Guaranteed Maximum Price (IGMP) contained within this Agreement will be modified through change directives and orders to achieve the final GMP after completion of 100% contract documents.
- K. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

## ARTICLE 9 – CONTRACT DOCUMENTS

### 9.01 Contents

- A. The Contract Documents consist of the following:
  - 1. This Agreement (pages 1 to { 8 }, inclusive).
  - 2. Performance bond (pages { 1 } to { 3 } inclusive).
  - 3. Payment bond (pages { 1 } to { 3 } inclusive).
  - 4. Other bonds.
    - a. { } (pages { } to { }, inclusive).
  - 5. General Conditions (pages { 1 } to { 71 }, inclusive).
  - 6. Supplementary Conditions (pages { 1 } to { 8 }, inclusive).
  - 7. **Exhibit A** Hensel Phelps Cost Proposal, 21 pages
  - 8. **Exhibit B** Federal Aviation Administration (FAA); Federal Contract Provisions, issued January 20, 2023; (pages { 1 } to { 37 }, inclusive)
  - 9. **Exhibit C** Federal Aviation Administration (FAA); Federal General Provisions; (pages { 1 } to { 46 }, inclusive)
  - 10. **Exhibit D** Davis Bacon Wage Determination – General Decision Number CO20230024, dated January 6, 2023; (pages { 1 } to { 20 }, inclusive)
  - 11. **Exhibit E** FY 2021-23 Overall DBE Three Year Goal, Northern Colorado Regional Airport; (pages { 1 } to { 6 }, inclusive)
  - 12. **Exhibit F** Hensel Phelps CMaR Services Proposal, dated December 2, 2021, 37 pages
  - 13. Specifications (not attached but incorporated by reference) as listed in the table of contents of the Project Manual consisting of 1,995 pages bearing the following general title: Northern Colorado Regional Airport New Terminal – 60% Design Development, dated January 13, 2023.
  - 14. Drawings (not attached but incorporated by reference) consisting of 148 sheets with each sheet bearing the following general title: Northern Colorado Regional Airport Terminal – 60% Design Development

15. Addenda (numbers { 0 } to { 0 }, inclusive).
16. Exhibits to this Agreement (enumerated as follows):
  - a. Contractor's Bid (pages { 1 } to { 21 }, inclusive).
    - 1) General Bid Summary (1 page)
    - 2) General Conditions Cost Summary (2 pages)
    - 3) Clarifications and Assumptions (18 pages)
17. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
  - a. Notice to Proceed.
  - b. Critical Change Directives.
  - c. Change Orders.
  - d. Field Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The FAA Contract Provisions and General Provisions are hereby incorporated into this agreement. Should there be conflicts between the EJCDC General Conditions and the FAA Contract or General Provisions, the FAA Provisions shall govern. Conflicts or discrepancies between the FAA Provisions and EJCDC Contract Documents may be modified or amended as allowed for in the General Conditions.
- E. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

## **ARTICLE 10 – MISCELLANEOUS**

### **10.01 Terms**

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

### **10.02 Assignment of Contract**

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

### **10.03 Successors and Assigns**

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

#### 10.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

#### 10.05 Contractor's Certifications

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
  - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
  - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

#### 10.06 Other Provisions

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on [ ] (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

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

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

Derek Hoffine

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

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

Regional Vice President

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

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

JOSH KING

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

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

PROJECT MANAGER

Address for giving notices:

Address for giving notices:

Hensel Phelps

12121 Grant Street, Suite 410

Thornton, CO 80241

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

(where applicable)

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.

APPROVED AS TO FORM:

Assistant City Attorney



**SECTION 006100  
PERFORMANCE BOND**

**CONTRACTOR** (name and address):  
Hensel Phelps Construction Co.  
12121 Grant Street, Suite 410  
Thornton, CO 80241

**SURETY** (name and address of principal place of business):  
Travelers Casualty and Surety Company  
One Tower Square  
Hartford, CT 06183

**OWNER** (name and address):  
City of Loveland  
500 E. Third Street, Suite 230, Loveland, CO 80537

**CONSTRUCTION CONTRACT**  
Effective Date of the Agreement:  
Amount: \$14,864,000.00

Description (name and location): Northern Colorado Regional Airport – New Terminal

**BOND**  
Bond Number: 107820863  
Date (not earlier than the Effective Date of the Agreement of the Construction Contract):  
Amount: \$14,864,000.00  
Modifications to this Bond Form: ☒ None ☐ See Paragraph 16

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.

**CONTRACTOR AS PRINCIPAL**  
Hensel Phelps Construction Co. (seal)  
Contractor's Name and Corporate Seal  
By: [Signature]  
Signature  
Derek H. Hoffine  
Print Name  
Vice President  
Title  
Attest: [Signature]  
Signature  
PROJECT MANAGER  
Title

**SURETY**  
Travelers Casualty and Surety Company  
Surety's Name and Corporate Seal  
By: [Signature]  
Signature (attach power of attorney)  
Kelly T. Urwiller  
Print Name  
Attorney-in-Fact  
Title  
Attest: [Signature]  
Signature  
Nadezda Chappell, Account Manager  
Title



**Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.**

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.

3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after:

3.1 The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;

3.2 The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and

3.3 The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or

5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:

7.1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

7.2 additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and

7.3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.

9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.

10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.

11. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit shall be applicable.

12. Notice to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

#### 14. Definitions

14.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

14.2 Construction Contract: The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

14.3 Contractor Default: Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

14.4 Owner Default: Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

14.5 Contract Documents: All the documents that comprise the agreement between the Owner and Contractor.

15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

16. Modifications to this Bond are as follows:

17. In addition to the other conditions hereof, this payment bond shall satisfy all provisions and conditions set forth in C.R.S. §§ 38-26-105 and 106, as amended.







**Travelers Casualty and Surety Company of America**  
**Travelers Casualty and Surety Company**  
**St. Paul Fire and Marine Insurance Company**

**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS:** That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Kelly T Urwiller** of **GREELEY**, **Colorado**, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

**IN WITNESS WHEREOF**, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **21st** day of **April**, **2021**.



State of Connecticut

City of Hartford ss.

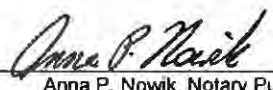
By   
 Robert L. Raney, Senior Vice President

On this the **21st** day of **April**, **2021**, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

**IN WITNESS WHEREOF**, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, **2026**



  
 Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

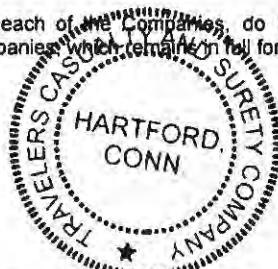
**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

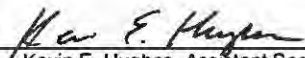
**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this \_\_\_\_\_ day of \_\_\_\_\_



  
 Kevin E. Hughes, Assistant Secretary

**To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.**  
**Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.**



**SECTION 006150  
PAYMENT BOND**

**CONTRACTOR (name and address):**

Hensel Phelps Construction Co.  
12121 Grant Street, Suite 410  
Thornton, CO 80241

**SURETY (name and address of principal place of business):**

Travelers Casualty and Surety Company  
One Tower Square  
Hartford, CT 06183

**OWNER (name and address):**

City of Loveland  
500 E. Third Street, Suite 230, Loveland, CO 80537

**CONSTRUCTION CONTRACT**

Effective Date of the Agreement: \_\_\_\_\_

Amount: \$14,864,000.00

Description (name and location): Northern Colorado Regional Airport – New Terminal

Bond Number: 107820863

Date (not earlier than the Effective Date of the Agreement of the Construction Contract):

Amount: \$14,864,000.00

Modifications to this Bond Form: ☒ None ☐ See Paragraph 18

Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.

**CONTRACTOR AS PRINCIPAL**

Hensel Phelps Construction Co. (seal)

Contractor's Name and Corporate Seal

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

Signature

Derek H. Hoffine

Print Name

Vice President

Title

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

Signature

PROJECT MANAGER

Title

**SURETY**

Travelers Casualty and Surety Company

Surety's Name and Corporate Seal

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

Signature (attach power of attorney)

Kelly T. Urwiller

Print Name

Attorney-in-Fact

Title

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

Signature

Nadezda Chappell, Account Manager

Title

**Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party shall be considered plural where applicable.**

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.





3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond shall arise after the following:
  - 5.1 Claimants who do not have a direct contract with the Contractor,
    - 5.1.1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
    - 5.1.2 have sent a Claim to the Surety (at the address described in Paragraph 13).
  - 5.2 Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
  - 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
  - 7.2 Pay or arrange for payment of any undisputed amounts.
- 7.3 The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
8. The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

#### 16. Definitions

16.1 **Claim:** A written statement by the Claimant including at a minimum:

1. The name of the Claimant;
2. The name of the person for whom the labor was done, or materials or equipment furnished;
3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
4. A brief description of the labor, materials, or equipment furnished;
5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
7. The total amount of previous payments received by the Claimant; and
8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.

16.2 **Claimant:** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.

16.3 **Construction Contract:** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

16.4 **Owner Default:** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

16.5 **Contract Documents:** All the documents that comprise the agreement between the Owner and Contractor.

17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

18. Modifications to this Bond are as follows:

19. In addition to the other conditions hereof, this payment bond shall satisfy all provisions and conditions set forth in C.R.S. §§ 38-26-105 and 106, as amended.







**Travelers Casualty and Surety Company of America  
Travelers Casualty and Surety Company  
St. Paul Fire and Marine Insurance Company**

**POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS:** That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Kelly T Urwiller** of **GREELEY**, **Colorado**, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

**IN WITNESS WHEREOF**, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **21st** day of **April**, 2021.



State of Connecticut

City of Hartford ss.

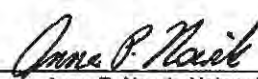
By:   
Robert L. Raney, Senior Vice President

On this the **21st** day of **April**, 2021, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

**IN WITNESS WHEREOF**, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, 2026



  
Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this \_\_\_\_\_ day of \_\_\_\_\_



  
Kevin E. Hughes, Assistant Secretary

**To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.  
Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.**

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

## STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by



Issued and Published Jointly by



Endorsed by



These General Conditions have been prepared for use with the Agreement Between Owner and Contractor for Construction Contract (EJCDC® C-520, Stipulated Sum, or C-525, Cost-Plus, 2013 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other.

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# STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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## ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

### 1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
  2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
  3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
  4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
  5. *Bidder*—An individual or entity that submits a Bid to Owner.
  6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
  7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
  8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
  9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
  10. *Claim*—(a) A demand or assertion duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract; or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision regarding a Change Proposal; or seeking

resolution of a contractual issue that Engineer has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. ("CERCLA"); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. ("RCRA"); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents.
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Engineer*—The individual or entity named as such in the Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
22. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.
23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.

25. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.
26. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
27. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
28. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
29. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
30. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
31. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.
33. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.
35. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
36. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
37. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.



38. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
39. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
40. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
42. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
44. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
45. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
46. *Unit Price Work*—Work to be paid for on the basis of unit prices.
47. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
48. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

## 1.02 Terminology

- A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives:*
  - 1. The Contract Documents include the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day:*
  - 1. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective:*
  - 1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it:
    - a. does not conform to the Contract Documents; or
    - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
    - c. has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).
- E. *Furnish, Install, Perform, Provide:*
  - 1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
  - 2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
  - 3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
  - 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words



“furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

- F. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

## ARTICLE 2 – PRELIMINARY MATTERS

### 2.01 *Delivery of Bonds and Evidence of Insurance*

- A. *Bonds:* When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Contractor’s Insurance:* When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.
- C. *Evidence of Owner’s Insurance:* After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

### 2.02 *Copies of Documents*

- A. ~~Owner shall furnish to Contractor four printed copies of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.~~
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

### 2.03 *Before Starting Construction*

- A. *Preliminary Schedules:* Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), Contractor shall submit to Engineer for timely review:
1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
  2. a preliminary Schedule of Submittals; and
  3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

## 2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

## 2.05 *Initial Acceptance of Schedules*

- A. ~~At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.~~
  - 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
  - 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
  - 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

## 2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.
- B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

## ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

### 3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

### 3.02 *Reference Standards*

- A. Standards Specifications, Codes, Laws and Regulations
  - 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
  - 2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

### 3.03 *Reporting and Resolving Discrepancies*

- A. *Reporting Discrepancies:*
  - 1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.



2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.

**B. *Resolving Discrepancies:***

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
  - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
  - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

**3.04 *Requirements of the Contract Documents***

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.
- B. Engineer will, with reasonable promptness, but in no event longer than 14 days, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

### 3.05 *Reuse of Documents*

- A. Contractor and its Subcontractors and Suppliers shall not:
  - 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
  - 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

## ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

### 4.01 *Commencement of Contract Times; Notice to Proceed*

- A. ~~The Contract Times will commence to run on the thirtieth day after the Effective Date of the Contract or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Contract. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Contract, whichever date is earlier.~~

### 4.02 *Starting the Work*

- A. Contractor shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to such date.

### 4.03 *Reference Points*

- A. Owner shall provide engineering surveys to establish reference points for construction which in Engineer's judgment are necessary to enable Contractor to proceed with the Work. Contractor shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of Owner. Contractor shall report to Engineer whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

### 4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
  - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

#### 4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
  1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
  2. abnormal weather conditions;
  3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
  4. acts of war or terrorism.
- D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.
- E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.
- F. Contractor shall not be entitled to an adjustment in Contract Price ~~or Contract Times~~ for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.
- G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.



## **ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS**

### **5.01 *Availability of Lands***

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

### **5.02 *Use of Site and Other Areas***

- A. *Limitation on Use of Site and Other Areas:*
  - 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
  - 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and its officers, directors, members, partners, and employees from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.
- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

- C. *Cleaning*: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures*: Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings*: The Supplementary Conditions identify:
  - 1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
  - 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
  - 3. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or any of its officers, directors, members, partners, or employees, with respect to:
  - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
  - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
  - 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor*: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:
  - 1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
  - 2. is of such a nature as to require a change in the Drawings or Specifications; or
  - 3. differs materially from that shown or indicated in the Contract Documents; or
  - 4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Possible Price and Times Adjustments:*
  - 1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
    - a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
    - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
    - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
  - 2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
    - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or
    - b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or



- c. Contractor failed to give the written notice as required by Paragraph 5.04.A.
- 3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
- 4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

#### 5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
  - 1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
  - 2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
    - a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
    - b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
    - c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
    - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.
- C. *Engineer's Review:* Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Possible Price and Times Adjustments:*
1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
    - a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
    - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
    - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
    - d. Contractor gave the notice required in Paragraph 5.05.B.
  2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
  3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

#### 5.06 *Hazardous Environmental Conditions at Site*

~~A. *Reports and Drawings:* The Supplementary Conditions identify:~~

- ~~1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and~~
- ~~2. Technical Data contained in such reports and drawings.~~

~~B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:~~

- ~~1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or~~
  - ~~2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or~~
  - ~~3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.~~
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.
- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.
- H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in



Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.

- I. ~~To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.~~
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and its officers, directors, members, partners, and employees from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

## ARTICLE 6 – BONDS AND INSURANCE

### 6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the Supplementary Conditions, or other specific provisions of the Contract. Contractor shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.
- B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

- C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.
- E. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

#### 6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Contractor shall deliver to Owner, certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- D. Owner shall deliver to Contractor, certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.
- F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.

- G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

#### 6.03 *Contractor's Insurance*

- A. *Workers' Compensation:* Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
  - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
  - 2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
  - 3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
  - 4. Foreign voluntary worker compensation (if applicable).
- B. *Commercial General Liability—Claims Covered:* Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:
  - 1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
  - 2. claims for damages insured by reasonably available personal injury liability coverage.
  - 3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- C. *Commercial General Liability—Form and Content:* Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
  - 1. Products and completed operations coverage:
    - a. Such insurance shall be maintained for three years after final payment.
    - b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
  - 2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
  - 3. Broad form property damage coverage.



4. Severability of interest.
  5. Underground, explosion, and collapse coverage.
  6. Personal injury coverage.
  7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 and CG 20 37 (together); or their equivalent.
  8. For design professional additional insureds, ISO Endorsement CG 20 32, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.
- D. *Automobile liability*: Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
  - E. *Umbrella or excess liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.
  - F. *Contractor's pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.
  - G. *Additional insureds*: The Contractor's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and ~~Engineer~~, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, and employees of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.
  - H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.
  - I. *General provisions*: The policies of insurance required by this Paragraph 6.03 shall:
    1. include at least the specific coverages provided in this Article.
    2. be written for not less than the limits of liability provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.

3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner.
  4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
  5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.
- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

#### 6.04 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.
- B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

#### 6.05 *Property Insurance*

- A. **Builder's Risk:** Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
  1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."
  2. be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler

explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.

3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be permanently incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
  4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).
  5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
  6. extend to cover damage or loss to insured property while in transit.
  7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
  8. allow for the waiver of the insurer's subrogation rights, as set forth below.
  9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
  10. not include a co-insurance clause.
  11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
  12. include performance/hot testing and start-up.
  13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.
- C. *Deductibles:* Contractor shall pay for costs not covered because of the application of a policy deductible if the loss is caused by Contractor or anyone for whom Contractor is responsible.
- D. *Partial Occupancy or Use by Owner:* If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then



Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.

- E. *Additional Insurance*: If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

#### 6.06 *Waiver of Rights*

- A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
  - 1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other perils whether or not insured by Owner; and
  - 2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of

recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.

- D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

#### **6.07   *Receipt and Application of Property Insurance Proceeds***

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as agent for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as agent for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.05 shall distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

### **ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES**

#### **7.01   *Supervision and Superintendence***

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.
- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

#### **7.02   *Labor; Working Hours***

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday.

Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

**7.03 Services, Materials, and Equipment**

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

**7.04 "Or Equals"**

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.
  - 1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:
    - a. in the exercise of reasonable judgment Engineer determines that:
      - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
      - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
      - 3) it has a proven record of performance and availability of responsive service; and
      - 4) it is not objectionable to Owner.



- b. Contractor certifies that, if approved and incorporated into the Work:
    - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
    - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense*: Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *Engineer's Evaluation and Determination*: Engineer will be allowed a reasonable time, but in no event longer than 14 days, to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer's Determination*: Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request*: If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer considered the proposed item as a substitute pursuant to Paragraph 7.05.

#### 7.05 Substitutes

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.
  - 1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.
  - 2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
  - 3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
    - a. shall certify that the proposed substitute item will:
      - 1) perform adequately the functions and achieve the results called for by the general design,
      - 2) be similar in substance to that specified, and

- 3) be suited to the same use as that specified.
  - b. will state:
    - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
    - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
    - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
  - c. will identify:
    - 1) all variations of the proposed substitute item from that specified, and
    - 2) available engineering, sales, maintenance, repair, and replacement services.
  - d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time, but in no event longer than 14 days, to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.
- E. *Contractor's Expense:* Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination:* If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.
- B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.
- E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.
- F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.
- H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.
- J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner,



except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.

- L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.
- N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.
- O. Nothing in the Contract Documents:
  - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor
  - 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

#### 7.07 *Patent Fees and Royalties*

- A. Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if, to the actual knowledge of Owner or Engineer, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by Owner in the Contract Documents.
- B. ~~To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, and its officers, directors, members, partners, employees, agents, consultants, and subcontractors from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.~~
- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and its officers, directors, members, partners, and employees from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

#### 7.08 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work.

#### 7.09 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

#### 7.10 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and its officers, directors, members, partners, and employees from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

#### 7.11 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one electronic record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

## 7.12 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
  - 1. all persons on the Site or who may be affected by the Work;
  - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
  - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).
- F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
- G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.



### 7.13 *Safety Representative*

- A. Contractor shall designate a qualified and experienced safety representative, typically a superintendent or field engineer, at the Site whose duties and responsibilities shall include prevention of accidents and the maintaining and supervising of safety precautions and programs.

### 7.14 *Hazard Communication Programs*

- A. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

### 7.15 *Emergencies*

- A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of the action taken by Contractor in response to such an emergency, a Work Change Directive or Change Order will be issued.

### 7.16 *Shop Drawings, Samples, and Other Submittals*

#### A. *Shop Drawing and Sample Submittal Requirements:*

1. Before submitting a Shop Drawing or Sample, Contractor shall have:
  - a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
  - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
  - c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
  - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal.
3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.

- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.

1. *Shop Drawings:*
  - a. Contractor shall submit the number of copies required in the Specifications.
  - b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.
2. *Samples:*
  - a. Contractor shall submit the number of Samples required in the Specifications.
  - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.
3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.
- D. *Engineer's Review:*
  1. Engineer will provide timely review, but in no event longer than 14 days, of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
  2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.
  3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
  4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.
  5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.
  6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change

the Contract Times or Contract Price, unless such changes are included in a Change Order.

7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures:*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
  1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
  2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
  1. observations by Engineer;
  2. recommendation by Engineer or payment by Owner of any progress or final payment;
  3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
  4. use or occupancy of the Work or any part thereof by Owner;
  5. any review and approval of a Shop Drawing or Sample submittal;



6. the issuance of a notice of acceptability by Engineer;
  7. any inspection, test, or approval by others; or
  8. any correction of defective Work by Owner.
- D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

#### **7.18 Indemnification**

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and its officers, directors, members, partners, and employees from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or any of its officers, directors, members, partners, or employees by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
  2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

#### **7.19 Delegation of Professional Design Services**

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
- B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must

satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

## **ARTICLE 8 – OTHER WORK AT THE SITE**

### **8.01 *Other Work***

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or alter others' work with the written consent of Engineer and the others whose work will be affected.
- D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

## 8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
  - 1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
  - 2. an itemization of the specific matters to be covered by such authority and responsibility; and
  - 3. the extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

## 8.03 *Legal Relationships*

- A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner for whom the Owner is responsible causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual rights against Contractor with respect to the breach of the obligations set forth in this paragraph.
- C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.



- D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

## **ARTICLE 9 – OWNER'S RESPONSIBILITIES**

### **9.01    *Communications to Contractor***

- A. Except as otherwise provided in these General Conditions, Owner may issue communications to Contractor through Engineer.

### **9.02    *Replacement of Engineer***

- A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

### **9.03    *Furnish Data***

- A. Owner shall promptly furnish the data required of Owner under the Contract Documents.

### **9.04    *Pay When Due***

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

### **9.05    *Lands and Easements; Reports, Tests, and Drawings***

- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

### **9.06    *Insurance***

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

### **9.07    *Change Orders***

- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

**9.08**    *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

**9.09**    *Limitations on Owner's Responsibilities*

- A. The Owner shall not supervise, direct, or have control or authority over, nor be responsible for, Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Owner will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

**9.10**    *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

**9.11**    *Evidence of Financial Arrangements*

- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).

**9.12**    *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

**ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION**

**10.01**    *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

**10.02**    *Visits to Site*

- A. Engineer will make visits to the Site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of Contractor's executed Work. Based on information obtained during such visits and observations, Engineer, for the benefit of Owner, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. Engineer will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. Engineer's efforts will be directed toward providing for Owner a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.
- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means,

methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

**10.03 *Project Representative***

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

**10.04 *Rejecting Defective Work***

- A. Engineer has the authority to reject Work in accordance with Article 14.

**10.05 *Shop Drawings, Change Orders and Payments***

- A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.
- B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.
- C. Engineer's authority as to Change Orders is set forth in Article 11.
- D. Engineer's authority as to Applications for Payment is set forth in Article 15.

**10.06 *Determinations for Unit Price Work***

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

**10.07 *Decisions on Requirements of Contract Documents and Acceptability of Work***

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

**10.08 *Limitations on Engineer's Authority and Responsibilities***

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.
- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be



responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

#### 10.09 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

### **ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK**

#### 11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a Change Order, a ~~Work Change Directive~~, or a Field Order.
  - 1. *Change Orders:*
    - a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
    - b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.
  - 2. ~~*Work Change Directives:* A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.~~

3. *Field Orders:* Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

#### 11.02 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

#### 11.03 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

#### 11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
  1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or
  2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or
  3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).
- C. *Contractor's Fee:* When applicable, the Contractor's fee for overhead and profit shall be determined as follows:
  1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
  - a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent (15% on Contractor labor, materials and equipment);
  - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent (5% on Subcontractors);
  - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.04.C.2.a and 11.04.C.2.b is that the Contractor's fee shall be based on: a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor. The Contractor and no tier of Subcontractor, can apply a fee markup greater than 5% of the Cost of Work;
  - d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
  - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
  - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

#### 11.05 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.
- B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

#### 11.06 *Change Proposals*

- A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.
  1. *Procedures:* Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.



2. *Engineer's Action:* Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
  3. *Binding Decision:* Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- B. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

#### 11.07 *Execution of Change Orders*

- A. Owner and Contractor shall execute appropriate Change Orders covering:
1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
  2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
  3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and
  4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.
- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

#### 11.08 *Notification to Surety*

- A. If the provisions of any bond require notice to be given to a surety of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times), the giving of any such notice will be Contractor's responsibility. The amount of each applicable bond will be adjusted to reflect the effect of any such change.

## ARTICLE 12 – CLAIMS

### 12.01 *Claims*

- A. *Claims Process:* All unresolved disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article, including:
  - 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
  - 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and
  - 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters.
- B. *Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation:*
  - 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.
  - 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.
  - 3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval:* If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim:* If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial



of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.

- G. *Final and Binding Results:* If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

## **ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK**

### **13.01 Cost of the Work**

- A. *Purposes for Determination of Cost of the Work:* The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
  2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included:* Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:
1. Costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications, and at billable rates, agreed upon by Owner and Contractor. Such employees shall include, without limitation, estimators, project managers, project engineers, office engineers, superintendents, field engineers, and other personnel employed full or part time on the Work. Costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. The billable rate shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the billable rate, except for those directly employed by Contractor who are hourly employees. Such employees shall include, without limitation, carpenters, laborers, concrete finishers, operators, and foremen of such trades.
  2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates, and refunds and returns

from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.

3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids and make recommendations to Owner and Engineer for their review. If the Owner has reasonable objection to the low, or best-value bidder, the Contractor shall propose another to whom the Owner has no reasonable objection. If Subcontractor is replaced, the Contract Price and Contract Times shall be equitably adjusted. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
  - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
  - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
  - c. Rentals of all construction equipment and machinery, and the parts thereof, whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All construction equipment owned or rented from Contractor will be invoiced at rates provided in Contractor's proposal. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
  - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
  - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
  - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 6.05), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

- g. The cost of utilities, fuel, and sanitary facilities at the Site.
  - h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
  - i. The costs of premiums for all of Contractor's bonds and insurance as well as the cost of Subcontractor bonds and insurance.
  - j. All costs related to Contractor's temporary office at the jobsite including but not limited to the jobsite office, office supplies and equipment, internet, and utility services.
- C. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:
- 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, professional engineers, architects, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
  - 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
  - 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
  - 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
  - 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.
- D. ~~Contractor's Fee: When the Work as a whole is performed on the basis of cost plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.~~
- E. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

## 13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.



- B. *Cash Allowances*: Contractor agrees that:
1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
  2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.
- C. *Contingency Allowance*: Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

### 13.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.
- E. ~~Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:~~
1. ~~the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;~~
  2. ~~there is no corresponding adjustment with respect to any other item of Work; and~~
  3. ~~Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.~~

## ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

### 14.01 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

### 14.02 *Tests, Inspections, and Approvals*

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
  - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
  - 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
  - 3. by manufacturers of equipment furnished under the Contract Documents;
  - 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
  - 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to



cover the same and Engineer had not acted with reasonable promptness in response to such notice.

#### 14.03 *Defective Work*

- A. *Contractor's Obligation:* It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority:* Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects:* Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement:* Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties:* When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages:* In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.
- G. Correction of work during the warranty period will be handled in accordance with Paragraph 15.08.

#### 14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

#### 14.05 *Uncovering Work*

- A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.

- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.
- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
  - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
  - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

#### 14.06 *Owner May Stop the Work*

- A. If the Work is defective, or Contractor fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, then Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Owner to stop the Work shall not give rise to any duty on the part of Owner to exercise this right for the benefit of Contractor, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

#### 14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include

but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

## **ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD**

### **15.01 Progress Payments**

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments:*
1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
  2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
  3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.
- C. *Review of Applications:*
1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
  2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
    - a. the Work has progressed to the point indicated;



- b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and
  - c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
- 3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
  - a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
  - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
- 4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
  - a. to supervise, direct, or control the Work, or
  - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
  - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
  - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or
  - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
- 5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
- 6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
  - a. the Work is defective, requiring correction or replacement;
  - b. the Contract Price has been reduced by Change Orders;
  - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
  - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or

- e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

**D. *Payment Becomes Due:***

- 1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

**E. *Reductions in Payment by Owner:***

- 1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
  - a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
  - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
  - c. Contractor has failed to provide and maintain required bonds or insurance;
  - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
  - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
  - f. the Work is defective, requiring correction or replacement;
  - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
  - h. the Contract Price has been reduced by Change Orders;
  - i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;
  - j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
  - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
  - l. there are other items entitling Owner to a set off against the amount recommended.
- 2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the



amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

#### 15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

#### 15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.

- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.
- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

#### 15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
  - 1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.
  - 2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
  - 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
  - 4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

#### 15.05 *Final Inspection*

- A. Upon written notice from Contractor that the entire Work or an agreed portion thereof is complete, Engineer will promptly make a final inspection with Owner and Contractor and will notify Contractor in writing of all particulars in which this inspection reveals that the Work, or agreed portion thereof, is incomplete or defective. Contractor shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

#### 15.06 *Final Payment*

- A. *Application for Payment:*
  - 1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record

documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:
  - a. all documentation called for in the Contract Documents;
  - b. consent of the surety, if any, to final payment;
  - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
  - d. a list of all disputes that Contractor believes are unsettled; and
  - e. ~~complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.~~
3. ~~In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.~~

**B. *Engineer's Review of Application and Acceptance:***

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

**C. *Completion of Work:*** The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.

**D. *Payment Becomes Due:*** Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions



above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

#### 15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

#### 15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
  - 1. correct the defective repairs to the Site or such other adjacent areas;
  - 2. correct such defective Work;
  - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
  - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed upon agreement by Owner and Contractor.

- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

## **ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION**

### **16.01 *Owner May Suspend Work***

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.

### **16.02 *Owner May Terminate for Cause***

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
  - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
  - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
  - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
  - 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:
  - 1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
  - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within ten days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and



damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

#### **16.03 *Owner May Terminate For Convenience***

- A. Upon ten days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
  - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
  - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
  - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

#### **16.04 *Contractor May Stop Work or Terminate***

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for

expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

## **ARTICLE 17 – FINAL RESOLUTION OF DISPUTES**

### **17.01 *Methods and Procedures***

- A. *Disputes Subject to Final Resolution:* All disputed matters are subject to final resolution under the provisions of this Article, including:
  - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
  - 2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this Article, Owner or Contractor may:
  - 1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions; or
  - 2. agree with the other party to submit the dispute to another dispute resolution process; or
  - 3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

## **ARTICLE 18 – MISCELLANEOUS**

### **18.01 *Giving Notice***

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
  - 1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
  - 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice.

### **18.02 *Computation of Times***

- A. When any period of time is referred to in the Contract by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

### **18.03 *Cumulative Remedies***

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract. The provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

- A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract, will survive final payment, completion, and acceptance of the Work or termination or completion of the Contract or termination of the services of Contractor.

18.07 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

**SECTION 00800**  
**SUPPLEMENTARY CONDITIONS**

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract, EJCDC® C-700 (2013 Edition). All provisions that are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix "SC" added thereto.

- SC-1.01 Add to the conclusion of Paragraph 1.01.A.8 with the following verbiage.
- A. Change Orders will be a compilation of accepted Change Proposals and Critical Change Directives that have been accepted since the last Change Order. Change Orders will be conducted at regular intervals as necessitated by project changes.
- SC-1.01 Add the following definition as 1.1.A.49 – Critical Change Directive
- A. Critical Change Directive – A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner, directing Contractor to complete time sensitive work that needs to occur prior to the execution of a change order.
- SC-2.02 Delete Paragraph 2.02.A in its entirety and insert the following new paragraph in its place:
- A. Owner shall furnish to Contractor one (1) copies of conformed Contract Documents incorporating and integrating all Addenda and any amendments negotiated prior to the Effective Date of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies of the conformed Contract Documents will be furnished upon request at the cost of reproduction.
- SC-2.05 Delete Paragraph 2.05.A, excluding its subparagraphs, and insert the following in its place:
- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, Owner's Representative, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
- SC-4.01 Delete Paragraph 4.01.A in its entirety and insert the following in its place:
- A. The Contract Times will commence to run after the Notice to Proceed has been issued, the baseline schedule has been approved, and the Contractor begins mobilization to the Site.
- SC-5.02 Add the following new paragraphs immediately after Paragraph 5.02.D



- E. *Use of City Property:* The Contractor may be permitted to use available land belonging to the City on or near the site of the work for construction purposes and for the storage of material and equipment. The location and extent of the areas so used shall be as designated by the City.
- F. The responsibility for protection and safekeeping of equipment and materials on or near the site is entirely that of the Contractor, and no claim shall be made against the City by reason of any act of an employee or trespasser. It shall be further understood that should any occasion arise necessitating access to the sites occupied by these stored materials and equipment, the Contractor shall immediately move same. No materials or equipment may be placed upon the City's property until the City has agreed to the location contemplated by the Contractor to be used for storage.
- G. The Contractor shall not use or operate any water valves, hydrants, switches, traffic control boxes, or any other City-owned facilities or utilities of any kind without the written consent of the Project Manager. All fire hydrants and water control valves shall be kept free from obstruction and available for use at all times.

SC-5.3 Add the following to 5.03.A

The following reports of explorations or tests of subsurface conditions at or adjacent to the Site are available to the Contractor:

- Geotechnical Engineering Report, FNL New Terminal and Parking, Terracon Consultants, February 21, 2021
- Geotechnical Recommendations for Lime Treated Subgrade, FNL New Terminal with Parking, Terracon Consultants, April 5, 2022
- Geotechnical Engineering Services – Remolded Swells, FNL New Terminal with Parking, Terracon Consultants, May 19, 2022

B. The following record drawings are available to the Contractor:

1. None.

SC-5.6 Delete Paragraphs 5.06.A and 5.06.B in their entirety and insert the following:

- A. No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.
- B. Not Used.

SC-5.6 The first sentence of Paragraph 5.06.I shall be deleted in its entirety and replaced with the following:

- A. To the fullest extent permitted by Colorado Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph



5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

SC-6.3 Paragraph 6.03.G requires Contractor to list Owner and Engineer as additional insureds. Strike the requirement list Engineer as additional insured.

SC-6.3 Add the following new paragraph immediately after Paragraph 6.03.J:

K. The limits of liability for the insurance required by Paragraph 6.03 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

1. Workers' Compensation, and related coverages under Paragraphs 6.03.A.1 and A.2 of the General Conditions:

State: Statutory

Federal, if applicable (e.g., Longshoreman's): Statutory

Employer's Liability:

Bodily injury, each accident \$ 500,000

Bodily injury by disease, each employee \$ 500,000

Bodily injury/disease aggregate \$ 1,000,000

Foreign voluntary worker compensation Statutory

2. Contractor's Commercial General Liability under Paragraphs 6.03.B and 6.03.C of the General Conditions:

General Aggregate \$ 10,000,000

Products - Completed Operations Aggregate \$ 1,000,000

Personal and Advertising Injury \$ 1,000,000

Each Occurrence (Bodily Injury and Property Damage) \$ 1,000,000

3. Automobile Liability under Paragraph 6.03.D. of the General Conditions:

Bodily Injury:

Each person \$ 1,000,000

Each accident \$ 1,000,000

Property Damage:

Each accident \$ 1,000,000

Combined Single Limit of \$ 1,000,000

4. Excess or Umbrella Liability:

Per Occurrence \$ 1,000,000

General Aggregate \$ 1,000,000

5. Contractor's Pollution Liability:

Each Occurrence \$ N/A

General Aggregate \$ N/A

☒ If box is checked, Contractor is not required to provide Contractor's Pollution Liability insurance under this Contract

6. Additional Insureds: In addition to Owner, include as additional insureds the following: N/A

SC-6.05 Property Insurance.

Add the following sentence at the end of the first paragraph in A.

Unless otherwise provided, the Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, Builders' Risk Insurance in the amount of the initial Contract Sum, plus value of subsequent modifications, change orders, and cost of material supplied or installed by others, comprising total value of the entire Project at the site on a replacement cost basis without optional deductibles.

- a) Policy must provide coverage from the time any covered property becomes the responsibility of the Contractor, and continue without interruption during construction, renovation, or installation, including any time during which the covered property is being transported to the construction installation site, or awaiting installation, whether on or off site.
- b) Such Builders' Risk Insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the Owner's has insurable interest in the property to be covered, whichever is later.
- c) The Builders' Risk insurance shall include interests of the Owner and if applicable, affiliated or associate entities, the Contractor, subcontractors and sub-tier contractors in the Project.

- d) The Builders' Risk Coverage shall be written on a Special Covered Cause of Loss form and shall include theft, vandalism, malicious mischief, collapse, false-work, temporary buildings, transit, debris removal including demolition, increased cost of construction, architect's fees and expenses, flood (including water damage), earthquake, and if applicable, all below and above ground structures, piping, foundations including underground water and sewer mains, piling including the ground on which the structure rests and excavation, backfilling, filling, and grading.
- e) The Builders' Risk shall include a Beneficial Occupancy Clause. The policy shall specifically permit occupancy of the building during construction. Contractor shall take reasonable steps to obtain consent of the insurance company and delete any provisions with regard to restrictions within any Occupancy Clauses within the Builder's Risk Policy. The Builder's Risk Policy shall remain in force until acceptance of the project by the Owner.
- f) Equipment Breakdown Coverage (a.k.a. Boiler & Machinery) shall be included as required by the Contract Documents or by law, which shall specifically cover insured equipment during installation and testing (including cold and hot testing).
- g) The deductible shall not exceed \$25,000 and shall be the responsibility of the Contractor except for losses that involve all Acts of God such as flood, earthquake, windstorm, tsunami, volcano, etc.

SC-7.07 Delete paragraph 7.07.B in its entirety.

SC-7.09 Add a new paragraph immediately after Paragraph 7.09.A:

- B. Owner is exempt from payment of sales and compensating use taxes of the State of Colorado and of cities and counties thereof on all materials to be incorporated into the Work.
  - 1. Successful Bidder shall apply to the Department of Revenue, Sales Tax for a tax exemption certificate for the purchase of supplies and materials to be incorporated into the Work.
  - 2. Owner's exemption does not apply to construction tools, machinery, equipment, or other property purchased by or leased by Contractor, or to supplies or materials not incorporated into the Work.

SC-11.01 In paragraph 11.01.A. remove "Work Change Directive" and replace with "Critical Change Directive."

Delete Paragraph 11.01.A.2 in its entirety and replace with,

- A *Critical Change Directives:* A Critical Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Critical Change Directive's effect, if any, on the Contract Price and Contract Times. This may only be used if differing or unforeseen conditions or a time sensitive situation arises.

SC-13.03 Delete Paragraph 13.01.D in its entirety and replace with the following:

- A. *Contractor's Fee:* When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.

SC-13.03 Delete Paragraph 13.03.E in its entirety and insert the following in its place:

- E. The unit price of an item of Unit Price Work shall be subject to reevaluation and adjustment under the following conditions:
1. if the extended price of a particular item of Unit Price Work amounts to 5 percent or more of the Contract Price (based on estimated quantities at the time of Contract formation) and the variation in the quantity of that particular item of Unit Price Work actually furnished or performed by Contractor differs by more than 25 percent from the estimated quantity of such item indicated in the Agreement; and
  2. if there is no corresponding adjustment with respect to any other item of Work; and
  3. if Contractor believes that Contractor has incurred additional expense as a result thereof, Contractor may submit a Change Proposal, or if Owner believes that the quantity variation entitles Owner to an adjustment in the unit price, Owner may make a Claim, seeking an adjustment in the Contract Price.

SC-15.01 Modify Paragraph 15.01.D.1 to begin:  
Subject to State law,...

SC-15.01 Add the following Paragraph 15.01.B.4

Contractor shall provide detailed and complete records to the City for review and approval of all expenditures to perform the Work under this Contract, without exception, including all administrative costs and overhead, salaries and wages of Contractor's employees, subcontracting expenses, and supply costs. The City shall have access to all Contractor's Project records upon two (2) business days' notice of the City's intent to review the records.

Upon review of the Contractor's expenditures, the City shall have the right to request explanation of any expenses that it believes deviate from the Scope of Work, Schedule of Values, and GMP. If Contractor is not able to provide satisfactory records or justification for the expenses, the City shall be permitted to withhold payment for those specific expenses. In the event payment is withheld, the parties shall work in good faith to resolve the matter. If within thirty (30) days the parties are unable to resolve the matter, the Contractor shall be permitted to appeal the City's determination in accordance with the procedures and standards set forth in Chapter 7.70 of the Loveland Municipal Code.

Add the following to Paragraph 15.01.E.1:

- m. Owner is required to withhold payment pursuant to State law.

SC-15.06 Modify the first sentence of 15.06.A.1 as follows:

After Contractor has, in the opinion of Engineer and *Owner*, satisfactorily,.....

Delete Paragraph 15.06.A.2.e in its entirety and insert the following in its place:

- e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, of Liens filed in connection with the Work, and of all claims of amounts due or unpaid arising out of the Work



Delete Paragraph 15.06.A.3 in its entirety.

Modify Paragraph 15.06.D to begin:

Subject to State law,...

Add to Article 18:

**SC-18.09** *Independent Contractor*

- A. The Owner hereby retains the Contractor for the Project to perform the services on the terms and conditions specified in the Contract Documents, and the Contractor agrees so to serve. The parties agree that the Contractor shall be an independent contractor and shall not be an employee of the Owner. The Contractor, as an independent contractor, is not entitled to workers' compensation benefits and unemployment insurance benefits, and the Contractor is obligated to pay federal and state income tax on any monies earned pursuant to the contract relationship.

**SC-18.10** *Cooperation with the Owner*

- A. The performance of construction work that affects the operation of the Owners utility systems shall be scheduled to be performed only at times acceptable to the City.

In the event that it is necessary to either interrupt or to impose abnormal operating conditions on any Owner utility system, such procedure must be acceptable to the Owner and a complete understanding and agreement must be reached by all parties concerned well in advance of the time scheduled for such operation, and such understanding shall be definite as to date, time of day, and length of time required. All work shall be scheduled to suit the Owners convenience taking into consideration the facilities and requirements at all times during construction.

The Contractor shall be responsible for paying all regular and premium time labor costs arising from the necessity to perform work that affects the Owners system facilities at times other than regular working hours.

**SC-18.11** *Appropriation*

- A. To the extent the Contract constitutes a multiple fiscal year debt or financial obligation of the City, it shall be subject to annual appropriation pursuant to the City of Loveland Municipal Charter Section 11-6 and Article X, Section 20 of the Colorado Constitution. The City shall have no obligation to continue the Contract in any fiscal year in which no such appropriation is made.

**SC-18.12** *Governmental Immunity Act*

No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the notices, requirements, immunities, rights, benefits, protections, limitations of liability, and other provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 et seq. and under any other applicable law.

**SC-18.13** *Venue and Choice of Law*

This Contract shall be governed by the laws of the State of Colorado, and venue shall be in the County of Larimer, State of Colorado.

**SC-18.14** *Conflicting Terms*



In the event of any conflict between the Contract Documents and any terms, conditions, or agreements of the Contractor, the provisions of the Contract Documents shall prevail.

**SC-18.15 *Preference in Employment of Colorado Labor***

The Contractor hereby covenants and agrees that, pursuant to C.R.S. § 8-17-101, Colorado labor shall be employed to perform the work to the extent of not less than eighty percent (80%) of each type or class of labor in the several classifications of skilled and common labor employed on the Project or public works not expected to exceed five hundred thousand dollars in the aggregate for any fiscal year. "Colorado labor" shall mean any person who is a resident of the state of Colorado at the time of employment, without discrimination as to race, color, creed, sex, age, or religion except when sex or age is a bona fide occupational qualification.

**SC-18.16 *Prohibited Terms***

Any term included in any terms, conditions, or agreements of the Contractor or any other exhibit, that requires the City to indemnify or hold the Contractor harmless; requires the City to agree to binding arbitration; limits the Contractor's liability for damages caused by the Contractor; determines choice of law, conflicts of law, or venue and forum-selection, or defense or control of litigation or settlement; requires the City to pay attorneys' fees or costs; requires the City to name the Contractor as an additional insured; requires the City to agree to confidentiality; or that conflicts with this provision in any way shall be void ab initio. Designations of venue, choice of law, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Contract shall not be strictly construed, either against or for either party, except that any ambiguity as to sovereign immunity shall be construed in favor of the City.

**SC-18.17 *Fuel Adjustments (Surcharges)***

The City will not accept fuel adjustments unless said adjustments are specific as to amount and timeframe and are agreed to by the City and the Contractor in a signed writing prior to the date on which the adjustment is to take effect.

The City of Loveland is committed to providing an equal opportunity for citizens and does not discriminate on the basis of disability, race, color, national origin, religion, sexual orientation or gender. The City will make reasonable accommodations for citizens in accordance with the Americans with Disabilities Act.

**END OF SECTION**

## GENERAL SUMMARY

Loveland, CO

9-Feb-2023

14-Mar-2023

1-May-2023

| SEC #/PROJ | ITEM                           | Est. Initials | MATERIAL | EQUIP. OR SUB. | LABOR                 | TOTAL      | SUB Using                         |
|------------|--------------------------------|---------------|----------|----------------|-----------------------|------------|-----------------------------------|
| 1          | GENERAL CONDITIONS             | JK            | ----     | 2,151,000      | ----                  | 2,151,000  |                                   |
| 2          | 03.00 BUILDING CONCRETE        | TMS           | ----     | 659,000        | ----                  | 659,000    | HP + Cogjins                      |
| 3          | 32.02 SITE CONCRETE            | KB            | ----     | 195,000        | ----                  | 195,000    | HP                                |
| 4          | 06.01 ROUGH CARPENTRY          | TMS           | ----     | 93,000         | ----                  | 93,000     | HP                                |
| 5          | 08.00 DOORS FRAMES HARDWARE    | TMS           | ----     | 100,000        | ----                  | 100,000    | Doorways / HP                     |
| 6          | *** SUBCONTRACTORS ***         |               | ----     | ----           | ----                  | ----       |                                   |
| 7          | 01.02 FINAL CLEANING           | JK            | ----     | ----           | ----                  | ----       | - w/ GC's                         |
| 8          | 03.01 DRILLED PIERS            | TMS           | ----     | ----           | ----                  | ----       | - Moved Drilled Piers to Concrete |
| 9          | 04.00 MASONRY                  | JS            | ----     | 82,000         | ----                  | 82,000     | Monarch Stucco                    |
| 10         | 05.00 STRUCTURAL STEEL         | JS            | ----     | 778,000        | ----                  | 778,000    | Puma                              |
| 11         | 06.00 MILLWORK                 | CAM           | ----     | 236,000        | ----                  | 236,000    | LA Woodworks                      |
| 12         | 07.00 METAL PANELS             | JS            | ----     | 158,000        | ----                  | 158,000    | Front Range Roofing               |
| 13         | 07.01 ROOFING                  | JS            | ----     | 365,000        | ----                  | 365,000    | Luna Commercial Roofs             |
| 14         | 07.02 WATERPROOFING            | TMS           | ----     | 121,000        | ----                  | 121,000    | Absolute                          |
| 15         | 08.01 GLASS & GLAZING          | JS            | ----     | 419,000        | ----                  | 419,000    | Commercial Glass                  |
| 16         | 08.04 SECURITY DOORS           | KB            | ----     | 31,000         | ----                  | 31,000     | Front Range Raynor                |
| 17         | 09.00 DRYWALL                  | MR            | ----     | 703,000        | ----                  | 703,000    | Copper Spring                     |
| 18         | 09.01 ACOUSTICAL CEILINGS      | MR            | ----     | 160,000        | ----                  | 160,000    | Heartland                         |
| 19         | 09.02 PAINTING & COATINGS      | MR            | ----     | 128,000        | ----                  | 128,000    | Maximum Painting                  |
| 20         | 09.03 TILE                     | JK            | ----     | 128,000        | ----                  | 128,000    | Masters Flooring                  |
| 21         | 09.04 STUCCO                   | JS            | ----     | 162,000        | ----                  | 162,000    | Monarch Stucco                    |
| 22         | 09.05 CARPET & RESILIENT       | JK            | ----     | 56,000         | ----                  | 56,000     | Masters Flooring                  |
| 23         | 09.06 POLISHED CONCRETE        | TMS           | ----     | 72,000         | ----                  | 72,000     | Concrete Floor Systems            |
| 24         | 10.00 SPECIALTIES              | KB            | ----     | 229,000        | ----                  | 229,000    | ABS / HP / Garmel Signs           |
| 25         | 10.01 WINDOW COVERINGS         | CAM           | ----     | 50,000         | ----                  | 50,000     | Lu-Tek                            |
| 26         | 11.00 FALL PROTECTION          | MR            | ----     | ----           | ----                  | ----       | Removed from Project              |
| 27         | 11.01 EXIT LANE BREACH CONTROL | KB            | ----     | 102,000        | ----                  | 102,000    | Record                            |
| 28         | 21.00 FIRE PROTECTION          | MR            | ----     | 256,000        | ----                  | 256,000    | Rapid Fire                        |
| 29         | 23.00 MECHANICAL & PLUMBING    | MR            | ----     | 1,474,000      | ----                  | 1,474,000  | Mtech                             |
| 30         | 26.00 ELECTRICAL               | MR            | ----     | 2,207,000      | ----                  | 2,207,000  | Encore                            |
| 31         | 31.00 EARTHWORK & DEMOLITION   | KB            | ----     | 941,000        | ----                  | 941,000    | Dunnite                           |
| 32         | 32.00 LANDSCAPING              | KB            | ----     | 305,000        | ----                  | 305,000    | Precision Landscape               |
| 33         | 32.01 ASPHALT                  | KB            | ----     | 351,000        | ----                  | 351,000    | Martin Marietta                   |
| 34         | 32.03 FENCING                  | KB            | ----     | 78,000         | ----                  | 78,000     | Black Eagle                       |
| 35         | 33.00 UTILITIES                | KB            | ----     | 512,000        | ----                  | 512,000    | Dunnite                           |
| 36         | 41.00 BAGGAGE HANDLING SYSTEM  | JK            | ----     | 934,000        | ----                  | 934,000    | Five Star                         |
|            |                                | ST            | ----     | 14,236,000     | ----                  | 14,236,000 |                                   |
|            | Contingency                    |               |          |                | Contingency           |            | with Owner                        |
|            |                                |               |          |                | ST                    | 14,236,000 |                                   |
|            | Bonds and Insurance            |               |          |                | HPCC Bond & Insurance | 160,000    | 1.1239%                           |
|            |                                |               |          |                | ST                    | 14,396,000 |                                   |
|            | Markup                         |               |          |                | MARGIN                | 468,000    | 3.25%                             |
|            |                                |               |          |                | ST                    | 14,864,000 |                                   |
|            |                                |               |          |                | General Conditions    | -          | 0.00% w/ Cost of Work             |
|            |                                |               |          |                | TOTAL BID             | 14,864,000 |                                   |

Northern Colorado Regional Airport Terminal Level 4 GMP  
 Loveland, CO

Pre Contract Signing

EXTENDED BY: CAM

CHECKED BY: MPR



**HENSEL PHELPS**  
 Plan. Build. Manage.



## Hensel Phelps General Conditions

FNL New Terminal - Loveland, CO

19306 sqft, 14 Months

| Start Date                                 | End Date | Item                                    | Notes                           | Quantity | Unit | Material \$/Unit | Material Amount | Equipment/Sub \$/Unit | Equipment/Sub Amount | Labor \$/Unit | Labor Amount | Total     |
|--|----------|---|---------------------------------|----------|------|------------------|-----------------|-----------------------|----------------------|---------------|--------------|-----------|
| <b>Supervision and Administration</b>      |          |   |                                 |          |      |                  |                 |                       |                      |               |              |           |
| 5/1/23                                     | 8/30/24  | Project Manager                         | 50%                             | 8.0      | MO   | \$0.00           | \$0             | \$0.00                | \$0                  | \$18,290      | \$146,318    | \$146,318 |
| 7/1/23                                     | 9/30/24  | Project Superintendent                  | 100%                            | 15.0     | MO   | \$0.00           | \$0             | \$0.00                | \$0                  | \$20,894      | \$313,404    | \$313,404 |
| 5/1/23                                     | 9/30/24  | Project Engineer                        | 100%                            | 17.0     | MO   | \$0.00           | \$0             | \$0.00                | \$0                  | \$16,209      | \$275,550    | \$275,550 |
| 5/1/23                                     | 7/31/24  | Office Engineer                         | 100%                            | 15.0     | MO   | \$0.00           | \$0             | \$0.00                | \$0                  | \$14,591      | \$218,859    | \$218,859 |
| 7/1/23                                     | 9/30/24  | Field Engineer                          | 100%                            | 15.0     | MO   | \$0.00           | \$0             | \$0.00                | \$0                  | \$14,062      | \$210,928    | \$210,928 |
| 7/1/23                                     | 7/31/24  | Field Engineer                          | 100%                            | 13.0     | MO   | \$0.00           | \$0             | \$0.00                | \$0                  | \$14,062      | \$182,804    | \$182,804 |
| 5/1/23                                     | 8/31/23  | Senior Estimator                        | 75%                             | 3.0      | MO   | \$0.00           | \$0             | \$0.00                | \$0                  | \$20,377      | \$61,132     | \$61,132  |
| <b>Misc Supervision and Administration</b> |          |   |                                 |          |      |                  |                 |                       |                      |               |              |           |
|  |          | Vehicle - Extended Cab Truck            |                                 | 15       | MO   | \$350.00         | \$5,250         | \$900.00              | \$13,500             | \$0           | \$0          | \$18,750  |
|  |          | Vehicle - PM/SE Auto                    |                                 | 11       | MO   | \$350.00         | \$3,850         | \$900.00              | \$9,900              | \$0           | \$0          | \$13,750  |
|  |          | Engineering and Layout                  |                                 | 14       | MO   | \$300.00         | \$4,200         | \$450.00              | \$6,300              | \$0           | \$0          | \$10,500  |
|  |          | Professional Surveyor                   |                                 | 1        | LSUM | \$0.00           | \$0             | \$5,000.00            | \$5,000              | \$0           | \$0          | \$5,000   |
|  |          | Jobsite Travel                          |                                 | 2        | TRIP | \$1,500.00       | \$3,000         | \$0.00                | \$0                  | \$0           | \$0          | \$3,000   |
| <b>Plans and Printing</b>                  |          |   |                                 |          |      |                  |                 |                       |                      |               |              |           |
|  |          | Project Plans / Printing                |                                 | 14       | MO   | \$0.00           | \$0             | \$500.00              | \$7,000              | \$0           | \$0          | \$7,000   |
|  |          | As-Builts                               | Includes video recordings       | 1        | SET  | \$0.00           | \$0             | \$10,000.00           | \$10,000             | \$0           | \$0          | \$10,000  |
|  |          | Electronic As-Builts (Auto Cad)         |                                 | 1        | LSUM | \$0.00           | \$0             | \$1,000.00            | \$1,000              | \$0           | \$0          | \$1,000   |
|  |          | O & M Manuals                           |                                 | 3        | SET  | \$0.00           | \$0             | \$1,500.00            | \$4,500              | \$0           | \$0          | \$4,500   |
| <b>Virtual Design and Construction</b>     |          |   |                                 |          |      |                  |                 |                       |                      |               |              |           |
|  |          | 360 Camera                              |                                 | 1        | LSUM | \$0.00           | \$0             | \$1,500.00            | \$1,500              | \$0           | \$0          | \$1,500   |
|  |          | 360 Job Photos (Struction Site)         |                                 | 14       | MO   | \$0.00           | \$0             | \$300.00              | \$4,200              | \$0           | \$0          | \$4,200   |
| <b>Safety and First Aid</b>                |          |   |                                 |          |      |                  |                 |                       |                      |               |              |           |
|  |          | Periodic Screenings                     |                                 | 4        | EA   | \$0.00           | \$0             | \$350.00              | \$1,400              | \$0.00        | \$0          | \$1,400   |
|  |          | First Aid Cabinets                      |                                 | 3        | EA   | \$200.00         | \$600           | \$0.00                | \$0                  | \$0.00        | \$0          | \$600     |
|  |          | Safety Supplies                         |                                 | 1        | LS   | \$10,000.00      | \$10,000        | \$0.00                | \$0                  | \$0.00        | \$0          | \$10,000  |
|  |          | AED Device                              |                                 | 1        | EA   | \$0.00           | \$0             | \$3,500.00            | \$3,500              | \$0.00        | \$0          | \$3,500   |
|  |          | Fire Ext (1 EA/3,000 sf)                |                                 | 12       | EA   | \$50.00          | \$600           | \$0.00                | \$0                  | \$50.00       | \$600        | \$1,200   |
| <b>Temporary Facilities</b>                |          |   |                                 |          |      |                  |                 |                       |                      |               |              |           |
|  |          | Office Trailer 24'X64'                  |                                 | 14       | MO   | \$0.00           | \$0             | \$2,675.00            | \$37,450             | \$0.00        | \$0          | \$37,450  |
|  |          | Setup & Remove Trailers                 |                                 | 2        | EA   | \$1,500.00       | \$3,000         | \$15,000.00           | \$30,000             | \$2,500.00    | \$5,000      | \$38,000  |
|  |          | Storage & Saw Sheds                     |                                 | 1        | LS   | \$0.00           | \$0             | \$7,500.00            | \$7,500              | \$0.00        | \$0          | \$7,500   |
|  |          | Temp. Toilets W/Wash Stations           |                                 | 56       | MO   | \$0.00           | \$0             | \$320.00              | \$17,920             | \$0.00        | \$0          | \$17,920  |
|  |          | Professional Photos                     |                                 | 1        | LS   | \$0.00           | \$0             | \$8,000.00            | \$8,000              | \$0.00        | \$0          | \$8,000   |
|  |          | Bulletin Boards                         |                                 | 2        | EA   | \$400.00         | \$800           | \$0.00                | \$0                  | \$0.00        | \$0          | \$800     |
|  |          | Misc Jobsite Signs                      |                                 | 1        | LS   | \$5,000.00       | \$5,000         | \$0.00                | \$0                  | \$0.00        | \$0          | \$5,000   |
|  |          | Office Supplies & Equipment             |                                 | 14       | MO   | \$1,000.00       | \$14,000        | \$0.00                | \$0                  | \$0.00        | \$0          | \$14,000  |
|  |          | Office Furniture                        |                                 | 6        | EA   | \$1,000.00       | \$6,000         | \$0.00                | \$0                  | \$0.00        | \$0          | \$6,000   |
|  |          | Jobsite Copy/Fax/Printer                |                                 | 14       | MO   | \$0.00           | \$0             | \$1,000.00            | \$14,000             | \$0.00        | \$0          | \$14,000  |
|  |          | Jobsite Computers                       |                                 | 3        | EA   | \$2,500.00       | \$7,500         | \$0.00                | \$0                  | \$0.00        | \$0          | \$7,500   |
|  |          | Jobsite Software                        |                                 | 3        | EA   | \$500.00         | \$1,500         | \$0.00                | \$0                  | \$0.00        | \$0          | \$1,500   |
|  |          | Jobsite Internet Charges                |                                 | 14       | MO   | \$0.00           | \$0             | \$1,250.00            | \$17,500             | \$0.00        | \$0          | \$17,500  |
|  |          | iPads                                   |                                 | 2        | EA   | \$0.00           | \$0             | \$1,000.00            | \$2,000              | \$0.00        | \$0          | \$2,000   |
|  |          | Firewall Access Points / Network Switch |                                 | 1        | LS   | \$0.00           | \$0             | \$25,000.00           | \$25,000             | \$0.00        | \$0          | \$25,000  |
|  |          | Cell Phone Monthly Charges              | Formula Calc                    | 43       | MO   | \$0.00           | \$0             | \$125.00              | \$5,375              | \$0.00        | \$0          | \$5,375   |
|  |          | Cell Phone Monthly Allow (Incl Tax)     | Formula Calc                    | 43       | MO   | \$0.00           | \$0             | \$83.00               | \$3,569              | \$0.00        | \$0          | \$3,569   |
|  |          | Postage & Shipping                      |                                 | 14       | MO   | \$250.00         | \$3,500         | \$0.00                | \$0                  | \$0.00        | \$0          | \$3,500   |
|  |          | Waterperson - Ice & Cups                |                                 | 14       | MO   | \$100.00         | \$1,400         | \$0.00                | \$0                  | \$0.00        | \$0          | \$1,400   |
|  |          | Temporary Fencing - Material            | w/ HP Windscreen                | 1,500    | LF   | \$11.00          | \$16,500        | \$9.00                | \$13,500             | \$0.00        | \$0          | \$30,000  |
|  |          | Temporary Fencing - Labor               | Temp Fencing Setup and Reconfig | 300      | HR   | \$0.00           | \$0             | \$0.00                | \$0                  | \$54.00       | \$16,200     | \$16,200  |
|  |          | Temporary - Roof Horizontal Lifeline    |                                 | 1        | LS   | \$0.00           | \$0             | \$10,000.00           | \$10,000             | \$6,202.00    | \$6,202      | \$16,202  |
|  |          | Temporary Protection                    |                                 | 15,000   | SF   | \$1.00           | \$15,000        | \$0.00                | \$0                  | \$0.93        | \$14,000     | \$29,000  |



| Start Date | End Date | Item                                  | Notes                           | Quantity | Unit | Material \$/Unit | Material Amount  | Equipment/Sub \$/Unit | Equipment/Sub Amount | Labor \$/Unit | Labor Amount       | Total              |
|------------|----------|---------------------------------------|---------------------------------|----------|------|------------------|------------------|-----------------------|----------------------|---------------|--------------------|--------------------|
|            |          | Temp. Power Cost - Trailers           |                                 | 14       | MO   | \$0.00           | \$0              | \$750.00              | \$10,500             | \$0.00        | \$0                | \$10,500           |
|            |          | <b>Building Services and Clean Up</b> |                                 |          |      |                  |                  |                       |                      |               |                    |                    |
|            |          | Weekly Clean-Up Estimate              |                                 | 61       | WEEK | \$10.00          | \$606            | \$0.00                | \$0                  | \$1,400.00    | \$84,868           | \$85,474           |
|            |          | Dumpster Dump Fees                    | General-14 MO, Steel-5 MO, Wood | 225      | DUMP | \$0.00           | \$0              | \$375.00              | \$84,435             | \$0.00        | \$0                | \$84,435           |
|            |          | Janitorial Services                   |                                 | 61       | WEEK | \$0.00           | \$0              | \$200.00              | \$12,124             | \$0.00        | \$0                | \$12,124           |
|            |          | Final Clean-Up Estimate -Bldg         |                                 | 19,000   | SQFT | \$0.00           | \$0              | \$1.00                | \$19,000             | \$0.00        | \$0                | \$19,000           |
|            |          | Hauling To & From Job                 |                                 | 1        | LS   | \$0.00           | \$0              | \$5,000.00            | \$5,000              | \$0.00        | \$0                | \$5,000            |
|            |          | <b>Inspection and Quality Control</b> |                                 |          |      |                  |                  |                       |                      |               |                    |                    |
|            |          | Quality Control System                |                                 | 14       | MO   | \$150.00         | \$2,100          | \$0.00                | \$0                  | \$0.00        | \$0                | \$2,100            |
|            |          | Quality Program Set-Up                |                                 | 14       | MO   | \$125.00         | \$1,750          | \$0.00                | \$0                  | \$250.00      | \$3,500            | \$5,250            |
|            |          | Third Party Evelelope Review          |                                 | 1        | EA   | \$0.00           | \$0              | \$10,000.00           | \$10,000             | \$0.00        | \$0                | \$10,000           |
|            |          | Air Barrier Testing                   |                                 | 1        | EA   | \$0.00           | \$0              | \$10,000.00           | \$10,000             | \$0.00        | \$0                | \$10,000           |
|            |          | <b>Temp. Heat and Protection</b>      |                                 |          |      |                  |                  |                       |                      |               |                    |                    |
|            |          | Temp Heat                             | Seasonal Rental                 | 1        | LS   | \$0.00           | \$0              | \$31,000.00           | \$31,000             | \$14,256.00   | \$14,256           | \$45,256           |
|            |          | <b>Equipment and Transportation</b>   |                                 |          |      |                  |                  |                       |                      |               |                    |                    |
|            |          | Forklift Operator                     | 40 Mob and Demob                | 3        | MO   | \$350.00         | \$1,050          | \$3,750.00            | \$11,250             | \$9,000.00    | \$27,000           | \$39,300           |
|            |          | Radio Base Station                    |                                 | 1        | LS   | \$0.00           | \$0              | \$3,500.00            | \$3,500              | \$0.00        | \$0                | \$3,500            |
|            |          | Radios                                |                                 | 5        | EA   | \$0.00           | \$0              | \$350.00              | \$1,750              | \$0.00        | \$0                | \$1,750            |
|            |          | Small Tools                           |                                 | 1        | LS   | \$0.00           | \$0              | \$5,000.00            | \$5,000              | \$0.00        | \$0                | \$5,000            |
|            |          | <b>Bonds, Insurance &amp; Permits</b> |                                 |          |      |                  |                  |                       |                      |               |                    |                    |
|            |          | <b>Sales &amp; Use Taxes</b>          |                                 |          |      |                  |                  |                       |                      |               |                    |                    |
|            |          | <b>SUMMARY</b>                        |                                 |          |      |                  |                  |                       |                      |               |                    |                    |
|            |          | Supervision & Administration          |                                 | 1        | LS   | -                | \$0              | -                     | \$0                  | -             | \$1,408,995        | \$1,408,995        |
|            |          | Misc. Supervision & Administration    |                                 | 1        | LS   | -                | \$16,300         | -                     | \$34,700             | -             | \$0                | \$51,000           |
|            |          | Plans & Printing                      |                                 | 1        | LS   | -                | \$0              | -                     | \$22,500             | -             | \$0                | \$22,500           |
|            |          | Virtual Design and Construction       |                                 | 1        | LS   | -                | \$0              | -                     | \$5,700              | -             | \$0                | \$5,700            |
|            |          | Safety & First Aid                    |                                 | 1        | LS   | -                | \$11,200         | -                     | \$4,900              | -             | \$600              | \$16,700           |
|            |          | Temporary Facilities                  |                                 | 1        | LS   | -                | \$74,200         | -                     | \$202,314            | -             | \$41,402           | \$317,916          |
|            |          | Building Services & Clean-Up          |                                 | 1        | LS   | -                | \$606            | -                     | \$120,559            | -             | \$84,868           | \$206,033          |
|            |          | Inspection & Quality Control          |                                 | 1        | LS   | -                | \$3,850          | -                     | \$20,000             | -             | \$3,500            | \$27,350           |
|            |          | Temporary Heat & Protection           |                                 | 1        | LS   | -                | \$0              | -                     | \$31,000             | -             | \$14,256           | \$45,256           |
|            |          | Equipment & Transportation            |                                 | 1        | LS   | -                | \$1,050          | -                     | \$21,500             | -             | \$27,000           | \$49,550           |
|            |          | <b>TOTAL GENERAL CONDITIONS COSTS</b> |                                 |          |      |                  | <b>\$107,206</b> |                       | <b>\$463,173</b>     |               | <b>\$1,580,620</b> | <b>\$2,151,000</b> |

## CLARIFICATIONS & ASSUMPTIONS

The following clarifications and assumptions pertain to the DD Bid dated February 09, 2023 unless otherwise noted:

### GENERAL ITEMS

- ❑ The intent of this Bid is to provide the anticipated cost of construction for the New Passenger Terminal at Northern Colorado Regional Airport (FNL)
- ❑ Documents used for this bid:
  - 60% Design Development Drawings as Prepared by VFLA, dated 1/13/2023.
  - 60% Design Development Specifications as prepared by VFLA. Dated 1/13/2023.
  - Question Log for Level 4 DD. Dated 1/31/2023.
  - FAA Special Provisions. Dated 1/20/2023 as provided prior to bid date of 2/09/2023
  - Davis Bacon Wage Decision General Decision Number: CO20230024. Dated 1/06/2023
- ❑ It is understood that the FAA Federal Contract and General Provisions, dated 4.19.23, will be referenced in the Prime Contract. These documents was not provided prior to bid; therefore, Hensel Phelps reserves our right to request modifications to the FAA Federal Contract and General Provisions, or be compensated for differences between the FAA and City documents at time of FGMP.
- ❑ Project includes a 19,300 sf New Passenger Terminal with associated site work.
- ❑ Project Location: 4825 Earhart Road, Loveland, CO 80538.
- ❑ General Contractor is performing the Work, including all preconstruction services, in its capacity as a general contractor and not a design professional. General Contractor's preconstruction services are being provided to identify and analyze the extent to which the Owner's design—prepared by Architect, Engineer, or any other design professionals engaged by Owner—facilitates construction. Notwithstanding anything to the contrary, General Contractor disclaims responsibility for the accuracy, sufficiency, or completeness of the Contract Documents. Except for design-build scopes of work expressly delegated to General Contractor in writing, responsibility for design remains solely with Owner, Architect, and Engineer—and any other design professional engaged by Owner.
- ❑ One Year Project Warranty.

### GENERAL CONDITIONS

- ❑ The total project general conditions include general conditions for the management of the project only. Any general conditions associated with "self-performed work", such as structural concrete, masonry and carpentry trades are included in the cost of the work.
- ❑ Covid-19 advanced cleaning and screening protocols are excluded.
- ❑ General Conditions align with the baseline schedule for a total of 86 staff months.
- ❑ General Condition staff billable rates are compliant with Davis Bacon wages, not subject to audit and are included per the following. Hensel Phelps reserves our right to re-evaluate these rates during the 95% CD pricing negotiations.

| Staff Position         | Hourly Rate |
|------------------------|-------------|
| Operations Manager     | \$118       |
| General Superintendent | \$118       |
| Project Manager        | \$106       |



## CLARIFICATIONS & ASSUMPTIONS

|                        |       |
|------------------------|-------|
| Project Superintendent | \$121 |
| Area Superintendent    | \$94  |
| Project Engineer       | \$94  |
| VDC Engineer           | \$92  |
| Office Engineer        | \$84  |
| Field Engineer         | \$81  |
| Senior Estimator       | \$118 |
| Lead Estimator         | \$96  |
| Estimator              | \$84  |
| Admin / Secretary      | \$69  |

- Hensel Phelps' craft billable rates are compliant with Davis Bacon wages, not subject to audit, and are for general requirements, building concrete, site concrete, door and hardware installation and rough carpentry are included per the following table.

| Classification                    | Hourly Rate |
|-----------------------------------|-------------|
| *L020 - Laborer                   | \$46.73     |
| *L021 - Labor Foreman             | \$57.09     |
| *L030 - Bricklayer                | \$58.35     |
| *L031 - Bricklayer Foreman        | \$65.19     |
| *L032 - Mortar Mixer              | \$47.21     |
| *L033 - Hod Carrier               | \$47.21     |
| *L035 - Masonry Superintendent    | \$72.03     |
| *L040 - Carpenter                 | \$56.35     |
| *L041 - Carpenter Foreman         | \$62.88     |
| *L050 - Cement Finisher           | \$57.99     |
| *L051 - Cement Finisher Foreman   | \$65.06     |
| *L070 - Operator - Equipment      | \$60.18     |
| *L071 - Operator - Crane          | \$76.26     |
| *L160 - Ironworker                | \$58.69     |
| *L161 - Ironworker Foreman        | \$63.20     |
| *L180 - Teamster                  | \$45.05     |
| *L170 - Drywaller                 | \$57.07     |
| *L052 - General Finisher Foreman  | \$70.44     |
| *L022 - General Labor Foreman     | \$71.19     |
| *L042 - General Carpenter Foreman | \$72.96     |

### INDIRECTS AND RESERVES

- The following items are included in the DD Bid:
- General liability insurance.
  - Builder's risk insurance.

## CLARIFICATIONS & ASSUMPTIONS

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- Subcontractor & supplier bonds.
  - Contractor's bond.
  - Contractor's fee and overhead costs.
- The following items are not included in the DD Bid and assumed to be provided by the Owner as applicable:
- Architect and engineering design
  - Architect and engineering on site office space
  - Geotech consulting and reports
  - Capitol facility impact fees and excised taxes
  - General building permits and fees
  - Professional liability insurance
  - All Material testing and inspections
  - Owner's contingency
  - Design completion contingency
  - Gross receipts taxes
  - Utility development and tap fees
  - Hazardous material abatement survey testing
  - Hazardous material abatement
  - RFID badging, or similar, for construction employees
  - Commissioning agent and plan development (Cx)
  - Vibration monitoring of the existing facility by a 3<sup>rd</sup> party
  - Contractor assumes that vibration tolerances of the existing, operating adjacent building will allow for installation of work utilizing typical means and methods
  - Contractor's preconstruction costs
  - FF&E costs
  - Development fees
- Design and/or construction contingency is excluded. Owner agrees that the Contingency Allowance as defined in Article 13.02.C of the General Conditions (EJCDC C-700 (Rev. 1)) can be used by the Contractor to account for overruns in the allowable Cost of the Work as defined in Article 13.01.
- Market driven changes in the cost of work. These costs are known as "buyout differences from the budget."
  - Adjustment to subcontractor's scope of work not anticipated at the time the subcontract was awarded.
  - Overtime and acceleration cost associated with contractor or subcontractor caused delays, resequencing, or schedule changes. This does not include Owner, project management delays, which will be compensated as a change order according to the Contract.
  - Overruns in general conditions and self-performed work items that are not "lump sum" bid items. Overruns in indirect cost. This does not include changes in the scope of work for indirect cost such as adding an additional water tap or changing the insurance requirements.

The contingency does not include such things as changes in scope, systems, type and/or qualitative changes of materials, finishes or equipment, all of which are the basis for a change order.



## CLARIFICATIONS & ASSUMPTIONS

- This DD Bid is based on the project having a 14-month schedule duration for construction.

### GENERAL

1. This bid does not meet the Buy American Act (BAA), or the Build America, Buy America (BABA) Act 100%. Some examples including, but not limited to the following scopes of work:
  - a. Tile
  - b. LVT
  - c. ACT
  - d. Millwork Hardware
  - e. Exit Lane Breach Control
  - f. Fire Protection
    - i. Backflow
  - g. Mechanical
    - i. RTU's and Split Units
    - ii. Building Controls
  - h. Electrical
    - i. Switch Gear
    - ii. Panel Boards
    - iii. Transformers
    - iv. Metering
    - v. Generator
    - vi. ATS for Generator
    - vii. Light Fixtures
    - viii. Fire Alarm System
    - ix. Access Control System
    - x. Video Surveillance System
    - xi. Telecom System
    - xii. Paging System
2. Davis Bacon wages have been included. Wages changing beyond what is listed in the General Decision Number CO20230024 wage rate form dated 01/06/2023 are not included.
  - a. Glazing & Millworkers are not included in the current wage decision and will be determined after award.
3. Priced as tax exempt for federal, state, county, city, and special districts.
  - a. Consumables are to be taxed as required.
4. No civil specifications have been provided. The local municipality's standards were followed for the civil scope of work. If there is a conflict between these standards and the Contract Documents, these shall be verified via RFI before the work commences.
5. Due to material availability challenges, pricing may include multiple manufacturers of a single product when needed to meet schedule.
6. Excludes receiving, storing, or material handling of Owner-Furnished Equipment.
7. Allowances included in specifications are not provided.
8. Alternates will be selected after trade partner selection between the Owner & Contractor.
9. Bid does not include design completion contingency. Owner to carry design completion contingency in its entirety.
10. Testing allowance is included at \$20,000 for the following tests only:
  - a. Air Barrier Testing



## CLARIFICATIONS & ASSUMPTIONS

- b. 3<sup>rd</sup> Party Envelope Testing
- 11. Estimate is based upon completion and delivery of 95% Construction Documents by 05/12/2023. Any changes to this date may impact the current schedule.
- 12. Current pricing does not include DBE participation at the 3.1% goal listed in the Contract Documents. Current pricing reflects approximately 2.62% DBE participation based off a contract price total of \$14,914,000.
- 13. The following documents were provided after the 60% Design Development bid phase and are not included in current pricing. Evaluation of these documents will be reconciled with the 95% documents to determine if there is any cost impact.
  - a. Geotechnical Recommendations for Lime Treated Subgrade, FNL New Terminal with Parking, Terracon Consultants, April 5, 2022
  - b. Geotechnical Engineering Services – Remolded Swells, FNL New Terminal with Parking, Terracon Consultants, May 19, 2022
- 14. It has been assumed that prior to the final execution of the construction contract, funds will be available via change order to the preconstruction agreement (not to exceed \$420,000) for the early procurement of long lead materials / equipment. This includes but is not necessarily limited to electrical switchgear, emergency generator, baggage handling system, and rooftop air handling units.

### A10 – FOUNDATIONS

#### A1010 – Standard Foundations

- 1. Pricing includes temporary ground thaw during foundations, if warranted.
- 2. WR Meadows Sealmastic II dampproofing material is included in lieu of what is specified and a substitution request will be used for this system.

#### A1020 – Special Foundations

- 1. Dewatering of drilled piers is by the drill rig mud bucket only. Any additional dewatering required due to unforeseen bedrock ground water is excluded.
- 2. Pumping of concrete for the drilled piers is included.
- 3. The drawings, specifications and Geotechnical report conflict regarding the required penetration into competent bedrock. Thus, worst case of 20 linear feet has been assumed.
- 4. There is no return on underruns from the driller.
- 5. There is no return on underruns on rebar.
- 6. Underruns on concrete will be returned.
- 7. Hoisting of drilled pier rebar cages over 55' in length is not anticipated and is excluded.

#### A1030 – Slab on Grade

- 1. 15mil vapor barrier is included at all areas under the slab on grade, as indicated. Vapor barriers directly underneath the slab on grade often promote slab curling. It is assumed the Owner is aware of this and has assessed and accepted this risk.
- 2. Only one mockup (7'x8') outside of the building footprint is included to demonstrate polished slab finishes. Additional mockups are not included. Hensel Phelps will coordinate with the Owner and design team to determine if this mockup should be completed within the building to better demonstrate the finished product.
- 3. Transformer pad is included, final dimensions to be determined at final selection of transformer.

### A20 – BASEMENT CONSTRUCTION

#### A2010 – Basement Excavation



- None included.

### **A2020 – Basement Walls**

- None included.

## **B10 – SUPERSTRUCTURE**

### **B1010 – Floor Construction**

- None included.

### **B1020 – Roof Construction**

1. AESS is not called out therefore not included in the pricing.
2. Macropoxy 646 primer is not included. Standard primer is included.
3. Mock-ups only available at the fabrication shop. In place mock-ups are not included. Shop mock-ups will be with primer only.
4. Two very large concrete mass equipment pads are indicated to be cast-in-place on the roof structure. Due to the weight of these pads, the Contractor has included money to shore the roof deck while placing said concrete pads. It is assumed the unusual weight of the concrete has been anticipated by the Structural Engineer of Record.
5. We are not providing the specified thermal break pad, but we will provide an equivalent.
6. Permanent fall protection/arrest system is not included.

## **B20 – EXTERIOR CLOSURE**

### **B2010 – Exterior Walls**

1. Dow DefendAir 200 acrylic fluid-applied air barrier in lieu of basis of design is included and a substitution request will be used for this system.
2. Vertical control joints for stone assumed 30' on center.
3. The metal panel products are rain screen products which rely on the installed air/moisture barrier for the performance of the wall assembly. The panels themselves are not weathertight.
4. Many of the wall assembly details call out for metal panels to be fastened through the insulation to studs; this is not feasible, and we've included thermally broken zee girts in plane of the insulation to satisfy our fastening requirements.
5. Sheet metal is included at coping conditions.
6. Furring strip depicted in detail 3/A4.2 behind the W3 panel type to be metal in lieu of wood.
7. Painting of Existing Terminal Building per the following:
  - a. Paint existing exterior masonry
  - b. Paint hollow metal doors and frames
  - c. Paint overhead door
  - d. Paint electrical boxes to match building
8. Assumed lead and asbestos are not included at the existing terminal building. Abatement costs, if required, assumed to be provided by Owner.
9. Painting of New Terminal Building
10. HEAT-FLEX HI-TEMP 3500 is included in lieu of what is shown on the drawings and a substitution request will be used for this system.
11. Wood under insulation per detail 3/A7.1 is not included. Insulation will be used at this detail per the manufacturer's details.

### **B2020 – Exterior Windows**

1. Electrochromic glazing is not included.



## CLARIFICATIONS & ASSUMPTIONS

2. All glazing priced as storefront. Curtainwall, or any other systems are not included.
3. We have included an ~ 2" x 6" system.

### **B2030 – Exterior Doors**

1. Overhead coiling doors to be provided by the baggage handling trade partner.

### **B3010 – Roof Coverings**

1. Standard 24-gauge prefinished steel at roof related caps and counter flashings.
2. The wage rates for roofing, metal roofing and associated metal gutters, downspouts and flashings are included as the roofer wage, not the Sheetmetal worker wage rate.
3. Roofing included above west vestibule to match roofing R1 as described on G0.2
4. Costs for testing at the roof are excluded, except as required by the manufacturer.
5. Existing terminal roof adhesion test is not included.
6. Existing terminal roof paint includes the following:
  - a. Paint roof and fascia
  - b. Specification does not define a system, we have included Sherwin Williams Wash Primer with SherCryl topcoat. Topcoat is an acrylic paint.

### **B3020 – Roof Openings**

- a. None included.

## **C10 – INTERIOR CONSTRUCTION**

### **C1010 – Partitions**

1. G60 galvanized coating figured at exterior framing materials and G40 for all interior framing materials.
2. Exterior framing figured to be 6" x 16ga framing at 16" o.c. with 1/2" Densglass sheathing at exterior.
3. Provide CRC lateral bridging at 4' o.c. at exterior walls.
4. Provide interior framing figured to be 20ga metal studs 16" o.c. Stud size will vary with wall type per schedule on sheet G0.2.
5. Provide double interior door jamb studs at interior HM door frames.
6. Interior drywall is figured to be 5/8" Type X typical with Denshield tile backer behind tiled wall, impact resistant gyp board at toilet rooms, hallways, corridors, and janitor's rooms.
7. Provide interior sound batt insulation in interior sound walls as indicated, with sound caulking at top & bottom of walls.

### **C1020 – Interior Doors**

1. Interior door hardware schedule was not included with the Documents. Contractor has followed the Designer's instructions and has included an allowance of \$45,000 to furnish and install hardware.
2. The specified security grilles at both ends of the TSA lane do not meet the Buy American Preferences required for this project, therefore a substitute will be required and is included.

### **C1030 – Specialties**

1. FF&E is not included, assumed to be furnished and installed by Owner.
2. Window Coverings
  - a. Window covering pricing includes the following:
    - i. Motorized window shades included at all exterior windows, except at the clerestory windows, transoms, vestibules, and below the light shelf.

- ii. Below the light shelf we have assumed mullion mounted manual roller shades are acceptable.
- iii. All window coverings priced as surface mount. Assumed blocking above window to be adequate for attachment of motorized window shades per A7.3.
- iv. Pricing includes Lu-Tek Motorized Roller Shades (MS-50), Manual Roller Shades (ML-30). 3000 Net 5% Fabric.
- v. Owner Stock is not included.
- 3. Toilet Accessories are included per drawings.
- 4. Signage:
  - a. Building mounted sign is included in pricing.
  - b. A budget of \$15,000 is included for wayfinding signage.
  - c. FIDS/BIDS/GIDS is not included.
  - d. Building Monument Sign is not included.
- 5. Misc. Specialties:
  - a. The MOZ Panels are included per the drawings, as there is conflicting information in the specifications.
  - b. We have included installing owner-provided toilet accessories.
  - c. There are no hand dryers shown on the drawings, therefore none are included.
  - d. Two digital scales at ticketing are included, including 3<sup>rd</sup> party scale certification.

### **C2010 – Stair Construction**

- None included.

### **C2020 – Stair Finishes**

- None included.

## **C30 – INTERIOR FINISHES**

### **C3010 – Wall Finishes**

- 1. Acrylic Sealer has been included at the exterior masonry.
- 2. AP1 - 32"x32" Modular Arts Aural Scapes Flo Acoustic Wall Panels in LW-05 Snow White. Panels to be directly mounted to the wall through the manufacturer applied backer.
- 3. AP2 - 4x8 Arktura SoftSound Panels with Groove Straight 6 pattern and priced for one standard color. Panels to be trimmed to proper dimensions in the field and installed using manufacturer recommended Liquid Nails construction adhesive.

### **C3020 – Floor Finishes**

- 1. Polished concrete to the aggregate exposure, polish and color, provided by the designer, is included. Consistency of the aggregate exposure across the floor cannot be guaranteed.
- 2. Relative humidity and alkaline testing is included. Mitigation is not included.

### **C3030 – Ceiling Finishes**

- 1. C1 - Armstrong Suprafine XL 9/16" grid suspension system with 2x4 Armstrong #1759 Fine Fissured tegular reveal-edge acoustical ceiling tile.
- 2. C3 - Armstrong Suprafine XL 9/16" grid suspension system with 2x2 Armstrong #3251 Optima tegular reveal edge acoustical ceiling tile.



## CLARIFICATIONS & ASSUMPTIONS

3. C4 - Armstrong Suprafine XL 9/16" grid suspension system with 30"x60" Armstrong #3285 Optima tegular reveal edge acoustical ceiling tile.
4. C5 - Armstrong Suprafine XL 9/16" grid suspension system with 4x4 Armstrong #3256 Optima tegular reveal edge acoustical ceiling tile.
5. C6 - Armstrong Suprafine XL 9/16" grid suspension system with 2x8 Armstrong #3262 Optima tegular reveal edge acoustical ceiling tile.
6. Felt Right Ceiling Tile - 9mm Felt Right Ceiling to be direct attached to the ceiling using manufacturer recommended Liquid Nails construction adhesive. Tiles priced for one standard color with no pattern.
7. Material for owner's stock equal to 1% (or 1 full carton) of installed ceiling tile for C1, C3, C4, C5 & C6.

### D10 – CONVEYING

1. We have included baggage handling per the Contract Documents.
2. Merge conveyor included is a manufacturer Five Star equivalent.

### D20 – PLUMBING

#### Plumbing Equipment

- (1) RPBP-1 Backflow Preventer
- (1) EWH-1 Electric water heater with standard (non ASME) expansion tank
- (1) CP-1 Hot water recirculation pump.
- (1) TMV-1 master mixing valve.
- (4) WC-1, wall mount sensor flush valve (battery) with carriers
- (2) WC-2, wall mount sensor flush valve (battery) with carriers
- (4) WC-3, floor mount tank type
- (2) UR-1,2; wall mount sensor flush valve (battery) with carriers
- (11) L-1, under counter mount sensor valve (battery)
- (11) L-1 soap dispensers (battery)
- (1) EWC-1 with bottle filler with carrier
- (2) MSB-1 mop sink basins
- (2) WH-1 wall hydrants
- (2) RH-1 roof hydrants
- (3) 6" Downspout Transition Boots
- (6) FD-1
- (1) FS-1
- (7) water hammer arresters
- (1) Sanitary Floor Cleanout
- (2) Sanitary Wall Cleanouts
- (6) Storm Grade Cleanouts
- (1) 2-Way Sanitary Grade Cleanouts
- Note: GD-1 Garbage disposals and associated sinks are excluded, as they are no longer on the plans.

#### Piping Systems

- Under floor sanitary sewer piping of PVC plastic.
- Under floor storm sewer piping of PVC plastic.
- Above floor waste and vent piping NH cast iron.
- Above floor storm drain – NOT APPLICABLE. Exterior downspouts by Roofing.
- Above floor domestic water piping Type L copper, press joints.
- Above floor condensate piping Type M copper, press joints.

- Piping insulation domestic hot and cold water.
- Excavation with compaction
- Backflow Certification.

### D30 – HVAC

#### HVAC Equipment –

- 15,000 CFM RTU-1 for Airside Service
  - VAV Configuration
  - Supply Fan with VFD, no bypass
  - DX Cooling
  - Electric Heat
  - Merv 13 Filters
  - 18" Standard Curb.
- (1) 7,300 CFM RTU-2 for Landside Service
  - VAV Configuration
  - Supply Fan with VFD, no bypass
  - DX Cooling
  - Electric Heat
  - Merv 13 Filters
  - 18" Standard Curb.
- FCU-1/ACCU-1
  - 4-ton single-stage cooling only wall cassette split system
- FCU-2, 3, 4, 5, 6/ACCU-2, 3, 4, 5, 6
  - 2-ton single-stage cooling only wall cassette split systems
- EF-1
  - 2580 CFM @ 0.75"wc
  - Centrifugal downblast roof mount with 12" Curb
  - Spec not located for fans, assumes Penberry, Cook and Greenheck are acceptable manufacturers
- EF-2
  - 200 CFM @ 0.5"wc
  - Centrifugal downblast roof mount with 12" Curb
  - Spec not located for fans, assumes Penberry, Cook and Greenheck are acceptable manufacturers
- (19) Fan Powered VAV Units
  - 500-2000cfm range
  - Electric heating coil with SCR control
- (2) Electric Air Curtains, CAC-1, 2.
  - Heating Only
  - Stand-alone wall stat operation and door switch.
- (2) Electric Unit Heaters, EUH-1, 2

## CLARIFICATIONS & ASSUMPTIONS

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- 5kw, 3kw respectively
- Standalone wall stat operation
- (153) GRDs as indicated on the plans (SD-1,2; RD-1; EG-1)
- All medium-pressure ductwork indicated on the Plans.
- All low-pressure ductwork indicated on the Plans.
- Pre-insulated line-sets for refrigeration piping.
- Cable actuated balancing dampers for hard lid locations.
- Duct security bars as required.

### Mechanical Specifications

- Duct Specifications:
  - All MP supply duct to be galvanized steel rated for +4" pressure class.
  - All LP supply duct to be galvanized steel rated for +2" pressure class.
  - All exhaust duct to be galvanized steel rated for -2" pressure class.
  - All return duct to be galvanized steel rated for -2" pressure class.
  - Insulation includes
    - 2" (3/4 pcf) mineral fiber blanket wrapped round duct. Note: This deviates from specification of 3 pcf. 3pcf will require glass board insulation.
    - 1-1/2" fiberglass lined rectangular duct. Per General note 2, M0.1.
  - Duct jacketing is excluded, no exterior duct on project.
  - Anti-microbial coating on non-lined round ductwork.

### Mechanical Controls and BAS

- The mechanical contractor has excluded incorporation of specification 23 09 23 – DDC System for HVAC in its entirety.
- As Carrier is the basis of design, the scope of work included in this proposal is limited to the following based on proposal by Owner's designated controls contractor (Carrier). It is assumed the designer will coordinate their final specification with this scope of work.
- BAS System:
  - New Carrier i-Vu Web Building Automation System (BAS).
  - System includes the following items as specified:
  - Technical Services Provided:
    - Engineering submittals
    - Configuration and Programming of controllers
    - System Graphics
    - System Checkout
    - Air balancing assistance
  - Installation Services Provided:
    - Installation and wiring of DDC controls system
    - 1st year parts & labor warranty
- 3rd Party Commissioning: Labor is provided for working with the 3rd party CxA.



## CLARIFICATIONS & ASSUMPTIONS

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- Factory VAV RTUs (2 each)
  - Factory packaged VAV RTU with factory installed BACnet Controller to provide monitoring and control of RTU using the manufacturer's standard published points.
  - Provide/install communication link to central BAS system.
  - Wire duct smoke detector shutdown interlock
  - Provide/install duct static pressure pickup
  - Provide/install building static pressure pickup
- FPBVAVs (19 each)
  - Field installed VAV BACnet Controller and Leaving Air Temperature sensor
  - Provide/install communication link to central BAS system
  - Provide/install space temperature sensor
- Miscellaneous Items
  - (1) Monitoring of building electrical meter
  - (1) Monitoring of building water meter
- Non-BAS Integrated Points
  - (6) Ductless split systems
  - (2) Electric unit heater thermostats

### Fuel Systems

- Natural Gas Systems
  - Excludes natural gas scope in its entirety. None show in the design.

### **D40 – FIRE PROTECTION**

1. Seismic bracing is not included.
2. A fire pump is not anticipated.
3. A 20% extra fire sprinkler heads allowance is provided per drawings.
4. Sprinkler heads in the exit lane tunnel.

### **D50 – ELECTRICAL**

#### Demolition

1. Make safe of electrical items to be demolished by the demo contractor.

#### BIM Drawings and Coordination

1. Includes participation in the coordination process led by Hensel Phelps.
2. Includes modeling the following items:
  - a. Model all transformers, and distribution equipment.
  - b. All distribution boxes.
  - c. All interior conduits 1 ½" or larger in ceiling spaces and chases.
  - d. All bundled conduits.
  - e. All cable trays.
  - f. All underground conduit runs to 5'-0" from edge of building.
  - g. All equipment pads.
  - h. All access panels. Report any conflicts to architectural design.

## CLARIFICATIONS & ASSUMPTIONS

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- i. All fixtures.
  - j. Specialty systems (Gen. Sets, UPS, ATS, fire alarm, etc. that are in our scope of work)
  - k. For all fixtures requiring installation or maintenance clearances, model the clearance as a semi-transparent item in the assembly.
  - l. Hangers
3. Additional modeling such as existing conditions, point cloud scans, low voltage systems, or any other equipment is not included in our proposal but can be provided for an additional fee.

### Site Lighting and Power

- 1. Includes site lighting as shown on the electrical site lighting plans.
- 2. Includes site power as shown on the electrical site power plans.

### Site Low Voltage Conduits

- 1. Includes conduits as shown on the drawings and specifications.  
NOTE: The location shown on the existing building is not correct. We have extended these conduits to enter the existing building in the actual tele/data closet location. We will penetrate the building at the tele/data location and provide conduit stubs only. We have not included any additional conduits within the existing building.  
NOTE: The location of the existing underground service provider vault is not shown on the drawings. We are providing the conduits as shown on the tele/data drawing only.

### EV Charging Equipment

- 1. Includes rough-in only as shown on the electrical site power plan.
- 2. Furnishing the EV chargers is excluded.

### Distribution Equipment and Feeders

- 1. Includes all distribution equipment as shown on the electrical drawings and specifications.
- 2. Includes copper conductors as specified and shown on the feeder schedules.

### Generator Equipment and Feeders

- 1. Includes the generator, generator distribution panel, transfer switches, and other equipment associated with the generator system as shown on the drawings and specifications.
- 2. Includes setting of equipment, testing, and fueling.
- 3. Exclusion of a potential roll-up generator tap-box / load bank / transfer switch connection.

### Grounding

- 1. Includes all electrical grounding and tele/data room ground bars as shown on the drawings and specifications.
- 2. Final connections from tele/data equipment or racks to ground bar are by each tele data contractor or owner vendor.

### Light Fixtures and Lighting Controls

- 1. Includes light fixtures as shown on the electrical drawings, specifications, and light



## CLARIFICATIONS & ASSUMPTIONS

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fixture schedules. Lighting pricing is based on sheet E3.1, as there are discrepancies between the RCP drawing (A2.1) and the lighting plan (E3.1).

2. Includes light fixture supports as shown on the drawings and specifications.
3. Includes lighting controls as shown on the drawings, specifications, and as designed by the lighting control vendor to be a complete, code-compliant system.
4. Lighting control cabling will be installed in conduit where concealed in walls and will be installed on j-hooks etc. exposed where installed above ceilings. All cabling will be plenum rated. We are not providing a complete conduit system for all lighting control cabling.
5. Lighting inverter is not included in the base project. A lighting inverter will come into play in the alternate pricing to remove the generator.

### Power Devices and Building Equipment Connections

1. Includes connections to all owner provided equipment as shown on the electrical drawings.
2. Includes connections to all equipment and furniture as shown on the electrical drawings.
3. Includes connections to TSA equipment including power poles as shown on the drawings.
4. Includes electrical connection to BHS MCP's as shown on the drawings.
5. Includes power connection to motorized shades as described in the bidding documents.
6. Includes all devices as shown on the electrical drawings.

### Mechanical/Plumbing Equipment Connections

1. Includes single point electrical connection to mechanical and plumbing equipment as shown on the drawings and specifications. Includes local service disconnecting means as shown on the equipment schedule.
2. All VFD's and Motor Starters are to be provided by others. We will install loose shipped VFD's and Motor Starters per the drawings and specifications.
3. All BAS and Thermostat installation, wiring, and devices are by the Mechanical Controls Contractor.

### Fire Alarm System

1. Includes a complete, design-build fire alarm system meeting the specification and local AHJ requirements.
2. Includes fire alarm permit fees.
3. All fire alarm cabling installed in conduit as specified.

### Emergency Responder DAS System

1. Provide a facility test to confirm if an emergency responder radio coverage system will be required is included.
2. Supply and installation of EM DAS system is not included.

### Lightning Protection System

1. Not included; Not shown in design.

### Low Voltage Systems

1. Tele/Data System Rough In
  - a. Includes all rough in as shown on the bidding documents.

- b. Includes back boxes with conduit stub ups to ceiling spaces.
  - c. Includes conduit sleeves as shown on the drawings.
  - d. Includes conduits from main MDF room to TSA room as shown on the drawings.
  - e. Includes conduits from tele/data closets to general areas as shown on the drawings.
  - f. A complete conduit system has not been provided for all telecommunications cabling and in general, cabling located in ceiling spaces will be run without conduit and supported by j-hooks or straps.
2. Tele/Data System (Structured Cabling)
- a. CAT6 and fiber optic cabling (Berk-Tec / Leviton)
  - b. Cabling ran in j-hooks (where not in pathways shown on the drawings) Format

### TSA wiring closet

- (1) 4 Post Freestanding rack
- (2) Vertical wire managers 6" wide
- (2) Vertical Mounted Power strips
- (1) 3KVA Tripp Lite rack mounted UPS
- (1) Network card for UPS
- (1) Horizontal Mounted Buss Bar 1U
- (6) Horizontal wire managers

### Building IT wiring closet

- (2) 4 Post Freestanding rack
- (4) Vertical wire managers 6" wide
- (4) Vertical Mounted Power strips
- (2) 3KVA Tripp Lite rack mounted UPS
- (2) Network card for UPS
- (2) Horizontal Mounted Buss Bar 1U
- (11) Horizontal wire managers

### Airport 001 wiring closet

- (1) 4 Post Freestanding rack
- (2) Vertical wire managers 6" wide
- (2) Vertical Mounted Power strips
- (1) 3KVA Tripp Lite rack mounted UPS
- (1) Network card for UPS
- (1) Horizontal Mounted Buss Bar 1U
- (3) Horizontal wire managers

### Airport 002 wiring closet

- (1) 4 Post Freestanding rack
- (2) Vertical wire managers 6" wide
- (2) Vertical Mounted Power strips
- (1) 3KVA Tripp Lite rack mounted UPS
- (1) Network card for UPS
- (1) Horizontal Mounted Buss Bar 1U
- (3) Horizontal wire managers

### Backbone Cabling

- Existing TSA Closet to New TSA Closet: 12 Strand Single Mode Fiber
- Building IT Closet to New TSA Closet: 12 Strand Single Mode Fiber
- Existing IT Closet to New IT Closet: 24 Strand OM4 MM Fiber



## CLARIFICATIONS & ASSUMPTIONS

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### Copper Backbone Cabling Links

- IT Room Rack 01 to Airport Room 1: 24 Category 6 cables
- IT Room Rack 01 to Airport Room 2: 24 Category 6 cables
- IT Room Rack 01 to IT Room Rack 02: 24 Category 6 cables

### MaxCell Innerduct

- Building IT room to Existing UG Vault: (3) 4" 3-Cell ducts
- Building IT room to Airline IT Room 1: (1) 2" 3-Cell ducts
- Building IT room to Airline IT Room 2: (1) 2" 3-Cell ducts
- Building IT room to Existing IT Room: (3) 2" 3-Cell ducts
- Existing TSA room to New TSA Room: (2) 2" 3-Cell ducts.

### 3. Security System Rough In

- a. Includes all rough in as shown on the bidding documents.
- b. Includes back boxes with conduit stub ups to ceiling spaces.
- c. We have not provided a complete conduit system for all telecommunications cabling and in general, cabling located in ceiling spaces will be run without conduit and supported by others.

### 4. Security System

- a. Turn-key installation from Electronic Systems International
  - i. Access Control
  - ii. Surveillance

### 5. Paging Rough In

- a. Includes all rough in as shown on the bidding documents.
- b. Includes back boxes with conduit stub ups to ceiling spaces.
- c. A complete conduit system has not been provided for all cabling and in general, cabling located in ceiling spaces will be run without conduit and supported by j-hooks or straps.

### 6. Page System

- a. (2) paging zones
- b. (34) speakers in total (AtlasIED)
- c. (5) desktop paging stations (Biamp Vocia Systems)
- d. (1) wall mounted paging station (Biamp Vocia Systems)
- e. Cabling ran in j-hooks (where not in pathways shown on the drawings)

### 7. Low Voltage - Owner Furnished/Owner Installed (OFOI) Items

- a. WAP system
- b. WAP software and controls
- c. PoE network edge and core switches
- d. VoIP phone system, handsets
- e. Network services, routers, firewalls, wireless network control, licensing, and integration
- f. Desktop PC's

### 8. Audio Visual - Owner Furnished/Owner Installed (OFOI) Items

- a. FIDS (Flight Information Display Screens) at Ticketing Queue
- b. GIDS (Gate Information Display Screens) at Arrival & Departure Lounge



## CLARIFICATIONS & ASSUMPTIONS

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- c. GIDS (Gate Information Display Screens) (2nd location) (Gate Information Display Screens) at Arrival & Departure Lounge
- d. BIDS (Baggage Information Display Screens) at Baggage Claim
- e. History Wall Static Exhibits
- f. History Wall Video Display

### **E10 – EQUIPMENT**

- 1. Airlines and TSA Breakroom appliances are not included.
- 2. TSA equipment assumed to be provided by TSA and is not included.
  - a. The TSA equipment is assumed to arrive per the Progress Schedule.
- 3. Food Service Equipment by Future Tenant.
- 4. Exit Lane Breach Control included. Manufacturers do not meet Buy American Act requirements.

### **E20 – FURNISHINGS**

- ☐ None included.

### **F10 – SPECIAL CONSTRUCTION**

- ☐ None included.

### **F20 – SELECTIVE BUILDING DEMOLITION**

- 1. We have included a budget of \$10,000 to remove the existing baggage structure.
- 2. We have included a budget of \$10,000 to remove the de-icing tank.

### **G00 – GENERAL SITE ITEMS**

- 1. Specifications were not included for majority of the civil scopes. The local municipality's standards were followed for the civil scopes of work. If there is a conflict between these standards and the Contract Documents, these shall be verified via RFI before the work commences.
- 2. We have included a gate guard during earthwork activities.
- 3. Erosion control was priced based off the early release of the SWPPP plan described as SDP Round 3, dated 03.03.23.
- 4. A budget for SWPPP Maintenance is included for duration of project.

### **G10 – SITE PREPARATION**

- 1. Testing and certification from a certified laboratory of the de-icing tank and surrounding soil to be by Owner. Removal of underground de-icing tank assumed to be non-hazardous and not contaminated. Assumed de-icing tank can be disposed of in a local landfill.

### **G20 – SITE IMPROVEMENTS**

- 1. We have included 5" Asphalt cross section thickness per the civil drawings. Note the drawings show 5" thick and the Geotech suggests using 6" thick.
- 2. 6" gravel below base below asphalt/pavement is assumed to be standard CDOT class 5 base.
- 3. FAA paving is not included.
- 4. 3' over excavation at pavements is included in lieu of the use of lime.
- 5. Building monument sign by Owner.
- 6. Landscaping

- a. We have included a one-year maintenance and warranty for plants and seeded areas.
- 7. Vehicle barrier bollards are not included.

### **G30 – SITE MECHANICAL UTILITIES**

- 1. Rip Rap is not assumed to be grouted.
- 2. Water meter and tap fees are not included.
- 3. Gas line not included.
- 4. No Cathodic protection is included.

### **G40 – SITE ELECTRICAL UTILITIES**

- 1. PV Array is not included.
- 2. Providing rough-in only for EV Charge Stations.
- 3. Electric light bollards included.

### **G50 – OTHER SITE CONSTRUCTION**

- ☐ None included.



FEDERAL CONTRACT PROVISIONS

**Contract Provision Guidelines for Obligated Sponsors  
and Airport Improvement Program Projects**

(Issued on January 20, 2023)

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

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

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

## **A2 AFFIRMATIVE ACTION REQUIREMENT**

### **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: | 6.9% |
| 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 nonfederally 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 Loveland, Colorado in Larimer County.

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

#### **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 the deadline indicated in the Owner’s notice.

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

### **A4 BUY AMERICAN PREFERENCE**

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

The Contractor certifies that its bid/offer is in compliance with 49 USC § 50101, BABA and other related Made in America Laws,<sup>1</sup> U.S. statutes, guidance, and FAA policies, which provide that Federal funds may not be obligated unless all iron, steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration

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

has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

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

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

#### **A4.1.1 Certification of Compliance with FAA Buy American Preference – Construction Projects**

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with its proposal. The bidder or offeror must indicate how it intends to comply with 49 USC § 50101, BABA and other related Made in America Laws, U.S. statutes, guidance, and FAA policies, by selecting one of the following certification statements. These statements are mutually exclusive. 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, BABA and other related U.S. statutes, guidance, and policies of the FAA by:
- a) Only installing iron, steel and manufactured products produced in the United States;
  - b) Only installing construction materials defined as: an article, material, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
  - c) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - d) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

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

- a) To provide to the Airport Sponsor or the FAA evidence that documents the source and origin of the iron, steel, and/or manufactured product.
  - b) To faithfully comply with providing U.S. domestic products.
  - c) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
  - d) Certify that all construction materials used in the project are manufactured in the U.S.
- ☐ The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
- a) To submit to the Airport Sponsor or FAA within 15 calendar days of being selected as the responsive bidder, a formal waiver request and required documentation that supports the type of waiver being requested.
  - b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.
  - c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
  - d) To furnish U.S. domestic product for any waiver request that the FAA rejects.
  - e) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

### **Required Documentation**

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

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

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

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

- d) Percentage of non-domestic component and subcomponent cost as compared to total "facility" component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

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

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

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Title



#### **A4.1.2 Certification of Compliance with FAA Buy American Preference – Equipment/Building Projects**

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, and other Made in America Laws, U.S. statutes, guidance, and FAA policies by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter “X”.

- ☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101, BABA and other related U.S. statutes, guidance, and policies of the FAA by:
- a) Only installing steel and manufactured products produced in the United States;
  - b) Only installing construction materials defined as: an article, material, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
  - c) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - d) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

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

- a) To provide to the Airport Sponsor or FAA evidence that documents the source and origin of the steel and manufactured product.
  - b) To faithfully comply with providing U.S. domestic product.
  - c) To furnish U.S. domestic product for any waiver request that the FAA rejects.
  - d) 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 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for a Type 3 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
- a) To submit to the Airport Sponsor or FAA within 15 calendar days of being selected as the responsive bidder, a formal waiver request and required documentation that supports the type of waiver being requested.
  - b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.



- c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
- d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

### **Required Documentation**

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

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

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

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

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

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

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

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Date

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Signature

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Company Name

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Title

## **A5 CIVIL RIGHTS - GENERAL**

### **GENERAL CIVIL RIGHTS PROVISIONS**

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

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

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

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

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

The City of Loveland, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.

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

- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

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

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

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent 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. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor’s obligations under this



contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the 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.

## **A7 CLEAN AIR AND WATER POLLUTION CONTROL**

### **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 USC §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

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

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

### **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 \$29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

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

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

#### 4. Subcontractors.

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

## **A9 COPELAND "ANTI-KICKBACK" ACT**

### **COPELAND "ANTI-KICKBACK" ACT**

Contractor must comply with the requirements of the Copeland "Anti-Kickback" Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3.

Contractor and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor and each Subcontractor must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Owner must report any violations of the Act to the Federal Aviation Administration.

## **A10 DAVIS-BACON REQUIREMENTS**

### **DAVIS-BACON REQUIREMENTS**

#### **1. Minimum Wages.**

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

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

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

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

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

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

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

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

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

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

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

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



work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the Contractor, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

### 3. Payrolls and Basic Records.

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

(ii)(A) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (*e.g.*, the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit them to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require



a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

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

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

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

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

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

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

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

#### 4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship



Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training

program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

#### 5. Compliance with Copeland Act Requirements.

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

#### 6. Subcontracts.

The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR §§ 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR § 5.5.

#### 7. Contract Termination: Debarment.

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

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

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

#### 9. Disputes Concerning Labor Standards.

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

#### 10. Certification of Eligibility.

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

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

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

See below for Federal Wage Determinations:

**REFERENCE EXHIBIT D OF THE CONSTRUCTION CONTRACT**

General Decision Number: CO20230024; DATED 01/06/2023

**A11 DEBARMENT AND SUSPENSION**

**CERTIFICATION OF OFFEROR/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.

**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 confirm each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally-assisted project. The successful bidder will accomplish this by:

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

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

**A12 DISADVANTAGED BUSINESS ENTERPRISE**

**Bid Information Submitted as a matter of responsiveness:**

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 responsiveness, the Bidder or Offeror must submit the following information with its 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) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; and
- 6) 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 documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the City of Loveland 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.

#### **Contract Assurance (49 CFR § 26.13)**

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

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

#### **Prompt Payment (49 CFR § 26.29)**

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 7 days from the receipt of each payment the prime contractor receives from the City of Loveland. The prime contractor agrees further to return retainage payments to each subcontractor not to exceed 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 Loveland. This clause applies to both DBE and non-DBE subcontractors.

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

The prime contractor must not terminate a DBE subcontractor listed in response to [include Solicitation paragraph number where paragraph 12.3.1, Solicitation Language appears] (or an approved substitute DBE firm) without prior written consent of the City of Loveland. This includes, but is not limited to, instances in which the prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The prime contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains written consent from the City of



Loveland. Unless City of Loveland consent is provided, the prime contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

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

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

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

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

## **A13 DISTRACTED DRIVING**

### **TEXTING WHEN DRIVING**

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

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

## **A14 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

### **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or

equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)].

## **A15 DRUG FREE WORKPLACE REQUIREMENTS**

None.

## **A16 EQUAL EMPLOYMENT OPPORTUNITY (EEO)**

### **EQUAL OPPORTUNITY CLAUSE**

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

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Contractor's commitments under this section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

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

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

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

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

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY  
CONSTRUCTION CONTRACT SPECIFICATIONS**

1. As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
- d. "Minority" includes:
  - (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
  - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
  - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and



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

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

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

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in a geographical 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 nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.



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

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

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

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

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

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

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

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring,

assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

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

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

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

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

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

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

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

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

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

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Contractor actively

participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

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

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

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

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

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

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



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

## **A17 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

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

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

## **A18 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES**

### **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, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for



making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **A19 PROHIBITION OF SEGREGATED FACILITIES**

### **PROHIBITION OF SEGREGATED FACILITIES**

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

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

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

## **A20 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

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

## **A21 PROCUREMENT OF RECOVERED MATERIALS**

### **PROCUREMENT OF RECOVERED MATERIALS**

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the

Contractor and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

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

The list of EPA-designated items is available at [www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products](http://www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products).

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

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

## **A22 RIGHT TO INVENTIONS**

### **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 37 CFR § 401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

## **A23 SEISMIC SAFETY**

### **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.

## **A24 TAX DELINQUENCY AND FELONY CONVICTIONS**

### **CERTIFICATION OF OFFEROR/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS**

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

#### **Certifications**

- 1) The applicant represents that it is ( ) is not ( ) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) The applicant represents that it is ( ) is not ( ) a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

#### **Note**

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

#### **Term Definitions**

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

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



## **A25 TERMINATION OF CONTRACT**

### **TERMINATION FOR CONVENIENCE (CONSTRUCTION & EQUIPMENT CONTRACTS)**

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

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

Owner agrees to pay Contractor for:

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

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

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

### **TERMINATION FOR CAUSE (CONSTRUCTION)**

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



### **TERMINATION FOR CAUSE (EQUIPMENT)**

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

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

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

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

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

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

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

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

## **A26 TRADE RESTRICTION CERTIFICATION**

### **TRADE RESTRICTION CERTIFICATION**

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

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

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

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

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

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

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

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

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct

through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

## **A27 VETERAN'S PREFERENCE**

### **VETERAN'S PREFERENCE**

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

## **A28 DOMESTIC PREFERENCES FOR PROCUREMENTS**

### **CERTIFICATION REGARDING DOMESTIC PREFERENCES FOR PROCUREMENTS**

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

**EXHIBIT C**

**FEDERAL GENERAL PROVISIONS**

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## Section 10 Definition of Terms

When the following terms are used in these specifications, in the contract, or in any documents or other instruments pertaining to construction where these specifications govern, the intent and meaning shall be defined as follows:

| Paragraph Number | Term                                     | Definition  |
|------------------|--|---|
| 10-01            | <b>AASHTO</b>                            | The American Association of State Highway and Transportation Officials.   |
| 10-02            | <b>Access Road</b>                       | The right-of-way, the roadway and all improvements constructed thereon connecting the airport to a public roadway.  |
| 10-03            | <b>Advertisement</b>                     | A public announcement, as required by local law, inviting bids for work to be performed and materials to be furnished.  |
| 10-04            | <b>Airport</b>                           | Airport means an area of land or water which is used or intended to be used for the landing and takeoff of aircraft; an appurtenant area used or intended to be used for airport buildings or other airport facilities or rights of way; airport buildings and facilities located in any of these areas, and a heliport.  |
| 10-05            | <b>Airport Improvement Program (AIP)</b> | A grant-in-aid program, administered by the Federal Aviation Administration (FAA).  |
| 10-06            | <b>Air Operations Area (AOA)</b>         | The term air operations area (AOA) shall mean any area of the airport used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft. An air operation area shall include such paved or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft in addition to its associated runway, taxiway, or apron. |
| 10-07            | <b>Apron</b>                             | Area where aircraft are parked, unloaded or loaded, fueled and/or serviced.   |
| 10-08            | <b>ASTM International (ASTM)</b>         | Formerly known as the American Society for Testing and Materials (ASTM).  |
| 10-09            | <b>Award</b>                             | The Owner's notice to the successful bidder of the acceptance of the submitted bid.   |
| 10-10            | <b>Bidder</b>                            | Any individual, partnership, firm, or corporation, acting directly or through a duly authorized representative, who submits a proposal for the work contemplated.   |
| 10-11            | <b>Building Area</b>                     | An area on the airport to be used, considered, or intended to be used for airport buildings or other airport facilities or rights-of-way together with all airport buildings and facilities located thereon.  |
| 10-12            | <b>Calendar Day</b>                      | Every day shown on the calendar.  |
| 10-13            | <b>Certificate of Analysis (COA)</b>     | The COA is the manufacturer's Certificate of Compliance (COC) including all applicable test results required by the specifications.   |



| <b>Paragraph Number</b> | <b>Term</b>  | <b>Definition</b>   |
|-------------------------|--|---|
| <b>10-14</b>            | <b>Certificate of Compliance (COC)</b>             | The manufacturer's certification stating that materials or assemblies furnished fully comply with the requirements of the contract. The certificate shall be signed by the manufacturer's authorized representative.  |
| <b>10-15</b>            | <b>Change Order</b>                                | A written order to the Contractor covering changes in the plans, specifications, or proposal quantities and establishing the basis of payment and contract time adjustment, if any, for work within the scope of the contract and necessary to complete the project.  |
| <b>10-16</b>            | <b>Contract</b>                                    | A written agreement between the Owner and the Contractor that establishes the obligations of the parties including but not limited to performance of work, furnishing of labor, equipment and materials and the basis of payment.<br>The awarded contract includes but may not be limited to: Advertisement, Contract form, Proposal, Performance bond, payment bond, General provisions, certifications and representations, Technical Specifications, Plans, Supplemental Provisions, standards incorporated by reference and issued addenda. |
| <b>10-17</b>            | <b>Contract Item (Pay Item)</b>                    | A specific unit of work for which a price is provided in the contract.  |
| <b>10-18</b>            | <b>Contract Time</b>                               | The number of calendar days or working days, stated in the proposal, allowed for completion of the contract, including authorized time extensions. If a calendar date of completion is stated in the proposal, in lieu of a number of calendar or working days, the contract shall be completed by that date.   |
| <b>10-19</b>            | <b>Contractor</b>                                  | The individual, partnership, firm, or corporation primarily liable for the acceptable performance of the work contracted and for the payment of all legal debts pertaining to the work who acts directly or through lawful agents or employees to complete the contract work.   |
| <b>10-20</b>            | <b>Contractors Quality Control (QC) Facilities</b> | The Contractor's QC facilities in accordance with the Contractor Quality Control Program (CQCP).  |
| <b>10-21</b>            | <b>Contractor Quality Control Program (CQCP)</b>   | Details the methods and procedures that will be taken to assure that all materials and completed construction required by the contract conform to contract plans, technical specifications and other requirements, whether manufactured by the Contractor, or procured from subcontractors or vendors.  |
| <b>10-22</b>            | <b>Control Strip</b>                               | A demonstration by the Contractor that the materials, equipment, and construction processes results in a product meeting the requirements of the specification.   |
| <b>10-23</b>            | <b>Construction Safety and Phasing Plan (CSPP)</b> | The overall plan for safety and phasing of a construction project developed by the airport operator, or developed by the airport operator's consultant and approved by the  |



| <b>Paragraph Number</b> | <b>Term</b>                   | <b>Definition</b>   |
|-------------------------|-------------------------------|---|
|                         |                               | airport operator. It is included in the invitation for bids and becomes part of the project specifications.   |
| <b>10-24</b>            | <b>Drainage System</b>        | The system of pipes, ditches, and structures by which surface or subsurface waters are collected and conducted from the airport area.   |
| <b>10-25</b>            | <b>Engineer</b>               | The individual, partnership, firm, or corporation duly authorized by the Owner to be responsible for engineering, inspection, and/or observation of the contract work and acting directly or through an authorized representative.  |
| <b>10-26</b>            | <b>Equipment</b>              | All machinery, together with the necessary supplies for upkeep and maintenance; and all tools and apparatus necessary for the proper construction and acceptable completion of the work.  |
| <b>10-27</b>            | <b>Extra Work</b>             | An item of work not provided for in the awarded contract as previously modified by change order or supplemental agreement, but which is found by the Owner's Engineer or Resident Project Representative (RPR) to be necessary to complete the work within the intended scope of the contract as previously modified.   |
| <b>10-28</b>            | <b>FAA</b>                    | The Federal Aviation Administration. When used to designate a person, FAA shall mean the Administrator or their duly authorized representative.   |
| <b>10-29</b>            | <b>Federal Specifications</b> | The federal specifications and standards, commercial item descriptions, and supplements, amendments, and indices prepared and issued by the General Services Administration.  |
| <b>10-30</b>            | <b>Force Account</b>          | <p>a. Contract Force Account - A method of payment that addresses extra work performed by the Contractor on a time and material basis.</p> <p>b. Owner Force Account - Work performed for the project by the Owner's employees.</p>   |
| <b>10-31</b>            | <b>Intention of Terms</b>     | Whenever, in these specifications or on the plans, the words "directed," "required," "permitted," "ordered," "designated," "prescribed," or words of like import are used, it shall be understood that the direction, requirement, permission, order, designation, or prescription of the Engineer and/or Resident Project Representative (RPR) is intended; and similarly, the words "approved," "acceptable," "satisfactory," or words of like import, shall mean approved by, or acceptable to, or satisfactory to the Engineer and/or RPR, subject in each case to the final determination of the Owner. Any reference to a specific requirement of a numbered paragraph of the contract specifications or a cited standard shall be interpreted to include all general requirements of the entire section, specification item, or cited standard that may be pertinent to such specific reference. |
| <b>10-32</b>            | <b>Lighting</b>               | A system of fixtures providing or controlling the light sources used on or near the airport or within the airport   |

| Paragraph Number | Term                            | Definition  |
|------------------|---------------------------------|---|
|                  |                                 | buildings. The field lighting includes all luminous signals, markers, floodlights, and illuminating devices used on or near the airport or to aid in the operation of aircraft landing at, taking off from, or taxiing on the airport surface.  |
| 10-33            | Major and Minor Contract Items  | A major contract item shall be any item that is listed in the proposal, the total cost of which is equal to or greater than 20% of the total amount of the award contract. All other items shall be considered minor contract items.  |
| 10-34            | Materials                       | Any substance specified for use in the construction of the contract work.   |
| 10-35            | Modification of Standards (MOS) | Any deviation from standard specifications applicable to material and construction methods in accordance with FAA Order 5300.1.   |
| 10-36            | Notice to Proceed (NTP)         | A written notice to the Contractor to begin the actual contract work on a previously agreed to date. If applicable, the Notice to Proceed shall state the date on which the contract time begins.   |
| 10-37            | Owner                           | The term "Owner" shall mean the party of the first part or the contracting agency signatory to the contract. Where the term "Owner" is capitalized in this document, it shall mean airport Sponsor only. The Owner for this project is <b>The City of Loveland</b> .                                |
| 10-38            | Passenger Facility Charge (PFC) | Per 14 Code of Federal Regulations (CFR) Part 158 and 49 United States Code (USC) § 40117, a PFC is a charge imposed by a public agency on passengers enplaned at a commercial service airport it controls.   |
| 10-39            | Pavement Structure              | The combined surface course, base course(s), and subbase course(s), if any, considered as a single unit.  |
| 10-40            | Payment bond                    | The approved form of security furnished by the Contractor and their own surety as a guaranty that the Contractor will pay in full all bills and accounts for materials and labor used in the construction of the work.  |
| 10-41            | Performance bond                | The approved form of security furnished by the Contractor and their own surety as a guaranty that the Contractor will complete the work in accordance with the terms of the contract.   |
| 10-42            | Plans                           | The official drawings or exact reproductions which show the location, character, dimensions and details of the airport and the work to be done and which are to be considered as a part of the contract, supplementary to the specifications. Plans may also be referred to as 'contract drawings.' |
| 10-43            | Project                         | The agreed scope of work for accomplishing specific airport development with respect to a particular airport.   |
| 10-44            | Proposal                        | The written offer of the bidder (when submitted on the approved proposal form) to perform the contemplated work and furnish the necessary materials in accordance with the provisions of the plans and specifications.  |

| <b>Paragraph Number</b> | <b>Term</b>                                   | <b>Definition</b>   |
|-------------------------|---|---|
| <b>10-45</b>            | <b>Proposal guaranty</b>                      | The security furnished with a proposal to guarantee that the bidder will enter into a contract if their own proposal is accepted by the Owner.  |
| <b>10-46</b>            | <b>Quality Assurance (QA)</b>                 | Owner's responsibility to assure that construction work completed complies with specifications for payment.   |
| <b>10-47</b>            | <b>Quality Control (QC)</b>                   | Contractor's responsibility to control material(s) and construction processes to complete construction in accordance with project specifications.   |
| <b>10-48</b>            | <b>Quality Assurance (QA) Inspector</b>       | An authorized representative of the Engineer and/or Resident Project Representative (RPR) assigned to make all necessary inspections, observations, tests, and/or observation of tests of the work performed or being performed, or of the materials furnished or being furnished by the Contractor.  |
| <b>10-49</b>            | <b>Quality Assurance (QA) Laboratory</b>      | The official quality assurance testing laboratories of the Owner or such other laboratories as may be designated by the Engineer or RPR. May also be referred to as Engineer's, Owner's, or QA Laboratory.  |
| <b>10-50</b>            | <b>Resident Project Representative (RPR)</b>  | The individual, partnership, firm, or corporation duly authorized by the Owner to be responsible for all necessary inspections, observations, tests, and/or observations of tests of the contract work performed or being performed, or of the materials furnished or being furnished by the Contractor, and acting directly or through an authorized representative. |
| <b>10-51</b>            | <b>Runway</b>                                 | The area on the airport prepared for the landing and takeoff of aircraft.   |
| <b>10-52</b>            | <b>Runway Safety Area (RSA)</b>               | A defined surface surrounding the runway prepared or suitable for reducing the risk of damage to aircraft. See the construction safety and phasing plan (CSPP) for limits of the RSA.   |
| <b>10-53</b>            | <b>Safety Compliance Plan Document (SPCD)</b> | Details how the Contractor will comply with the CSPP.   |
| <b>10-54</b>            | <b>Specifications</b>                         | A part of the contract containing the written directions and requirements for completing the contract work. Standards for specifying materials or testing which are cited in the contract specifications by reference shall have the same force and effect as if included in the contract physically.   |
| <b>10-55</b>            | <b>Sponsor</b>                                | A Sponsor is defined in 49 USC § 47102(24) as a public agency that submits to the FAA for an AIP grant; or a private Owner of a public-use airport that submits to the FAA an application for an AIP grant for the airport.   |
| <b>10-56</b>            | <b>Structures</b>                             | Airport facilities such as bridges; culverts; catch basins, inlets, retaining walls, cribbing; storm and sanitary sewer lines; water lines; underdrains; electrical ducts, manholes, handholes, lighting fixtures and bases; transformers; navigational aids; buildings; vaults; and, other manmade   |



| Paragraph Number | Term                                       | Definition   |
|------------------|--|--|
|                  |  | features of the airport that may be encountered in the work and not otherwise classified herein.   |
| 10-57            | <b>Subgrade</b>                            | The soil that forms the pavement foundation.   |
| 10-58            | <b>Superintendent</b>                      | The Contractor's executive representative who is present on the work during progress, authorized to receive and fulfill instructions from the RPR, and who shall supervise and direct the construction.  |
| 10-59            | <b>Supplemental Agreement</b>              | A written agreement between the Contractor and the Owner that establishes the basis of payment and contract time adjustment, if any, for the work affected by the supplemental agreement. A supplemental agreement is required if: (1) in scope work would increase or decrease the total amount of the awarded contract by more than 25%; (2) in scope work would increase or decrease the total of any major contract item by more than 25%; (3) work that is not within the scope of the originally awarded contract; or (4) adding or deleting of a major contract item. |
| 10-60            | <b>Surety</b>                              | The corporation, partnership, or individual, other than the Contractor, executing payment or performance bonds that are furnished to the Owner by the Contractor.  |
| 10-61            | <b>Taxilane</b>                            | A taxiway designed for low speed movement of aircraft between aircraft parking areas and terminal areas.   |
| 10-62            | <b>Taxiway</b>                             | The portion of the air operations area of an airport that has been designated by competent airport authority for movement of aircraft to and from the airport's runways, aircraft parking areas, and terminal areas.   |
| 10-63            | <b>Taxiway/Taxilane Safety Area (TSA)</b>  | A defined surface alongside the taxiway prepared or suitable for reducing the risk of damage to an aircraft. See the construction safety and phasing plan (CSPP) for limits of the TSA.  |
| 10-64            | <b>Work</b>                                | The furnishing of all labor, materials, tools, equipment, and incidentals necessary or convenient to the Contractor's performance of all duties and obligations imposed by the contract, plans, and specifications.  |
| 10-65            | <b>Working day</b>                         | A working day shall be any day other than a legal holiday, Saturday, or Sunday on which the normal working forces of the Contractor may proceed with regular work for at least six (6) hours toward completion of the contract. When work is suspended for causes beyond the Contractor's control, it will not be counted as a working day. Saturdays, Sundays and holidays on which the Contractor's forces engage in regular work will be considered as working days.  |
| 10-66            | <b>Construction Manager at Risk (CMAR)</b> | On projects that utilize a Construction Manager (CM), a Construction Manager at Risk (CMAR), or a Construction Manager/General Contractor (CMGC), add a definition of their roles on the project. The CM generally acts as an agent of the owner and is not legally or financially responsible for   |



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| Paragraph Number | Term | Definition  |
|------------------|------|---|
|                  |      | completion of the work; a CMAR and CMGC are legally and financially obligated to complete the work. |

**END OF SECTION 10**

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## **Section 20 Proposal Requirements and Conditions**

**20-01 Advertisement (Notice to Bidders).** See City of Loveland Front End Contract Documents for Bidding and Bid Advertisement requirements.

### **20-02 Qualification of bidders.**

Each bidder shall submit evidence of competency and evidence of financial responsibility to perform the work to the Owner at the time of bid opening.

Evidence of competency, unless otherwise specified, shall consist of statements covering the bidder's past experience on similar work, and a list of equipment and a list of key personnel that would be available for the work.

Each bidder shall furnish the Owner satisfactory evidence of their financial responsibility. Evidence of financial responsibility, unless otherwise specified, shall consist of a confidential statement or report of the bidder's financial resources and liabilities as of the last calendar year or the bidder's last fiscal year. Such statements or reports shall be certified by a public accountant. At the time of submitting such financial statements or reports, the bidder shall further certify whether their financial responsibility is approximately the same as stated or reported by the public accountant. If the bidder's financial responsibility has changed, the bidder shall qualify the public accountant's statement or report to reflect the bidder's true financial condition at the time such qualified statement or report is submitted to the Owner.

Unless otherwise specified, a bidder may submit evidence that they are prequalified with the State Highway Division and are on the current "bidder's list" of the state in which the proposed work is located. Evidence of State Highway Division prequalification may be submitted as evidence of financial responsibility in lieu of the certified statements or reports specified above.

### **20-03 Contents of proposal forms.**

The Owner's proposal forms state the location and description of the proposed construction; the place, date, and time of opening of the proposals; and the estimated quantities of the various items of work to be performed and materials to be furnished for which unit bid prices are asked. The proposal form states the time in which the work must be completed, and the amount of the proposal guaranty that must accompany the proposal. The Owner will accept only those Proposals properly executed on physical forms or electronic forms provided by the Owner. Bidder actions that may cause the Owner to deem a proposal irregular are given in paragraph 20-09 *Irregular proposals*.

### **20-04 Issuance of proposal forms.**

The Owner reserves the right to refuse to issue a proposal form to a prospective bidder if the bidder is in default for any of the following reasons:

- a.** Failure to comply with any prequalification regulations of the Owner, if such regulations are cited, or otherwise included, in the proposal as a requirement for bidding.
- b.** Failure to pay, or satisfactorily settle, all bills due for labor and materials on former contracts in force with the Owner at the time the Owner issues the proposal to a prospective bidder.
- c.** Documented record of Contractor default under previous contracts with the Owner.

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- d. Documented record of unsatisfactory work on previous contracts with the Owner.

#### **20-05 Interpretation of estimated proposal quantities.**

The below statements regarding quantities and payment for estimated quantities do not apply to this CMaR Contract Agreement. See City of Loveland General Conditions. The An estimate of quantities of work to be done and materials to be furnished under these specifications is given in the proposal. It is the result of careful calculations and is believed to be correct. It is given only as a basis for comparison of proposals and the award of the contract. The Owner does not expressly, or by implication, agree that the actual quantities involved will correspond exactly therewith; nor shall the bidder plead misunderstanding or deception because of such estimates of quantities, or of the character, location, or other conditions pertaining to the work. Payment to the Contractor will be made only for the actual quantities of work performed or materials furnished in accordance with the plans and specifications. It is understood that the quantities may be increased or decreased as provided in the Section 40, paragraph 40-02, Alteration of Work and Quantities, without in any way invalidating the unit bid prices.

#### **20-06 Examination of plans, specifications, and site.**

The bidder is expected to carefully examine the site of the proposed work, the proposal, plans, specifications, and contract forms. Bidders shall satisfy themselves to the character, quality, and quantities of work to be performed, materials to be furnished, and to the requirements of the proposed contract. The submission of a proposal shall be prima facie evidence that the bidder has made such examination and is satisfied to the conditions to be encountered in performing the work and the requirements of the proposed contract, plans, and specifications.

Boring logs and other records of subsurface investigations and tests are available for inspection of bidders. It is understood and agreed that such subsurface information, whether included in the plans, specifications, or otherwise made available to the bidder, was obtained and is intended for the Owner's design and estimating purposes only. Such information has been made available for the convenience of all bidders. It is further understood and agreed that each bidder is solely responsible for all assumptions, deductions, or conclusions which the bidder may make or obtain from their own examination of the boring logs and other records of subsurface investigations and tests that are furnished by the Owner.

#### **20-07 Preparation of proposal.**

The bidder shall submit their proposal on the forms furnished by the Owner. All blank spaces in the proposal forms, unless explicitly stated otherwise, must be correctly filled in where indicated for each and every item for which a quantity is given. The bidder shall state the price (written in ink or typed) both in words and numerals which they propose for each pay item furnished in the proposal. In case of conflict between words and numerals, the words, unless obviously incorrect, shall govern.

The bidder shall correctly sign the proposal in ink. If the proposal is made by an individual, their name and post office address must be shown. If made by a partnership, the name and post office address of each member of the partnership must be shown. If made by a corporation, the person signing the proposal shall give the name of the state where the corporation was chartered and the name, titles, and business address of the president, secretary, and the treasurer. Anyone signing a proposal as an agent shall file evidence of their authority to do so and that the signature is binding upon the firm or corporation.



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### **20-08 Responsive and responsible bidder.**

A responsive bid conforms to all significant terms and conditions contained in the Owner's invitation for bid. It is the Owner's responsibility to decide if the exceptions taken by a bidder to the solicitation are material or not and the extent of deviation it is willing to accept.

A responsible bidder has the ability to perform successfully under the terms and conditions of a proposed procurement, as defined in 2 CFR § 200.318(h). This includes such matters as Contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

### **20-09 Irregular proposals.**

Proposals shall be considered irregular for the following reasons:

- a.** If the proposal is on a form other than that furnished by the Owner, or if the Owner's form is altered, or if any part of the proposal form is detached.
- b.** If there are unauthorized additions, conditional or alternate pay items, or irregularities of any kind that make the proposal incomplete, indefinite, or otherwise ambiguous.
- c.** If the proposal does not contain a unit price for each pay item listed in the proposal, except in the case of authorized alternate pay items, for which the bidder is not required to furnish a unit price.
- d.** If the proposal contains unit prices that are obviously unbalanced.
- e.** If the proposal is not accompanied by the proposal guaranty specified by the Owner.
- f.** If the applicable Disadvantaged Business Enterprise information is incomplete.

The Owner reserves the right to reject any irregular proposal and the right to waive technicalities if such waiver is in the best interest of the Owner and conforms to local laws and ordinances pertaining to the letting of construction contracts.

### **20-10 Bid guarantee.**

Each separate proposal shall be accompanied by a bid bond, certified check, or other specified acceptable collateral, in the amount specified in the proposal form. Such bond, check, or collateral, shall be made payable to the Owner.

### **20-11 Delivery of proposal.**

Each proposal submitted shall be placed in a sealed envelope plainly marked with the project number, location of airport, and name and business address of the bidder on the outside. When sent by mail, preferably registered, the sealed proposal, marked as indicated above, should be enclosed in an additional envelope. No proposal will be considered unless received at the place specified in the advertisement or as modified by Addendum before the time specified for opening all bids. Proposals received after the bid opening time shall be returned to the bidder unopened.

### **20-12 Withdrawal or revision of proposals.**

A bidder may withdraw or revise (by withdrawal of one proposal and submission of another) a proposal provided that the bidder's request for withdrawal is received by the Owner in writing before the time specified for opening bids. Revised proposals must be received at the place specified in the advertisement before the time specified for opening all bids.

### **20-13 Public opening of proposals.**

Proposals shall be opened, and read, publicly at the time and place specified in the advertisement. Bidders, their authorized agents, and other interested persons are invited to attend. Proposals that have been



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withdrawn (by written or telegraphic request) or received after the time specified for opening bids shall be returned to the bidder unopened.

#### **20-14 Disqualification of bidders.**

A bidder shall be considered disqualified for any of the following reasons:

- 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 Owner until any such participating bidder has been reinstated by the Owner as a qualified bidder.
- c.** If the bidder is considered to be in "default" for any reason specified in paragraph 20-04, *Issuance of Proposal Forms*, of this section.

#### **20-15 Discrepancies and Omissions.**

A Bidder who discovers discrepancies or omissions with the project bid documents shall immediately notify the Owner's Engineer of the matter. A bidder that has doubt as to the true meaning of a project requirement may submit to the Owner's Engineer a written request for interpretation no later than **14 calendar days** prior to bid opening.

Any interpretation of the project bid documents by the Owner's Engineer will be by written addendum issued by the Owner. The Owner will not consider any instructions, clarifications or interpretations of the bidding documents in any manner other than written addendum.

**END OF SECTION 20**

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## **Section 30 Award and Execution of Contract**

### **30-01 Consideration of proposals.**

Proposals were considered per the RFP dated October 27, 2021, by the City of Loveland and any associated addendums issued to establish the CMaR contract. ~~After the proposals are publicly opened and read, they will be compared on the basis of the summation of the products obtained by multiplying the estimated quantities shown in the proposal by the unit bid prices. If a bidder's proposal contains a discrepancy between unit bid prices written in words and unit bid prices written in numbers, the unit bid price written in words shall govern.~~

Until the award of a contract is made, the Owner reserves the right to reject a bidder's proposal for any of the following reasons:

- a. If the proposal is irregular as specified in Section 20, paragraph 20-09, *Irregular Proposals*.
- b. If the bidder is disqualified for any of the reasons specified Section 20, paragraph 20-14, *Disqualification of Bidders*.

In addition, until the award of a contract is made, the Owner reserves the right to reject any or all proposals, waive technicalities, if such waiver is in the best interest of the Owner and is in conformance with applicable state and local laws or regulations pertaining to the letting of construction contracts; advertise for new proposals; or proceed with the work otherwise. All such actions shall promote the Owner's best interests.

### **30-02 Award of contract.**

The award of a contract, if it is to be awarded, shall be made within the period as stated in the *Bid Advertisement*, unless otherwise specified herein.

If the Owner elects to proceed with an award of contract, the Owner will make award to the responsible bidder whose bid, conforming with all the material terms and conditions of the bid documents, is the lowest in price.

### **30-03 Cancellation of award.**

The Owner reserves the right to cancel the award without liability to the bidder, except return of proposal guaranty, at any time before a contract has been fully executed by all parties and is approved by the Owner in accordance with paragraph 30-07 *Approval of Contract*.

### **30-04 Return of proposal guaranty.**

All proposal guaranties, except those of the two lowest bidders, will be returned immediately after the Owner has made a comparison of bids as specified in the paragraph 30-01, *Consideration of Proposals*. Proposal guaranties of the two lowest bidders will be retained by the Owner until such time as an award is made, at which time, the unsuccessful bidder's proposal guaranty will be returned. The successful bidder's proposal guaranty will be returned as soon as the Owner receives the contract bonds as specified in paragraph 30-05, *Requirements of Contract Bonds*.

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### **30-05 Requirements of contract bonds.**

At the time of the execution of the contract, the successful bidder shall furnish the Owner a surety bond or bonds that have been fully executed by the bidder and the surety guaranteeing the performance of the work and the payment of all legal debts that may be incurred by reason of the Contractor's performance of the work. The surety and the form of the bond or bonds shall be acceptable to the Owner. Unless otherwise specified in this subsection, the surety bond or bonds shall be in a sum equal to the full amount of the contract. Required bonds are provided in the City of Loveland Front End Contract Documents for Bidding and Bid Advertisement requirements.

### **30-06 Execution of contract.**

The successful bidder shall sign (execute) the necessary agreements for entering into the contract and return the signed contract to the Owner, along with the fully executed surety bond or bonds specified in paragraph 30-05, *Requirements of Contract Bonds*, of this section, within **15 calendar days** from the date mailed or otherwise delivered to the successful bidder.

### **30-07 Approval of contract.**

Upon receipt of the contract and contract bond or bonds that have been executed by the successful bidder, the Owner shall complete the execution of the contract in accordance with local laws or ordinances, and return the fully executed contract to the Contractor. Delivery of the fully executed contract to the Contractor shall constitute the Owner's approval to be bound by the successful bidder's proposal and the terms of the contract.

### **30-08 Failure to execute contract.**

Failure of the successful bidder to execute the contract and furnish an acceptable surety bond or bonds within the period specified in paragraph 30-06, *Execution of Contract*, of this section shall be just cause for cancellation of the award and forfeiture of the proposal guaranty, not as a penalty, but as liquidated damages to the Owner.

**END OF SECTION 30**



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## **Section 40 Scope of Work**

### **40-01 Intent of contract.**

The intent of the contract is to provide for construction and completion, in every detail, of the work described. It is further intended that the Contractor shall furnish all labor, materials, equipment, tools, transportation, and supplies required to complete the work in accordance with the plans, specifications, and terms of the contract.

### **40-02 Alteration of work and quantities.**

The Owner reserves the right to make such changes in quantities and work as may be necessary or desirable to complete, in a satisfactory manner, the original intended work. Unless otherwise specified in the Contract, the Owner's Engineer or RPR shall be and is hereby authorized to make, in writing, such in-scope alterations in the work and variation of quantities as may be necessary to complete the work, provided such action does not represent a significant change in the character of the work. Alterations and changes to work are defined in the EJCDC General Conditions Sections 11 & 13, along with the Supplementary Conditions approved by the City of Loveland.

For purpose of this section, a significant change in character of work means: any change that is outside the current contract scope of work; any change (increase or decrease) in the total contract cost by more than 25%; or any change in the total cost of a major contract item by more than 25%.

Work alterations and quantity variances that do not meet the definition of significant change in character of work shall not invalidate the contract nor release the surety. Contractor agrees to accept payment for such work alterations and quantity variances in accordance with Section 90, paragraph 90-03, *Compensation for Altered Quantities*.

Should the value of altered work or quantity variance meet the criteria for significant change in character of work, such altered work and quantity variance shall be covered by a supplemental agreement. Supplemental agreements shall also require consent of the Contractor's surety and separate performance and payment bonds. If the Owner and the Contractor are unable to agree on a unit adjustment for any contract item that requires a supplemental agreement, the Owner reserves the right to terminate the contract with respect to the item and make other arrangements for its completion.

### **40-03 Omitted items.**

The Owner, the Owner's Engineer or the RPR may provide written notice to the Contractor to omit from the work any contract item that does not meet the definition of major contract item. Major contract items may be omitted by a supplemental agreement. Such omission of contract items shall not invalidate any other contract provision or requirement.

Should a contract item be omitted or otherwise ordered to be non-performed, the Contractor shall be paid for all work performed toward completion of such item prior to the date of the order to omit such item. Payment for work performed shall be in accordance with Section 90, paragraph 90-04, *Payment for Omitted Items*.



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#### **40-04 Extra work.**

Should acceptable completion of the contract require the Contractor to perform an item of work not provided for in the awarded contract as previously modified by change order or supplemental agreement, Owner may issue a Change Order to cover the necessary extra work. Change orders for extra work shall contain agreed unit prices for performing the change order work in accordance with the requirements specified in the order, and shall contain any adjustment to the contract time that, in the RPR's opinion, is necessary for completion of the extra work.

When determined by the RPR to be in the Owner's best interest, the RPR may order the Contractor to proceed with extra work as provided in Section 90, paragraph 90-05, *Payment for Extra Work*. Extra work that is necessary for acceptable completion of the project, but is not within the general scope of the work covered by the original contract shall be covered by a supplemental agreement as defined in Section 10, paragraph 10-59, *Supplemental Agreement*.

If extra work is essential to maintaining the project critical path, RPR may order the Contractor to commence the extra work under a Time and Material contract method. Once sufficient detail is available to establish the level of effort necessary for the extra work, the Owner shall initiate a change order or supplemental agreement to cover the extra work.

Any claim for payment of extra work that is not covered by written agreement (change order or supplemental agreement) shall be rejected by the Owner.

#### **40-05 Maintenance of traffic.**

It is the explicit intention of the contract that the safety of aircraft, as well as the Contractor's equipment and personnel, is the most important consideration. The Contractor shall maintain traffic in the manner detailed in the Construction Safety and Phasing Plan (CSPP).

**a.** It is understood and agreed that the Contractor shall provide for the free and unobstructed movement of aircraft in the air operations areas (AOAs) of the airport with respect to their own operations and the operations of all subcontractors as specified in Section 80, paragraph 80-04, *Limitation of Operations*. It is further understood and agreed that the Contractor shall provide for the uninterrupted operation of visual and electronic signals (including power supplies thereto) used in the guidance of aircraft while operating to, from, and upon the airport as specified in Section 70, paragraph 70-15, *Contractor's Responsibility for Utility Service and Facilities of Others*.

**b.** With respect to their own operations and the operations of all subcontractors, the Contractor shall provide marking, lighting, and other acceptable means of identifying personnel, equipment, vehicles, storage areas, and any work area or condition that may be hazardous to the operation of aircraft, fire-rescue equipment, or maintenance vehicles at the airport in accordance with the construction safety and phasing plan (CSPP) and the safety plan compliance document (SPCD).

**c.** When the contract requires the maintenance of an existing road, street, or highway during the Contractor's performance of work that is otherwise provided for in the contract, plans, and specifications, the Contractor shall keep the road, street, or highway open to all traffic and shall provide maintenance as may be required to accommodate traffic. The Contractor, at their expense, shall be responsible for the repair to equal or better than preconstruction conditions of any damage caused by the Contractor's equipment and personnel. The Contractor shall furnish, erect, and maintain barricades, warning signs, flag person, and other traffic control devices in reasonable conformity with the Manual on Uniform Traffic Control Devices (MUTCD) (<http://mutcd.fhwa.dot.gov/>), unless otherwise specified. The Contractor shall also

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construct and maintain in a safe condition any temporary connections necessary for ingress to and egress from abutting property or intersecting roads, streets or highways.

#### **40-06 Removal of existing structures.**

All existing structures encountered within the established lines, grades, or grading sections shall be removed by the Contractor, unless such existing structures are otherwise specified to be relocated, adjusted up or down, salvaged, abandoned in place, reused in the work or to remain in place. The cost of removing such existing structures shall not be measured or paid for directly, but shall be included in the various contract items.

Should the Contractor encounter an existing structure (above or below ground) in the work for which the disposition is not indicated on the plans, the Resident Project Representative (RPR) shall be notified prior to disturbing such structure. The disposition of existing structures so encountered shall be immediately determined by the RPR in accordance with the provisions of the contract.

Except as provided in Section 40, paragraph 40-07, *Rights in and Use of Materials Found in the Work*, it is intended that all existing materials or structures that may be encountered (within the lines, grades, or grading sections established for completion of the work) shall be used in the work as otherwise provided for in the contract and shall remain the property of the Owner when so used in the work.

#### **40-07 Rights in and use of materials found in the work.**

Should the Contractor encounter any material such as (but not restricted to) sand, stone, gravel, slag, or concrete slabs within the established lines, grades, or grading sections, the use of which is intended by the terms of the contract to be embankment, the Contractor may at their own option either:

- a. Use such material in another contract item, providing such use is approved by the RPR and is in conformance with the contract specifications applicable to such use; or,
- b. Remove such material from the site, upon written approval of the RPR; or
- c. Use such material for the Contractor's own temporary construction on site; or,
- d. Use such material as intended by the terms of the contract.

Should the Contractor wish to exercise option a., b., or c., the Contractor shall request the RPR's approval in advance of such use.

Should the RPR approve the Contractor's request to exercise option a., b., or c., the Contractor shall be paid for the excavation or removal of such material at the applicable contract price. The Contractor shall replace, at their expense, such removed or excavated material with an agreed equal volume of material that is acceptable for use in constructing embankment, backfills, or otherwise to the extent that such replacement material is needed to complete the contract work. The Contractor shall not be charged for use of such material used in the work or removed from the site.

Should the RPR approve the Contractor's exercise of option a., the Contractor shall be paid, at the applicable contract price, for furnishing and installing such material in accordance with requirements of the contract item in which the material is used.

It is understood and agreed that the Contractor shall make no claim for delays by reason of their own exercise of option a., b., or c.

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The Contractor shall not excavate, remove, or otherwise disturb any material, structure, or part of a structure which is located outside the lines, grades, or grading sections established for the work, except where such excavation or removal is provided for in the contract, plans, or specifications.

**40-08 Final cleanup.**

Upon completion of the work and before acceptance and final payment will be made, the Contractor shall remove from the site all machinery, equipment, surplus and discarded materials, rubbish, temporary structures, and stumps or portions of trees. The Contractor shall cut all brush and woods within the limits indicated and shall leave the site in a neat and presentable condition. Material cleared from the site and deposited on adjacent property will not be considered as having been disposed of satisfactorily, unless the Contractor has obtained the written permission of the property Owner.

**END OF SECTION 40**



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## **Section 50 Control of Work**

### **50-01 Authority of the Resident Project Representative (RPR).**

The RPR has final authority regarding the interpretation of project specification requirements. The RPR shall determine acceptability of the quality of materials furnished, method of performance of work performed, and the manner and rate of performance of the work. The RPR does not have the authority to accept work that does not conform to specification requirements.

### **50-02 Conformity with plans and specifications.**

All work and all materials furnished shall be in reasonably close conformity with the lines, grades, grading sections, cross-sections, dimensions, material requirements, and testing requirements that are specified (including specified tolerances) in the contract, plans, or specifications.

If the RPR finds the materials furnished, work performed, or the finished product not within reasonably close conformity with the plans and specifications, but that the portion of the work affected will, in their opinion, result in a finished product having a level of safety, economy, durability, and workmanship acceptable to the Owner, the RPR will advise the Owner of their determination that the affected work be accepted and remain in place. The RPR will document the determination and recommend to the Owner a basis of acceptance that will provide for an adjustment in the contract price for the affected portion of the work. Changes in the contract price must be covered by contract change order or supplemental agreement as applicable.

If the RPR finds the materials furnished, work performed, or the finished product are not in reasonably close conformity with the plans and specifications and have resulted in an unacceptable finished product, the affected work or materials shall be removed and replaced or otherwise corrected by and at the expense of the Contractor in accordance with the RPR's written orders.

The term "reasonably close conformity" shall not be construed as waiving the Contractor's responsibility to complete the work in accordance with the contract, plans, and specifications. The term shall not be construed as waiving the RPR's responsibility to insist on strict compliance with the requirements of the contract, plans, and specifications during the Contractor's execution of the work, when, in the RPR's opinion, such compliance is essential to provide an acceptable finished portion of the work.

The term "reasonably close conformity" is also intended to provide the RPR with the authority, after consultation with the Sponsor and FAA, to use sound engineering judgment in their determinations to accept work that is not in strict conformity, but will provide a finished product equal to or better than that required by the requirements of the contract, plans and specifications.

The RPR will not be responsible for the Contractor's means, methods, techniques, sequences, or procedures of construction or the safety precautions incident thereto.

### **50-03 Coordination of contract, plans, and specifications.**

The contract, plans, specifications, and all referenced standards cited are essential parts of the contract requirements. If electronic files are provided and used on the project and there is a conflict between the electronic files and hard copy plans, the hard copy plans shall govern. A requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete work. In case of discrepancy, calculated dimensions will govern over scaled dimensions; contract



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technical specifications shall govern over contract general provisions, plans, cited standards for materials or testing, and cited advisory circulars (ACs); contract general provisions shall govern over plans, cited standards for materials or testing, and cited ACs; plans shall govern over cited standards for materials or testing and cited ACs. If any paragraphs contained in the Special Provisions conflict with General Provisions or Technical Specifications, the Special Provisions shall govern.

From time to time, discrepancies within cited testing standards occur due to the timing of the change, edits, and/or replacement of the standards. If the Contractor discovers any apparent discrepancy within standard test methods, the Contractor shall immediately ask the RPR for an interpretation and decision, and such decision shall be final.

The Contractor shall not take advantage of any apparent error or omission on the plans or specifications. In the event the Contractor discovers any apparent error or discrepancy, Contractor shall immediately notify the Owner or the designated representative in writing requesting their written interpretation and decision.

**50-04 List of Special Provisions.** See the Special Conditions located in the City of Loveland's Front End Contract Documents.

**50-05 Cooperation of Contractor.**

The Contractor shall be supplied with five hard copies or an electronic PDF of the plans and specifications. The Contractor shall have available on the construction site at all times one hardcopy each of the plans and specifications. Additional hard copies of plans and specifications may be obtained by the Contractor for the cost of reproduction.

The Contractor shall give constant attention to the work to facilitate the progress thereof, and shall cooperate with the RPR and their inspectors and with other Contractors in every way possible. The Contractor shall have a competent superintendent on the work at all times who is fully authorized as their agent on the work. The superintendent shall be capable of reading and thoroughly understanding the plans and specifications and shall receive and fulfill instructions from the RPR or their authorized representative.

**50-06 Cooperation between Contractors.**

The Owner reserves the right to contract for and perform other or additional work on or near the work covered by this contract.

When separate contracts are let within the limits of any one project, each Contractor shall conduct the work not to interfere with or hinder the progress of completion of the work being performed by other Contractors. Contractors working on the same project shall cooperate with each other as directed.

Each Contractor involved shall assume all liability, financial or otherwise, in connection with their own contract and shall protect and hold harmless the Owner from any and all damages or claims that may arise because of inconvenience, delays, or loss experienced because of the presence and operations of other Contractors working within the limits of the same project.

The Contractor shall arrange their work and shall place and dispose of the materials being used to not interfere with the operations of the other Contractors within the limits of the same project. The Contractor

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shall join their work with that of the others in an acceptable manner and shall perform it in proper sequence to that of the others.

### **50-07 Construction layout and stakes.**

The Engineer/RPR shall establish necessary horizontal and vertical control. The establishment of Survey Control and/or reestablishment of survey control shall be by a State Licensed Land Surveyor. Contractor is responsible for preserving integrity of horizontal and vertical controls established by Engineer/RPR. In case of negligence on the part of the Contractor or their employees, resulting in the destruction of any horizontal and vertical control, the resulting costs will be deducted as a liquidated damage against the Contractor.

Prior to the start of construction, the Contractor will check all control points for horizontal and vertical accuracy and certify in writing to the RPR that the Contractor concurs with survey control established for the project. All lines, grades and measurements from control points necessary for the proper execution and control of the work on this project will be provided to the RPR. The Contractor is responsible to establish all layout required for the construction of the project.

Copies of survey notes will be provided to the RPR for each area of construction and for each placement of material as specified to allow the RPR to make periodic checks for conformance with plan grades, alignments and grade tolerances required by the applicable material specifications. Surveys will be provided to the RPR prior to commencing work items that cover or disturb the survey staking. Survey(s) and notes shall be provided in the following format(s): Comma Separated Values (CSV), AutoCad DXF (Drawing Interchange Format), and hard copies.

Laser, GPS, String line, or other automatic control shall be checked with temporary control as necessary. In the case of error, on the part of the Contractor, their surveyor, employees or subcontractors, resulting in established grades, alignment or grade tolerances that do not concur with those specified or shown on the plans, the Contractor is solely responsible for correction, removal, replacement and all associated costs at no additional cost to the Owner.

No direct payment will be made, unless otherwise specified in contract documents, for this labor, materials, or other expenses. The cost shall be included in the price of the bid for the various items of the Contract. Construction layout and stakes includes but is not limited to:

- a.** Clearing and Grubbing perimeter staking
- b.** Rough Grade slope stakes at 100-foot (30-m) stations
- c.** Drainage Swales slope stakes and flow line blue tops at 50-foot (15-m) stations
- d.** Fence lines at 100-foot (30-m) stations minimum.
- e.** Drain lines, cut stakes and alignment on 25-foot (7.5-m) stations, inlet and manholes.
- f.** Laser, or other automatic control devices, shall be checked with temporary control point or grade hub at a minimum of once per 400-feet (120-m) per pass (that is, paving lane).

The establishment of Survey Control and/or reestablishment of survey control shall be by a State Licensed Land Surveyor. Controls and stakes disturbed or suspect of having been disturbed shall be checked and/or reset as directed by the Engineer without additional cost to the Owner.

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### **50-08 Authority and duties of Quality Assurance (QA) inspectors.**

QA inspectors shall be authorized to inspect all work done and all material furnished. Such QA inspection may extend to all or any part of the work and to the preparation, fabrication, or manufacture of the materials to be used. QA inspectors are not authorized to revoke, alter, or waive any provision of the contract. QA inspectors are not authorized to issue instructions contrary to the plans and specifications or to act as foreman for the Contractor.

QA Inspectors are authorized to notify the Contractor or their representatives of any failure of the work or materials to conform to the requirements of the contract, plans, or specifications and to reject such nonconforming materials in question until such issues can be referred to the RPR for a decision.

### **50-09 Inspection of the work.**

All materials and each part or detail of the work shall be subject to inspection. The RPR shall be allowed access to all parts of the work and shall be furnished with such information and assistance by the Contractor as is required to make a complete and detailed inspection.

If the RPR requests it, the Contractor, at any time before acceptance of the work, shall remove or uncover such portions of the finished work as may be directed. After examination, the Contractor shall restore said portions of the work to the standard required by the specifications. Should the work thus exposed or examined prove acceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be paid for as extra work; but should the work so exposed or examined prove unacceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed will be at the Contractor's expense.

Provide advance written notice to the RPR of work the Contractor plans to perform each week and each day. Any work done or materials used without written notice and allowing opportunity for inspection by the RPR may be ordered removed and replaced at the Contractor's expense.

Should the contract work include relocation, adjustment, or any other modification to existing facilities, not the property of the (contract) Owner, authorized representatives of the Owners of such facilities shall have the right to inspect such work. Such inspection shall in no sense make any facility owner a party to the contract, and shall in no way interfere with the rights of the parties to this contract.

### **50-10 Removal of unacceptable and unauthorized work.**

All work that does not conform to the requirements of the contract, plans, and specifications will be considered unacceptable, unless otherwise determined acceptable by the RPR as provided in paragraph 50-02, *Conformity with Plans and Specifications*.

Unacceptable work, whether the result of poor workmanship, use of defective materials, damage through carelessness, or any other cause found to exist prior to the final acceptance of the work, shall be removed immediately and replaced in an acceptable manner in accordance with the provisions of Section 70, paragraph 70-14, *Contractor's Responsibility for Work*.

No removal work made under provision of this paragraph shall be done without lines and grades having been established by the RPR. Work done contrary to the instructions of the RPR, work done beyond the lines shown on the plans or as established by the RPR, except as herein specified, or any extra work done without authority, will be considered as unauthorized and will not be paid for under the provisions of the contract. Work so done may be ordered removed or replaced at the Contractor's expense.



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Upon failure on the part of the Contractor to comply with any order of the RPR made under the provisions of this subsection, the RPR will have authority to cause unacceptable work to be remedied or removed and replaced; and unauthorized work to be removed and recover the resulting costs as a liquidated damage against the Contractor.

#### **50-11 Load restrictions.**

The Contractor shall comply with all legal load restrictions in the hauling of materials on public roads beyond the limits of the work. A special permit will not relieve the Contractor of liability for damage that may result from the moving of material or equipment.

The operation of equipment of such weight or so loaded as to cause damage to structures or to any other type of construction will not be permitted. Hauling of materials over the base course or surface course under construction shall be limited as directed. No loads will be permitted on a concrete pavement, base, or structure before the expiration of the curing period. The Contractor, at their own expense, shall be responsible for the repair to equal or better than preconstruction conditions of any damage caused by the Contractor's equipment and personnel.

#### **50-12 Maintenance during construction.**

The Contractor shall maintain the work during construction and until the work is accepted. Maintenance shall constitute continuous and effective work prosecuted day by day, with adequate equipment and forces so that the work is maintained in satisfactory condition at all times.

In the case of a contract for the placing of a course upon a course or subgrade previously constructed, the Contractor shall maintain the previous course or subgrade during all construction operations.

All costs of maintenance work during construction and before the project is accepted shall be included in the unit prices bid on the various contract items, and the Contractor will not be paid an additional amount for such work.

#### **50-13 Failure to maintain the work.**

Should the Contractor at any time fail to maintain the work as provided in paragraph 50-12, *Maintenance during Construction*, the RPR shall immediately notify the Contractor of such noncompliance. Such notification shall specify a reasonable time within which the Contractor shall be required to remedy such unsatisfactory maintenance condition. The time specified will give due consideration to the exigency that exists.

Should the Contractor fail to respond to the RPR's notification, the Owner may suspend any work necessary for the Owner to correct such unsatisfactory maintenance condition, depending on the exigency that exists. Any maintenance cost incurred by the Owner, shall be recovered as a liquidated damage against the Contractor.

#### **50-14 Partial acceptance.**

If at any time during the execution of the project the Contractor substantially completes a usable unit or portion of the work, the occupancy of which will benefit the Owner, the Contractor may request the RPR to make final inspection of that unit. If the RPR finds upon inspection that the unit has been satisfactorily completed in compliance with the contract, the RPR may accept it as being complete, and the Contractor may be relieved of further responsibility for that unit. Such partial acceptance and beneficial occupancy by the Owner shall not void or alter any provision of the contract.



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#### **50-15 Final acceptance.**

Upon due notice from the Contractor of presumptive completion of the entire project, the RPR and Owner will make an inspection. If all construction provided for and contemplated by the contract is found to be complete in accordance with the contract, plans, and specifications, such inspection shall constitute the final inspection. The RPR shall notify the Contractor in writing of final acceptance as of the date of the final inspection.

If, however, the inspection discloses any work, in whole or in part, as being unsatisfactory, the RPR will notify the Contractor and the Contractor shall correct the unsatisfactory work. Upon correction of the work, another inspection will be made which shall constitute the final inspection, provided the work has been satisfactorily completed. In such event, the RPR will make the final acceptance and notify the Contractor in writing of this acceptance as of the date of final inspection.

#### **50-16 Claims for adjustment and disputes.**

Claims for this CMAA contract are defined in the City of Loveland Contract Agreement, the EJCDC General Conditions Section 12 and any associated Supplementary Conditions.

If for any reason the Contractor deems that additional compensation is due for work or materials not clearly provided for in the contract, plans, or specifications or previously authorized as extra work, the Contractor shall notify the RPR in writing of their intention to claim such additional compensation before the Contractor begins the work on which the Contractor bases the claim. If such notification is not given or the RPR is not afforded proper opportunity by the Contractor for keeping strict account of actual cost as required, then the Contractor hereby agrees to waive any claim for such additional compensation. Such notice by the Contractor and the fact that the RPR has kept account of the cost of the work shall not in any way be construed as proving or substantiating the validity of the claim. When the work on which the claim for additional compensation is based has been completed, the Contractor shall, within 10 calendar days, submit a written claim to the RPR who will present it to the Owner for consideration in accordance with local laws or ordinances.

Nothing in this subsection shall be construed as a waiver of the Contractor's right to dispute final payment based on differences in measurements or computations.

**END OF SECTION 50**

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## **Section 60 Control of Materials**

### **60-01 Source of supply and quality requirements.**

The materials used in the work shall conform to the requirements of the contract, plans, and specifications. Unless otherwise specified, such materials that are manufactured or processed shall be new (as compared to used or reprocessed).

In order to expedite the inspection and testing of materials, the Contractor shall furnish documentation to the RPR as to the origin, composition, and manufacture of all materials to be used in the work. Documentation shall be furnished promptly after execution of the contract but, in all cases, prior to delivery of such materials.

At the RPR's option, materials may be approved at the source of supply before delivery. If it is found after trial that sources of supply for previously approved materials do not produce specified products, the Contractor shall furnish materials from other sources.

The Contractor shall furnish airport lighting equipment that meets the requirements of the specifications; and is listed in AC 150/5345-53, *Airport Lighting Equipment Certification Program and Addendum*, that is in effect on the date of advertisement.

### **60-02 Samples, tests, and cited specifications.**

All materials used in the work shall be inspected, tested, and approved by the RPR before incorporation in the work unless otherwise designated. Any work in which untested materials are used without approval or written permission of the RPR shall be performed at the Contractor's risk. Materials found to be unacceptable and unauthorized will not be paid for and, if directed by the RPR, shall be removed at the Contractor's expense.

Unless otherwise designated, quality assurance tests will be made by and at the expense of the Owner in accordance with the cited standard methods of ASTM, American Association of State Highway and Transportation Officials (AASHTO), federal specifications, Commercial Item Descriptions, and all other cited methods, which are current on the date of advertisement for bids.

The testing organizations performing on-site quality assurance field tests shall have copies of all referenced standards on the construction site for use by all technicians and other personnel. Unless otherwise designated, samples for quality assurance will be taken by a qualified representative of the RPR. All materials being used are subject to inspection, test, or rejection at any time prior to or during incorporation into the work. Copies of all tests will be furnished to the Contractor's representative at their request after review and approval of the RPR.

A copy of all Contractor QC test data shall be provided to the RPR daily, along with printed reports, in an approved format, on a weekly basis. After completion of the project, and prior to final payment, the Contractor shall submit a final report to the RPR showing all test data reports, plus an analysis of all results showing ranges, averages, and corrective action taken on all failing tests.

The Contractor shall employ a Quality Control (QC) testing organization to perform all Contractor required QC tests in accordance with Item C-100 Contractor Quality Control Program (CQCP).



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### **60-03 Certification of compliance/analysis (COC/COA).**

The RPR may permit the use, prior to sampling and testing, of certain materials or assemblies when accompanied by manufacturer's COC stating that such materials or assemblies fully comply with the requirements of the contract. The certificate shall be signed by the manufacturer. Each lot of such materials or assemblies delivered to the work must be accompanied by a certificate of compliance in which the lot is clearly identified. The COA is the manufacturer's COC and includes all applicable test results.

Materials or assemblies used on the basis of certificates of compliance may be sampled and tested at any time and if found not to be in conformity with contract requirements will be subject to rejection whether in place or not.

The form and distribution of certificates of compliance shall be as approved by the RPR.

When a material or assembly is specified by "brand name or equal" and the Contractor elects to furnish the specified "or equal," the Contractor shall be required to furnish the manufacturer's certificate of compliance for each lot of such material or assembly delivered to the work. Such certificate of compliance shall clearly identify each lot delivered and shall certify as to:

- a. Conformance to the specified performance, testing, quality or dimensional requirements; and,
- b. Suitability of the material or assembly for the use intended in the contract work.

The RPR shall be the sole judge as to whether the proposed "or equal" is suitable for use in the work.

The RPR reserves the right to refuse permission for use of materials or assemblies on the basis of certificates of compliance.

### **60-04 Plant inspection.**

The RPR or their authorized representative may inspect, at its source, any specified material or assembly to be used in the work. Manufacturing plants may be inspected from time to time for the purpose of determining compliance with specified manufacturing methods or materials to be used in the work and to obtain samples required for acceptance of the material or assembly.

Should the RPR conduct plant inspections, the following conditions shall exist:

- a. The RPR shall have the cooperation and assistance of the Contractor and the producer with whom the Contractor has contracted for materials.
- b. The RPR shall have full entry at all reasonable times to such parts of the plant that concern the manufacture or production of the materials being furnished.
- c. If required by the RPR, the Contractor shall arrange for adequate office or working space that may be reasonably needed for conducting plant inspections. Place office or working space in a convenient location with respect to the plant.

It is understood and agreed that the Owner shall have the right to retest any material that has been tested and approved at the source of supply after it has been delivered to the site. The RPR shall have the right to reject only material which, when retested, does not meet the requirements of the contract, plans, or specifications.

### **60-05 Engineer/ Resident Project Representative (RPR) field office:**

~~The Contractor shall provide dedicated space for the use of the engineer, RPR, and inspectors, as a field office for the duration of the project. This space shall be located conveniently near the construction and shall be separate from any space used by the Contractor. The Contractor shall furnish water, sanitary facilities, heat, air conditioning, and electricity. The Contractor shall provide the following:-~~

- ~~• Field office/trailer or separate locking room in common trailer~~

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- ~~Separate office with desk and chair that can accommodate at least 4 people~~
  - ~~Separate rest room or access to a rest room~~
  - ~~Microwave~~
  - ~~Mini fridge~~
  - ~~Printer/copier/scanner capable of managing 11x17 prints and scans~~
  - ~~High Speed internet~~
  - ~~Three parking spaces for Engineer/Airport Sponsor~~

#### **60-06 Storage of materials.**

Materials shall be stored to assure the preservation of their quality and fitness for the work. Stored materials, even though approved before storage, may again be inspected prior to their use in the work. Stored materials shall be located to facilitate their prompt inspection. The Contractor shall coordinate the storage of all materials with the RPR. Materials to be stored on airport property shall not create an obstruction to air navigation nor shall they interfere with the free and unobstructed movement of aircraft. Unless otherwise shown on the plans and/or CSPP, the storage of materials and the location of the Contractor's plant and parked equipment or vehicles shall be as directed by the RPR. Private property shall not be used for storage purposes without written permission of the Owner or lessee of such property. The Contractor shall make all arrangements and bear all expenses for the storage of materials on private property. Upon request, the Contractor shall furnish the RPR a copy of the property Owner's permission. All storage sites on private or airport property shall be restored to their original condition by the Contractor at their expense, except as otherwise agreed to (in writing) by the Owner or lessee of the property.

#### **60-07 Unacceptable materials.**

Any material or assembly that does not conform to the requirements of the contract, plans, or specifications shall be considered unacceptable and shall be rejected. The Contractor shall remove any rejected material or assembly from the site of the work, unless otherwise instructed by the RPR.

Rejected material or assembly, the defects of which have been corrected by the Contractor, shall not be returned to the site of the work until such time as the RPR has approved its use in the work.

#### **60-08 Owner furnished materials.**

The Contractor shall furnish all materials required to complete the work, except those specified, if any, to be furnished by the Owner. Owner-furnished materials shall be made available to the Contractor at the location specified.

All costs of handling, transportation from the specified location to the site of work, storage, and installing Owner-furnished materials shall be included in the unit price bid for the contract item in which such Owner-furnished material is used.

After any Owner-furnished material has been delivered to the location specified, the Contractor shall be responsible for any demurrage, damage, loss, or other deficiencies that may occur during the Contractor's handling, storage, or use of such Owner-furnished material. The Owner will deduct from any monies due or to become due the Contractor any cost incurred by the Owner in making good such loss due to the Contractor's handling, storage, or use of Owner-furnished materials.

### **END OF SECTION 60**



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## **Section 70 Legal Regulations and Responsibility to Public**

### **70-01 Laws to be observed.**

The Contractor shall keep fully informed of all federal and state laws, all local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on the work, or which in any way affect the conduct of the work. The Contractor shall at all times observe and comply with all such laws, ordinances, regulations, orders, and decrees; and shall protect and indemnify the Owner and all their officers, agents, or servants against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by the Contractor or the Contractor's employees.

### **70-02 Permits, licenses, and taxes.**

The Contractor shall procure all permits and licenses, pay all charges, fees, and taxes, and give all notices necessary and incidental to the due and lawful execution of the work.

### **70-03 Patented devices, materials, and processes.**

If the Contractor is required or desires to use any design, device, material, or process covered by letters of patent or copyright, the Contractor shall provide for such use by suitable legal agreement with the Patentee or Owner. The Contractor and the surety shall indemnify and hold harmless the Owner, any third party, or political subdivision from any and all claims for infringement by reason of the use of any such patented design, device, material or process, or any trademark or copyright, and shall indemnify the Owner for any costs, expenses, and damages which it may be obliged to pay by reason of an infringement, at any time during the execution or after the completion of the work.

### **70-04 Restoration of surfaces disturbed by others.**

The Owner reserves the right to authorize the construction, reconstruction, or maintenance of any public or private utility service, FAA or National Oceanic and Atmospheric Administration (NOAA) facility, or a utility service of another government agency at any time during the progress of the work. To the extent that such construction, reconstruction, or maintenance has been coordinated with the Owner, such authorized work (by others) must be shown on the plans and is indicated as follows: reference the plans for the removal of existing facilities and/or utilities as applicable).

Except as listed above, the Contractor shall not permit any individual, firm, or corporation to excavate or otherwise disturb such utility services or facilities located within the limits of the work without the written permission of the RPR.

Should the Owner of public or private utility service, FAA, or NOAA facility, or a utility service of another government agency be authorized to construct, reconstruct, or maintain such utility service or facility during the progress of the work, the Contractor shall cooperate with such Owners by arranging and performing the work in this contract to facilitate such construction, reconstruction or maintenance by others whether or not such work by others is listed above. When ordered as extra work by the RPR, the Contractor shall make all necessary repairs to the work which are due to such authorized work by others, unless otherwise provided for in the contract, plans, or specifications. It is understood and agreed that the Contractor shall not be entitled to make any claim for damages due to such authorized work by others or for any delay to the work resulting from such authorized work.

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#### **70-05 Federal Participation.**

The United States Government has agreed to reimburse the Owner for some portion of the contract costs. The contract work is subject to the inspection and approval of duly authorized representatives of the FAA Administrator. No requirement of this contract shall be construed as making the United States a party to the contract nor will any such requirement interfere, in any way, with the rights of either party to the contract.

#### **70-06 Sanitary, health, and safety provisions.**

The Contractor's worksite and facilities shall comply with applicable federal, state, and local requirements for health, safety and sanitary provisions.

#### **70-07 Public convenience and safety.**

The Contractor shall control their operations and those of their subcontractors and all suppliers, to assure the least inconvenience to the traveling public. Under all circumstances, safety shall be the most important consideration.

The Contractor shall maintain the free and unobstructed movement of aircraft and vehicular traffic with respect to their own operations and those of their own subcontractors and all suppliers in accordance with Section 40, paragraph 40-05, *Maintenance of Traffic*, and shall limit such operations for the convenience and safety of the traveling public as specified in Section 80, paragraph 80-04, *Limitation of Operations*. The Contractor shall remove or control debris and rubbish resulting from its work operations at frequent intervals, and upon the order of the RPR. If the RPR determines the existence of Contractor debris in the work site represents a hazard to airport operations and the Contractor is unable to respond in a prompt and reasonable manner, the RPR reserves the right to assign the task of debris removal to a third party and recover the resulting costs as a liquidated damage against the Contractor.

#### **70-08 Construction Safety and Phasing Plan (CSPP).**

A Construction Safety and Phasing Plan (CSPP) is not required for this project, as no construction operations will be performed airside.

#### **70-09 Use of explosives.**

The use of explosives is not permitted on this project.

#### **70-10 Protection and restoration of property and landscape.**

The Contractor shall be responsible for the preservation of all public and private property, and shall protect carefully from disturbance or damage all land monuments and property markers until the Engineer/RPR has witnessed or otherwise referenced their location and shall not move them until directed.

The Contractor shall be responsible for all damage or injury to property of any character, during the execution of the work, resulting from any act, omission, neglect, or misconduct in manner or method of executing the work, or at any time due to defective work or materials, and said responsibility shall not be released until the project has been completed and accepted.

When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the work, or in consequence of the non-execution thereof by the Contractor, the Contractor shall restore, at their expense, such property to a



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condition similar or equal to that existing before such damage or injury was done, by repairing, or otherwise restoring as may be directed, or the Contractor shall make good such damage or injury in an acceptable manner.

#### **70-11 Responsibility for damage claims.**

The Contractor shall indemnify and hold harmless the Engineer/RPR and the Owner and their officers, agents, and employees from all suits, actions, or claims, of any character, brought because of any injuries or damage received or sustained by any person, persons, or property on account of the operations of the Contractor; or on account of or in consequence of any neglect in safeguarding the work; or through use of unacceptable materials in constructing the work; or because of any act or omission, neglect, or misconduct of said Contractor; or because of any claims or amounts recovered from any infringements of patent, trademark, or copyright; or from any claims or amounts arising or recovered under the "Workmen's Compensation Act," or any other law, ordinance, order, or decree. Money due the Contractor under and by virtue of their own contract considered necessary by the Owner for such purpose may be retained for the use of the Owner or, in case no money is due, their own surety may be held until such suits, actions, or claims for injuries or damages shall have been settled and suitable evidence to that effect furnished to the Owner, except that money due the Contractor will not be withheld when the Contractor produces satisfactory evidence that he or she is adequately protected by public liability and property damage insurance.

#### **70-12 Third party beneficiary clause.**

It is specifically agreed between the parties executing the contract that it is not intended by any of the provisions of any part of the contract to create for the public or any member thereof, a third-party beneficiary or to authorize anyone not a party to the contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of the contract.

#### **70-13 Opening sections of the work to traffic.**

If it is necessary for the Contractor to complete portions of the contract work for the beneficial occupancy of the Owner prior to completion of the entire contract, such "phasing" of the work must be specified below and indicated on the approved Construction Safety and Phasing Plan (CSPP) and the project plans. When so specified, the Contractor shall complete such portions of the work on or before the date specified or as otherwise specified.

Upon completion of any portion of work listed above, such portion shall be accepted by the Owner in accordance with Section 50, paragraph 50-14, *Partial Acceptance*.

No portion of the work may be opened by the Contractor until directed by the Owner in writing. Should it become necessary to open a portion of the work to traffic on a temporary or intermittent basis, such openings shall be made when, in the opinion of the RPR, such portion of the work is in an acceptable condition to support the intended traffic. Temporary or intermittent openings are considered to be inherent in the work and shall not constitute either acceptance of the portion of the work so opened or a waiver of any provision of the contract. Any damage to the portion of the work so opened that is not attributable to traffic which is permitted by the Owner shall be repaired by the Contractor at their expense.

The Contractor shall make their own estimate of the inherent difficulties involved in completing the work under the conditions herein described and shall not claim any added compensation by reason of delay or increased cost due to opening a portion of the contract work.

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The Contractor must conform to safety standards contained AC 150/5370-2 and the approved CSPP. Contractor shall refer to the plans, specifications, and the approved CSPP to identify barricade requirements, temporary and/or permanent markings, airfield lighting, guidance signs and other safety requirements prior to opening up sections of work to traffic.

#### **70-14 Contractor's responsibility for work.**

Until the RPR's final written acceptance of the entire completed work, excepting only those portions of the work accepted in accordance with Section 50, paragraph 50-14, *Partial Acceptance*, the Contractor shall have the charge and care thereof and shall take every precaution against injury or damage to any part due to the action of the elements or from any other cause, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expense thereof except damage to the work due to unforeseeable causes beyond the control of and without the fault or negligence of the Contractor, including but not restricted to acts of God such as earthquake, tidal wave, tornado, hurricane or other cataclysmic phenomenon of nature, or acts of the public enemy or of government authorities.

If the work is suspended for any cause whatever, the Contractor shall be responsible for the work and shall take such precautions necessary to prevent damage to the work. The Contractor shall provide for normal drainage and shall erect necessary temporary structures, signs, or other facilities at their own expense. During such period of suspension of work, the Contractor shall properly and continuously maintain in an acceptable growing condition all living material in newly established planting, seeding, and sodding furnished under the contract, and shall take adequate precautions to protect new tree growth and other important vegetative growth against injury.

#### **70-15 Contractor's responsibility for utility service and facilities of others.**

As provided in paragraph 70-04, *Restoration of Surfaces Disturbed by Others*, the Contractor shall cooperate with the owner of any public or private utility service, FAA or NOAA, or a utility service of another government agency that may be authorized by the Owner to construct, reconstruct or maintain such utility services or facilities during the progress of the work. In addition, the Contractor shall control their operations to prevent the unscheduled interruption of such utility services and facilities.

To the extent that such public or private utility services, FAA, or NOAA facilities, or utility services of another governmental agency are known to exist within the limits of the contract work, the approximate locations have been indicated on the plans and/or in the contract documents.

It is understood and agreed that the Owner does not guarantee the accuracy or the completeness of the location information relating to existing utility services, facilities, or structures that may be shown on the plans or encountered in the work. Any inaccuracy or omission in such information shall not relieve the Contractor of the responsibility to protect such existing features from damage or unscheduled interruption of service.

It is further understood and agreed that the Contractor shall, upon execution of the contract, notify the Owners of all utility services or other facilities of their plan of operations. Such notification shall be in writing addressed to "The Person to Contact" as provided in this paragraph and paragraph 70-04, *Restoration of Surfaces Disturbed By Others*. A copy of each notification shall be given to the RPR.



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In addition to the general written notification provided, it shall be the responsibility of the Contractor to keep such individual Owners advised of changes in their plan of operations that would affect such Owners. Prior to beginning the work in the general vicinity of an existing utility service or facility, the Contractor shall again notify each such Owner of their plan of operation. If, in the Contractor's opinion, the Owner's assistance is needed to locate the utility service or facility or the presence of a representative of the Owner is desirable to observe the work, such advice should be included in the notification. Such notification shall be given by the most expeditious means to reach the utility owner's "Person to Contact" no later than two normal business days prior to the Contractor's commencement of operations in such general vicinity. The Contractor shall furnish a written summary of the notification to the RPR.

The Contractor's failure to give the two days' notice shall be cause for the Owner to suspend the Contractor's operations in the general vicinity of a utility service or facility.

Where the outside limits of an underground utility service have been located and staked on the ground, the Contractor shall be required to use hand excavation methods within 3 feet (1 m) of such outside limits at such points as may be required to ensure protection from damage due to the Contractor's operations. Should the Contractor damage or interrupt the operation of a utility service or facility by accident or otherwise, the Contractor shall immediately notify the proper authority and the RPR and shall take all reasonable measures to prevent further damage or interruption of service. The Contractor, in such events, shall cooperate with the utility service or facility owner and the RPR continuously until such damage has been repaired and service restored to the satisfaction of the utility or facility owner.

The Contractor shall bear all costs of damage and restoration of service to any utility service or facility due to their operations whether due to negligence or accident. The Owner reserves the right to deduct such costs from any monies due or which may become due the Contractor, or their own surety.

#### **70-16 Furnishing rights-of-way.**

The Owner will be responsible for furnishing all rights-of-way upon which the work is to be constructed in advance of the Contractor's operations.

#### **70-17 Personal liability of public officials.**

In carrying out any of the contract provisions or in exercising any power or authority granted by this contract, there shall be no liability upon the Engineer, RPR, their authorized representatives, or any officials of the Owner either personally or as an official of the Owner. It is understood that in such matters they act solely as agents and representatives of the Owner.

#### **70-18 No waiver of legal rights.**

Upon completion of the work, the Owner will expeditiously make final inspection and notify the Contractor of final acceptance. Such final acceptance, however, shall not preclude or stop the Owner from correcting any measurement, estimate, or certificate made before or after completion of the work, nor shall the Owner be precluded or stopped from recovering from the Contractor or their surety, or both, such overpayment as may be sustained, or by failure on the part of the Contractor to fulfill their obligations under the contract. A waiver on the part of the Owner of any breach of any part of the contract shall not be held to be a waiver of any other or subsequent breach.

The Contractor, without prejudice to the terms of the contract, shall be liable to the Owner for latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards the Owner's rights under any warranty or guaranty.

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**70-19 Environmental protection.**

The Contractor shall comply with all federal, state, and local laws and regulations controlling pollution of the environment. The Contractor shall take necessary precautions to prevent pollution of streams, lakes, ponds, and reservoirs with fuels, oils, asphalts, chemicals, or other harmful materials and to prevent pollution of the atmosphere from particulate and gaseous matter.

**70-20 Archaeological and historical findings.**

Unless otherwise specified in this subsection, the Contractor is advised that the site of the work is not within any property, district, or site, and does not contain any building, structure, or object listed in the current National Register of Historic Places published by the United States Department of Interior.

Should the Contractor encounter, during their operations, any building, part of a building, structure, or object that is incongruous with its surroundings, the Contractor shall immediately cease operations in that location and notify the RPR. The RPR will immediately investigate the Contractor's finding and the Owner will direct the Contractor to either resume operations or to suspend operations as directed.

Should the Owner order suspension of the Contractor's operations in order to protect an archaeological or historical finding, or order the Contractor to perform extra work, such shall be covered by an appropriate contract change order or supplemental agreement as provided in Section 40, paragraph 40-04, *Extra Work*, and Section 90, paragraph 90-05, *Payment for Extra Work*. If appropriate, the contract change order or supplemental agreement shall include an extension of contract time in accordance with Section 80, paragraph 80-07, *Determination and Extension of Contract Time*.

**70-21 Insurance Requirements.** See the City of Loveland's Special Conditions for insurance requirements.

**END OF SECTION 70**

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## **Section 80 Execution and Progress**

### **80-01 Subletting of contract.**

The Owner will not recognize any subcontractor on the work. The Contractor shall at all times when work is in progress be represented either in person, by a qualified superintendent, or by other designated, qualified representative who is duly authorized to receive and execute orders of the Resident Project Representative (RPR).

Should the Contractor elect to assign their contract, said assignment shall be concurred in by the surety, shall be presented for the consideration and approval of the Owner, and shall be consummated only on the written approval of the Owner.

**The Contractor shall provide copies of all subcontracts to the RPR 14 days prior to being utilized on the project. As a minimum, the information shall include the following:**

- Subcontractor's legal company name.
- Subcontractor's legal company address, including County name.
- Principal contact person's name, telephone and fax number.
- Complete narrative description, and dollar value of the work to be performed by the subcontractor.
- Copies of required insurance certificates in accordance with the specifications.
- Minority/ non-minority status.

### **80-02 Notice to proceed (NTP).**

The Owners notice to proceed will state the date on which contract time commences. The Contractor is expected to commence project operations within **7 calendar days** of the NTP date or as stipulated in Supplementary Conditions SC-4.01. The Contractor shall notify the RPR at least 24 hours in advance of the time contract operations begins. The Contractor shall not commence any actual operations prior to the date on which the notice to proceed is issued by the Owner.

### **80-03 Execution and progress.**

Unless otherwise specified, the Contractor shall submit their coordinated construction schedule showing all work activities for the RPR's review and acceptance at least 10 days prior to the start of work. The Contractor's progress schedule, once accepted by the RPR, will represent the Contractor's baseline plan to accomplish the project in accordance with the terms and conditions of the Contract. The RPR will compare actual Contractor progress against the baseline schedule to determine that status of the Contractor's performance. The Contractor shall provide sufficient materials, equipment, and labor to guarantee the completion of the project in accordance with the plans and specifications within the time set forth in the proposal.

If the Contractor falls significantly behind the submitted schedule, the Contractor shall, upon the RPR's request, submit a revised schedule for completion of the work within the contract time and modify their operations to provide such additional materials, equipment, and labor necessary to meet the revised schedule. Should the execution of the work be discontinued for any reason, the Contractor shall notify the RPR at least 24 hours in advance of resuming operations.



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The Contractor shall not commence any actual construction prior to the date on which the NTP is issued by the Owner.

The project schedule shall be prepared as a network diagram in Critical Path Method (CPM), Program Evaluation and Review Technique (PERT), or other format, or as otherwise specified. It shall include information on the sequence of work activities, milestone dates, and activity duration. The schedule shall show all work items identified in the project proposal for each work area and shall include the project start date and end date.

The Contractor shall maintain the work schedule and provide an update and analysis of the progress schedule on a twice monthly basis, or as otherwise specified in the contract. Submission of the work schedule shall not relieve the Contractor of overall responsibility for scheduling, sequencing, and coordinating all work to comply with the requirements of the contract.

#### **80-04 Limitation of operations.**

The Contractor shall control their operations and the operations of their subcontractors and all suppliers to provide for the free and unobstructed movement of aircraft in the air operations areas (AOA) of the airport.

When the work requires the Contractor to conduct their operations within an AOA of the airport, the work shall be coordinated with airport operations (through the RPR) at least 48 hours prior to commencement of such work. The Contractor shall not close an AOA until so authorized by the RPR and until the necessary temporary marking, signage and associated lighting is in place as provided in Section 70, paragraph 70-08, *Construction Safety and Phasing Plan (CSPP)*.

When the contract work requires the Contractor to work within an AOA of the airport on an intermittent basis (intermittent opening and closing of the AOA), the Contractor shall maintain constant communications as specified; immediately obey all instructions to vacate the AOA; and immediately obey all instructions to resume work in such AOA. Failure to maintain the specified communications or to obey instructions shall be cause for suspension of the Contractor's operations in the AOA until satisfactory conditions are provided. The areas of the AOA identified in the Construction Safety Phasing Plan (CSPP) and as listed below, cannot be closed to operating aircraft to permit the Contractor's operations on a continuous basis and will therefore be closed to aircraft operations intermittently.

The Contractor shall be required to conform to safety standards contained in AC 150/5370-2, Operational Safety on Airports During Construction and the approved CSPP.

##### **80-04.1 Operational safety on airport during construction.**

All Contractors' operations shall be conducted in accordance with the approved project Construction Safety and Phasing Plan (CSPP) and the Safety Plan Compliance Document (SPCD) and the provisions set forth within the current version of AC 150/5370-2, Operational Safety on Airports During Construction. The CSPP included within the contract documents conveys minimum requirements for operational safety on the airport during construction activities. The Contractor shall prepare and submit a SPCD that details how it proposes to comply with the requirements presented within the CSPP.

The Contractor shall implement all necessary safety plan measures prior to commencement of any work activity. The Contractor shall conduct routine checks to assure compliance with the safety plan measures.



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The Contractor is responsible to the Owner for the conduct of all subcontractors it employs on the project. The Contractor shall assure that all subcontractors are made aware of the requirements of the CSPP and SPCD and that they implement and maintain all necessary measures.

No deviation or modifications may be made to the approved CSPP and SPCD unless approved in writing by the Owner. The necessary coordination actions to review Contractor proposed modifications to an approved CSPP or approved SPCD can require a significant amount of time.

#### **80-05 Character of workers, methods, and equipment.**

The Contractor shall, at all times, employ sufficient labor and equipment for prosecuting the work to full completion in the manner and time required by the contract, plans, and specifications.

All workers shall have sufficient skill and experience to perform properly the work assigned to them. Workers engaged in special work or skilled work shall have sufficient experience in such work and in the operation of the equipment required to perform the work satisfactorily.

Any person employed by the Contractor or by any subcontractor who violates any operational regulations or operational safety requirements and, in the opinion of the RPR, does not perform his work in a proper and skillful manner or is intemperate or disorderly shall, at the written request of the RPR, be removed immediately by the Contractor or subcontractor employing such person, and shall not be employed again in any portion of the work without approval of the RPR.

Should the Contractor fail to remove such person or persons, or fail to furnish suitable and sufficient personnel for the proper execution of the work, the RPR may suspend the work by written notice until compliance with such orders.

All equipment that is proposed to be used on the work shall be of sufficient size and in such mechanical condition as to meet requirements of the work and to produce a satisfactory quality of work. Equipment used on any portion of the work shall not cause injury to previously completed work, adjacent property, or existing airport facilities due to its use.

When the methods and equipment to be used by the Contractor in accomplishing the work are not prescribed in the contract, the Contractor is free to use any methods or equipment that will accomplish the work in conformity with the requirements of the contract, plans, and specifications.

When the contract specifies the use of certain methods and equipment, such methods and equipment shall be used unless otherwise authorized by the RPR. If the Contractor desires to use a method or type of equipment other than specified in the contract, the Contractor may request authority from the RPR to do so. The request shall be in writing and shall include a full description of the methods and equipment proposed and of the reasons for desiring to make the change. If approval is given, it will be on the condition that the Contractor will be fully responsible for producing work in conformity with contract requirements. If, after trial use of the substituted methods or equipment, the RPR determines that the work produced does not meet contract requirements, the Contractor shall discontinue the use of the substitute method or equipment and shall complete the remaining work with the specified methods and equipment. The Contractor shall remove any deficient work and replace it with work of specified quality, or take such other corrective action as the RPR may direct. No change will be made in basis of payment for the contract items involved nor in contract time as a result of authorizing a change in methods or equipment under this paragraph.

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### **80-06 Temporary suspension of the work.**

The Owner shall have the authority to suspend the work wholly, or in part, for such period or periods the Owner may deem necessary, due to unsuitable weather, or other conditions considered unfavorable for the execution of the work, or for such time necessary due to the failure on the part of the Contractor to carry out orders given or perform any or all provisions of the contract.

In the event that the Contractor is ordered by the Owner, in writing, to suspend work for some unforeseen cause not otherwise provided for in the contract and over which the Contractor has no control, the Contractor may be reimbursed for actual money expended on the work during the period of shutdown. No allowance will be made for anticipated profits. The period of shutdown shall be computed from the effective date of the written order to suspend work to the effective date of the written order to resume the work. Claims for such compensation shall be filed with the RPR within the time period stated in the RPR's order to resume work. The Contractor shall submit with their own claim information substantiating the amount shown on the claim. The RPR will forward the Contractor's claim to the Owner for consideration in accordance with local laws or ordinances. No provision of this article shall be construed as entitling the Contractor to compensation for delays due to inclement weather or for any other delay provided for in the contract, plans, or specifications.

If it becomes necessary to suspend work for an indefinite period, the Contractor shall store all materials in such manner that they will not become an obstruction nor become damaged in any way. The Contractor shall take every precaution to prevent damage or deterioration of the work performed and provide for normal drainage of the work. The Contractor shall erect temporary structures where necessary to provide for traffic on, to, or from the airport.

### **80-07 Determination and extension of contract time.**

The number of calendar days shall be stated in the proposal and contract and shall be known as the Contract Time. If the contract time requires extension for reasons beyond the Contractor's control, it shall be adjusted as follows:

#### **80-07.1 Contract time based on calendar days.**

Contract Time based on calendar days shall consist of the number of calendar days stated in the contract counting from the effective date of the Notice to Proceed and including all Saturdays, Sundays, holidays, and non-work days. All calendar days elapsing between the effective dates of the Owner's orders to suspend and resume all work, due to causes not the fault of the Contractor, shall be excluded.

At the time of final payment, the contract time shall be increased in the same proportion as the cost of the actually completed quantities bears to the cost of the originally estimated quantities in the proposal. Such increase in the contract time shall not consider either cost of work or the extension of contract time that has been covered by a change order or supplemental agreement. Charges against the contract time will cease as of the date of final acceptance.

### **80-08 Failure to complete on time.**

For each calendar day or working day, as specified in the contract, that any work remains uncompleted after the contract time (including all extensions and adjustments as provided in paragraph 80-07, *Determination and Extension of Contract Time*) the sum specified in the contract and proposal as liquidated damages (LD) will be deducted from any money due or to become due the Contractor or their own surety. Such deducted sums shall not be deducted as a penalty but shall be considered as liquidation of a reasonable portion of

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damages including but not limited to additional engineering services that will be incurred by the Owner should the Contractor fail to complete the work in the time provided in their contract.

See City of Loveland contract documents for contracted project schedule and liquidated damages.

#### **80-09 Default and termination of contract.**

The Contractor shall be considered in default of their contract and such default will be considered as cause for the Owner to terminate the contract for any of the following reasons, if the Contractor:

- a. Fails to begin the work under the contract within the time specified in the Notice to Proceed, or
- b. Fails to perform the work or fails to provide sufficient workers, equipment and/or materials to assure completion of work in accordance with the terms of the contract, or
- c. Performs the work unsuitably or neglects or refuses to remove materials or to perform anew such work as may be rejected as unacceptable and unsuitable, or
- d. Discontinues the execution of the work, or
- e. Fails to resume work which has been discontinued within a reasonable time after notice to do so, or
- f. Becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency, or
- g. Allows any final judgment to stand against the Contractor unsatisfied for a period of 10 days, or
- h. Makes an assignment for the benefit of creditors, or
- i. For any other cause whatsoever, fails to carry on the work in an acceptable manner.

Should the Owner consider the Contractor in default of the contract for any reason above, the Owner shall immediately give written notice to the Contractor and the Contractor's surety as to the reasons for considering the Contractor in default and the Owner's intentions to terminate the contract.

If the Contractor or surety, within a period of 10 days after such notice, does not proceed in accordance therewith, then the Owner will, upon written notification from the RPR of the facts of such delay, neglect, or default and the Contractor's failure to comply with such notice, have full power and authority without violating the contract, to take the execution of the work out of the hands of the Contractor. The Owner may appropriate or use any or all materials and equipment that have been mobilized for use in the work and are acceptable and may enter into an agreement for the completion of said contract according to the terms and provisions thereof, or use such other methods as in the opinion of the RPR will be required for the completion of said contract in an acceptable manner.

All costs and charges incurred by the Owner, together with the cost of completing the work under contract, will be deducted from any monies due or which may become due the Contractor. If such expense exceeds the sum which would have been payable under the contract, then the Contractor and the surety shall be liable and shall pay to the Owner the amount of such excess.

#### **80-10 Termination for national emergencies.**

The Owner shall terminate the contract or portion thereof by written notice when the Contractor is prevented from proceeding with the construction contract as a direct result of an Executive Order of the President with respect to the execution of war or in the interest of national defense.

When the contract, or any portion thereof, is terminated before completion of all items of work in the contract, payment will be made for the actual number of units or items of work completed at the contract price or as mutually agreed for items of work partially completed or not started. No claims or loss of anticipated profits shall be considered.

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Reimbursement for organization of the work, and other overhead expenses, (when not otherwise included in the contract) and moving equipment and materials to and from the job will be considered, the intent being that an equitable settlement will be made with the Contractor.

Acceptable materials, obtained or ordered by the Contractor for the work and that are not incorporated in the work shall, at the option of the Contractor, be purchased from the Contractor at actual cost as shown by receipted bills and actual cost records at such points of delivery as may be designated by the RPR.

Termination of the contract or a portion thereof shall neither relieve the Contractor of their responsibilities for the completed work nor shall it relieve their surety of its obligation for and concerning any just claim arising out of the work performed.

**80-11 Work area, storage area and sequence of operations.**

The Contractor shall obtain approval from the RPR prior to beginning any work in all areas of the airport. No operating runway, taxiway, or air operations area (AOA) shall be crossed, entered, or obstructed while it is operational. The Contractor shall plan and coordinate work in accordance with the approved CSPP and SPCD.

**END OF SECTION 80**



## Section 90 Measurement and Payment

### 90-01 Measurement of quantities.

All work completed under the contract will be measured by the RPR, or their authorized representatives, using United States Customary Units of Measurement.

The method of measurement and computations to be used in determination of quantities of material furnished and of work performed under the contract will be those methods generally recognized as conforming to good engineering practice and as established in the City of Loveland CMAA contract agreement.

Unless otherwise specified, longitudinal measurements for area computations will be made horizontally, and no deductions will be made for individual fixtures (or leave-outs) having an area of 9 square feet (0.8 square meters) or less. Unless otherwise specified, transverse measurements for area computations will be the neat dimensions shown on the plans or ordered in writing by the RPR.

Unless otherwise specified, all contract items which are measured by the linear foot such as electrical ducts, conduits, pipe culverts, underdrains, and similar items shall be measured parallel to the base or foundation upon which such items are placed.

The term "lump sum" when used as an item of payment will mean complete payment for the work described in the contract. When a complete structure or structural unit (in effect, "lump sum" work) is specified as the unit of measurement, the unit will be construed to include all necessary fittings and accessories.

When requested by the Contractor and approved by the RPR in writing, material specified to be measured by the cubic yard (cubic meter) may be weighed, and such weights will be converted to cubic yards (cubic meters) for payment purposes. Factors for conversion from weight measurement to volume measurement will be determined by the RPR and shall be agreed to by the Contractor before such method of measurement of pay quantities is used.

### Measurement and Payment Terms

| Term  | Description   |
|---|---|
| <b>Excavation and Embankment Volume</b>     | In computing volumes of excavation, the average end area method will be used unless otherwise specified.  |
| <b>Measurement and Proportion by Weight</b> | The term "ton" will mean the short ton consisting of 2,000 pounds (907 kg) avoirdupois. All materials that are measured or proportioned by weights shall be weighed on accurate, independently certified scales by competent, qualified personnel at locations designated by the RPR. If material is shipped by rail, the car weight may be accepted provided that only the actual weight of material is paid for. However, car weights will not be acceptable for material to be passed through mixing plants. Trucks used to haul material being paid for by weight shall be weighed empty daily at such times as the RPR directs, and each truck shall bear a plainly legible identification mark. |
| <b>Measurement by Volume</b>                | Materials to be measured by volume in the hauling vehicle shall be hauled in approved vehicles and measured therein at the point of delivery. Vehicles for this purpose may be of any size or type acceptable for the materials hauled, provided  |

| <b>Term</b>                | <b>Description</b>  |
|----------------------------|---|
|                            | that the body is of such shape that the actual contents may be readily and accurately determined. All vehicles shall be loaded to at least their water level capacity, and all loads shall be leveled when the vehicles arrive at the point of delivery.  |
| <b>Asphalt Material</b>    | Asphalt materials will be measured by the gallon (liter) or ton (kg). When measured by volume, such volumes will be measured at 60°F (16°C) or will be corrected to the volume at 60°F (16°C) using ASTM D1250 for asphalts. Net certified scale weights or weights based on certified volumes in the case of rail shipments will be used as a basis of measurement, subject to correction when asphalt material has been lost from the car or the distributor, wasted, or otherwise not incorporated in the work. When asphalt materials are shipped by truck or transport, net certified weights by volume, subject to correction for loss or foaming, will be used for computing quantities.   |
| <b>Cement</b>              | Cement will be measured by the ton (kg) or hundredweight (km).  |
| <b>Structure</b>           | Structures will be measured according to neat lines shown on the plans or as altered to fit field conditions.   |
| <b>Timber</b>              | Timber will be measured by the thousand feet board measure (MFBM) actually incorporated in the structure. Measurement will be based on nominal widths and thicknesses and the extreme length of each piece.   |
| <b>Plates and Sheets</b>   | The thickness of plates and galvanized sheet used in the manufacture of corrugated metal pipe, metal plate pipe culverts and arches, and metal cribbing will be specified and measured in decimal fraction of inch.   |
| <b>Miscellaneous Items</b> | When standard manufactured items are specified such as fence, wire, plates, rolled shapes, pipe conduit, etc., and these items are identified by gauge, unit weight, section dimensions, etc., such identification will be considered to be nominal weights or dimensions. Unless more stringently controlled by tolerances in cited specifications, manufacturing tolerances established by the industries involved will be accepted.  |
| <b>Scales</b>              | <p>Scales must be tested for accuracy and serviced before use. Scales for weighing materials which are required to be proportioned or measured and paid for by weight shall be furnished, erected, and maintained by the Contractor, or be certified permanently installed commercial scales. Platform scales shall be installed and maintained with the platform level and rigid bulkheads at each end. Scales shall be accurate within 0.5% of the correct weight throughout the range of use. The Contractor shall have the scales checked under the observation of the RPR before beginning work and at such other times as requested. The intervals shall be uniform in spacing throughout the graduated or marked length of the beam or dial and shall not exceed 0.1% of the nominal rated capacity of the scale, but not less than one pound (454 grams). The use of spring balances will not be permitted.</p> <p>In the event inspection reveals the scales have been "overweighing" (indicating more than correct weight) they will be immediately adjusted. All materials received subsequent to the last previous correct weighting-accuracy test will be reduced by the percentage of error in excess of 0.5%.</p> <p>In the event inspection reveals the scales have been under-weighing (indicating less than correct weight), they shall be immediately adjusted. No additional payment to the Contractor will be allowed for materials previously weighed and recorded.</p> |



| Term                    | Description  |
|-------------------------|--|
|                         | <p>Beams, dials, platforms, and other scale equipment shall be so arranged that the operator and the RPR can safely and conveniently view them.</p> <p>Scale installations shall have available ten standard 50-pound (2.3 km) weights for testing the weighing equipment or suitable weights and devices for other approved equipment.</p> <p>All costs in connection with furnishing, installing, certifying, testing, and maintaining scales; for furnishing check weights and scale house; and for all other items specified in this subsection, for the weighing of materials for proportioning or payment, shall be included in the unit contract prices for the various items of the project.</p> |
| <b>Rental Equipment</b> | <p>Rental of equipment will be measured by time in hours of actual working time and necessary traveling time of the equipment within the limits of the work. Special equipment ordered in connection with extra work will be measured as agreed in the change order or supplemental agreement authorizing such work as provided in paragraph 90-05 <i>Payment for Extra Work</i>.</p>  |
| <b>Pay Quantities</b>   | <p>When the estimated quantities for a specific portion of the work are designated as the pay quantities in the contract, they shall be the final quantities for which payment for such specific portion of the work will be made, unless the dimensions of said portions of the work shown on the plans are revised by the RPR. If revised dimensions result in an increase or decrease in the quantities of such work, the final quantities for payment will be revised in the amount represented by the authorized changes in the dimensions.</p>   |

### 90-02 Scope of payment.

The Contractor shall receive and accept compensation provided for in the contract as full payment for furnishing all materials, for performing all work under the contract in a complete and acceptable manner, and for all risk, loss, damage, or expense of whatever character arising out of the nature of the work or the execution thereof, subject to the provisions of Section 70, paragraph 70-18, *No Waiver of Legal Rights*.

When the "basis of payment" subsection of a technical specification requires that the contract price (price bid) include compensation for certain work or material essential to the item, this same work or material will not also be measured for payment under any other contract item which may appear elsewhere in the contract, plans, or specifications.

### 90-03 Compensation for altered quantities.

When the accepted quantities of work vary from the quantities in the proposal, the Contractor shall accept as payment in full, so far as contract items are concerned, payment at the original contract price for the accepted quantities of work actually completed and accepted. No allowance, except as provided for in Section 40, paragraph 40-02, *Alteration of Work and Quantities*, will be made for any increased expense, loss of expected reimbursement, or loss of anticipated profits suffered or claimed by the Contractor which results directly from such alterations or indirectly from their own unbalanced allocation of overhead and profit among the contract items, or from any other cause.

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#### **90-04 Payment for omitted items.**

As specified in Section 40, paragraph 40-03, *Omitted Items*, the RPR shall have the right to omit from the work (order nonperformance) any contract item, except major contract items, in the best interest of the Owner.

Should the RPR omit or order nonperformance of a contract item or portion of such item from the work, the Contractor shall accept payment in full at the contract prices for any work actually completed and acceptable prior to the RPR's order to omit or non-perform such contract item.

Acceptable materials ordered by the Contractor or delivered on the work prior to the date of the RPR's order will be paid for at the actual cost to the Contractor and shall thereupon become the property of the Owner. In addition to the reimbursement hereinbefore provided, the Contractor shall be reimbursed for all actual costs incurred for the purpose of performing the omitted contract item prior to the date of the RPR's order. Such additional costs incurred by the Contractor must be directly related to the deleted contract item and shall be supported by certified statements by the Contractor as to the nature the amount of such costs.

#### **90-05 Payment for extra work.**

Extra work, performed in accordance with Section 40, paragraph 40-04, *Extra Work*, will be paid for at the contract prices or agreed prices specified in the change order or supplemental agreement authorizing the extra work.

#### **90-06 Partial payments.**

Partial payments will be made to the Contractor at least once each month as the work progresses. Said payments will be based upon the agreed upon Schedule of Values, prepared by the Contractor and agreed to by the RPR, of the value of the work performed and materials complete and in place, in accordance with the contract, plans, and specifications. Such partial payments may also include the delivered actual cost of those materials stockpiled and stored in accordance with paragraph 90-07, *Payment for Materials on Hand*. No partial payment will be made when the amount due to the Contractor since the last estimate amounts to less than five hundred dollars.

The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 7 days after the Contractor has received a partial payment. Contractor must provide the Owner evidence of prompt and full payment of retainage held by the prime Contractor to the subcontractor within 7 days after the subcontractor's work is satisfactorily completed. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the Owner. When the Owner has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

From the total of the amount determined to be payable on a partial payment, 5% percent of such total amount will be deducted and retained by the Owner for protection of the Owner's interests. Unless otherwise instructed by the Owner, the amount retained by the Owner will be in effect until the final payment is made except as follows:

- (1) Contractor may request release of retainage on work that has been partially accepted by the Owner in accordance with Section 50-03. Contractor must provide a certified invoice to the RPR that supports the value of retainage held by the Owner for partially accepted work.
- (2) In lieu of retainage, the Contractor may exercise at its option the establishment of an escrow account per paragraph 90-08.



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When at least 95% of the work has been completed to the satisfaction of the RPR, the RPR shall, at the Owner's discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done.

The Owner may retain an amount not less than twice the contract value or estimated cost, whichever is greater, of the work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the Contractor.

It is understood and agreed that the Contractor shall not be entitled to demand or receive partial payment based on quantities of work in excess of those provided in the proposal or covered by approved change orders or supplemental agreements, except when such excess quantities have been determined by the RPR to be a part of the final quantity for the item of work in question.

No partial payment shall bind the Owner to the acceptance of any materials or work in place as to quality or quantity. All partial payments are subject to correction at the time of final payment as provided in paragraph 90-09, *Acceptance and Final Payment*.

The Contractor shall deliver to the Owner a complete release of all claims for labor and material arising out of this contract before the final payment is made. If any subcontractor or supplier fails to furnish such a release in full, the Contractor may furnish a bond or other collateral satisfactory to the Owner to indemnify the Owner against any potential lien or other such claim. The bond or collateral shall include all costs, expenses, and attorney fees the Owner may be compelled to pay in discharging any such lien or claim.

#### **90-07 Payment for materials on hand.**

Partial payments may be made to the extent of the delivered cost of materials to be incorporated in the work, provided that such materials meet the requirements of the contract, plans, and specifications and are delivered to acceptable sites on the airport property or at other sites in the vicinity that are acceptable to the Owner. Such delivered costs of stored or stockpiled materials may be included in the next partial payment after the following conditions are met:

- a.** The material has been stored or stockpiled in a manner acceptable to the RPR at or on an approved site.
- b.** The Contractor has furnished the RPR with acceptable evidence of the quantity and quality of such stored or stockpiled materials.
- c.** The Contractor has furnished the RPR with satisfactory evidence that the material and transportation costs have been paid.
- d.** The Contractor has furnished the Owner legal title (free of liens or encumbrances of any kind) to the material stored or stockpiled.
- e.** The Contractor has furnished the Owner evidence that the material stored or stockpiled is insured against loss by damage to or disappearance of such materials at any time prior to use in the work.

It is understood and agreed that the transfer of title and the Owner's payment for such stored or stockpiled materials shall in no way relieve the Contractor of their responsibility for furnishing and placing such materials in accordance with the requirements of the contract, plans, and specifications.

In no case will the amount of partial payments for materials on hand exceed the contract price for such materials or the contract price for the contract item in which the material is intended to be used.

No partial payment will be made for stored or stockpiled living or perishable plant materials.

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The Contractor shall bear all costs associated with the partial payment of stored or stockpiled materials in accordance with the provisions of this paragraph.

#### **90-08 Payment of withheld funds.**

At the Contractor's option, if an Owner withholds retainage in accordance with the methods described in paragraph 90-06 *Partial Payments*, the Contractor may request that the Owner deposit the retainage into an escrow account. The Owner's deposit of retainage into an escrow account is subject to the following conditions:

- a. The Contractor shall bear all expenses of establishing and maintaining an escrow account and escrow agreement acceptable to the Owner.
- b. The Contractor shall deposit to and maintain in such escrow only those securities or bank certificates of deposit as are acceptable to the Owner and having a value not less than the retainage that would otherwise be withheld from partial payment.
- c. The Contractor shall enter into an escrow agreement satisfactory to the Owner.
- d. The Contractor shall obtain the written consent of the surety to such agreement.

#### **90-09 Acceptance and final payment.**

Acceptance and final payment shall be made per City of Loveland Contract Agreement, General Conditions Section 15.06 and any accompanying Supplementary Conditions. The below process is not applicable to the current CMaR Contract.

When the contract work has been accepted in accordance with the requirements of Section 50, paragraph 50-15, *Final Acceptance*, the RPR will prepare the final estimate of the items of work actually performed. The Contractor shall approve the RPR's final estimate or advise the RPR of the Contractor's objections to the final estimate which are based on disputes in measurements or computations of the final quantities to be paid under the contract as amended by change order or supplemental agreement. The Contractor and the RPR shall resolve all disputes (if any) in the measurement and computation of final quantities to be paid within 30 calendar days of the Contractor's receipt of the RPR's final estimate. If, after such 30-day period, a dispute still exists, the Contractor may approve the RPR's estimate under protest of the quantities in dispute less payment for those disputed items. Such disputed quantities shall not be considered by the Owner as a claim in accordance with Section 50, paragraph 50-16, *Claims for Adjustment and Disputes*.

After the Contractor has approved, or approved under protest, the RPR's final estimate, and after the RPR's receipt of the project closeout documentation required in paragraph 90-11, *Contractor Final Project Documentation*, final payment will be processed based on the entire sum, or the undisputed sum in case of approval under protest, determined to be due the Contractor less all previous payments and all amounts to be deducted under the provisions of the contract. All prior partial estimates and payments shall be subject to correction in the final estimate and payment.

If the Contractor has filed a claim for additional compensation under the provisions of Section 50, paragraph 50-16, *Claims for Adjustments and Disputes*, or under the provisions of this paragraph, such claims will be considered by the Owner in accordance with local laws or ordinances. Upon final adjudication of such claims, any additional payment determined to be due the Contractor will be paid pursuant to a supplemental final estimate.

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### **90-10 Construction warranty.**

- a.** In addition to any other warranties in this contract, the Contractor warrants that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, workmanship, or design furnished, or performed by the Contractor or any subcontractor or supplier at any tier.
- b.** This warranty shall continue for a period of one year from the date of final acceptance of the work, except as noted. If the Owner takes possession of any part of the work before final acceptance, this warranty shall continue for a period of one year from the date the Owner takes possession.
- c.** The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to Owner real or personal property, when that damage is the result of the Contractor's failure to conform to contract requirements; or any defect of equipment, material, workmanship, or design furnished by the Contractor.
- d.** The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for one year from the date of repair or replacement.
- e.** The Owner will notify the Contractor, in writing, within seven (7) days after the discovery of any failure, defect, or damage.
- f.** If the Contractor fails to remedy any failure, defect, or damage within 14 days after receipt of notice, the Owner shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.
- g.** With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall: (1) Obtain all warranties that would be given in normal commercial practice; (2) Require all warranties to be executed, in writing, for the benefit of the Owner, as directed by the Owner, and (3) Enforce all warranties for the benefit of the Owner.
- h.** This warranty shall not limit the Owner's rights with respect to latent defects, gross mistakes, or fraud.

### **90-11 Contractor Final Project Documentation.**

Approval of final payment to the Contractor is contingent upon completion and submittal of the items listed below. The final payment will not be approved until the RPR approves the Contractor's final submittal. The Contractor shall:

- a.** Provide two (2) copies of all manufacturers warranties specified for materials, equipment, and installations.
- b.** Provide weekly payroll records (not previously received) from the general Contractor and all subcontractors.
- c.** Complete final cleanup in accordance with Section 40, paragraph 40-08, *Final Cleanup*.
- d.** Complete all punch list items identified during the Final Inspection.
- e.** Provide complete release of all claims for labor and material arising out of the Contract.
- f.** Provide a certified statement signed by the subcontractors, indicating actual amounts paid to the Disadvantaged Business Enterprise (DBE) subcontractors and/or suppliers associated with the project.
- g.** When applicable per state requirements, return copies of sales tax completion forms.
- h.** Manufacturer's certifications for all items incorporated in the work.
- i.** All required record drawings, as-built drawings or as-constructed drawings.
- j.** Project Operation and Maintenance (O&M) Manual(s).
- k.** Security for Construction Warranty.
- l.** Equipment commissioning documentation submitted, if required.

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**END OF SECTION 90**



## EXHIBIT D

"General Decision Number: C020230024 01/06/2023

Superseded General Decision Number: C020220024

State: Colorado

Construction Type: Building

County: Larimer County in Colorado.

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).

|   |  |
|---|--|
| If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022: | <ul style="list-style-type: none"><li>. Executive Order 14026 generally applies to the contract.</li><li>. The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.</li></ul>  |
| If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:         | <ul style="list-style-type: none"><li>. Executive Order 13658 generally applies to the contract.</li><li>. The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.</li></ul> |

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number      Publication Date  
0                              01/06/2023

ELEC0068-002 06/01/2022

|                  | Rates    | Fringes |
|------------------|----------|---------|
| ELECTRICIAN..... | \$ 41.30 | 17.87   |

ELEV0025-001 01/01/2022

|                        | Rates    | Fringes |
|------------------------|----------|---------|
| ELEVATOR MECHANIC..... | \$ 49.74 | 36.885  |

FOOTNOTE:

- a. Vacation: 6%/under 5 years based on regular hourly rate for all hours worked. 8%/over 5 years based on regular hourly rate for all hours worked.
- b. PAID HOLIDAYS: New Year's Day; Memorial Day; Independence Day; Labor Day; Veterans' Day; Thanksgiving Day; the Friday after Thanksgiving Day; and Christmas Day.

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ENGI0009-017 05/01/2021

|                                     | Rates    | Fringes |
|-------------------------------------|----------|---------|
| POWER EQUIPMENT OPERATOR<br>(Crane) |          |         |
| 141 tons and over.....              | \$ 35.17 | 12.35   |
| 50 tons and under.....              | \$ 31.70 | 12.35   |
| 51 to 90 tons.....                  | \$ 31.97 | 12.35   |
| 91 to 140 tons.....                 | \$ 33.05 | 12.35   |

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IRON0024-009 12/01/2022

|                             | Rates    | Fringes |
|-----------------------------|----------|---------|
| IRONWORKER, ORNAMENTAL..... | \$ 31.00 | 24.59   |

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IRON0024-010 12/01/2022

|                             | Rates    | Fringes |
|-----------------------------|----------|---------|
| IRONWORKER, STRUCTURAL..... | \$ 31.00 | 24.59   |

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PAIN0079-009 08/01/2022

|                      | Rates    | Fringes |
|----------------------|----------|---------|
| PAINTER (Spray)..... | \$ 25.11 | 10.95   |

-----  
PAIN0419-002 06/01/2022

|                               | Rates    | Fringes |
|-------------------------------|----------|---------|
| FLOOR LAYER: Carpet Only..... | \$ 16.25 | 14.33   |

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PLUM0003-010 06/01/2022

|  | Rates | Fringes |
|--|-------|---------|
|--|-------|---------|

|  |          |       |
|--|----------|-------|
| PLUMBER (Excludes HVAC Duct<br>and Pipe Installation)..... | \$ 41.33 | 19.29 |
|--|----------|-------|

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PLUM0208-011 06/01/2022

|  |          |         |
|--|----------|---------|
|  | Rates    | Fringes |
| PIPEFITTER (Includes HVAC<br>Pipe Installation; Excludes<br>HVAC Duct Installation)..... | \$ 40.50 | 18.62   |

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SHEE0009-007 07/01/2022

|   |          |         |
|---|----------|---------|
|   | Rates    | Fringes |
| SHEET METAL WORKER (Includes<br>HVAC Duct Installation;<br>Excludes HVAC Pipe<br>Installation)..... | \$ 37.17 | 20.05   |

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SUC02013-010 07/31/2015

|   |             |         |
|---|-------------|---------|
|   | Rates       | Fringes |
| ACOUSTICAL CEILING MECHANIC.....  | \$ 21.08    | 0.00    |
| BRICKLAYER.....   | \$ 21.96    | 0.00    |
| CARPENTER (Drywall<br>Finishing/Taping Only).....   | \$ 17.49    | 0.00    |
| CARPENTER (Drywall Hanging<br>Only).....  | \$ 16.91    | 0.00    |
| CARPENTER, Excludes<br>Acoustical Ceiling<br>Installation, Drywall<br>Finishing/Taping, and Drywall<br>Hanging..... | \$ 21.87    | 4.83    |
| CEMENT MASON/CONCRETE FINISHER...   | \$ 21.44    | 10.23   |
| INSULATOR - MECHANICAL<br>(Duct, Pipe & Mechanical<br>System Insulation).....                                       | \$ 18.46    | 3.10    |
| LABORER: Common or General.....   | \$ 13.87 ** | 2.80    |
| LABORER: Mason Tender - Brick...  | \$ 15.99 ** | 0.00    |
| LABORER: Mason Tender -<br>Cement/Concrete.....   | \$ 16.00 ** | 0.00    |
| LABORER: Pipelayer.....   | \$ 16.96    | 3.68    |
| OPERATOR:<br>Backhoe/Excavator/Trackhoe.....  | \$ 20.78    | 5.78    |
| OPERATOR: Bobcat/Skid<br>Steer/Skid Loader.....   | \$ 18.58    | 2.42    |

|                                 |             |      |
|---------------------------------|-------------|------|
| OPERATOR: Grader/Blade.....     | \$ 21.50    | 0.00 |
| PAINTER (Brush and Roller)..... | \$ 17.00    | 1.81 |
| ROOFER.....                     | \$ 16.03 ** | 0.00 |
| TRUCK DRIVER: Dump Truck.....   | \$ 17.34    | 0.00 |

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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 DECISIO"

Superseded General Decision Number: C020220002

State: Colorado

Construction Type: Heavy

Counties: Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, Mesa, Pueblo and Weld Counties in Colorado.

#### HEAVY CONSTRUCTION PROJECTS

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).

|   |  |
|---|--|
| If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022: | <ul style="list-style-type: none"><li>. Executive Order 14026 generally applies to the contract.</li><li>. The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.</li></ul>  |
| If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:         | <ul style="list-style-type: none"><li>. Executive Order 13658 generally applies to the contract.</li><li>. The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.</li></ul> |

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number      Publication Date  
0                              01/06/2023

ASBE0028-001 03/01/2022

|  | Rates    | Fringes |
|--|----------|---------|
| Asbestos Workers/Insulator<br>(Includes application of<br>all insulating materials,<br>protective coverings,<br>coatings and finishings to<br>all types of mechanical<br>systems)..... | \$ 32.98 | 15.47   |

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BRC00007-004 01/01/2022

ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS,  
JEFFERSON AND WELD COUNTIES

|                 | Rates    | Fringes |
|-----------------|----------|---------|
| BRICKLAYER..... | \$ 33.10 | 10.30   |

-----  
BRC00007-006 05/01/2022

EL PASO AND PUEBLO COUNTIES

|                 | Rates    | Fringes |
|-----------------|----------|---------|
| BRICKLAYER..... | \$ 30.17 | 12.92   |

-----  
ELEC0012-004 09/01/2021

PUEBLO COUNTY

|   | Rates    | Fringes  |
|---|----------|----------|
| ELECTRICIAN<br>Electrical contract over<br>\$1,000,000..... | \$ 29.80 | 13.00+3% |
| Electrical contract under<br>\$1,000,000.....               | \$ 24.85 | 13.00+3% |

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ELEC0068-001 06/01/2022

ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS,  
JEFFERSON, LARIMER, AND WELD COUNTIES

|                  | Rates    | Fringes |
|------------------|----------|---------|
| ELECTRICIAN..... | \$ 41.30 | 17.87   |

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ELEC0111-001 09/01/2022

|  | Rates | Fringes |
|--|-------|---------|
|--|-------|---------|

Line Construction:



|                              |          |             |
|------------------------------|----------|-------------|
| Groundman.....               | \$ 23.89 | 21.25%+7.35 |
| Line Equipment Operator..... | \$ 38.61 | 21.25%+7.35 |
| Lineman and Welder.....      | \$ 53.61 | 24.25%+7.35 |

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ELEC0113-002 06/01/2022

EL PASO COUNTY

|                  | Rates    | Fringes |
|------------------|----------|---------|
| ELECTRICIAN..... | \$ 34.90 | 17.25   |

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ELEC0969-002 06/01/2019

MESA COUNTY

|                  | Rates    | Fringes |
|------------------|----------|---------|
| ELECTRICIAN..... | \$ 25.20 | 10.06   |

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ENGI0009-001 05/01/2021

|   | Rates    | Fringes |
|---|----------|---------|
| Power equipment operators:  |          |         |
| Blade: Finish.....  | \$ 31.37 | 12.35   |
| Blade: Rough.....   | \$ 31.05 | 12.35   |
| Bulldozer.....  | \$ 31.05 | 12.35   |
| Cranes: 50 tons and under..   | \$ 31.70 | 12.35   |
| Cranes: 51 to 90 tons.....  | \$ 31.97 | 12.35   |
| Cranes: 91 to 140 tons.....   | \$ 33.05 | 12.35   |
| Cranes: 141 tons and over...  | \$ 35.17 | 12.35   |
| Forklift.....   | \$ 30.67 | 12.35   |
| Mechanic.....   | \$ 31.20 | 12.35   |
| Oiler.....  | \$ 30.29 | 12.35   |
| Scraper: Single bowl<br>under 40 cubic yards.....   | \$ 31.20 | 12.35   |
| Scraper: Single bowl,<br>including pups 40 cubic<br>yards and over and tandem<br>bowls..... | \$ 31.37 | 12.35   |
| Trackhoe.....   | \$ 31.20 | 12.35   |

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IRON0024-003 12/01/2021

|                             | Rates    | Fringes |
|-----------------------------|----------|---------|
| IRONWORKER, STRUCTURAL..... | \$ 31.00 | 24.59   |
| Structural                  |          |         |

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LAB00086-001 05/01/2009

|                | Rates    | Fringes |
|----------------|----------|---------|
| Laborers:      |          |         |
| Pipelayer..... | \$ 18.68 | 6.78    |

-----  
PLUM0003-005 06/01/2022

ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS,  
JEFFERSON, LARIMER AND WELD COUNTIES

|                         | Rates    | Fringes |
|-------------------------|----------|---------|
| PLUMBER.....            | \$ 46.58 | 19.29   |
| -----                   |          |         |
| PLUM0058-002 07/01/2022 |          |         |

EL PASO COUNTY

|                               | Rates    | Fringes |
|-------------------------------|----------|---------|
| Plumbers and Pipefitters..... | \$ 42.20 | 16.69   |
| -----                         |          |         |
| PLUM0058-008 07/01/2022       |          |         |

PUEBLO COUNTY

|                               | Rates    | Fringes |
|-------------------------------|----------|---------|
| Plumbers and Pipefitters..... | \$ 42.20 | 16.69   |
| -----                         |          |         |
| PLUM0145-002 07/01/2022       |          |         |

MESA COUNTY

|                               | Rates    | Fringes |
|-------------------------------|----------|---------|
| Plumbers and Pipefitters..... | \$ 36.47 | 14.82   |
| -----                         |          |         |
| PLUM0208-004 06/02/2022       |          |         |

ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS,  
JEFFERSON, LARIMER AND WELD COUNTIES

|                         | Rates    | Fringes |
|-------------------------|----------|---------|
| PIPEFITTER.....         | \$ 42.65 | 16.97   |
| -----                   |          |         |
| SHEE0009-002 07/01/2022 |          |         |

|                         | Rates    | Fringes |
|-------------------------|----------|---------|
| Sheet metal worker..... | \$ 37.17 | 20.05   |
| -----                   |          |         |
| TEAM0455-002 07/01/2022 |          |         |

|                            | Rates    | Fringes |
|----------------------------|----------|---------|
| Truck drivers:             |          |         |
| Pickup.....                | \$ 24.71 | 4.67    |
| Tandem/Semi and Water..... | \$ 25.34 | 4.67    |
| -----                      |          |         |
| SUC02001-006 12/20/2001    |          |         |

|                              | Rates       | Fringes |
|------------------------------|-------------|---------|
| BOILERMAKER.....             | \$ 17.60    |         |
| Carpenters:                  |             |         |
| Form Building and Setting... | \$ 16.97    | 2.74    |
| All Other Work.....          | \$ 15.14 ** | 3.37    |

|                                   |             |      |
|-----------------------------------|-------------|------|
| Cement Mason/Concrete Finisher... | \$ 17.31    | 2.85 |
| IRONWORKER, REINFORCING.....      | \$ 18.83    | 3.90 |
| Laborers:                         |             |      |
| Common.....                       | \$ 11.22 ** | 2.92 |
| Flagger.....                      | \$ 8.91 **  | 3.80 |
| Landscape.....                    | \$ 12.56 ** | 3.21 |
| Painters:                         |             |      |
| Brush, Roller & Spray.....        | \$ 15.81 ** | 3.26 |
| Power equipment operators:        |             |      |
| Backhoe.....                      | \$ 16.36    | 2.48 |
| Front End Loader.....             | \$ 17.24    | 3.23 |
| Skid Loader.....                  | \$ 15.37 ** | 4.41 |

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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:

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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 DECISIO"

Superseded General Decision Number: CO20220014

State: Colorado

Construction Type: Highway

Counties: Larimer, Mesa and Weld Counties in Colorado.

#### HIGHWAY CONSTRUCTION PROJECTS

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).

|   |  |
|---|--|
| If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022: | <ul style="list-style-type: none"><li>. Executive Order 14026 generally applies to the contract.</li><li>. The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.</li></ul>  |
| If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:         | <ul style="list-style-type: none"><li>. Executive Order 13658 generally applies to the contract.</li><li>. The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.</li></ul> |

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

ENGI0009-012 05/01/2021

|  | Rates    | Fringes |
|--|----------|---------|
| POWER EQUIPMENT OPERATOR:  |          |         |
| (3)- Drill Rig Caisson<br>(smaller than Watson 2500<br>and similar)..... | \$ 31.05 | 12.35   |
| (4)-Oiler<br>Weld County.....  | \$ 30.29 | 12.35   |
| (5)-Drill Rig Caisson<br>(Watson 2500 similar or<br>larger).....         | \$ 31.37 | 12.35   |

SUC02011-009 09/15/2011

|   | Rates       | Fringes |
|---|-------------|---------|
| CARPENTER   |             |         |
| Excludes Form Work.....   | \$ 20.72    | 5.34    |
| Form Work Only<br>Larimer, Mesa.....                            | \$ 18.79    | 3.67    |
| Weld.....   | \$ 16.54    | 3.90    |
| CEMENT MASON/CONCRETE FINISHER                                  |             |         |
| Larimer.....  | \$ 16.05 ** | 3.00    |
| Mesa.....   | \$ 17.53    | 3.00    |
| Weld.....   | \$ 17.48    | 3.00    |
| ELECTRICIAN   |             |         |
| Excludes Traffic<br>Signalization<br>Weld.....                  | \$ 33.45    | 7.58    |
| Traffic Signalization<br>Weld.....                              | \$ 25.84    | 6.66    |
| FENCE ERECTOR   |             |         |
| Weld.....   | \$ 17.46    | 3.47    |
| GUARDRAIL INSTALLER   |             |         |
| Larmer, Weld.....   | \$ 12.89 ** | 3.39    |
| HIGHWAY/PARKING LOT<br>STRIPING:Painter                         |             |         |
| Larimer.....  | \$ 14.79 ** | 3.98    |
| Mesa.....   | \$ 14.75 ** | 3.21    |
| Weld.....   | \$ 14.66 ** | 3.21    |
| IRONWORKER, REINFORCING<br>(Excludes Guardrail<br>Installation) |             |         |
| Larimer, Weld.....  | \$ 16.69    | 5.45    |
| IRONWORKER, STRUCTURAL<br>(Excludes Guardrail<br>Installation)  |             |         |
| Larimer, Weld.....  | \$ 18.22    | 6.01    |
| LABORER   |             |         |
| Asphalt Raker   |             |         |

|                              |             |      |
|------------------------------|-------------|------|
| Larimer.....                 | \$ 18.66    | 4.66 |
| Weld.....                    | \$ 16.72    | 4.25 |
| Asphalt Shoveler.....        | \$ 21.21    | 4.25 |
| Asphalt Spreader.....        | \$ 18.58    | 4.65 |
| Common or General.....       | \$ 16.29    | 4.25 |
| Concrete Saw (Hand Held).... | \$ 16.29    | 6.14 |
| Landscape and Irrigation.... | \$ 12.26 ** | 3.16 |
| Mason Tender-                |             |      |
| Cement/Concrete.....         | \$ 16.29    | 4.25 |
| Pipelayer                    |             |      |
| Larimer.....                 | \$ 17.27    | 3.83 |
| Mesa, Weld.....              | \$ 16.23    | 3.36 |
| Traffic Control (Flagger)... | \$ 9.55 **  | 3.05 |
| Traffic Control (Sets        |             |      |
| Up/Moves Barrels, Cones,     |             |      |
| Install Signs, Arrow         |             |      |
| Boards and Place             |             |      |
| Stationary Flags)(Excludes   |             |      |
| Flaggers)                    |             |      |
| Larimer, Weld.....           | \$ 12.43 ** | 3.22 |
| PAINTER (Spray Only).....    | \$ 16.99    | 2.87 |
| POWER EQUIPMENT OPERATOR:    |             |      |
| Asphalt Laydown              |             |      |
| Larimer.....                 | \$ 26.75    | 5.39 |
| Mesa,Weld.....               | \$ 23.93    | 7.72 |
| Asphalt Paver.....           | \$ 21.50    | 3.50 |
| Asphalt Roller               |             |      |
| Larimer.....                 | \$ 23.57    | 3.50 |
| Mesa.....                    | \$ 24.25    | 3.50 |
| Weld.....                    | \$ 27.23    | 3.50 |
| Asphalt Spreader             |             |      |
| Larimer.....                 | \$ 25.88    | 6.80 |
| Mesa, Weld.....              | \$ 23.66    | 7.36 |
| Backhoe/Trackhoe             |             |      |
| Larimer.....                 | \$ 21.46    | 4.85 |
| Mesa.....                    | \$ 19.81    | 6.34 |
| Weld.....                    | \$ 20.98    | 6.33 |
| Bobcat/Skid Loader           |             |      |
| Larimer.....                 | \$ 17.13    | 4.46 |
| Mesa, Weld.....              | \$ 15.37 ** | 4.28 |
| Boom.....                    | \$ 22.67    | 8.72 |
| Broom/Sweeper                |             |      |
| Larimer.....                 | \$ 23.55    | 6.20 |
| Mesa.....                    | \$ 23.38    | 6.58 |
| Weld.....                    | \$ 23.23    | 6.89 |
| Bulldozer                    |             |      |
| Larimer, Weld.....           | \$ 22.05    | 6.23 |
| Mesa.....                    | \$ 22.67    | 8.72 |
| Crane.....                   | \$ 26.75    | 6.16 |
| Drill                        |             |      |
| Larimer, Weld.....           | \$ 31.39    | 0.00 |
| Mesa.....                    | \$ 35.06    | 0.00 |
| Forklift.....                | \$ 15.91 ** | 4.68 |
| Grader/Blade                 |             |      |
| Larimer.....                 | \$ 24.82    | 5.75 |
| Mesa.....                    | \$ 23.42    | 9.22 |
| Weld.....                    | \$ 24.53    | 6.15 |
| Guardrail/Post Driver.....   | \$ 16.07 ** | 4.41 |
| Loader (Front End)           |             |      |
| Larimer.....                 | \$ 20.45    | 3.50 |



|   |             |      |
|---|-------------|------|
| Mesa.....                                       | \$ 22.44    | 9.22 |
| Weld.....                                       | \$ 23.92    | 6.67 |
| Mechanic  |             |      |
| Larimer.....                                    | \$ 27.68    | 4.57 |
| Mesa.....                                       | \$ 25.50    | 5.38 |
| Weld.....                                       | \$ 24.67    | 5.68 |
| Oiler   |             |      |
| Larimer.....                                    | \$ 24.16    | 8.35 |
| Mesa.....                                       | \$ 23.93    | 9.22 |
| Roller/Compactor (Dirt and<br>Grade Compaction) |             |      |
| Mesa, Weld.....                                 | \$ 21.33    | 6.99 |
| Roller/Compactor (Dirt and<br>Grade Compaction) |             |      |
| Larimer.....                                    | \$ 23.67    | 8.22 |
| Rotomill  |             |      |
| Larimer.....                                    | \$ 18.59    | 4.41 |
| Weld.....                                       | \$ 16.22    | 4.41 |
| Scraper   |             |      |
| Larimer.....                                    | \$ 21.33    | 3.50 |
| Mesa.....                                       | \$ 24.06    | 4.13 |
| Weld.....                                       | \$ 30.14    | 1.40 |
| Screed  |             |      |
| Larimer.....                                    | \$ 27.20    | 5.52 |
| Mesa.....                                       | \$ 27.24    | 5.04 |
| Weld.....                                       | \$ 27.95    | 3.50 |
| Tractor.....                                    | \$ 13.13 ** | 2.95 |

#### TRAFFIC SIGNALIZATION:

##### Groundsman

|              |             |      |
|--------------|-------------|------|
| Larimer..... | \$ 11.44 ** | 2.84 |
| Mesa.....    | \$ 16.00 ** | 5.85 |
| Weld.....    | \$ 16.93    | 3.58 |

#### TRUCK DRIVER

##### Distributor

|              |          |      |
|--------------|----------|------|
| Larimer..... | \$ 19.28 | 4.89 |
| Mesa.....    | \$ 19.17 | 4.84 |
| Weld.....    | \$ 20.61 | 5.27 |

##### Dump Truck

|              |             |      |
|--------------|-------------|------|
| Larimer..... | \$ 18.86    | 3.50 |
| Mesa.....    | \$ 15.27 ** | 4.28 |
| Weld.....    | \$ 15.27 ** | 5.27 |

##### Lowboy Truck

|                 |          |      |
|-----------------|----------|------|
| Larimer.....    | \$ 18.96 | 5.30 |
| Mesa, Weld..... | \$ 18.84 | 5.17 |
| Mechanic.....   | \$ 26.48 | 3.50 |

##### Multi-Purpose Specialty & Hoisting Truck

|                    |          |      |
|--------------------|----------|------|
| Larimer, Mesa..... | \$ 16.65 | 5.46 |
| Weld.....          | \$ 16.87 | 5.56 |

|                           |             |      |
|---------------------------|-------------|------|
| Pickup and Pilot Car..... | \$ 13.93 ** | 3.68 |
|---------------------------|-------------|------|

|                         |          |      |
|-------------------------|----------|------|
| Semi/Trailer Truck..... | \$ 18.39 | 4.13 |
|-------------------------|----------|------|

|                              |             |      |
|------------------------------|-------------|------|
| Truck Mounted Attenuator.... | \$ 12.43 ** | 3.22 |
|------------------------------|-------------|------|

##### Water Truck

|              |             |      |
|--------------|-------------|------|
| Larimer..... | \$ 19.14    | 4.99 |
| Mesa.....    | \$ 15.96 ** | 5.27 |
| Weld.....    | \$ 19.28    | 5.04 |

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

\*\*\*\*\*  
\*\* 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.

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Union prevailing wage rates are updated to reflect all rate

changes in the collective bargaining agreement (CBA) governing this classification and rate.

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

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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.

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

=====

END OF GENERAL DECISIO"



## EXHIBIT E

### **FY 2021-23 Overall DBE Three-Year Goal Methodology**

**Name of Recipient:** Northern Colorado Regional Airport

**Goal Period:** FY 2021-23 (10/1/2020 through 9/30/2023)

**DOT-assisted contract amounts:**

|                          |                      |
|--------------------------|----------------------|
| Fiscal Year 2021         | \$ 2,700,000         |
| Fiscal Year 2022         | \$ 15,312,000        |
| Fiscal Year 2023         | \$ 1,512,000         |
| <b>FY 2021-23 Totals</b> | <b>\$ 19,524,000</b> |

**Overall FY 2021-23 Goal:** 3.1%, to be accomplished through:  
3.1% Race Conscious (RC) and,  
0.0% Race Neutral (RN)

**Total dollar amount to be expended on DBEs:** \$605,244

**Describe the Number and Type of Contracts that the airport anticipates awarding:**

Contracts in Fiscal Year 2021:

1. Commercial Apron Expansion & Taxiway E – (Construction) - \$2,700,000

Contracts in Fiscal Year 2022:

1. Landside and Roadway Improvements – (Construction) - \$2,000,000
2. New Terminal – (Construction) - \$12,200,000
3. Taxiway D Rehabilitation and Realignment - \$1,112,000

Contracts in Fiscal Year 2023:

1. Runway 15-33 Widening and Taxiway A Rehabilitation, Lighting, and Signage – (Design Only) - \$1,112,000
2. Broom Truck Snow Removal Equipment (SRE) Replacement - \$400,000  
(Note: No DBE Goal will be assigned for this contract. This is a specialty item with no DBE's in the market area.)

**Market Area:**

The market for the Northern Colorado Regional Airport is the counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, and Weld.

**Step 1. Actual relative availability of DBEs**

The base figure for the relative availability was calculated as follows:

Method: Use DBE Directories (<https://coucp.dbesystem.com>) and Census Bureau Data (<https://data.census.gov>).

**Weighted Availability of DBE firms:**

**Fiscal Year 2021**

For 10/1/20120 - 9/30/2010, award of the following is anticipated:

| Project Name  | Trade Description                        | NAICS Description  | NAICS  | Trade (\$)         | DBE Directory | Census | DBE (%)     | DBE (\$) (= Trade \$ x DBE %) |
|---|--|--|--------|--------------------|---------------|--------|-------------|-------------------------------|
| Commercial Apron Expansion and Taxiway E (Construction) | Highway, Street, and Bridge Construction | Heavy and Civil Engineering Construction                     | 237310 | \$1,809,000        | 16            | 143    | 11.2%       | \$202,406                     |
| Commercial Apron Expansion and Taxiway E (Construction) | Earthwork                                | Site Preparation and Earthwork                               | 238910 | \$520,000          | 23            | 488    | 4.7%        | \$24,508                      |
| Commercial Apron Expansion and Taxiway E (Construction) | Engineering Services                     | Engineering Services   | 541330 | \$224,000          | 50            | 2,028  | 2.5%        | \$5,523                       |
| Commercial Apron Expansion and Taxiway E (Construction) | Land Surveying                           | Land Surveying Services                                      | 541370 | \$35,000           | 7             | 147    | 4.8%        | \$1,667                       |
| Commercial Apron Expansion and Taxiway E (Construction) | QA Testing                               | Testing Laboratories   | 541380 | \$70,000           | 12            | 137    | 8.8%        | \$6,131                       |
| Commercial Apron Expansion and Taxiway E (Construction) | Electrical                               | Airport Runway Lighting Contractors and Electric Contracting | 238210 | \$42,000           | 21            | 1,349  | 1.6%        | \$654                         |
| Commercial Apron Expansion and Taxiway E (Construction) |  |  |        | \$2,700,000        |               |        | 8.9%        | \$240,888                     |
| <b>FY 2021 Total</b>                                    |  |  |        | <b>\$2,700,000</b> |               |        | <b>8.9%</b> | <b>\$240,888</b>              |

**Fiscal Year 2022**

For 10/1/2021 - 9/30/2022, award of the following is anticipated:

| Project Name                                     | Trade Description                        | NAICS Description  | NAICS  | Trade (\$) | DBE Directory | Census | DBE (%) | DBE (\$) (= Trade \$ x DBE %) |
|--|--|--|--------|------------|---------------|--------|---------|-------------------------------|
| Landside and Roadway Improvements (Construction) | Electrical                               | Airport Runway Lighting Contractors and Electric Contracting | 238210 | \$100,000  | 21            | 1,349  | 1.6%    | \$1,557                       |
| Landside and Roadway Improvements (Construction) | Highway, Street, and Bridge Construction | Heavy and Civil Engineering Construction                     | 237310 | \$930,000  | 16            | 143    | 11.2%   | \$104,056                     |

**Northern Colorado Regional Airport  
FY 2021-23 Overall DBE Three-Year Goal Methodology**

|  |  |  |        |                     |    |       |             |                  |
|--|--|--|--------|---------------------|----|-------|-------------|------------------|
| Landside and Roadway Improvements (Construction) | Earthwork                                | Site Preparation and Earthwork                               | 238910 | \$450,000           | 23 | 488   | 4.7%        | \$21,209         |
| Landside and Roadway Improvements (Construction) | Engineering Services                     | Engineering Services   | 541330 | \$400,000           | 50 | 2,028 | 2.5%        | \$9,862          |
| Landside and Roadway Improvements (Construction) | Land Surveying                           | Land Surveying Services                                      | 541370 | \$40,000            | 7  | 147   | 4.8%        | \$1,905          |
| Landside and Roadway Improvements (Construction) | QA Testing                               | Testing Laboratories   | 541380 | \$80,000            | 12 | 137   | 8.8%        | \$7,007          |
| Landside and Roadway Improvements (Construction) |  |  |        | \$2,000,000         |    |       | 7.3%        | \$145,596        |
| New Terminal (Construction)                      | Airport Terminal Construction            | Commercial Building Construction                             | 236220 | \$9,600,000         | 0  | 625   | 0.0%        | \$0              |
| New Terminal (Construction)                      | Earthwork                                | Site Preparation and Earthwork                               | 238910 | \$450,000           | 23 | 488   | 4.7%        | \$21,209         |
| New Terminal (Construction)                      | Engineering Services                     | Engineering Services   | 541330 | \$1,200,000         | 50 | 2,028 | 2.5%        | \$29,586         |
| New Terminal (Construction)                      | Land Surveying                           | Land Surveying Services                                      | 541370 | \$50,000            | 7  | 147   | 4.8%        | \$2,381          |
| New Terminal (Construction)                      | QA Testing                               | Testing Laboratories   | 541380 | \$100,000           | 12 | 137   | 8.8%        | \$8,759          |
| New Terminal (Construction)                      | Electrical                               | Airport Runway Lighting Contractors and Electric Contracting | 238210 | \$100,000           | 21 | 1,349 | 1.6%        | \$1,557          |
| New Terminal (Construction)                      | Architectural                            | Architectural Services                                       | 541310 | \$700,000           | 31 | 558   | 5.6%        | \$38,889         |
| New Terminal (Construction)                      |  |  |        | \$12,200,000        |    |       | 10.8%       | \$102,380        |
| Taxiway D Rehab and Realignment                  | Highway, Street, and Bridge Construction | Heavy and Civil Engineering Construction                     | 237310 | \$447,000           | 16 | 143   | 11.2%       | \$50,014         |
| Taxiway D Rehab and Realignment                  | Earthwork                                | Site Preparation and Earthwork                               | 238910 | \$200,000           | 23 | 488   | 4.7%        | \$9,426          |
| Taxiway D Rehab and Realignment                  | Engineering Services                     | Engineering Services   | 541330 | \$300,000           | 50 | 2,028 | 2.5%        | \$7,396          |
| Taxiway D Rehab and Realignment                  | Land Surveying                           | Land Surveying Services                                      | 541370 | \$40,000            | 7  | 147   | 4.8%        | \$1,905          |
| Taxiway D Rehab and Realignment                  | QA Testing                               | Testing Laboratories   | 541380 | \$100,000           | 12 | 137   | 8.8%        | \$8,759          |
| Taxiway D Rehab and Realignment                  | Electrical                               | Airport Runway Lighting Contractors and Electric Contracting | 238210 | \$25,000            | 21 | 1,349 | 1.6%        | \$389            |
| Taxiway D Rehab and Realignment                  |  |  |        | \$1,112,000         |    |       | 7.0%        | \$77,890         |
| <b>FY 2022 Total</b>                             |  |  |        | <b>\$15,312,000</b> |    |       | <b>2.2%</b> | <b>\$325,866</b> |

**Northern Colorado Regional Airport  
FY 2021-23 Overall DBE Three-Year Goal Methodology**

**Fiscal Year 2023**

For 10/1/2022 - 9/30/2023, award of the following is anticipated:

| Project Name   | Trade Description            | NAICS Description            | NAICS  | Trade (\$)         | DBE Directory | Census | DBE (%)     | DBE (\$) (= Trade \$ x DBE %) |
|--|------------------------------|------------------------------|--------|--------------------|---------------|--------|-------------|-------------------------------|
| Broom Truck SRE Replacement  | Snowplow Merchant/Wholesaler | Snowplow Merchant/Wholesaler | 423810 | \$400,000          | 0             | 72     | 0.0%        | \$0                           |
| Broom Truck SRE Replacement  |                              |                              |        | \$400,000          |               |        | 0.0%        | \$0                           |
| Runway 15-33 Widening and Taxiway A Rehab and Lighting and Signage – (Design Only) | Engineering Services         | Engineering Services         | 541330 | \$922,000          | 50            | 2,028  | 2.5%        | \$22,732                      |
| Runway 15-33 Widening and Taxiway A Rehab and Lighting and Signage - (Design Only) | Land Surveying               | Land Surveying Services      | 541370 | \$40,000           | 7             | 147    | 4.8%        | \$1,905                       |
| Runway 15-33 Widening and Taxiway A Rehab and Lighting and Signage - (Design Only) | QA Testing                   | Testing Laboratories         | 541380 | \$150,000          | 12            | 137    | 8.8%        | \$13,139                      |
| Runway 15-33 Widening and Taxiway A Rehab and Lighting and Signage - (Design Only) |                              |                              |        | \$1,112,000        |               |        | 3.4%        | \$37,775                      |
| <b>FY 2023 Total</b>   |                              |                              |        | <b>\$1,512,000</b> |               |        | <b>2.5%</b> | <b>\$37,775</b>               |

The base goal projection after weighting is as follows:

Total Weighted DBE Availability: **\$604,529**

Total for All Trades: **\$19,524,000**

Dividing the weighted DBE totals by the total estimate for all trades gives a base DBE availability figure for the projects anticipated during the goal-setting period. This figure is expressed as a percentage and serves as the basis for the three-year overall goal.

Base of DBE Goal: **3.1%**

**Step 2. Adjust the Base Figure**

Not enough historical data on DBE participation is available to reference to make an adjustment to the Step 1 base figure; therefore, Northern Colorado Regional Airport is adopting the Step 1 base figure as the overall goal for the FY 2021-23 goal period.

Furthermore, there are no applicable disparity studies for the local market area or recent legal case information from the relevant jurisdictions to show evidence of barriers to entry or competitiveness of DBEs in the market area that is sufficient to warrant making an adjustment to the base goal.

**Breakout of Estimated "Race and Gender Neutral" (RN) and "Race and Gender Conscious" (RC) Participation**

Northern Colorado Regional Airport will meet the maximum feasible portion of the overall goal by using race neutral means of facilitating DBE participation.



1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitates DBE, and other small businesses, participation; and
2. Carrying out information and communications programs on contracting procedures and specific contract opportunities.

Northern Colorado Regional Airport estimates that in meeting the established overall goal of 3.1%, it will obtain 0.0% from race neutral participation and 3.1% through race conscious measures.

This breakout is based on:

Northern Colorado Regional Airport does not have a history of DBE Participation or over achievement of goals to reference and expects to obtain its DBE participation through the use of DBE contract goals or a conscious effort to obtain DBE Participation. Therefore, the entire goal of 3.1% will be accomplished through race-conscious means.

Northern Colorado Regional Airport will adjust the estimated breakout of race neutral and race conscious DBE participation as needed to reflect actual DBE participation (see §26.51(f)) and track and report race neutral and race conscious participation separately. For reporting purposes, race neutral DBE participation includes, but is not necessarily limited to the following: DBE participation through a prime contract obtained through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal, DBE participation on a prime contract exceeding a contract goal, and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

## **Consultation**

In establishing the overall goal, Northern Colorado Regional Airport provided for consultation and publication. This process included consultation with minority, women's, and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the Northern Colorado Regional Airport's efforts to establish a level playing field for the participation of DBEs. The consultation included a scheduled, direct, interactive exchange with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and was conducted before the goal methodology was submitted to the operating administration for review. Details of the consultation are as follows.

The consultation engaged in a teleconference (via Microsoft Teams) held on July 15, 2020 at 10:00 am.

Participants included:

- Jason Licon – Northern Colorado Regional Airport Director
- Shawn Battmer – Northern Colorado Regional Airport Executive Assistant
- Susan Johnson – JKS Industries, LLC (DBE)
- Walker Powell – Studio Completiva (DBE)
- Casey Adamson – Dibble Engineering
- Jared Bass – Dibble Engineering
- Jim Hodge – Dibble Engineering

The following questions and comments were received:

1. *During the FY 2021-23 goal period, do the projects that list "Construction" at the end of the project description already have the design elements/documents completed if they needed them?*

Response: Yes, those designs have already been completed and fall under a different AIP Grant not included in this goal period.

2. *Is the FY 2023 "Runway 15-33 Widening and Taxiway A Rehabilitation, Lighting, and Signage (Design only)" project the only 'Design only' project within this goal period?*

Response: Yes, however the FY 2022 "Taxiway D Rehabilitation and Realignment" project amount has the design included in it as well.

A notice of the proposed goal was published on the Northern Colorado Regional Airport official website ([www.flynoco.com/construction-development/disadvantaged-business-enterprise](http://www.flynoco.com/construction-development/disadvantaged-business-enterprise)) before the methodology was submitted to Federal Aviation Administration.

If the proposed goal changes following review by Federal Aviation Administration, the revised goal will be posted on Northern Colorado Regional Airport official website.

Notwithstanding paragraph (f)(4) of §26.45, Northern Colorado Regional Airport proposed goals will not be implemented until this requirement has been met.

### **Sample Public Notice Language**

#### **PUBLIC NOTICE**

Northern Colorado Regional Airport hereby announces its proposed Disadvantaged Business Enterprise (DBE) participation goal of 3.1% for FAA-funded contracts/agreements. The proposed goal pertains to federal fiscal years 2021 through 2023 (10/1/2020 - 9/30/2023).

A teleconference (via Microsoft Teams) will be held on July 15, 2020 at 10:00 am for the purpose of consulting with stakeholders to obtain information relevant to the goal-setting process. Those wishing to participate can phone into the meeting by dialing (480) 378-0989 and when prompted use Conference ID: 530 580 281#.

The draft document of the **FY 2021-23 Overall DBE Goal Methodology for Northern Colorado Regional Airport** can be viewed on the Airport's website.

([www.flynoco.com/construction-development/disadvantaged-business-enterprise](http://www.flynoco.com/construction-development/disadvantaged-business-enterprise))



Response to Request for Proposal for providing  
Construction Manager-at-Risk Services  
Bid No. 2021-115



# New Passenger Terminal Building

December 2, 2021



**HENSEL PHELPS**  
Plan. Build. Manage.





**HENSEL PHELPS**  
Plan. Build. Manage.

12121 Grant St., Ste. 410  
Thornton, CO 80241  
(720) 592.2000



December 2, 2021

Jason Licon  
Northern CO Regional Airport  
4900 Earhart Road  
Loveland, CO 80538  
delivered via email to: [bids@cityofloveland.org](mailto:bids@cityofloveland.org)

Subject: Northern Colorado Regional Airport  
Construction Manager-at-Risk Services for the New Passenger Terminal Building

Dear Mr. Licon,

**Hensel Phelps Construction Co. (Hensel Phelps)** is excited to submit our proposal to provide Construction Manager-at-Risk Services for the New Passenger Terminal Building at the Northern Colorado Regional Airport. **Consistently ranked as the #1 Contractor in Airport Construction by Engineering News-Record magazine**, our proposed team of aviation construction experts is eager to partner with the Northern CO Airport and the Cities of Loveland and Fort Collins to deliver a superior passenger experience through the successful completion of the New Terminal Building project.

**Excellence in Construction Manager-at-Risk Delivery** Over 84 years in business, Hensel Phelps has **successfully delivered over 1,700 projects via an alternative delivery method** other than traditional Design-Bid-Build. Our teams have delivered over 950 projects worth over \$36 Billion utilizing the Construction Manager-at-Risk methodology, over 115 of which have been performed for the aviation sector. Throughout our extensive history in the construction industry, Hensel Phelps has developed processes and systems that guide our partnerships and ensure their success. **Effective communication amongst team members** who share a common goal forms the foundation for successful partnerships and Hensel Phelps' team members are highly skilled and trained to lead high-performing teams. Our team for this project is comprised of construction experts who are local residents familiar with the permitting process and working with local AHJs.

**Unparalleled Aviation Experience** Hensel Phelps' aviation experience reaches across the nation to numerous airports. Our people have unparalleled expertise and lessons learned from past projects that will benefit of the Northern CO Regional Airport's new terminal building. Airport construction, including work for regional airports and airlines, new terminal buildings, and all types of renovations and expansions, have been a large part of Hensel Phelps' volume for decades.

**Cost/Schedule Predictability** The Hensel Phelps team can maximize the scope while containing the cost of the project. Our team recognizes the integral role that program and cost control play and that they are key elements to success. Through our experience, we have developed effective tools to ensure that program and budgets are realistically aligned and met. We have assembled a specific team of professionals with proven ability to meet the program, schedule and budget of the project without ever compromising high design or construction quality. Every project requires a unique approach and this team will tailor our tools and techniques to this project in order to meet Northern CO Regional Airport's needs.

The Hensel Phelps team is invested in the success of this project and each member is excited to build a relationship with VFLA, Dibble, and the rest of your team in order to bring this project to a successful finish. Please don't hesitate to contact us if we can provide any further information and we thank you for your consideration.

Sincerely,  
HENSEL PHELPS CONSTRUCTION CO.

Derek Hoffine  
Vice President | District Manager

**Primary Point of Contact:**

Derek Hoffine, Vice President and District Manager  
(720) 592-2000 | [dhoffine@henselphelps.com](mailto:dhoffine@henselphelps.com)

*Hensel Phelps acknowledges receipt of addenda 1, 2 & 3.*

**World-Class Innovators. Landmark Buildings. Inspiring Performance.**



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**HENSEL PHELPS**  
Plan. Build. Manage.



# 1

# General Company Information and Resources



*A one-page cover letter shall be provided that expresses the contractor's interest to be considered for the project and identifies the contractor's primary contact person.*

Hensel Phelps is pleased to provide the following General Company Information and Resources data to the Northern Colorado Regional Airport along with the Cities of Loveland and Fort Collins for consideration in providing Construction Manager-at-Risk Services. A cover letter has been included within the previous pages expressing Hensel Phelps' interest in the Northern CO New Passenger Terminal Building project and identifying the primary contact person for our team.

## Firm Contact Information

*Name and address of firm, primary contact person for this proposal, title, phone number, and email address.*

### Hensel Phelps Construction Co.

12121 Grant St., Suite 410  
Thornton, CO 80241

### Primary Point of Contact:

Derek Hoffine, Vice President and District Manager  
720.592.2000 | [dhoffine@henselphelps.com](mailto:dhoffine@henselphelps.com)

## Firm History and Organization

*Any previous names of firm in last 10 years; date and location firm was established. Describe how the firm is organized.*

Established in Northern Colorado in 1937, **Hensel Phelps Construction Co.** is organized as a General Partnership. Hensel Phelps is recognized as one of the top builders in the country, in both construction excellence and partnering, offering one of the strongest records for on-time delivery and cost effective performance.

Hensel Phelps has won **5 Marvin M. Black Excellence in Partnering Awards from the Associated General Contractors of America**. Client satisfaction is our most important performance measure. Our "hands-on" personal approach to projects has been founded on maintaining our ethical business practices and a genuine commitment to our people. We are an employee-owned company, which cultivates a client-oriented staff interested in forming long-term relationships and our people are deeply committed to maintaining our outstanding reputation. Hensel Phelps Construction Co. has not been operating under any other name within the past 10 years.



Eagle County Regional Airport



Nashville International Airport



Alaska Airlines Lounge at Sea-Tac Airport



## General Contracting Licenses

Provide general contracting licenses held by firm.

Diversity in both geographic location and types of work performed has been key to Hensel Phelps' success. With our corporate headquarters centrally located in Greeley, Colorado, Hensel Phelps' construction operations span from coast to coast, with full service support available from nine strategically located district offices. The list of licenses Hensel Phelps Construction Co. holds within the **State of Colorado** are listed on this page. A full list of national licenses can be provided upon request.

| MUNICIPALITY                                      | LICENSE NUMBER                                |
|---|---|
| City and County of Denver (CCD)                   | Contractor No. 13169 / Supervisor No. 0037117 |
| CCD - ROW Side Walk                               | Business No. 234291                           |
| CCD - ROW Pkwy                                    |   |
| CCD - Dept. of Aviation & P/W                     | 2A General Building Line 3100N                |
| CCD - Hot Works Denver Fire                       | Permit No. 145176                             |
| CCD - Asph Permit                                 | Permit No. 125825                             |
| City of Arvada - Contractor & Structural Concrete | Contractor No. WEC 902                        |
| City of Aurora - Class A                          | Supervisor No. 2014 86633600SL                |
| City of Aurora - Concrete ROW                     | Contractor No. 2016 109149200 CL              |
| City of Aurora - Concrete ROW                     | Super/Sup No. 2015 98271200 SL                |
| City of Blackhawk                                 | Contractor No. 1609                           |
| City of Boulder                                   | Contractor No. JC-09-0004-07                  |
| City of Boulder ROW                               | Contractor No. JC-09-0004-29                  |
| City of Brighton                                  | Contractor No. CL-01780                       |
| City & County of Broomfield                       | Contractor No. CL-20-06987                    |
| City of Central                                   | Contractor No. 20-018                         |
| City of Centennial                                | Contractor No. CL-36428                       |
| City of Colorado Springs                          | Contractor No. 1163                           |
| City of Colorado Springs - ROW Concrete           | Business No. 50013                            |
| <b>City of Ft. Collins</b>                        | <b>Contractor No. A-30</b>                    |
| <b>City of Ft. Collins</b>                        | <b>Supervisor No. 639-A</b>                   |
| City of Fountain                                  | Business No. BLSA 2019 00391                  |
| City of Glendale                                  | Contractor No. 92377                          |
| City of Golden                                    | Contractor No. 162                            |
| City of Greeley                                   | Contractor No. 002048                         |
| City of Lakewood                                  | Contractor No. 1038                           |
| City of Longmont                                  | Contractor No. A1002545                       |
| City of Louisville                                | Contractor No. LSVL-000035-2016               |
| <b>City of Loveland</b>                           | <b>Contractor No. 7399</b>                    |
| City of Pueblo                                    | Business No. 0033117                          |
| City of Sterling                                  | Contractor No. 2020-113                       |
| City of Thornton                                  |   |
| City of Westminster                               | Contractor No. 80131096                       |
| City of Wheat Ridge                               | Contractor No. 019799                         |
| Department of Transportation                      | All Classifications / Unlimited               |

| MUNICIPALITY                           | LICENSE NUMBER         |
|--|------------------------|
| Adams County                           | Contractor No. A250    |
| Douglas County                         | Contractor No. A94073  |
| Jefferson County                       | Contractor No. 772260  |
| Larimer County                         | Contractor No. CL1347  |
| Monte County/City of Steamboat Springs | Contractor No. C5112   |
| Summit County                          | Contractor No. 575     |
| Town of Gypsum                         | Contractor No. 1958    |
| Town of Vail                           | Contractor No. CT 0447 |
| Town of Windsor                        | Business No. BL004778  |

## Colorado Personnel

Indicate the company with

Hensel Phelps employs 303 salaried and 105 craft personnel with

## Employee Resources

Provide the Administrative Project Foreman,

for the project

| CATEGORY                    | NO. SALARIED RESOURCES |
|-----------------------------|------------------------|
| Officers                    |                        |
| Operations Managers         | 5                      |
| General Superintendents     | 5                      |
| Design Manager              | 2                      |
| Project Managers            | 18                     |
| Superintendents             | 56                     |
| Project Engineers           | 25                     |
| Office Engineers            | 37                     |
| Field Engineers             | 79                     |
| Estimating                  | 18                     |
| Development                 | 5                      |
| Safety                      | 12                     |
| Quality Control             | 11                     |
| WDC                         | 12                     |
| Accounting / Administration | 12                     |
| Technology                  | 3                      |
| Craft                       | 105                    |
| Other                       | 2                      |



## Project Team Organizational Chart

Provide an organizational chart for the resources proposed to be used on this project.

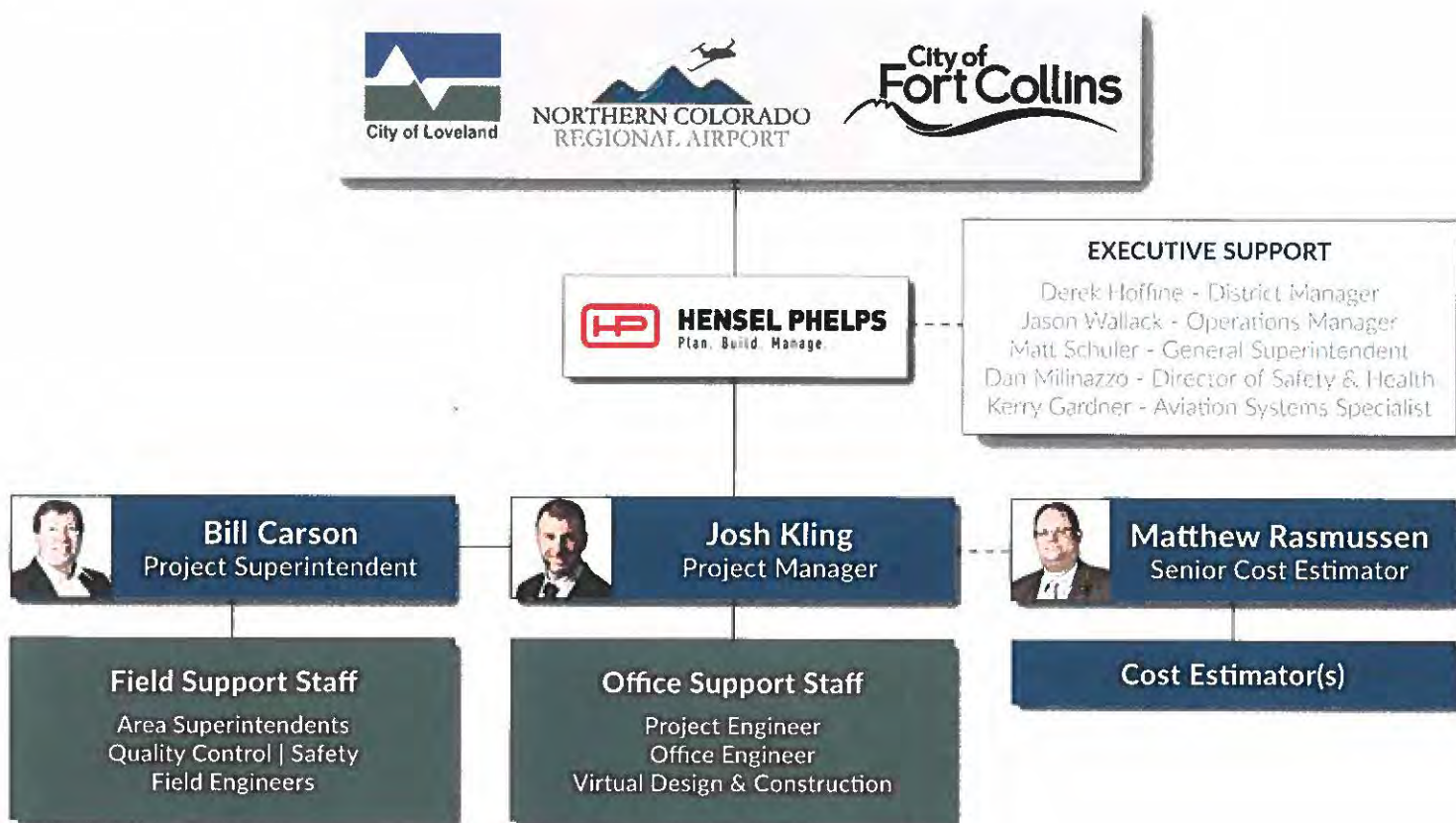
Hensel Phelps has provided a **Team Organizational Chart** below delineating the committed personnel identified for the Northern CO New Passenger Terminal Building project. Resources highlighted within the dark blue boxes will have prominent roles throughout the preconstruction phase of your project. Both **Josh Kling** and **Bill Carson** will be dedicated full-time to the project during construction.

## Managing Office Location

Indicate the office location this project will be managed through.

The Northern CO New Passenger Terminal Building project will be managed through Hensel Phelps' Plains District office located at:

**Hensel Phelps Construction Co.**  
12121 Grant St., Suite 410  
Thornton, CO 80241



***"Since hiring Hensel Phelps, we have met every milestone and are on schedule and under budget."***

**Phil Washington**  
CEO, Denver International Airport  
October 27, 2021



# 2

## Project Team



*Provide names and resumes of proposed key project staff, including as a minimum, the proposed project manager, superintendent and cost estimator. Include experience directly related to alternative project delivery methods, preconstruction services during design, project estimating, and partnering exercises as a result of an alternative project delivery method (e.g., Construction Manager at Risk, CM/GC, etc.) of procurement. Include references from owners and consulting engineers for the last three projects for each assigned person. Detail the availability of proposed staff.*

### Resumes for Key Project Staff Members

The Hensel Phelps team proposed to complete the Northern CO New Passenger Terminal Building project is comprised of veteran Hensel Phelps employees who are true builders and understand what it takes to construct this project. The team will be led by **Project Manager Josh Kling** and **Project Superintendent Bill Carson**, both local residents who are invested in the success of this project. Josh and Bill have worked together on successfully delivered airport projects in the past and have the leadership expertise to collaboratively support the successful completion of the new Northern CO Terminal. **Every project within Josh's previous experience has been delivered via alternative delivery methods** as either the CM-at-Risk or the Design-Build-er and the vast majority of Bill's experience has been delivered within the CM-at-Risk methodology, including 13 projects totaling \$115M in construction.

The cost estimator for the project will be **Matthew Rasmussen**, who has been with Hensel Phelps for 25 years, is an expert in Hensel Phelps' proven process and systems and has previous experience estimating aviation projects with similar scope and size to the Northern CO Regional Airport's New Terminal project.

**Mr. Kling, Mr. Carson and Mr. Rasmussen are available immediately upon award and will be committed to this project for its duration, as required.**

### Alternative Project Delivery Methods

Over 84 years in business, Hensel Phelps has successfully delivered over 1,700 projects via an alternative



delivery method other than Design-Bid-Build. Our teams have delivered over 950 projects worth over \$36 Billion utilizing the Construction Manager-at-Risk methodology, over 115 of which have been performed for the aviation sector – this is an area where our teams excel. Our **national rankings as the #19 Construction Manager-at-Risk and the #5 Design-Builder** by *Engineering News-Record* magazine are a testament to our success in alternative delivery methods. Over our extensive history in the construction industry, Hensel Phelps has developed processes and systems that guide our partnerships and ensure their success. Effective communication amongst team members who share a common goal forms the foundation for successful partnerships.

### Construction Manager-at-Risk Experience

Our integrated approach employs holistic project management tools and systems to support close collaboration throughout the design and construction phases. Our approach keeps all stakeholders informed of constructability challenges and sensitive lead times allowing leadership to make decisions in a timely fashion to ensure that the project remains on or ahead of schedule. **To achieve a truly integrated delivery, the first charge is to create an environment that fosters positive attitudes, professional relationships and trust.** The key personnel assigned to your project understand the importance of this type of communication, are experienced in facilitating interaction on complex projects, and have a proven record of success on aviation projects.





## Josh Kling Project Manager

Mr. Kling serves as Hensel Phelps' Management Representative who responds to all day-to-day requirements and concerns of the Northern CO Regional Airport and the stakeholder team. He has extensive experience in developing and monitoring project master schedules, estimating job cost reports and establishing and implementing effective communication procedures for all team components. He has experience leading teams to successful project completion **utilizing alternative delivery methods including CM-at-Risk**, requiring intricate team communication due to complex sequencing and multiple project stakeholders.

### EDUCATION

B.S. Civil Engineering, Montana Tech

### HENSEL PHELPS/INDUSTRY YEARS

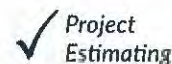
15 Years | 15 Years



Alt. Delivery  
Methods



Precon during  
Design



Project  
Estimating



Formal  
Partnering



### DENVER INTERNATIONAL AIRPORT (DEN) - BAGGAGE HANDLING SYSTEM ENABLING PROJECTS FOR TSA RELOCATION | DENVER, CO

**CM-AT-RISK || 2017 - CURRENT** The Baggage Handling System Enabling Projects for TSA Relocation at Denver International Airport (DEN) is a series of large task orders representing several enabling projects for the renovation of the main terminal, also known as the Great Hall Project. The \$135M contract covers 96,000 SF of the airport and consists of building a suspended platform between levels 5 and 6 of the main terminal in

the midst of an active, operational airport. The project is a long-term multi-phased project and has been ongoing since 2017. Josh has successfully led the team on this CMaR project requiring coordination with other ongoing construction projects and multiple project stakeholders. **REFERENCES Owner:** DEN | Stuart Williams | 303.342.2646 | [stuart.williams@flydenver.com](mailto:stuart.williams@flydenver.com) | **Architect:** Logplan | Gary Watt | 303.694.1112 | [g.watt@logplan.com](mailto:g.watt@logplan.com)



### DENVER INTERNATIONAL AIRPORT (DEN) - 2015 ON-CALL GENERAL CONSTRUCTION CONTRACT | DENVER, CO

**DESIGN-BUILD || 2016 - 2018** During the three-year period for this \$27M contract, Hensel Phelps provided proposals for best-value solutions for various task orders issued under the program. Awarded task orders were issued to Hensel Phelps as change orders to the overall program. The scopes of work for each task order varied widely and included gate expansions, office remodels, concourse renovations, interior finishes, structural

repairs, apron concrete repairs and paving, gate relocations, etc. Josh successfully led the entire design and construction team on this 51,800 SF design-build project requiring extensive coordination with multiple project stakeholders. **REFERENCES Owner:** DEN | Jerry Uliano | 303.342.4460 | [jerry.uliانو@flydenver.com](mailto:jerry.uliانو@flydenver.com) | **Architect:** Wong Strauch Architects | Jim Nordstrom | 303.825.0574 | [jnordstrom@wsarchitect.com](mailto:jnordstrom@wsarchitect.com)



### FOUR SEASONS MAUI AT WAILEA RENOVATIONS | WAILEA, HI

**CM-AT-RISK || 2015 - 2016** The project renovated 383 guest rooms and 72 suites, which are the most spacious in Maui, to boast a chic and contemporary look. The project was a full-scale renovation consisting primarily of replacing finishes, fixtures and furniture, improvements to electrical and communications cabling and lighting upgrades. The project also consisted of various upgrades and renovations throughout the resort, including: pool amenities, beach retail and storage structures, public bathroom renovation, maintenance systems, ADA alterations, exterior restorations and a multitude of other improvements. **REFERENCES**

**Owner:** Four Seasons Resort Maui at Wailea | Johanna Luther | 808.874.2210 | [Johanna.Luther@fourseasons.com](mailto:Johanna.Luther@fourseasons.com) | **Architect:** Houston Tyner | BJ Wickett | 310.326.3050 | [bjw@houstontyner.com](mailto:bjw@houstontyner.com)

PROJECT EXPERIENCE





# Bill Carson

## Project Superintendent

Mr. Carson's expertise includes the on-site supervision of self-performed labor and trade partners as well as the management of all aspects of quality control. His supervisory strengths include labor relations, labor supervision, labor cost control, equipment selection, contract administration, safety management and various scheduling techniques. He actively contributes to in-house superintendent training programs to establish the consistency and quality that Hensel Phelps demands. Mr. Carson has **delivered over 9.5M SF of projects using alternative delivery methods** including 6M SF using the CM-at-Risk methodology.

### EDUCATION

A.A.S. Marketing/Ski Business Management, CO Mountain College

HENSEL PHELPS/INDUSTRY YEARS  
22 Years | 22 Years



Alt. Delivery  
Methods



Precon during  
Design



Project  
Estimating



Formal  
Partnering



### DENVER INTERNATIONAL AIRPORT (DEN) - GREAT HALL PHASE I | DENVER, CO

**CM-AT-RISK || 2019 - 2021** The Great Hall Project is located at the Denver International Airport (DEN) and entails a renovation of the airport's main terminal. The scope of work consists of the Phase 1 work, including the completion of demolition of the existing facilities; renovation and expansion of Level 6 to accommodate the new airline ticketing layout and TSA relocation from Level 5 to Level 6; an expansion of the terminal for the new escalators and new restrooms; exterior façade upgrades at Levels 5 and 6; new finishes in baggage claim; and preconstruction services for subsequent phases. This project is pending LEED Gold Certification.

**REFERENCES Owner:** DEN | Joe Hall | 303.342.2166 | joseph.hall@flydenver.com | **Architect:** Stantec | Carl Hole | 303.295.1117 | carl.hole@stantec.com



### EAGLE COUNTY REGIONAL AIRPORT EXPANSION/REMODEL | GYPSUM, CO

**DESIGN-BUILD || 2018 - 2019** The \$32M Eagle County Regional Airport Expansion and Remodel project was a design-build expansion and remodel of the existing airline terminal at the Eagle County Regional Airport. The primary project component was the construction of a new two-level concourse for airside passenger arrival and departure. The second level concourse contains four airline gates with new passenger boarding bridges, while the first level concourse contains two ground-level loading gates. The area of the

new and remodeled space was approximately 56,750 SF. **REFERENCES Owner:** ECRA | Josh Miller | 970.328.3532 | josh.miller@eaglecounty.us | **Architect:** Adam Ambro, Senior Associate, 303-595-8585 | Adam.Ambro@gensler.com



### USSTRATCOM REPLACEMENT FACILITY | OFFUTT AFB, NE

**DESIGN-BID-BUILD || 2012 - 2018** The \$616M USSTRATCOM Replacement Facility project consisted of a total of 1,085,000 SF to house several secure data centers, SCIF, a Global Operation Center, HEMP shield and other support spaces including conference rooms, a theater, cafeteria and atrium. The USStratcom Replacement Facility was a joint venture (JV) project between Hensel Phelps and Kiewit and required a formal partnering agreement. This project is pending LEED Silver Certification. **REFERENCES Owner:** USACE

| Peter Sturdivant | 402.995.2020 | Peter.L.Sturdivant@usace.army.mil | **Architect:** HDR - N/A, contract with USACE did not provide for any direct contact with the architect.

PROJECT EXPERIENCE





# Matthew Rasmussen

## Senior Cost Estimator

As Senior Cost Estimator, Mr. Rasmussen is a "cost management representative" who assists in establishing preliminary budgets and final cost estimates. He is experienced in all aspects of procurement as well as preconstruction cost controls involving cost estimating, cost analysis, and value engineering. He has performed cost estimates for all phases of design (schematic design, design development, and construction documents) and assists the total team (owner, designer, builder, and user) in completing projects within budget and without sacrificing quality. Matthew has **successfully estimated 23 projects using the CM-at-Risk methodology totaling over \$1.5B in construction.**

### EDUCATION

B.S. Construction Management,  
Colorado State University

### HENSEL PHELPS/INDUSTRY YEARS

25 Years | 25 Years

✓ **Alt. Delivery  
Methods**

✓ **Precon during  
Design**

✓ **Project  
Estimating**

✓ **Formal  
Partnering**



### MANUFACTURING FACILITY EXPANSION - PHASE 2 | WESTMINSTER, CO

**CM-AT-RISK || 2019 - 2021** This second phase of a new expansion to the Manufacturing Campus to house manufacturing functions, offices, electronics labs, secure space, and RF testing facilities. As part of this 133,000 SF project, the entire primary electrical service of the existing facility had to be transferred from the existing primary feed to the new primary distribution installed in Phase I. Extensive coordination and detailed MOPs were required to be compiled and approved by the various user groups prior to the work

occurring. The result of these efforts was a successful transfer of all power to the existing facility with NO interruptions to ongoing operations. **REFERENCES Owner:** Damon Zuetell | 303.939.7724 | [dzuetell@ball.com](mailto:dzuetell@ball.com) | **Architect:** Page | Peter Stavenger, 720.390.3032 | [pstavenger@pagethink.com](mailto:pstavenger@pagethink.com)



### MANUFACTURING FACILITY EXPANSION | WESTMINSTER, CO

**CM-AT-RISK || 2017 - 2018** The 145,000 SF Phase 1 expansion added needed manufacturing floor space as well as office space on the second floor. The added space allows the client to operate with higher efficiency, as well as allows for additional programs to begin for their client base. All work was completed within mere inches from an existing facility, all while maintaining operations without disruption. There were extensive mechanical and electrical demands due the operation of this facility which required multiple

layers of redundancy, as well as planning for future phases. **REFERENCES Owner:** Damon Zuetell | 303.939.7724 | [dzuetell@ball.com](mailto:dzuetell@ball.com) | **Architect:** Stantec | Josh Gould, 303.575.8589 | [josh.gould@stantec.com](mailto:josh.gould@stantec.com)



### PEÑA STATION PHASE 1 INFRASTRUCTURE PROJECT | DENVER, CO

**CM-AT-RISK || 2015 - 2018** This project constructed the basic infrastructure for land development totaling over 175 acres. The infrastructure includes the following utilities: potable water services, reuse water services, sanitary sewer, storm sewer, communications and power duct bank. The infrastructure package also included the installation of curb and gutter, asphalt pavement, and sidewalks within several main arterials that are owned and maintained by the City and County of Denver. Included in the scope of work was an

ornate plaza that adjoins the train platform along fully landscaped tree lawns along the street right-of-ways and a fully landscaped park area. The work was performed on land owned by both private landowners and the Aviation Station, Metro District No. 1. **REFERENCES Owner:** Fulenwider Inc. | Rick Wells | 303.295.3071 | [rwells@fulenwider.com](mailto:rwells@fulenwider.com) | **Architect:** DIG Studios | Allison Graham | 720.328.1986 | [allison@digstudioinc.com](mailto:allison@digstudioinc.com)

PROJECT EXPERIENCE



# 3

## Relevant Project Experience



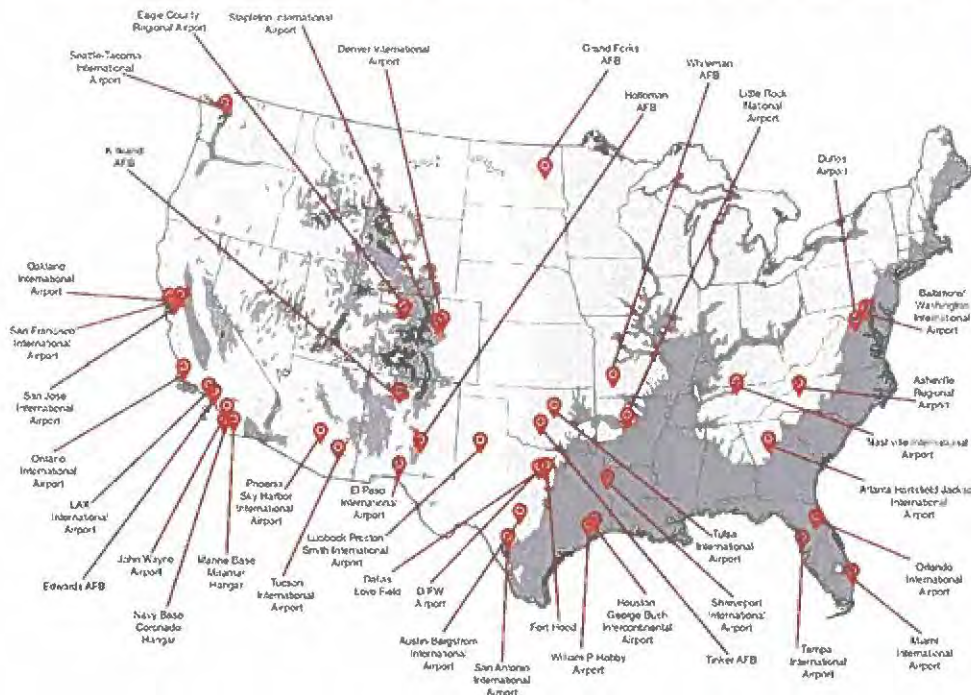
Provide a brief project description and history of at least five (5) relevant projects, similar in scope to this project, completed in the last 10 years. The City expects that the firm will have building construction experience with projects exceeding \$10 million in value.

### Aviation Experience

Engineering News-Record (ENR) magazine has ranked Hensel Phelps as the **#1 Top Airport Contractor for the past five years**. During the past 10 years alone, Hensel Phelps has completed more than 90 significant airport projects with a cumulative value in excess of \$5.7 billion. With our experience working in numerous airports throughout the nation, we take great pride in our ability to keep airports operations and the traveling public safe and interruption-free during the construction process.

We have a proven ability to work collaboratively with aviation project management and stakeholders to successfully deliver on challenging, complex projects in all regions using alternative delivery methodologies. Our key team members are familiar with each other and understand each other's strengths, and will leverage those professional relationships to bring a higher level of collaboration and a team functioning as an integrated unit working toward your project goals.

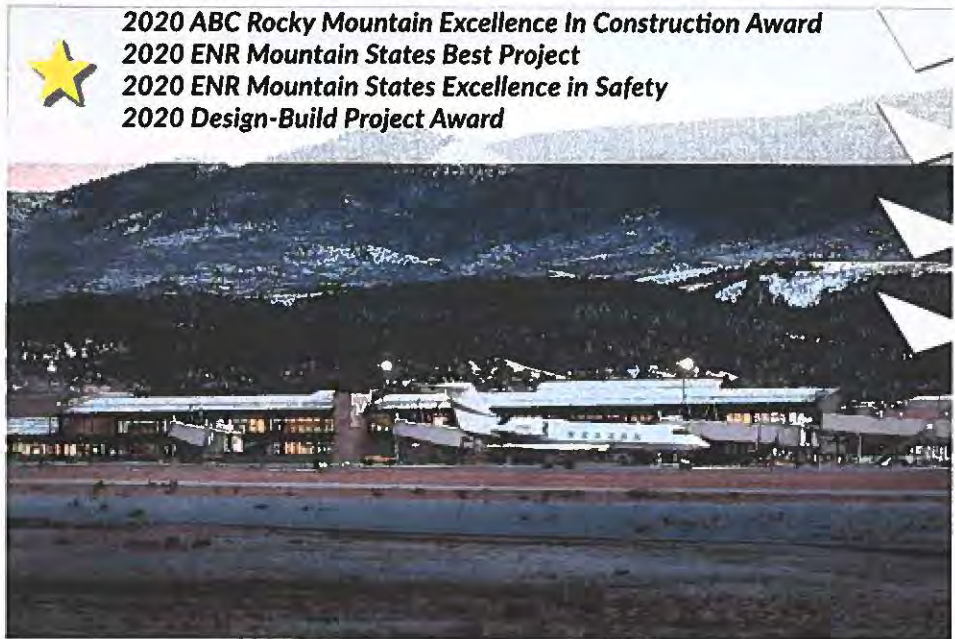
Hensel Phelps has successfully completed over 320 aviation projects across the U.S.



### SUCCESSFUL PARTNERING & INTEGRATED DELIVERY AT SJC TAIP

The San Jose International Airport Terminal Area Improvement Program (TAIP) was one of the largest design-build aviation projects in the country. The project affected all aspects of the airport campus from rental cars to parking, to terminals and baggage handling systems, accomplishing a full renovation and expansion of the airport. The project required complex and continuous communication amongst a large team with multiple stakeholders and entities involved. Hensel Phelps led the entire TAIP project team and the multi-year project was completed on time and under budget.





2020 ABC Rocky Mountain Excellence In Construction Award  
 2020 ENR Mountain States Best Project  
 2020 ENR Mountain States Excellence in Safety  
 2020 Design-Build Project Award

## Eagle County Regional Airport Expansion/Remodel Gypsum, Colorado

### Project Description

This award-winning design-build airport expansion and remodel was a two-phased project adding four airline gates with new passenger boarding bridges to connect to a modern and new 47,000 SF two-story concourse area in the airport. The project included the demolition and replacement of the existing concourse, including an expanded and relocated security passenger screening checkpoint, central hall, departure and arrival passenger holding areas, concessions, bar and restaurant, remodeled airline offices and under-side vehicle and equipment storage space for baggage handling equipment.

### Bringing Value to Project During Design & Construction

Prior to construction of the new facility, temporary facilities for the concessionaire and four airline gates were built to maintain uninterrupted flight operations. **The project was completed two weeks earlier than scheduled** due to completing phase one on time, which set-up the second phase with adequate time, as well as applying lessons learned from the first phase to maximize the efficiency and output for each trade partner and the entire team. The team was able to provide more time to the airport officials to prep the area for the increased volume of incoming flights during the prime ski season.

### Unusual Factors Affecting Project Delivery

During the winter ski season, the airport experiences a dramatic increase in passenger volume and flight operations. The team prepared in advance and phased the project to reduce heavy construction activities during this time. With over \$3M of owner-directed change orders issued post-GMP, the team was able to deliver the project on time and within budget.

### Key Subcontractors Used

MTech Mechanical, BG Buildingworks, Inc, JBT Aerotech - Ogden, UT (Design-Build Trade Partners), Encore Electric

Claims on Project: None

Formal Partnering: Yes - this design-build project required formal partnering agreements. Hensel Phelps was responsible for the design and construction.

### PROJECT DETAILS

#### Project Schedule

**Original:** 04.01.18 - 12.16.19

**Actual:** 04.01.18 - 12.04.19

**Difference:** Project completed ahead of schedule

#### Delivery Method

**Alternative Delivery:** Design-Build

#### Original Contract Cost

\$30,000,000

#### Cost at Completion

\$32,300,000

#### # Change Orders: 25

**Reasons:** Owner directed changes post-GMP / Added Scope

**Claims:** None

### PROJECT REFERENCES

#### Owner

Josh Miller, Construction Manager  
| 970.328.3532 | josh.miller@eaglecounty.us

#### Architect

Adam Ambro, Senior Associate |  
303.595.8585 | Adam\_Ambro@gensler.com





**LEED Gold Certification  
PENDING**

## Denver International Airport (DEN) Great Hall Ph 1 Denver, Colorado

### Project Description

The Great Hall Project is located at the Denver International Airport (DEN) and entails a renovation of the airport's main terminal. The scope of work consists of the Phase 1 work, including the completion of demolition of the existing facilities; renovation and expansion of Level 6 to accommodate the new airline ticketing layout and TSA relocation from Level 5 to Level 6; an expansion of the terminal for the new escalators and new restrooms; exterior façade upgrades at Levels 5 and 6; new finishes in baggage claim; and pre-construction services for subsequent phases.

### Bringing Value to Project During Design & Construction

Hensel Phelps has been working at DEN almost continuously since its inception, more than 30 years ago. Therefore the team has a strong understanding of airport operations, the MEP and baggage system, the safety protocols, the operations staff and multiple stakeholders, and the complex requirements involved in working in a large operational airport with multiple concurrent construction efforts underway.

### Unusual Factors Affecting Project Delivery

Hensel Phelps took over this project from another contractor, causing its own set of unique challenges to the project team. They rose to the challenge, and upon completion of the first phase, Phil Washington, DEN CEO, remarked, **"Since hiring Hensel Phelps, we have met every milestone and are on schedule and under budget."**

### Key Subcontractors Used

US Engineering (Mechanical & Plumbing), IME (Electrical), 4 Star Drywall

### Claims on Project: None

**Formal Partnering:** It took many collaborative efforts by all stakeholders involved to complete this project after taking it over from another general contractor including office location with both DEN and the architect, Stantec under the same roof. This reduced written correspondence, review time and allowed for more "over the shoulder" submittal and RFI reviews for timely decisions.

### PROJECT DETAILS

#### Project Schedule

**Original:** 11.13.2019 - 11.11.2021

**Actual:** 11.13.2019 - 11.11.2021

**Difference:** Project completed on schedule

#### Delivery Method

**Alternative Delivery:** CM-at-Risk

#### Original Contract Cost

\$195,000,000

#### Cost at Completion

\$170,344,665

#### # Change Orders: 1

**Reasons:** Post-GMP Change

#### Claims: None

### PROJECT REFERENCES

#### Owner

Joe Hall | 303.342.2166 | joseph.hall@flydenver.com

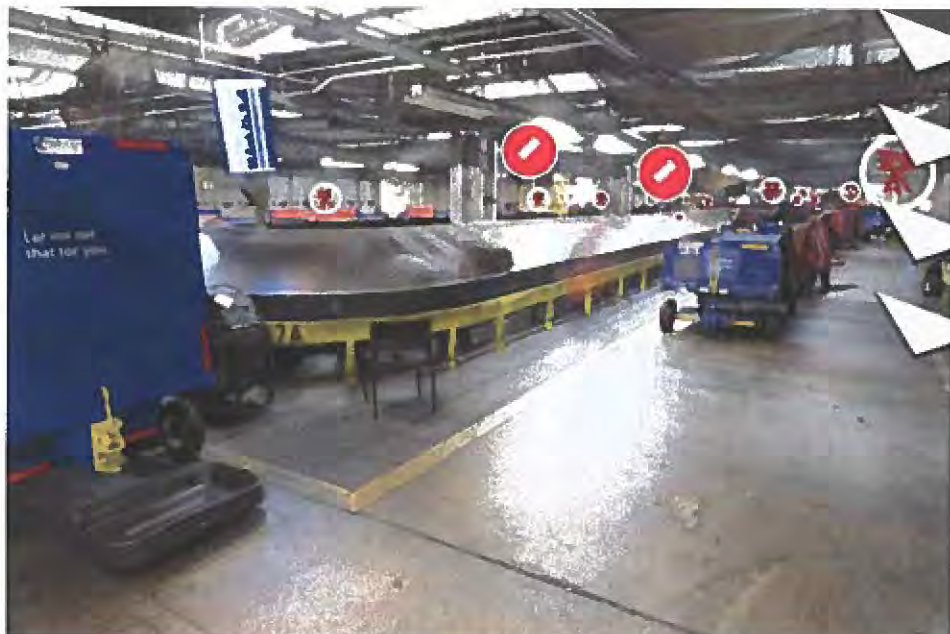
#### Architect

Alexander Thome | 720.253.2541 | alex.thome@stantec.com

#### MEP Consultant:

Swanson Rink | John Thomas | 303.839.2983 | JThomas@swansonrink.com





## DEN On-Call Baggage Handling System Enabling Project for TSA Relocation | Denver, Colorado

### Project Description

The DEN On-Call Baggage Handling System Enabling Project for TSA Relocation is being performed as a series of task orders for enabling projects which prepare for the renovations of the main terminal at Denver International Airport (DEN), also known as the Great Hall Project. The project consists of building a platform between level 5 and level 6 of the main terminal, which is suspended from level 6 and utilizes new baggage handling conveyors to accommodate the new ticket counters installed by the Great Hall Project. Phase I of the project consisted of the demolition of the existing utilities, installation of the suspended platform and re-installation of the utilities. The main objective of Phase I was to provide a platform and clear right-of-way for the new conveyor. Phase II of the project entailed the installation of the new baggage handling conveyor on the platform.

### Bringing Value to Project During Design & Construction

Due to the immense quantity of utilities required by an airport, a major VDC coordination effort was orchestrated by Hensel Phelps to ensure that a clear right-of-way was provided for the conveyor.

### Unusual Factors Affecting Project Delivery

All of the actual construction work on this project was performed at night. Building in an operational airport presents numerous logistical challenges which include managing communications between the day and night shifts; coordinating multiple stakeholders; coordinating deliveries, material handling and management, while maintaining public safety and not impacting airport operations.

### Key Subcontractors Used

RK Mechanical (Mechanical & Plumbing), Sturgeon Electric (Electrical), Spacecon

### Claims on Project: None

**Formal Partnering:** Although no formal partnering took place on the project, Hensel Phelps developed and maintained a program schedule for all three major projects in the terminal at the time including the C-CBRA and the Great Hall Project. This schedule showed high level constraints and interdependence among the projects and was used as a talking point in coordination meetings.

### PROJECT DETAILS

#### Project Schedule (Task Orders 1-2)

**Original:** 1.19.2017 - 7.15.2019

**Actual:** 1.19.2017 - 2.15.2019

**Difference:** Task Orders 1 & 2 completed 5 months ahead of schedule

#### Delivery Method

**Alternative Delivery:** CM-at-Risk

#### Original Contract Cost

\$86,309,000

#### # Change Orders: 35

**Reasons:** The project was awarded via an on-call contract. Different task orders were issued for the different phases of work.

#### Claims: None

### PROJECT REFERENCES

#### Owner

Abel Garcia | 720.447.7720 | abel.garcia@flydenver.com

#### Architect

Gary Watt | 303.694.1112 | g.watt@logplan.com





**2016 USACE Building the Future  
Sustainability Award**



## Ft Carson 13<sup>th</sup> Combat Aviation Brigade ASB Hangar Fort Carson, Colorado

### Project Description

The ASB Hangar was a design-build project for the U.S. Army Corps of Engineers (USACE). The new operations and maintenance facility supports the 13th Combat Aviation Brigade stationed at Fort Carson, CO. In addition to the operations and maintenance facilities, the project scope includes parts storage and repair shops, airfield improvements, utilities, and site improvements. The hangar building consists of 48,000 SF of administration space, including offices, shop areas, work benches, and locker rooms, and 87,000 SF of hangar space.

### Bringing Value to Project During Design & Construction

To meet a Department of Defense mandate that the Butts Army Airfield (BAAF) and 13th Combat Aviation Brigade be a Net Zero Energy Installation by the year 2020, the ASB Hangar was designed to outperform ASHRAE 90.1 2007 baseline building energy consumption levels by 50%. The high-bay Hangar facility will achieve NetZero with respect to energy consumption utilizing a combination of Ground Mounted, Roof Mounted, Covered Parking Photovoltaic Panel Arrays, and energy efficient components.

### Unusual Factors Affecting Project Delivery

The project overcame substantial challenges, including a late owner-driven design change from a wet fire suppression system throughout the hangar to a high expansive foam system on the hangar sides of the building. Our design-build team promoted sustainability by exceeding the LEED Silver mandate and **achieving a LEED Platinum certified product.**

### Key Subcontractors Used

Weifield Electric, Steel LLC, Total Welding, IHC

Claims on Project: None

Formal Partnering: Yes - this design-build project included formal partnering agreements. A commitment to quality that was established immediately during the design process and continued throughout the life of the project.

### PROJECT DETAILS

#### Project Schedule

**Original:** 8.23.2012 - 11.3.2014

**Actual:** 8.23.2012 - 10.31.2014

**Difference:** Project completed ahead of schedule

#### Delivery Method

**Alternative Delivery:** Design-Build

#### Original Contract Cost

\$44,801,000

#### Cost at Completion

\$54,685,332

#### # Change Orders: 65

**Reasons:** Significant Site Utility and Complete Revision to Fire Suppression System per Owner Direction. Change from a AFFF to a HEF fire system.

**Claims:** None

### PROJECT REFERENCES

#### Owner

Brian Dziekonski | 719.570.7797 |  
Brian.T.Dziekonski@usace.army.mil

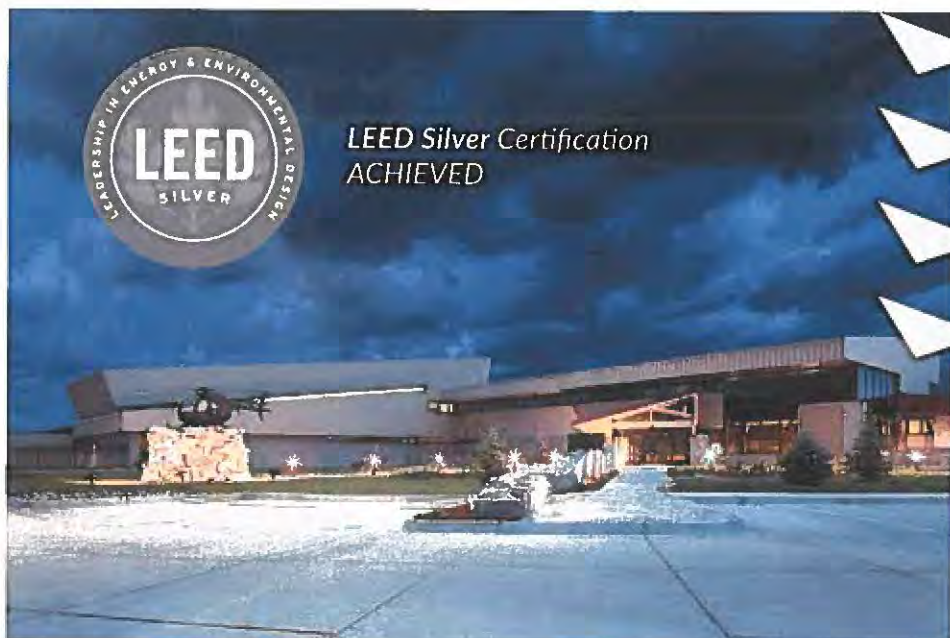
#### Architect

Cody Hoff | 817.366.0288 |  
cody.hoff@jacobs.com





**2013 Colorado AGC Award for Construction Excellence**



## High Altitude Army Aviation Training Site (HAATS) Gypsum, Colorado

### Project Description

The scope of the project included a 101,600 SF aviation training facility that comprises administration, training classrooms, flight operations, 4 maintenance hangars for Chinook helicopters, allied maintenance shops, and 32 lodging rooms. Exterior facades of the facility are a combination of stone, glazing, translucent panels, concrete, and metal panel systems. Site improvements included grading, utility services to the facility, control gates, a privately owned vehicle parking lot, access roads, concrete aprons, helicopter tie-down pads, dry stack stone feature wall, and miscellaneous landscaping.

### Bringing Value to Project During Design & Construction

A quality awards program was established for the project which recognized individuals from all trades in producing quality work and being quality conscious. Individuals were nominated by their foreman, Hensel Phelps staff, the owner and/or architect and recognized monthly at a job-wide meeting. Aside from recognition by and in front of their peers, recipients received awards such as dedicated parking spaces and gift cards which helped to incentivize and maintain a focus on quality.

### Unusual Factors Affecting Project Delivery

With a project that takes into account a mountainous environment, extraordinary steps to avoid costly delays, accommodation for cold weather work, and work performance adjacent to an operating airfield, the successful delivery of the High Altitude Army Aviation Training Site (HAATS) was nothing short of extraordinary. According to Mark A. Schoenrock, Supervisory Contracting Officer, Hensel Phelps provided "excellent performance for a very complex project."

### Key Subcontractors Used

LD Mechanical, Electro Tech Corporation, Pioneer Steel Inc., Stresscon

### Claims on Project: None

**Formal Partnering:** Though a "formal" partnering process was not a contract requirement, the principles of partnering were rigorously implemented through regular engagement opportunities with ownership, design professionals and project stakeholders throughout the design and construction process.

### PROJECT DETAILS

#### Project Schedule

**Original:** 8.12.2011 - 7.31.2013

**Actual:** 8.12.2011 - 7.31.2013

**Difference:** Project completed on schedule

#### Delivery Method

Design-Bid-Build

#### Original Contract Cost

\$33,532,000

#### Cost at Completion

\$35,726,793

#### # Change Orders: 16

**Reasons:** Owner directed changes / Added Scope

#### Claims: None

### PROJECT REFERENCES

#### Owner

Domenick Scarimbolo |  
720.250.1372 | domenick.scarimbolo@us.army.mil

#### Architect

JACOBS | Amy Gaddis |  
312.970.0229 | amy@id8-designs.com



# 4

## Project Budget and Cost Control



Our collaboration with all stakeholders throughout the design and construction phases ensures participation in the project development yielding that what is designed can be built on time and in budget. Our approach keeps the airport stakeholders informed ensuring that the project remains on or ahead of schedule. To achieve a truly integrated delivery, the first charge is to create an environment that fosters positive attitudes, professional relationships and trust.

### Estimate Development

*Describe your approach to developing a cost to complete this project. How will this affect your firm's design input?*

Hensel Phelps uses various tools and systems to ensure that our team is **estimating in real-time while supporting the design team's objective** of designing to the budget. All of this with a focus on building total cost of ownership into the project's decision-making process.

**Cost Model** Led by Senior Cost Estimator Matthew Rasmussen, Hensel Phelps' estimating team will **develop an initial cost model as soon as Hensel Phelps is brought onto the team** based on the current 30% design-level documents as well as from any programmatic documents that the design team and stakeholders have developed. This model captures our initial assumptions, but more importantly it establishes overall cost parameters and a baseline for cost management throughout the trending process and at each of the major construction document milestones (60% DD, 90% CD, 100% CD and GMP). We organize detailed assumptions by building components (buckets), clearly identifying material and systems as defined in our initial design reviews and workshops with the City, Airport and design professionals.

Key Comparison Studies and selective Market engagement is utilized to validate the developing scope and cost as the design progresses.

**Key Comparison Studies** The early stages of concept design and design development are critical. **Up to 80% of key decisions are made within the first 20% of the project.** As such, the importance of an accurate and reliable baseline cost estimate during the early stages of a project cannot be overstated. The increased savings potential of early decisions is critical and our team will turn over every

rock while providing design input that **mitigates risk and maximizes value** for the New Passenger Terminal Building project.

**Market Input** Our team believes in using key trade partners to efficiently support the design completion and guarantee cost during the design effort. The input of key trades benefits the project and streamlines the overall design effort. With key trades' early involvement, we can begin coordination right away, minimizing contingencies as well as the GMP.

The effect of this approach enables us to proactively manage the process, **ensuring alignment between design and the established target cost buckets.** Included in this process are tools like the Trend Estimate, Risk Management Tool and Life-Cycle Analysis which continuously vet the scope and fill any possible gaps.

### Value Engineering Approach

*Describe your approach to developing value engineering ideas through preconstruction planning to enhance the work product while potentially saving cost. Describe how being a part of the project team during final design affects this.*

Hensel Phelps strives to create a balance between the preferences of our clients, owners and stakeholders and the project budget through our Value Engineering and Cost Management process. We remain focused on the project team's underlying responsibility to offer **solutions that are in the best interest of the project at all times.** Our ability to understand the scope and cost impacts before design changes are made ensures the team can make appropriate decisions during the preconstruction phase based on reliable, timely information.

The Hensel Phelps team has extensive experience in performing value management across a multitude of projects. The common goals are to:

- Achieve the best value for the money spent while **eliminating unnecessary expenses.**
- Perform constructability and coordination reviews, standardize building components and simplify construction means and methods.



- Provide decision-making information timely to the project team to maintain the project's budget.

Hensel Phelps approaches Value Engineering as a **Value Management process rather than a scope reduction exercise** to employ when the budget is exceeded. It starts with evaluating the design, establishing the initial cost model, then collaborating with the rest of the project team to align project design with the established budgetary parameters.

### Delivery Schedule Affecting Pricing Approach

*Describe how the delivery schedule outlined previously would affect your approach to pricing.*

As outlined in the RFP, the delivery schedule provides Hensel Phelps with the opportunity to engage the rest of the project team early in the design process, and because of this, Hensel Phelps will have the ability to leverage its experience in this market to provide an accurate initial cost estimate based on current historical data.

In addition, the delivery schedule also allows for in-depth project discussions to take place at the right time in the project planning process. Items such as early trade partner involvement, phased permitting and material procurement can be evaluated thoroughly, and acted upon by the team to mitigate costs associated with potential weather disruptions or material cost and delivery volatility.

The effectiveness of preconstruction services can be measured by what the client values, whether it is cost, schedule, quality of the final product, or the process by which all are achieved. The success of the project is established at the beginning of the project. **We bring discipline to the process.** Exemplary performance is demonstrated by our ability to define and manage scope while maintaining achievable schedules and working within the boundaries of approved budgets.

A clear advantage to the New Passenger Terminal project's delivery schedule includes Hensel Phelps' ability to proactively engage **throughout the preconstruction process.** We carefully select our team members to provide our clients with highly qualified personnel who understand the value of fluid communication, streamlined decision-making and integrated CM/GC process facilitation. We proactively manage the issues, and we follow through to hold the team accountable. One of our primary goals during preconstruction is to provide accurate and timely information to allow the client to make informed and timely decisions. We need and value client feedback to make our projects successful!

### Open Book Pricing Approach

*Describe your approach to transparency or open book pricing when developing a cost for this project in cooperation with the project team.*

Effective estimating and cost management are invaluable to project success because they **set transparent parameters that guide best-value decisions.** The fundamental principles below define Hensel Phelps' approach towards securing cost certainty, beginning with a cost model that sets target values and culminates with a final GMP. **Full transparency is the key to team collaboration, trust and synergy.** All estimating efforts are made available to the client and the design team to support a fully informed and best-value decision-making process.

Our milestone estimates and GMP, which can be tailored to the exact specifications desired, is presented in several levels of detail as follows:

**General Summary:** This includes the complete cost of work, indirects, fees and general conditions, summing to a bottom line GMP. Following the General Summary are pricing clarifications and assumptions, as well as a trend log with value-add options.

**Trade Partner Proposal Summaries:** Each summary itemizes the associated costs for each specific scope of work and is used to evaluate and compare all trade partner proposals.

### Budget Reporting during Design & Construction

*Describe how your firm produces budget updates during design and construction.*

**We understand our obligation to the owner for accurate, trusted information and appreciate the important decisions made using the information we provide.** Our team's communications procedures, protocols and tools are structured to ensure cooperative and responsible client / consultant working relationships with clear lines of communication and authority throughout the entire project - while keeping Owner stakeholders fully informed and engaged in the design process.

**Our team will provide feedback regarding cost, schedule and constructability to the client team.** We will employ a series of communication tools which have proven effective on past projects and been refined over the years. Our procedures for accomplishing this are defined in our Preconstruction Manual, which we use on all projects. These include baseline detailed estimates that contain narrative clarifications and assumptions which reflect the major design deliverables. Throughout the design and construction process we continuously manage costs. Our goal is to minimize time consuming cost/budget reconciliations, resulting in no surprises and no re-design.



# 5

## Construction Sequencing and Scheduling



You will find that **no one builds, follows, maintains, and enforces detailed schedules better than Hensel Phelps**. The development and maintenance of reliable, well-coordinated CPM schedules is key to Hensel Phelps' success and our clients' satisfaction. CPM schedules and supporting tools allow Hensel Phelps to plan and communicate with all project stakeholders and consistently deliver quality projects on schedule.

### Scheduling Software

*Describe the scheduling software and approach your firm typically uses for sequencing tasks and scheduling subcontractors, materials, and equipment.*

Hensel Phelps will hold a schedule kick-off meeting with the Owner team, design team and all major stakeholders with a goal of thoroughly understanding the unique project characteristics and constraints. The information gathered in this work session along with the milestones identified in the RFP will be used to **develop an overall Work Breakdown Structure (WBS) framework for the schedule** that will allow the work activities to be appropriate for reporting.

As the design progresses, we will add more detail to the construction activities and will also include activities for bid packaging, procurement of materials and equipment and decision dates.

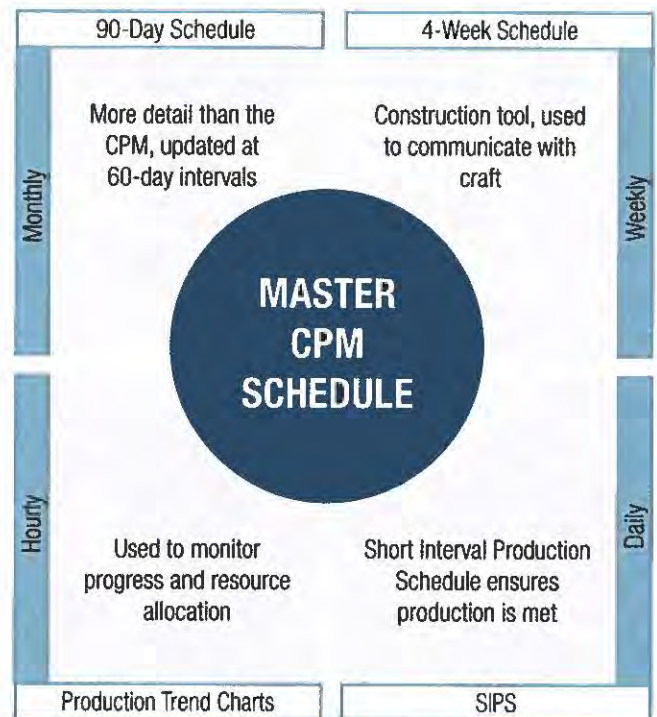
The end result of this effort during preconstruction will be a substantially complete baseline CPM Schedule using ASTA or Primavera 6 software.

Our core approach to scheduling rests on three fundamental elements:

- **Manage the project with one master schedule** – We firmly believe that by developing a detailed master schedule that contains not only the construction activities, but also the design and permitting, administrative, quality control functions, and Owner Activation Milestones, we will be better prepared should a course correction be required.
- **Procure schedule expectations during the purchasing process** – Most projects that struggle to

achieve a timely completion don't clearly convey the schedule expectation to bidders at the outset.

- **Flexibility** – At some point, the flow of work on every project is impacted by circumstances which were not identified in the initial development of the work plan. Our ability to react to these issues and maintain forward momentum is what sets Hensel Phelps apart from our competition.



*Schedule Optimization*

### Schedule Development and Maintenance

*Describe the way in which your firm develops and maintains project schedules for projects of this size and nature.*

Hensel Phelps' effective scheduling approach creates a predictable project delivery. Completing projects within the baseline duration is a result of establishing a comprehensive and realistic plan that is meticulously monitored throughout the project. Hensel Phelps implements two proven principles in the development of each project schedule:



- Scheduling by the Numbers
- Trades Partner Involvement (LEAN Approach)

**Scheduling by the Numbers** is an understanding that each Definable Feature of Work (DFOW) has a construction duration that can be accurately determined by analyzing the quantity to be installed, knowing the resources available for installation and applying the correct rate of installation. Our strong knowledge of these key variables is derived through accurate take-offs, relationships with trade partners and historical production data.

Logically linking interdependencies between activities is paramount in developing a predictable project schedule. Hensel Phelps utilizes a **LEAN approach to schedule development** involving trade partners and those directly responsible for installing the work to determine effective sequencing within the schedule. Facilitation of Pull Planning sessions with key stakeholders is a core scheduling value in the development of each baseline schedule.

Utilizing historical data and a collaborative approach, **Hensel Phelps produces the most accurate and predictable schedules within our industry.**

### Schedule Updates & Compliance

*Describe your process and frequency for updating project schedules and how your firm works to overcome challenges to maintain the original completion date.*

**Our team evaluates and updates the CPM project schedule monthly, and 4-week look-ahead schedules are updated and communicated weekly in trade partner meetings and the Owner's meeting.** This ensures that all parties involved are aware of the trajectory of the project on a weekly basis. In addition to the weekly updates, the Project Manager and Project Superintendent evaluate the schedule for a 6-week, 3-month, 6-month, and completion "look ahead" to analyze and confirm applicable parties (trade partners) are prepared and ready for mobilization with adequate materials and manpower. This is especially important with today's market and lead-time volatility.

Methods for schedule adherence can take many forms. Breaking down a project into key elements and managing those elements to interim milestones dates, we effectively reduce work sliding to the right and the eventual stacking of trades and the need for schedule recovery. We will establish interim milestone dates early and continually measure progress throughout the project. Specific methods we utilize to aid in schedule adherence are:

- **Interim Milestone Management**
- **Production analysis** – Filming an operation using time-lapse photography to identify opportunities to increase efficiency and production
- **Targeted** shift work
- **Re-sequencing / Course corrections** – Relying on our flexibility developed early in the project
- **Overtime**

### Approach to Construction Phasing

*Describe how you approach evaluating construction phasing and provide specific thoughts or considerations related to the project.*

Construction phasing typically is utilized to start an element of the work early, turnover portions of a project incrementally, or is driven by funding. Hensel Phelps' approach is to collaborate with stakeholders and determine program requirements that require specific phasing, then determine if there is a construction advantage to phasing a portion of the project.

If agreeable, starting site utilities, earthwork, foundations, underground MEP and slab-on-grade activities in late summer or early fall of 2022 will benefit the construction of the new Terminal. Along the Front Range, it is desirable to perform earthwork and underground activities prior to the harshest months of winter. The major advantages of performing these activities prior to the first quarter of 2023 will be efficiency of trades, minimizing temporary heat costs and schedule certainty.

Starting a project on the right foot sets the foundation for a successful project. During the early work activities stated above, Hensel Phelps recommends establishing an effective site utilization plan which allows the project team to focus on the build in lieu of being distracted with mobilization. Items such as site fencing, SWMP, site access/egress, tracking pads, SWMP measures, 7460 (FAA crane permit) along with site specific safety, quality, security and FOD plans are a few of the items to be established early.



Sample Site Utilization Plan



## Sample Project Schedule

Submit an example of a project schedule for a similar size project.

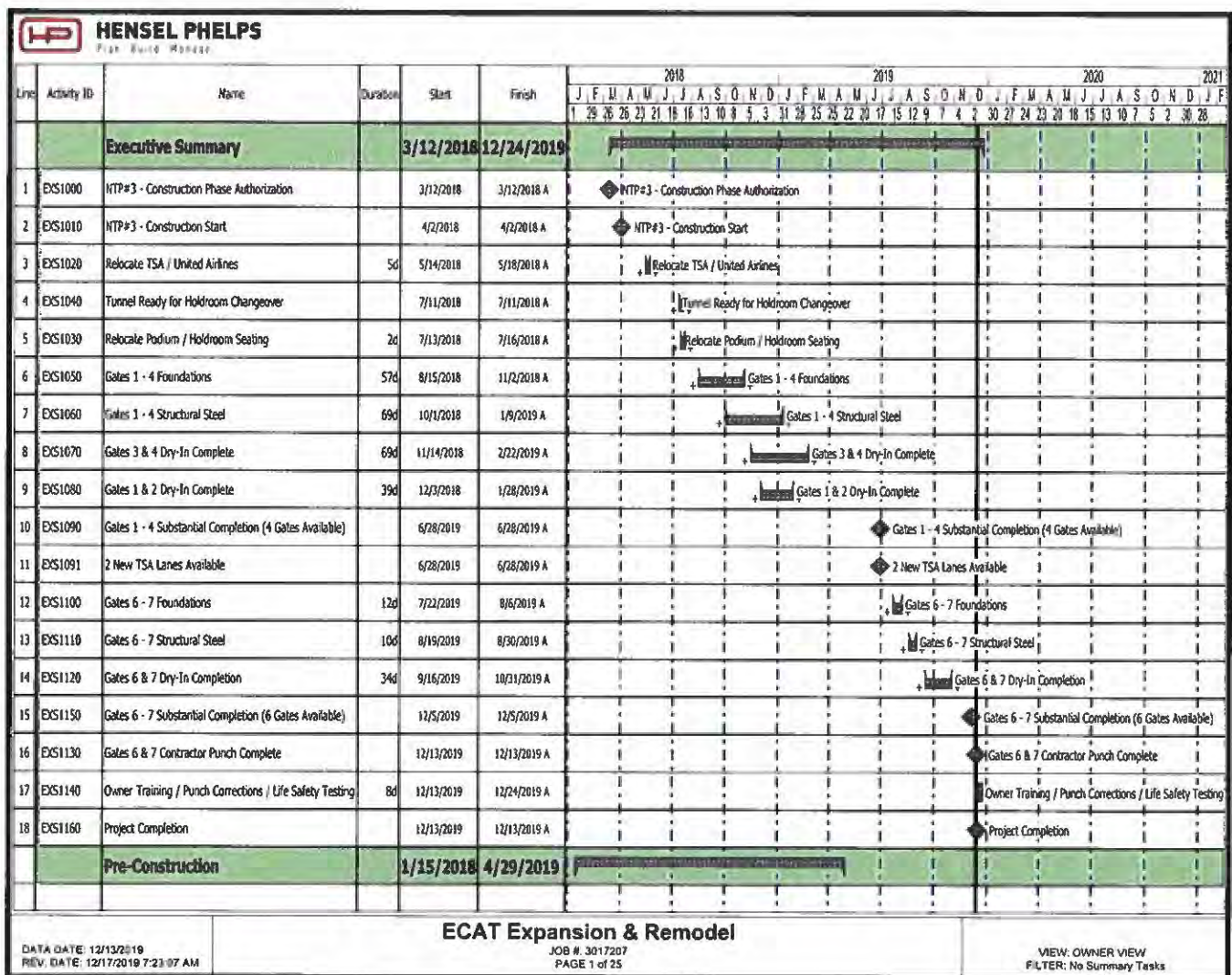
Below is an excerpt from the Eagle County Regional Airport CPM schedule (reference project). Hensel Phelps, at a minimum, will produce a complete program CPM for the entire project including all stakeholder activities required for the successful completion and activation of the new terminal.

Each project schedule is unique to the project itself and the specific requirements and/or requests of each client. Our schedules are tailored from formatting, organization, presentation and work breakdown structure (WBS) based on the specific needs of the client. Unless

specified otherwise, Hensel Phelps produces four CPM schedule reports monthly to be analyzed by the team.

- All activities
- Critical path
- Near critical path
- Baseline comparison

The above reports not only show progress but together are key leading indicators as to the trajectory of the project. A collaborative monthly analysis of these reports allow for more frequent minor adjustments throughout a project in lieu of a last minute major adjustment.





# 6

## Quality Assurance / Quality Control



*Provide details on your firm's quality control program. Explain how your team administers a quality control program during construction, how performance measures are documented and how quality issues are addressed.*

The Hensel Phelps Site-Specific Quality Control Plan defines how we will provide necessary controls, supervision, inspections, testing and documentation in an effort to fulfill the requirements of the contract. Strict adherence to the QC Plan will ensure compliance with all contract documents, design documents, and applicable standards related to materials, equipment, craftsmanship, fit, finish and functional performance.

### Six-Step Quality Control Process

Our team will implement a comprehensive Six-Step Quality Control Process that incorporates systematic inspections and documentation, but more importantly, establishes a process that maximizes field quality, and jobsite efficiency and schedule by ensuring that the right materials are being installed correctly the first time. This process is followed for each definable feature of work, and integrates a review of safety concurrently with quality.

**The defining aspect of Hensel Phelps' Six-Step QC Process is the emphasis that is placed on "leading edge" activities.** Traditional quality control programs place the majority of their effort in "trailing edge" inspection and verification after the work is complete (i.e. the punchlist process). In contrast, **Hensel Phelps places over 70% of its quality focus on ensuring that all craft personnel are appropriately trained, understand the requirements of the project documents, and appreciate appropriate quality standards. Sequencing of construction activities is carefully coordinated** due to out-of-sequence work being one of the key drivers of poor quality. Inspections occur systematically during the performance of the work to ensure the quality of the finished product.

The net effect of this "leading edge" approach is a dramatic reduction in the time necessary for punchlist, reduced punchlist items and elimination of rework that negatively impacts quality, cost, and schedule.

### Noncompliance and Resolution Procedures

In the event of a major deficiency that may impact the cost or schedule, our quality control team will issue the affected trade partners a formal Non-Compliant Report (NCR). In order for an NCR to be signed off and closed, a new inspection on the specific item of work must reveal the work is correct and compliant. A master NCR log will be communicated openly with the project team, and reviewed weekly to resolve NCRs in a timely manner.

### Quality Recognition

*Provide examples of when your firm exceeded quality standards, gained industry recognition or received quality awards.*

The following is a small sample of the recent construction excellence awards Hensel Phelps has been presented with over the past five years:

- **2021 DBIA National Award of Merit for Aviation**  
- Nashville International Airport (BNA) - Concourse D & Terminal Wings
- **ENR 2018 Best Project of the Year - Aviation** - LAX  
United Airlines Terminal Redevelopment Program
- **ENR 2016 Award of Merit in Aviation** - Austin-Bergstrom International Airport Terminal East Infill

### Approach to Addressing Quality Issues

*Provide examples of when your firm had to address quality issues (even those by a subcontractor) and what steps were taken to address them and prevent them from occurring in the future.*

Within days of the first phased turnover of the Great Hall Phase 1 for DEN, there were small cracks that developed on the large format tile. We investigated the root cause and determined that adjacent to the floor expansion joints small voids were present at the corner of the cracked tile. After reviewing our investigation with the stakeholders we retrained the installation crew and developed a plan of action to replace the tile and not impact airport operations. The replacement of the tile was performed at night and each 4x4 tile was tented to control dust. The work was installed by a trade partner. Hensel Phelps performed the demolition of the cracked tile and the trade partner installed the new tile to streamline the replacement process.



# 7

## Alternative Project Delivery Experience



Describe at least three (3) projects completed by your firm where an alternative project delivery method was formally implemented. Provide a listing of key staff who participated in these projects and their roles.



**Project 1** The DEN Great Hall Phase 1 and enabling projects were delivered via a CM-at-Risk methodology requiring collaboration between both the design team and other ongoing projects within the airport. Both Josh Kling and Bill Carson were instrumental to the success of this project.



**Project 2** The Eagle County Regional Airport project was delivered via a design-build methodology. The great success of this project didn't come without its fair share of challenges, including stringent TSA security protocols,

frigid winter temperatures, and it was imperative that ongoing construction did not interfere with the rest of the functioning airport. Another recurring project challenge was finding a balance between budget and legacy. The team's partnering strategy overcame all challenges resulting in an award-winning project. Bill Carson was instrumental in his role as Project Superintendent.



**Project 3** The McGregor Square project is Hensel Phelps' newest addition in downtown Denver. Delivered via a CM-at-Risk methodology, this project is a shining example of the results great partnering can achieve and is quickly

racking up its share of awards including the ABC Rocky Mountain 2021 Excellence In Construction Award, ENR's 2021 Excellence in Sustainability Award and the 2021 Mountain States Specialty Construction Best Project.

### Partnering

Describe in detail what partnering means to your firm.

At Hensel Phelps, partnering is not simply a one-time activity. Partnering is continuous effort resulting in the

growth of a team who, through hard work and professionalism in their craft, develop trusting relationships that ultimately achieve a shared objective.

Hensel Phelps will work together with the City, Airport and Design Professional team members to develop an overall Partnering Plan that encourages all stakeholders to work together to solve project challenges in a manner that promotes the overall success of the project.

Hensel Phelps has won **5 Marvin M. Black Excellence in Partnering Awards from the Associated General Contractors of America** for the following projects:

- JD Edwards Building II Corporate Headquarters, Denver, Colorado
- Steven F. Udvar-Hazy Center, National Air & Space Museum, Chantilly, Virginia
- Dr. Martin Luther King Jr. Library, San Jose, California
- Corbalis Water Treatment Plant, Herndon, Virginia
- Headquarters Air Force Inspection and Safety Center, Kirtland AFB, New Mexico

### Design Team Assistance

Based on the project description and information contained within this RFP, describe how your firm can assist the Project Team through the design process.

Hensel Phelps' involvement through the design process will enhance the project team's overall ability to maximize the project's objectives by providing:

- Experienced CMaR personnel with a "Project First" mentality
- Strategic planning and collaboration that aligns the design completion and permitting process that best supports efficient construction sequencing
- Innovative solutions and support to achieve LEED Gold
- Accurate, real-time and transparent cost estimating
- Innovative solutions and insight to constructibility
- Site investigation and confirmation of underground utility locations
- Understanding and solutions to address market volatility and supply chain challenges



# 8

## LEED Experience



*Provide at least three (3) projects completed by your firm that achieved LEED credentials. Provide a listing of key staff who participated in these projects and their roles.*

Hensel Phelps' LEED projects range in size, scope, project type and market sector. Some of our most recent and notable LEED projects include:

- Denver Justice Center, Denver, Colorado - LEED Gold (Bill Carson, Superintendent | Matthew Rasmussen - Sr. Estimator)
- High Altitude Army Aviation Training Site (HAATS), Gypsum, Colorado - LEED Silver (Matthew Rasmussen - Sr. Estimator)
- Ft Carson 13th Combat Aviation Brigade ASB Hangar, Ft Carson, Colorado - LEED Platinum (Matthew Rasmussen - Sr. Estimator)
- Denver International Airport (DEN) Great Hall Ph 1, Denver, Colorado - LEED Gold Pending (Bill Carson, Superintendent)

### LEED Process

*Provide your history and understanding of the LEED process.*

Leadership in Energy and Environmental Design (LEED) is the most widely used green building rating system in the world. Available for virtually all building types, LEED provides a framework for healthy, highly efficient, and cost-saving green buildings. LEED certification is a globally recognized symbol of sustainability achievement and leadership.

Hensel Phelps has added more than 270 LEED projects to our portfolio since 1995, earning us the **#5 spot on ENR's 2020 Top 100 Green Contractors List**. Of the 270 projects that have achieved LEED certification, many more have been designed and built to LEED standards, but ultimately decided to not pursue official certification.

### LEED Project Credentials

*Provide the LEED credentials earned on past projects included in the proposal.*

**DEN Great Hall Phase 1 - Currently pursuing LEED Gold**  
**Fort Carson 13th CAB ASB Hangar - LEED Platinum**  
**High Altitude Aviation Training Site - LEED Silver**

### LEED Process Assistance

*Based on the project description and information contained within this RFP, describe how your firm can assist the Project Team through the LEED process.*

Delivering a high-performance LEED building requires extensive thought, careful planning and execution, cooperation, and communication. It is essential that stakeholders and key design team members are engaged as early as possible and remain involved throughout the project duration. The early stages of a design project are where the major decisions are made, decisions that heavily influence the final direction of the building. It is therefore important that credit synergies are investigated and understood, in order to maximize all possible opportunities. Once the project's design is set on good footings, it is vital that design team maintains a strong line of communication, regularly monitor and review the project's progress. As the project progresses, the design will change and evolve and the team must remain vigilant to any drift away from the Owner's goals and aspirations.

During the preconstruction phase, the estimating team will work closely with the design team and stakeholders to develop an aggressive and achievable LEED scorecard. As the design develops, Hensel Phelps will provide timely cost estimates, constructability studies, offer value engineering concepts and perform life cycle analysis as required to evaluate each LEED criteria.

### LEED Innovation

*Discuss innovative ways your team can help reach LEED Gold on this project.*

Once construction begins, Project Manager Josh Kling and Project Superintendent Bill Carson will reinforce the importance of the LEED scorecard through buyout of compliant trade partners, vendors and materials, diligent documentation and reporting. This will include a rigorous program to track materials as they enter the jobsite. Commissioning and sustainable design and construction go hand in hand, Hensel Phelps will facilitate effective commissioning of systems and equipment, and the achievement of the Owner's sustainability goals.



# Subcontractors and Self-Performed Work



For the categories of typical work listed (on the next page) that may be required for the project, please state whether you plan to self-perform that work or use a subcontractor. Submit additional categories for review if necessary. If planning to use a subcontractor, please provide the subcontractor(s) you typically use on projects of similar scope that your firm has a successful relationship with and that are known to perform to critical schedules and within budgets.

Hensel Phelps has included a listing of potential trade partners for the categories listed in the RFP, along with other scopes of work identified. Hensel Phelps has worked with each potential trade partner on previous projects and are familiar with each one's qualifications and past performance on the previous projects listed following the trade partners' name.

Hensel Phelps is dedicated to small and disadvantaged business enterprise outreach and achieving the highest possible level of diverse business inclusion on each of the projects our company undertakes. Our professionals are responsible for the implementation of this corporate commitment and work hard to customize an overall engagement plan to reach disadvantaged businesses in our preconstruction, purchasing and construction efforts. **Our team will implement proven procedures that successfully maximize DBE opportunities on this project.**

## **Building Foundation**

1. Hensel Phelps (Self Work)
2. Rago Enterprises, LLC [Fort Collins Downtown Hotel]
3. Total Concrete Services [Dyno]

## **Building Electrical**

1. Gregory [Greeley City Center]
2. Encore Electric [Eagle Airport, Microsoft CYS03 & 06]
3. Sturgeon [Pena Station at DEN]
4. IME [DEN Great Hall Phase 1]
5. Kenny Electric [Ball AMC Phase 1]

## **Building Communication**

1. Hensel Phelps - Services Group
2. Team Linx [Microsoft CYS03]
3. E2 Optics [Microsoft CYS06]
4. DMI [Eagle Airport]

## **Building Plumbing**

1. US Engineering [DEN Great Hall Phase 1]
2. M-Tech [Eagle Airport]
3. Murphy Mechanical [Microsoft CYS03 & CYS06]
4. AMI Mechanical [Greeley City Center]

## **Building Technology**

1. Hensel Phelps - Services Group
2. Beacon [Greeley City Center]
3. Linx (AV) [Microsoft CYS06]
4. Convergent (Security) [Microsoft CYS06]

## **Building Structural**

1. 4 Star [DEN]
2. Copper Springs [Microsoft CYS05]
3. Puma Steel (Steel Fabrication) [United FTC, Microsoft CYS06]
4. LPR (Steel Erection) [Ball AMC 1, PHX Sky Train]
5. Phase 2 (Metal Framing) [Greeley City Center, Greeley Hotel, Microsoft CYS06, McGregor Square]
6. Midwest Drywall [McGregor Square]
7. 4K Painting and Drywall [Lockheed Engineering, United FTC Bldg G, Ball Aerospace Ph 1]
8. Spacecon (Metal Framing) [Microsoft CYS03 & 06, UTW]
9. Ammex Masonry (CMU) [Greeley City Center, Greeley Downtown Hotel]
10. Zimkor (Steel) [Greeley City Center]
11. RK Steel [Greeley Downtown Hotel]

## **Landscaping**

1. Bath Landscaping & Irrigation [Greeley City Center, Greeley Downtown Hotel]
2. Rocky Mountain Reclamation [Microsoft CYS03 & 06]
3. ECI [Pena Station at DEN]

## **Site Electrical**

1. Gregory [Greeley City Center]
2. Encore Electric [Eagle Airport, Microsoft CYS03 & 06]
3. Sturgeon [Pena Station at DEN]
4. IME [DEN Great Hall Phase 1]
5. Connell Resources [Greeley City Center]

## **Storm Sewer Installation**

1. Dunrite Excavation, Inc. [Greeley City Center]
2. Nelson Civil Construction [Greeley Downtown Hotel]
3. Open Range [Microsoft CYS06]



4. Iron Woman [Pena Station at DEN]
5. Connell Resources [Greeley City Center]

#### **Waterline Installation**

1. Dunrite Excavation, Inc. [Greeley City Center]
2. Nelson Civil Construction [Greeley Downtown Hotel]
3. Open Range [Microsoft CYS06]
4. Iron Woman [Pena Station at DEN]
5. Connell Resources [Greeley City Center]

#### **Sanitary Sewer Installation**

1. Dunrite Excavation, Inc. [Greeley City Center]
2. Nelson Civil Construction [Greeley Downtown Hotel]
3. Open Range [Microsoft CYS06]
4. Iron Woman [Pena Station at DEN]
5. Connell Resources [Greeley City Center]

#### **Hauling Materials**

1. Hensel Phelps
2. Iron Woman [Pena Station at DEN]
3. Lightning Ventures [Pena Station at DEN]

#### **Earthwork (General Excavation, Grading, Topsoil Handling)**

1. Dunrite Excavation, Inc. [Fort Collins Downtown Hotel]
2. Open Range [Microsoft CYS06]
3. Lightning Ventures [Pena Station at DEN]

#### **Cast-in-Place Concrete Structures (i.e., headwalls & wingwalls, inlets)**

1. Hensel Phelps
2. Iron Woman [Pena Station at DEN]

#### **Asphalt Removal**

1. Lightning Ventures [Pena Station at DEN]
2. Connell Resources [Greeley City Center]

#### **Asphalt Milling**

1. Brannan [Pena Station at DEN]
2. Connell Resources [Greeley City Center]

#### **Asphalt Paving and Patching**

1. Connell Resources [Greeley City Center]
2. Asphalt Specialties [Greeley Downtown Hotel]
3. Simon Contractors [Microsoft CYS03]
4. Knife River [Microsoft CYS06]
5. Brannan [Pena Station at DEN]

#### **Pavement Striping**

1. Brannan [Pena Station at DEN]

#### **Sidewalk, Curb and Gutter**

1. Hensel Phelps
2. ColoScapes [Fort Collins Downtown Hotel]
3. Connell Resources [Greeley City Center]

#### **Concrete Flatwork (i.e., sidewalk, driveways, cross-spans)**

1. Hensel Phelps
2. ColoScapes [Fort Collins Downtown Hotel]
3. ECI [Pena Station at DEN]
4. Connell Resources [Greeley City Center]

#### **Surveying / Construction Staking**

1. Hensel Phelps

#### **Seeding**

1. Western States Reclamation [Pena Station at DEN]

#### **Landscaping & Irrigation**

1. Bath Landscaping & Irrigation [Greeley City Center, Greeley Downtown Hotel]
2. Rocky Mountain Reclamation [Microsoft CYS03 & 06]
3. ECI [Pena Station at DEN]

#### **Traffic Control**

1. Hensel Phelps

#### **Fire Protection**

1. Total Fire Protection, Inc. [Ft Collins Downtown Hotel]
2. Flow Fire [Greeley City Center]
3. Western States Fire Protection [Greeley Downtown Hotel, Microsoft CYS03 & CYS06]
4. Nothhaft & Son [Eagle Airport]

#### **Building Mechanical**

1. US Engineering [DEN Great Hall Phase 1]
2. M-Tech [Eagle Airport]
3. Murphy Mechanical [Microsoft CYS03 & CYS06]
4. AMI Mechanical [Greeley City Center]

#### **Glass & Glazing**

1. Horizon Glass [Greeley City Center, Microsoft CYS06, McGregor Square]
2. Architectural Concepts [Greeley Downtown Hotel]
3. Metro Glass [McGregor Square - Hotel & Residential]
4. EAP Glass [UTW]
5. Colorado Window Systems [United FTC Bldg G, 601 Broadway]
6. Pinnacle Glass [Eagle Airport]

#### **Roofing**

1. Superior Roofing [Greeley City Center]
2. Flynn Group [Lockheed Engineering]
3. Douglass Colony [Lockheed ATLO]
4. Tecta [601 Broadway, Ball Aerospace Ph1, 1A, 2, & 2A]
5. Front Range Roofing [United FTC Bldg G]
6. Black Roofing [McGregor Square]



# 10

## Safety Record



Hensel Phelps' commitment to a **"zero accident" culture**—which extends not only to Hensel Phelps' own forces, but to every subcontractor and vendor—is evidenced in Hensel Phelps' outstanding safety record, including low experience modification ratings (EMR) that are significantly better than the industry averages.

Hensel Phelps has had a specific safety program for the past 80+ years. Each year, we continue to refine it and adapt it to the ever evolving industry. The backbone of our approach is a **project-specific safety and health plan for every project**, designed around OSHA Standards and best practices in the industry. The safety plan addresses topics such as personal protective equipment, medical support, accident prevention, accident reporting, safety inspections and training. The safety plan is incorporated into each subcontract issued by Hensel Phelps, therefore every trade partner is contractually obligated to adhere to the project specific safety standards.

Hensel Phelps' **proprietary SAFE program** is a comprehensive safety training and observation system that enforces Hensel Phelps' zero-accident culture by holding each and every individual accountable for safety. Implemented by Hensel Phelps' job site supervisors under the direction of the District Safety Manager, the SAFE program uses root cause analysis to identify and correct unsafe acts and conditions while simultaneously recognizing and reinforcing safe work practices. Innovative aspects of the SAFE program include mobile data entry, which allows employees to enter safety observations in real-time on mobile devices. Supervisors are provided access to a SAFE "dashboard" that provides continuous real-time, safety trending for the project that can be used to tailor specific safety training needs.

*Provide the firm's OSHA reportable accident rate and current workman's compensation insurance multiplier for the last 3 years.*

|   | 2021* | 2020 | 2019 |
|---|-------|------|------|
| OSHA reportable accident rate               | 0.00  | 0.00 | 0.00 |
| OSHA recordable accident rate               | 0.00  | 0.79 | 1.54 |
| Workman's compensation insurance multiplier | 0.63  | 0.56 | 0.54 |

\*through 10/30/2021

*Provide the OSHA reportable accident rate on projects managed by the proposed superintendent and project manager over the three-year period.*

| OSHA RECORDABLE accident rate | 2021* | 2020 | 2019 |
|-------------------------------|-------|------|------|
| Josh Kling, Project Manager   | 3.58  | 3.98 | 4.24 |
| Bill Carson, Superintendent   | 1.58  | 3.29 | 0.90 |
| OSHA Reportable (both)        | 0.00  | 0.00 | 0.00 |

\*through 10/30/2021

*Provide a list of all projects in the last 5 years that have received an OSHA citation either to the contractor or a subcontractor on the jobsite and provide a narrative of the citations.*

In February 2018 the Washington State Department of Labor & Industries (L & I) issued a citation in connection with demolition work performed by a Hensel Phelps subcontractor. The project owner was responsible for asbestos and lead abatement for the project, but after commencement of work trace contaminants were discovered in areas where additional demolition occurred. Upon discovery, Hensel Phelps immediately suspended operations until retesting and further abatement was completed. Hensel Phelps appealed the citation and L & I and Hensel Phelps agreed to a settlement. Hensel Phelps paid \$20,000 for the citation.

In February 2017, Hensel Phelps was issued one "Other Than Serious" citation with a \$0.00 penalty during a planned inspection in Coronado, California. The citation was regarding a fire extinguisher that was partially discharged and missing inspection. The violation was abated immediately.

*If contractors also provide TRIR or DART rates they should also provide: Number of recordable injuries related directly to number of hours worked AND Days Away Restricted Transfer incidents related directly to number of hours worked.*

| PLAINS DISTRICT         | 2021*    | 2020      | 2019     |
|-------------------------|----------|-----------|----------|
| No. Recordable Injuries | 0        | 4         | 7        |
| DART Incidents          | 0 (0.00) | 2 (0.39)  | 3 (0.66) |
| Hours Worked            | 905,951  | 1,013,829 | 911,865  |

\*through 10/30/2021



# 11

## Bonding Company Reference



*Provide the name, address and phone number of the firm's bonding agent. Provide a letter, (not included in response page count), from the bonding agent indicating whether the firm's bonding capacity is adequate to undertake this project relative to the Contractor's current, committed backlog.*

Hensel Phelps is known for building large, complex, and highly technical projects all over the country for so sophisticated owners. **We have never failed to complete a project in our entire history and have never been assessed liquidated damages; we finish our projects on schedule.** Our bond has never been called on by any owner for any project. We only pursue projects for which we have the available resources – never chasing a job that would force us to hire people from outside our organization. We are rich in history and in culture and place the highest value on performance and client satisfaction. Our people train their replacements and the commitment to the company is evident in the tenure and loyalty of our employees.

Hensel Phelps' bonding agent is:

**Royall Lovell**

Flood and Peterson  
P.O. Box 578  
Greeley, CO 80632  
800.356.2295

A letter from Hensel Phelps' surety indicating the firm's bonding capacity and ability to undertake this project relative to our current, committed \$10B backlog is included on the following page.

***"I would like to express my appreciation to the entire Hensel Phelps team for being a "good neighbor" during the construction of the 1144 15th Street Project. They did a great job keeping us informed on the status of the project and what activities would be occurring that could potentially impact our operations and / or occupants. In addition, they were very prompt in addressing any concern that was brought up by myself or our residents. Hensel Phelps has been committed to minimizing impacts to the surrounding neighbors throughout the construction of 1144 15th Street and we are very happy to have them as part of the neighborhood throughout the construction of this project."***

**John Greene**

Director of Residence, Four Seasons Hotel and Private Residences





10825 E Geddes Ave.  
Centennial, CO 80112-4591

Phone Number (720) 200-8412  
Fax Number (720) 200-8398

November 17, 2021

Cities of Loveland and Fort Collins  
Northern Colorado Regional Airport  
4900 Earhart Road  
Loveland, CO 80538  
Attention: Aaron Ehle, Planning and Business Development Specialist

RE: CMAA Request for Proposal for  
Northern CO Regional Airport New Passenger Terminal, Loveland, CO  
Bid No. 2021-115

Dear Mr. Ehle:

Travelers Casualty and Surety Company, Hartford, CT, (NAIC #19038, A.M. Best rating A++, XV) a subsidiary of The Travelers Companies, Inc., has extended surety credit to Hensel Phelps Construction Co. (Hensel Phelps) and its affiliated companies for more than 60 years in connection with contracts aggregating billions of dollars. It is our opinion that Hensel Phelps is one of the most outstanding design-build and general construction organizations in the United States. Their skill, integrity, and financial responsibility are unquestioned.

Our established work program for Hensel Phelps authorizes this organization to bid contracts with performance and payment bond obligations up to \$350 Million per project as part of a total \$10 Billion aggregate backlog of work. Hensel Phelps has sufficient bonding capacity available for the captioned project, coincidentally with current and anticipated workloads. Should you enter into a contract with Hensel Phelps, it is our present intention to provide performance and payment bonds as required.

Please note this authorization is subject to our standard underwriting throughout the proposal process, including a review of acceptable bond forms, contract financing, contract terms, and other standard underwriting considerations.

If you have any questions please contact the surety company or the surety agent:

Kris Fox, Travelers Casualty and Surety Company  
10825 E Geddes Ave., Centennial, CO 80112-4591, (800) 525-8552

Royal Lovell, Flood and Peterson  
P.O. Box 578, Greeley, CO 80632, (800) 356-2295

Sincerely,

Kelly T. Urwiller, Attorney-in-Fact  
Travelers Casualty and Surety Company





**Travelers Casualty and Surety Company of America**  
**Travelers Casualty and Surety Company**  
**St. Paul Fire and Marine Insurance Company**

**POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Kelly T Urwiller** of **GREELEY**, **Colorado**, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this 21st day of April, 2021.



State of Connecticut

City of Hartford ss.

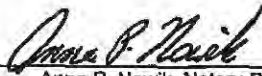
By:   
 Robert L. Raney, Senior Vice President

On this the 21st day of April, 2021, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the 30th day of June, 2026



  
 Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this 17th day of November, 2021.



  
 Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.  
 Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.



# 12

## Insurance Company



*Provide the name, address and phone number of the firm's insurance agent(s). Provide a letter (not included in response page count) from the insurance agent(s) demonstrating that your firm can obtain the insurance coverages listed below with the City of Loveland and the City of Fort Collins listed as an additional insured. Insurance certificates will be required before a contract is signed.*

Hensel Phelps' insurance agent is:

**Kris Fox**

Travelers Casualty and Surety Company  
10825 E. Geddes Ave.  
Centennial, CO 80112  
800.525.8552

A letter from Hensel Phelps' insurance agent demonstrating that our firm can obtain the insurance coverages required with the City of Loveland and the City of Fort Collins listed as an additional insured is included on the following page.



***"Eagle County was pleased with the attention to detail, and cooperative nature in which the project team approached the Eagle County Regional Airport Terminal Remodel. The team approach that was portrayed throughout by Hensel Phelps was largely responsible for the success of this project."***

**Josh Miller**

Eagle County Construction Manager

November 17, 2021

Cities of Loveland and Fort Collins  
Northern Colorado Regional Airport  
4900 Earhart Road  
Loveland, CO 80538  
Attention: Aaron Ehle, Planning and Business Development Specialist

Re: CMAA Request for Proposal for  
Northern CO Regional Airport New Passenger Terminal, Loveland, CO  
Bid No. 2021-115

Dear Mr. Ehle:

As insurance agent for Hensel Phelps Construction Co. and authorized representative for their carrier, Zurich American Insurance Company, I can verify that Hensel Phelps Construction Co. has the ability to obtain coverage at the limits specified in Special Conditions of the above referenced RFP, including Comprehensive General Liability, Comprehensive Automobile Liability, Workers' Compensation and Employer's Liability, and Owner's Protective Liability.

City of Loveland and the City of Fort Collins will be included as an additional insured per Contract requirement but only to liability arising out of work performed by the named insured.

Please contact our office if you have any questions or if any additional information is required.

Sincerely,



Kelly T. Urwiller  
Senior Account Manager



# 13

## CMaR Costs and Fee



Provide a list of construction cost factors that are used to develop the cost of work.

### Preconstruction Phase Costs

#### Preliminary Cost Estimate

Provide a detailed line-item estimate of preconstruction phase services showing the item or task, staff to be used, hourly rate, estimated hours, subtotal cost, and a total not-to-exceed cost for all proposed preconstruction services. Fully burdened labor rates for all project managers, estimators, superintendents and staff expected to be involved in the preconstruction phase.

Hensel Phelps has estimated **4,908 CMaR hours will be required** to fulfill the expectations described in Section II.C and II.E of the RFP "Committed Hours". Because our team places such a high priority on this project and exhibits enthusiasm for building a relationship with Northern CO Regional Airport, Hensel Phelps is proposing **to classify only 14% of these hours as "Billable Hours"** and has illustrated these respective costs, along with an assumed 20 utility potholing locations, as our total **Preconstruction Services Cost** noted below:

| TASK / STAFF                             | COMMITTED HOURS | BILLABLE HOURS | HOURLY RATE  | \$              |
|--|-----------------|----------------|--------------|-----------------|
| <b>Cost Model / Estimates</b>            |                 |                |              |                 |
| Project Manager                          | 198             | 20             | \$101        | \$2,000         |
| Project Superintendent                   | 99              | 10             | \$111        | \$1,099         |
| Senior Estimator                         | 952             | 285            | \$115        | \$32,827        |
| Lead Estimator                           | 714             | 0              | \$24         | \$-             |
| Estimator                                | 476             | 0              | \$82         | \$-             |
| Estimator                                | 389             | 0              | \$82         | \$-             |
| <b>SUBTOTAL:</b>                         | <b>2,827</b>    | <b>315</b>     | <b>-</b>     | <b>\$35,925</b> |
| <b>Trend Estimates / Meetings</b>        |                 |                |              |                 |
| Project Manager                          | 198             | 20             | \$101        | \$2,000         |
| Project Superintendent                   | 99              | 10             | \$111        | \$1,099         |
| Senior Estimator                         | 952             | 285            | \$115        | \$32,827        |
| Estimator                                | 238             | 0              | \$82         | \$-             |
| <b>SUBTOTAL:</b>                         | <b>1,486</b>    | <b>315</b>     | <b>-</b>     | <b>\$35,925</b> |
| <b>Scheduling &amp; Constructability</b> |                 |                |              |                 |
| Project Manager                          | 99              | 10             | \$101        | \$1,000         |
| Project Superintendent                   | 198             | 20             | \$111        | \$2,198         |
| <b>SUBTOTAL:</b>                         | <b>297</b>      | <b>30</b>      | <b>-</b>     | <b>\$3,198</b>  |
| <b>Permitting &amp; LEED</b>             |                 |                |              |                 |
| Project Manager                          | 198             | 20             | \$101        | \$2,000         |
| Project Superintendent                   | 99              | 10             | \$111        | \$1,099         |
| <b>SUBTOTAL:</b>                         | <b>297</b>      | <b>30</b>      | <b>-</b>     | <b>\$3,099</b>  |
| <b>Utility Potholing</b>                 |                 |                |              |                 |
| Locations                                | Locations       |                | Ea           | \$              |
| <b>SUBTOTAL:</b>                         | <b>20</b>       | <b>20</b>      | <b>\$500</b> | <b>\$10,000</b> |
| <b>TOTAL:</b>                            | <b>4,908</b>    | <b>690</b>     | <b>N/A</b>   | <b>\$88,147</b> |



Provide a listing of your hourly rates used during the pre-construction and construction phase.

### Hourly Rates

| Staff Position           | Burdened Hourly Rate |
|--------------------------|----------------------|
| Project Manager          | \$101.00             |
| Project Superintendent   | \$111.00             |
| Area Superintendent      | \$92.00              |
| Project Engineer         | \$90.00              |
| Office Engineer          | \$80.00              |
| Field Engineer           | \$77.00              |
| Senior Estimator         | \$115.00             |
| Lead Estimator           | \$94.00              |
| Estimator                | \$82.00              |
| Administrative Assistant | \$67.00              |



Describe in detail how your firm uses the cost of work to develop line-item costs and the final project cost. The City anticipates working with the Contractor to develop this cost for all known work items and quantities within the project. The final cost will encompass a final Guaranteed Maximum Price (GMP) for the project.

Describe how your firm develops a typical fee.

Throughout the estimating and procurement process, Hensel Phelps will develop a "Cost of Work" (COW) value for all definable features of work, including all general requirements and general conditions. Line-item "Fee" elements will be applied to the total COW value to determine the final cost / GMP for the project. Please refer to the tables below for further detail regarding the development of the Fee.

### Construction Phase Costs

#### Cost of Work Development

Field Office markup, Subcontractor markup, Permanent Materials markup, Equipment markup and Labor (provide labor rates)

| COST OF WORK DEVELOPMENT        |                               |
|---------------------------------|-------------------------------|
| Markups:                        |                               |
| Trade Partners                  | Per Fee Elements to the Right |
| Self-Performed                  | Per Fee Elements to the Right |
| Permanent Materials             | Per Fee Elements to the Right |
| Equipment                       | Per Fee Elements to the Right |
| General Requirements            | Per Fee Elements to the Right |
| Field Office General Conditions | Per Fee Elements to the Right |

#### Fee Development

Overhead (home office: management, insurance, bonds, etc.) and Profit Percentage

| FEE DEVELOPMENT                                       | Rates            | Percentage    |
|---|------------------|---------------|
| Owners and Contractors Protective Liability Insurance | 0.53 / \$1000    | 0.053%        |
| Builder's Risk Policy (annual rate)                   | 0.080 / \$100    | 0.080%        |
| Builder's Risk DIC Policy (annual rate)               | 0.030 / \$100    | if applicable |
| Payment & Performance Bonds                           | \$5.50 / \$1,000 | 0.550%        |
| 2-Year Warranty (P&P bond premium)                    | \$1.00 / \$1,000 | 0.100%        |
| General & Administrative Percentage                   | from corporate   | 1.960%        |
| Profit Percentage                                     |                  | 1.290%        |



**Contract Comments** Included below are Hensel Phelps' requested modifications to the Sample Preconstruction Contract, as required by section III.A.14 of the RFP.

**COMMENTS - Contract Signature Page**

|        |  |
|--------|--|
| Page i | 9 lines from the bottom, add: "increased or" after "as may be" |
|--------|--|

**COMMENTS - General Conditions**

|                 |   |
|-----------------|---|
| Section 2.0     | Page 3, 2nd line, strike: "sole"  |
| Section 5.0     | Paragraph 2, last line, strike: "true intent of the"  |
| Section 7.0     | Paragraph 3, strike entirety of first sentence.   |
| Section 13.1.10 | Replace last two lines with: "unless delegated design is specifically called for in the scope of work, but CMAr shall only be responsible for CMAr's errors, omissions or inconsistencies included in the Work."  |
| Section 13.3.6  | Replace lines 1 and 2 with: "CMAr shall advise the City regarding;" and delete section (d)  |
| Section 13.3.7  | Strike: "recommendations"   |
| Section 13.3.8  | Line 3, after "Drawings and Specifications" add: ", including any errors, omissions, or lack of coordination in the design details and/or Contract Documents."  |
| Section 13.3.9  | Replace first 2 lines with : "It is the CMAr's responsibility to support the Design Professional, who is solely responsible for ascertaining that the Construction Documents are in accordance with Applicable Laws."   |
| Section 13.11   | "Line 9, after "Construction Contract" add "as modified by the parties"<br>"Paragraph 2, three lines from end, replace "Coordinate" with "Schedule".<br>"Paragraph 4, add to beginning of last sentence "If the reason for falling behind schedule is the fault of the CMAr, then"  |
| Section 16.1    | Strike "ownership, use, occupancy or"   |
| Section 16.5    | Strike "agents" and "citizens"  |
| Section 17.0    | "Line 4, strike "arising out of or by reason" and replace with "but only to the extent".<br>"Add a "(1)" before "any violation", a "(2)" before "or by reason of any injury", and a "(3)" before "or to property".<br>"Strike from "or from any cause or causes..." through to the end.<br>"Strike all of paragraph 2."                       |
| Section 18.0    | Add at the end: ", except for those claims that were made in writing but remain unsettled"  |
| Section 19.0    | Add to the beginning: "To the extent City has made the corresponding payment to CMAr."  |
| Section 20.1    | Top of pg 18, lines 4-5, after "Unless" add: "CMAr commences to cure"   |
| Section 21.0    | Beginning of paragraph 2, add: "If the reason for falling behind schedule is the fault of the CMAr, then"   |
| Section 22.0    | "Add to end of Paragraph 1, "and CMAr shall be entitled to and equitable adjustment for its costs and expenses resulting from the suspension."<br>"Strike all of Paragraph 2."  |
| Section 23.0    | "Line 2, after "City" add "discovery of a differing condition, discovery of hazardous material, epidemics, pandemics, quarantine, act of God, unusual weather"<br>"Line 5, change 2 to 10.<br>"At end, add "or any party for which the City is liable for, or the discovery of differing conditions, or the discovery of hazardous material." |
| Section 23.1    | "Paragraph 3, replace "in whole or in part by" with "by the fault of"<br>"Strike from "but understands that..." through to the end."  |
| Section 23.2    | Paragraph 1, before "decrease" add "increase or"  |
| Section 23.4    | Strike: "and in no instance will the additional work increase the GMP"  |
| Section 24.0    | Strike "agents, including its engineers"  |
| Section 29.0    | "Strike from: "only to the extent such..." to the end<br>"Paragraph 2, strike: "solely"<br>"After "marked by member companies" add: "and if CMAr takes such action, it shall not be responsible or liable in the event these markings are placed incorrectly."<br>"Strike last sentence of paragraph 2<br>"Strike all of paragraph 3"         |

**COMMENTS - Special Conditions**

|             |  |
|-------------|--|
| Section 6.0 | After "Contract" add: "as modified by the parties"<br>Line 3, strike: "to execute the Contract or" |
|-------------|--|



# 14

## Financial Statements



*Provide financial statements for the last three (3) years (audited if possible) including balance sheet and income statement showing: Balance Sheet (Current Assets, Current Liabilities, Other Liabilities, Fixed Assets and Equipment, A/R Information) and Income Statement (Net and Gross Income and Expenses)*

As requested, Hensel Phelps has sent our audited financial statements for 2020, 2019 and 2018, including the required information above, within a separate response email labeled "Confidential and Proprietary" to [bids@cityofloveland.org](mailto:bids@cityofloveland.org).

*Include a current banking reference (contact name, address, email, and phone number).*

Hensel Phelps' financial reference is:

### **Bank of America**

Stacey Weems, Vice President/Treasury Officer  
303.575.5833  
[stacey.weems@bofa.com](mailto:stacey.weems@bofa.com)

*The Financial statements shall be provided in a separate email labeled confidential and proprietary. Financial statements will not count against the response page count.*

Acknowledged.



***"Whether it was a gate shut down for a fuel system tie-in, night work to reconfigure the entire lobby and security checkpoint, or interfacing with the airports user's groups, Hensel Phelps always presented a detailed plan and maintained a clean and professional workplace. The way the project was managed made it easy for everyone to take pride in the accomplishments of the team."***

### **Denise McElroy**

Southwest Airlines, William P. Hobby International Expansion Project



**HENSEL PHELPS**

Plan. Build. Manage.

---

12121 Grant St Ste 140 | Thornton, CO 80241  
720.592.2000 | [www.henselphelps.com](http://www.henselphelps.com)







# NORTHERN COLORADO REGIONAL AIRPORT

4900 Earhart Rd • Loveland, Colorado 80538

(970) 962-2850 • FAX (970) 962-2855 • TDD (970) 962-2620

**ITEM NUMBER:** 9

**MEETING DATE:** May 18, 2023

**PREPARED BY:** Jason Licon, Airport Director

---

## **TITLE**

Equipment Donation Acceptance & Transfer of FAA Grant Obligation Recommendation

## **RECOMMENDED AIRPORT COMMISSION ACTION**

Make a motion to recommend to the City Council of Loveland to accept the equipment donation from the Sun Valley Idaho Friedman Memorial Airport, and authorize the Chair to sign a letter of gratitude on behalf of the Northern Colorado Regional Airport Commission to the Friedman Memorial Airport Authority.

## **BUDGET IMPACT**

Positive: It will provide needed equipment, and reduce costs associated with replacement.

## **SUMMARY**

The Airport will be receiving a very generous donation of a relatively new piece of snow removal equipment from the Sun Valley Idaho (SUN) Friedman Memorial Airport Authority (FMAA). Our Airport staff and the FAA's compliance officials have identified a need for a high-speed runway broom truck at FNL for the past few years. Within the Airport's approved Capital Improvement Plan for 2024 it includes a \$400,000 line item for acquiring a new similar unit. The FAA requires that Airports have adequate equipment to remove snow within a certain amount of time to achieve regulatory standards and safety for airport users. FNL utilizes two high speed runway brooms to achieve these regulatory standards, one is a surplus unit that is 24 years old, and the other was purchased new by the airport and is 16 years old.

The manager of the SUN Airport, Chris Pomeroy, had to shift their airport's strategy for dealing with snow removal as a result of demands from airport users and the installation of a new instrument approach system. SUN Airport elected to transition to another much larger and more expensive combination type of snow removal unit that includes both the plow and broom to keep up with the snowfall they typically experience. The acquisition of the new equipment type made this particular snow removal broom unit no longer necessary for their needs, and because it was acquired using federal funds, another commercially certified airport is required to acquire it through donation or sale due to federal obligations associated with their original grant. Our airport will need to approve

the donation, and obtain City Council approval from the City of Loveland for acceptance. It will also require that the federal obligations that were originally assumed by SUN will be transferred to FNL for the remaining service life of the unit.

The acceptance of this equipment will require the City of Loveland's City Council acceptance of the donation. Transportation costs for this are expected to be less than \$10,000.

### **ATTACHMENTS**

- Presentation
- SUN Airport Board Packet FMAA Meeting Brief 5-2-23
- Letter of Gratitude from NCRA to FMAA

# Sun Valley Idaho Airport Snow Removal Equipment Donation

Presented by: Jason R. Licon, Airport Director

# Equipment Donation

- Equipment specifics:
  - 2018 Oshkosh Airport Products H series with XF Broom





# Additional Information

- Snow removal at FNL requires having two broom units
  - 1999 Stewart Stevenson- surplus acquisition from Steamboat-Hayden in 2018
  - 2007 Western Star & Sweepster – purchased new
- The planned capital outlay of \$400,000 was depicted in the adopted Airport Capital Improvement Plan for 2024
- The unit from SUN was \$579,000 when delivered in late 2019
- Preliminary cost estimates are less than \$10,000 to have the unit shipped to FNL and for staff to travel to assist in loading



- Requires City Council of Loveland approval for the acceptance of the donation
  - Value typically depreciates over a 10-year schedule according to FAA rules, and is worth approximately \$350,000 today on paper
- Will also require the Cities accept the grant obligation transfer from the SUN airport to satisfy FAA requirements
  - These are no different from other agreements that FNL has with the FAA
- Recommend a letter of gratitude be sent from NCRA to FMAA
  - A draft letter is included in the packet

# Questions?



NORTHERN COLORADO  
REGIONAL AIRPORT

**VI. ACTION ITEMS (a vote may occur but is not required to be taken)**

**A. NEW BUSINESS**

**1. Terminal Boiler Replacement – Attachment #5 ACTION ITEM**

The two boilers which provide heat to the terminal need replacement. As summarized in the email sent by Deano in our Airport Operations Department (**Attachment #5**), the boilers have been causing issues for some time. Due to lack of reliability, lack of availability of technicians and parts, and rising cost to fix the boilers, replacement is justified and warranted. Cost of the replacement is anticipated to be up to \$200,000. Currently, state procurement statutes require a formal bidding process for this type of expense by a public agency unless the governing board declares that an emergency exists, and that public interest and necessity demand the immediate expenditure of money to do work necessary to safeguard life, health or property. With supply chain shortages, lead time for delivery, and installation, there is an urgency to get the replacement process underway immediately. As such, staff is requesting the Board declare this an emergency allowing us to save time and expense by bypassing the formal bidding process. As a matter of due diligence and transparency, Airport Operations staff will seek numerous quotes from potential vendors in lieu of formal bids. Budgetarily, the current budget includes a \$1,000,000 contingency for capital expenditures which this expense qualifies. This issue and expense is a perfect example of the purpose of the contingency line item in the budget.

This issue has been coordinated with, and the proposed approach, supported by legal counsel.

**ACTION REQUESTED:** Motion to declare that, as a result of the current state of the Airport boiler system, an emergency exists and that public interest and necessity demand the immediate expenditure of money to do work necessary to safeguard life, health or property, particularly the airport terminal. Further move to approve up to \$200,000 from the FY23 capital contingency budget to immediately replace the terminal boilers, bypassing a formal bidding process.

**2. Consideration of Runway Broom Donation – Discussion ACTION ITEM**

As staff has discussed with the Board on numerous occasions, the improved instrument approach combined with the airport's aging snow removal equipment fleet has resulted in the need to evolve and modernize. With the two MB5 multi-task units currently in our fleet and a third on its way, the need for us to use our independent runway brooms has drastically decreased as the MB5 units provide brooming capability (and more). In 2018, the airport took delivery of an Oshkosh Series H runway broom which is seeing limited use. This unit was purchased for \$545,000 via our AIP entitlement funds with a \$34,000 local match. Since the unit is seeing limited use, staff has been looking at options to get the unit to another airport with a need for an independent runway broom.

FAA requires that airport sponsors looking to dispose of FAA AIP acquired equipment follow very stringent guidelines. There are basically two means of disposal. One, if the airport



sponsor intends to sell the equipment, Fair Market Value must be determined and when sold, the airport sponsor must repay the FAA the federal share of the sale price (93.75% for FMAA). The second method, and the method preferred by the FAA, is the airport sponsor donates the equipment to another airport. Considering the cumbersome and costly process of disposing using the Fair Market Value process and limited financial return to the airport, it is staff's recommendation to donate the broom, as is, to another airport. With the help of the FAA, we have located a commercial service airport in Colorado who desperately needs a broom – the Northern Colorado Regional Airport (FNL) in Loveland, CO.

Staff would like to discuss this disposal option with the Board and answer questions and address any concerns. Should the Board support this action, the following motion is recommended:

**ACTION REQUESTED:** Motion to approve disposal of the airport's Oshkosh Series H runway broom. Following FAA's preferred disposal method, FMAA will donate this unit to another airport. A candidate airport for donation is the Northern Colorado Regional Airport (FNL) in Loveland, CO. The donation to FNL, or any other airport, will be subject to FAA and FMAA legal counsel review and support/approval.

B. CONTINUING BUSINESS

1. None

VII. DISCUSSION AND UPDATES

A. NEW BUSINESS

1. Ranch Management – Update and Discussion

The purchase and sales agreement for the recent purchase of the Flying Hat Ranch included a term that provided the option for the former owner/agricultural lessee(s) to continue agricultural operations on the ranch via a lease through March 31, 2023, with an option to extend through 2024. The former landowner has advised airport staff and legal counsel they will not exercise the option to extend the agricultural lease through 2024, thereby ending the lease arrangement for agricultural operations effective, March 31, 2023. Airport staff is considering options for ranch management moving forward.

With the snow melting and the irrigation season upon us, immediate focus is learning the irrigation system and water management responsibilities. Assistance has been provided by the former ranch management team in this regard for this season, and discussions have been held with the former ranch management team to potentially assist the airport operations staff with learning the tricks of managing the ranch for this full season. Whether that is a viable option is still being considered. A longer-term goal remains to develop a formal Request for Proposals by the fall to select a qualified proposer for a longer-term ranch management arrangement.

Staff felt it was appropriate to update the Board and have further discussion as the Board feels appropriate.

## **FMAA Meeting Brief 05-02-23**

### **B. CONTINUING BUSINESS**

#### **1. Miscellaneous**

##### **i. Future Aeronautical Development – Update and Discussion**

The RFP committee met on April 12<sup>th</sup> to review a new draft. Significant progress has been made toward a draft RFP for Board and stakeholder review. Expect the committee to provide an update on next steps and timeline at this meeting.

#### **2. Construction and Capital Projects**

##### **i. Spring/Summer Construction – Update and Discussion**

As previously discussed, the final phase of the runway, taxiway, and apron project, from last spring, is the application of final markings to the runway and reapplication of markings on the taxiway this late spring/early summer.

As updated at the March FMAA meeting, staff continues to coordinate project schedule with our engineer and contractor. The current tentative schedule remains at the end of May and will be completed over approximately five days. Additional information will be presented to the Board at the meeting if it becomes available.

#### **3. Airport Planning Projects**

##### **i. None**

### **VIII. PUBLIC COMMENT**

### **IX. ADJOURNMENT**



## NORTHERN COLORADO REGIONAL AIRPORT

4900 Earhart Road • Loveland, Colorado 80538  
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May 18, 2023

Freidman Memorial Airport Authority  
1616 Airport Cir  
Hailey, ID 83333

RE: Snow Broom Truck Donation

Dear Freidman Memorial Airport Authority Members,

On behalf of the Northern Colorado Regional Airport Commission, I am writing to express our sincerest gratitude for your recent donation of a snow broom truck to Northern Colorado Regional Airport (FNL). The snow removal unit will be a valuable replacement for equipment that we have been utilizing acquired as surplus from other commercial service airports.

As you know, winter weather can pose a significant challenge to airport operations. Your donation will greatly enhance our ability to keep our runways and other surfaces clear of snow and ice, ensuring safe and efficient travel for our users.

Your generosity and commitment to our shared mission of providing safe and reliable air transportation is deeply appreciated. Please know that your donation will have a lasting impact on our ability to serve the aviation community at FNL.

To the City of Hailey, Blaine County, and Friedman Memorial Airport Authority and staff, we extend our heartfelt thanks. Your contribution is a great example of how the national airport system is strengthened when airports support each other.

Sincerely,

Don Overcash  
NCRA Commission Chair