PROFESSIONAL SERVICES AGREEMENT

FOR

MASTER ARCHITECT

FOR THE

TERMINAL DEVELOPMENT PROGRAM

AT

SAN ANTONIO INTERNATIONAL AIRPORT

This Agreement is by and between the City of San Antonio, a Texas Municipal Corporation ("City") acting by and through its City Manager, pursuant to Ordinance No. _____ passed and approved on the _____ day of _____, 2023, and

CORGAN ASSOCIATES, INC.
401 N. Houston Street,
Dallas, Texas 75202

("Consultant"). City and Consultant hereafter individually referred to as "Party" and collectively referred to as "Parties". The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described.

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ARTICLE I. DEFINITIONS

As used in this Agreement, the following terms shall have meanings as set out below:

1.1 "Agreement" is this written document signed by City and Consultant, including any other document itemized and expressly referenced in, or attached to, and expressly made part of this Agreement:

Exhibit A	Scope of Services
Exhibit B	Fee Schedule
Exhibit C	Federal Contract Provisions
Exhibit D	Aviation Department Consultant Travel & Expense Policy
Exhibit E	DBE Compliance and Enforcement

1.2 "Airport" means the San Antonio International Airport.

1.3 "City" means City of San Antonio, Texas.

1.4 "Claim" is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Agreement terms, payment of money or other relief pursuant to the terms of this Agreement. The term "Claim" also includes other disputes and matters in question between City and Consultant arising out of, or relating to, this Agreement.

1.5 "Compensation" means amounts paid for services rendered under this Agreement.

1.6 "Consultant" means Corgan Associates, Inc. and its officers, partners, employees, agents and representatives, and all sub-consultants, if any, as well as all other persons or entities for which Consultant legally is responsible.

1.7 "Director" means the Director of City's Aviation Department (hereafter referred to as "Aviation") or his/her designee.

1.8 "FAA" means Federal Aviation Administration.

1.9 "Project" means the architectural and engineering services set out in the Scope of Services set out in **Article IV** rendered by Consultant in support of the Terminal Development Program.

1.10 "SAMSA" means the San Antonio Metropolitan Statistical Area or Relevant Marketplace, which collectively is comprised of Bexar County and the seven (7) surrounding counties of Atascosa, Bandera, Comal, Guadalupe, Kendall, Medina, and Wilson.

1.11 "Standard of Care" means the professional skill and care ordinarily provided by competent architects or engineers practicing under the same or similar circumstances and professional license as set out in **Article XI.**

1.12 "Terminal Development Program" means the City capital program that includes a new Terminal C and its enabling and supporting projects at the Airport.

ARTICLE II. COMPENSATION

2.1 The total compensation for all services to be performed by Consultant as fully defined in the Scope of Services, to include all travel and other expenses, shall not exceed **THIRTY MILLION AND 00/100 DOLLARS ($30,000,000.00)**. Consultant acknowledges that such not to exceed fee shall be sufficient compensation for all services and other expenses to be performed pursuant to or associated with the Scope of Services. The obligation of City to Consultant for compensation in connection with this Agreement cannot and will not exceed such sum of THIRTY MILLION AND 00/100 DOLLARS ($30,000,000.00). without further amendment(s) to this Agreement.

2.2 **Reimbursable Expenses**

When authorized by City in writing, the Consultant shall be entitled to reimbursement for the following services and expenses at the actual cost incurred for such services and related expenses without markup:

6.9.1.1 Any travel, to include mileage reimbursement for travel by vehicle, will be reimbursed only if such travel was approved in writing by the City prior to such travel and must be in compliance with **Exhibit D** Aviation Department Consultant Travel and Expense Policy. No travel within the SAMSA is reimbursable.

6.9.1.2 Mailing, courier services and copies of documents requested by City in writing in excess of the copies to be provided under the Agreement. These costs shall not exceed the amount noted, if any, in Consultant's attached Scope without further approval of City.

6.9.1.3 Graphics, physical models, and presentation boards requested by City in writing in excess of the copies to be provided under Consultant's Agreement. These costs shall not exceed the amount noted, if any, in Consultant's attached Scope without further approval of City.

City does not allow a markup on any of the above reimbursable items and shall only reimburse approved hard costs incurred.

2.3 **Sub-Consultant Work**

City shall not pay a markup to Consultant for Sub-Consultant work.

ARTICLE III. METHOD OF PAYMENT

3.1 Consultant shall bill all services in accordance with the hourly rates set out in **Exhibit B,** Fee Schedule. Any travel must be approved in writing by the City prior to such travel, which approval may be by email. Consultant shall submit invoices no more than once monthly. Such invoices must be for services completed and approved by the Director and actual travel, if previously approved in writing, and other expenses incurred and not previously invoiced and must show: a) the hours being billed delineated by task performed, employee name and position, b) a summary of the services performed during the period covered by the invoice, c) travel and other previously approved expenses with supporting documentation attached; and d) the total amount due for services, travel and expenses. Allowable travel and other expenses preapproved in writing by the City shall be invoiced at the actual cost incurred without markup and must be in compliance with the Aviation Department Consultant Reimbursable Travel and Expense Policy, **Exhibit D** hereto, to be eligible for reimbursement. City reserves the right to request such additional information as the City deems necessary to support the invoiced charges.

3.2 Included in **Exhibit B,** Fee Schedule, is a Fee Breakdown by work phase. Consultant shall adhere to and be limited to the not to exceed amount for each work phase as set out in the Fee Breakdown by work phase. The Director, or his designee, has authority to reallocate funds and work between the phases set out in the aforementioned Fee Breakdown.

3.3 Payments to Consultant shall be in the amount shown on the invoices and supporting documentation submitted and shall be subject to City's approval. All services shall be performed in accordance with the professional standard of care set forth in **Article 20** and to City's satisfaction, which satisfaction shall be judged by the Director in his/her sole discretion. City shall not be liable for any payment under this Agreement for services which are unsatisfactory and which have not been previously approved by the Director. The final payment due hereunder shall not be paid until all designs, plans, specifications, exhibits, reports, data, and documents have been submitted, received, accepted and approved by City. Payment shall be made based solely on services completed, billed at the rates set in in **Exhibit B,** and approved by City.

3.4 Consultant shall, within ten (10) calendar days following receipt of compensation from City, pay all bills for services performed and furnished by sub-consultants, in connection with the Project and the performance of the work, and shall provide City with evidence of such payment. Consultant's failure to make payments within such time shall constitute a material breach of this Agreement, unless Consultant is able to demonstrate to City bona fide disputes associated with the unpaid sub-consultant and its services. Consultant shall include a provision in each of its sub-agreements imposing the same payment obligations on the sub-consultants as are applicable to Consultant hereunder, and if City so requests, shall provide copies of such payments by Consultant to City. If Consultant has failed to make payment promptly to the sub-consultant for the services for which City has made payment to Consultant, City shall be entitled to withhold payment to Consultant to the extent necessary to protect City.

3.5 Consultant warrants title to all services covered by an invoice shall pass to City no later than the time of payment. Consultant further warrants, to the best of Consultant's knowledge, information and belief, that upon submittal of an invoice, all services included and covered by such invoice shall be free and clear of liens, claims, security interests or encumbrance in favor of Consultant or other persons or entities making a claim by reason of having provided labor or services relating to this Agreement. **CONSULTANT SHALL INDEMNIFY AND HOLD CITY HARMLESS FROM ANY LIENS, CLAIMS, SECURITY INTEREST OR ENCUMBRANCES FILED BY ANYONE CLAIMING BY, THROUGH OR UNDER THE ITEMS COVERED BY PAYMENTS MADE BY CITY TO CONSULTANT.**

3.6 City may withhold compensation to such extent as may be necessary, in City's opinion, to protect City from damage or loss for which Consultant is responsible, because of:

3.6.1 Delays in the performance of Consultant's work;

3.6.2 Third-party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to City is provided by Consultant;

3.6.3 Failure of Consultant to make payments properly to sub-consultants or vendors for labor, materials or equipment;

3.6.4 Reasonable evidence Consultant's work cannot be completed for the amount unpaid under this Agreement;

3.6.5 Damage to City; or

3.6.6 Persistent failure by Consultant to carry out the performance of its services in accordance with this Agreement.

3.7 When the above reasons for withholding are removed or remedied by Consultant, compensation of the amount withheld shall be made within a reasonable time. City shall not be deemed in default by reason of withholding compensation as provided for in this **Article 3**.

3.7.1 In the event of any dispute(s) between the Parties, regarding the amount properly compensable any phase or as final compensation, or regarding any amount that may be withheld by City, Consultant shall be required to make a claim pursuant to and in accordance with the terms of this Agreement and follow the procedures provided herein for the resolution of such dispute. In the event Consultant does not initiate and follow the claims procedures provided in this Agreement in a timely manner and as required by the terms thereof, any such claim shall be waived.

3.7.2 City shall make final compensation of all sums due Consultant not more than thirty (30) calendar days after Consultant's execution and delivery of a final invoice.

3.7.3 Request of final compensation by Consultant shall constitute a waiver of claims except those previously made in writing and identified by Consultant as unsettled at the time of final invoice.

3.8 The final payment due hereunder will not be paid until all designs, plans, specifications, exhibits, reports, data, and documents required by the Scope of Services have been submitted, received, accepted and approved by the City.

ARTICLE IV. SCOPE OF SERVICES

4.1 Consultant, in consideration for the compensation herein provided, as set out in **Article II**., Compensation, shall provide architectural and engineering services in connection with the Project, including all associated services required for Consultant to provide such services pursuant to this Agreement, along with all services which normally would be required by law or common due diligent practice as more specifically outlined in **Exhibit A,** Scope of Services. The services to be provided by Consultant hereunder shall be performed in phases and/or elements to be defined by City as the Project progresses. Each phase of work or element shall have a distinct scope of services and not to exceed amount which shall be negotiated by the Parties. Under no circumstances shall the total cumulative cost of the various phases and elements of work exceed the not to exceed amount set out in Article II Compensation, as such amount may be amended in accordance with this Agreement. Individual phases of work or elements and associated compensation limits shall be incorporated into this Agreement by an amendment executed by both Parties. The Director shall have the authority to execute such amendments adding or modifying the phases of work without further Council action, so long as, the amendment does not cause the total compensation amount set out in Article II, as such amount may be amended in accordance with the terms of this Agreement, to be exceeded.

4.2 Consultant shall complete all Project work within the Scope of Services in compliance with this Agreement in strict compliance with the Standard of Care, and agrees to staff the Project with sufficient necessary, qualified personnel to the Project, in order not to delay or disrupt the progress of the Project. Subject to the Standard of Care, time is of the essence.

4.3 Consultant shall comply with all laws, rules and regulations to include applicable FAA's Advisory Circulars, FAA orders and other regulatory guidance throughout the duration of the subject Project and this Agreement.

4.4 All services and work performed under this Agreement must be conducted in full conformance with the Texas Occupations Code. Persons retained by Consultant to perform work pursuant to this Agreement shall be employees or subconsultants of Consultant.

4.5 In the event Consultant desires to replace key personnel, including but not limited to project managers and task leaders, assigned to the Project, Consultant shall replace such key personnel with a person having the same or greater level of experience and expertise. Consultant shall obtain City's prior approval for any proposed substitution for a key

position. City retains the right to request replacement, for reasonable cause, of any employee or subconsultant assigned by Consultant to the Project. City's decisions in this regard shall not be the basis for any claim for additional compensation by Consultant. However, in no event shall City's direction be construed as the City's assumption of Consultant's duties to direct, coordinate and manage implementation of the Project, unless specific processes, procedures and systems, if any, are directed by the City

4.6 Acceptance of any deliverables by City shall not constitute nor be deemed a release of the responsibility and liability of Consultant, its employees, associates, agents or subconsultants for the accuracy and competency of their deliverables or associated services; nor shall such acceptance be deemed an assumption of responsibility or liability by City for any defect in the deliverables prepared by said Consultant, its employees, subconsultants, and agents.

4.7 Consultant shall make, without expense to City, such revisions to the designs, plans, specifications, exhibits, drawings, reports, data, and documents, as may be required to meet the needs of City and which are within its Scope of Services. After the approval of reports or other documents by City, any revisions, additions or other modifications made at City's request, which involve extra services and expenses incurred by Consultant, only shall be requested through an additional Amendment for services.

4.8 Revisions to the designs, plans, specifications, exhibits, drawings, reports, data, and documents, including additional submittals, that result from the Consultant not complying with the requirements of the standards set out in the FAA's Advisory Circulars, FAA Orders or other such regulatory guides or not adhering to a level of quality consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances shall be made at no additional expense to the City.

4.9 Consultant shall be represented by personnel with appropriate licensure, registration and/or certification(s) at meetings of any official nature concerning the Project, including but not limited to scope meetings, review meetings, pre-bid meetings and preconstruction meetings.

ARTICLE V. TIME AND PERIOD OF SERVICE

5.1 This Agreement shall commence upon its approval by the San Antonio City Council and execution by both Parties and continue in full force and effect for the design phase, award of the construction contract though completion of the Terminal Development Project, including any extra work and any required extensions thereto, unless earlier termination shall occur pursuant to any provisions hereof.

5.2 Subject to the Standard of Care, time is of the essence for this Agreement. Consultant shall perform and complete its obligations for the services under this Agreement in as expeditiously a manner as is prudent considering the ordinary professional skill and care of a competent engineer or architect, so as to not delay the Project. City shall perform its

obligations of review and approval in a prompt and continuous manner so as to not delay the Project. Consultant shall not be responsible or liable for delays caused solely by others not under contract with or under the control of Consultant.

ARTICLE VI. COORDINATION WITH CITY

6.1 Consultant shall hold periodic conferences with City through the end of the Project, as deemed necessary by City. The Project shall have the full benefit of City's experience and knowledge of existing needs and facilities and be consistent with City's current policies and standards. To assist Consultant in this coordination, City shall make available, for Consultant's use in planning and designing the Project, all existing plans, maps, statistics, computations and other data in City's possession, relative to this particular Project, at no cost to Consultant. However, any and all such information shall remain the property of City and shall be returned by Consultant to City upon termination or the completion of the Project or if instructed to do so by the Director. Consultant may not rely on any such data provided by City and must independently verify the accuracy and currency of all materials provided if used as part of the basis for any design decisions.

6.2 The Director or his/her representative shall act on behalf of City, with respect to the services to be performed under this Agreement. The Director shall have complete authority to transmit instructions, receive information and interpret and define City's policies and decisions, with respect to materials, equipment, elements and systems pertinent to Consultant's services.

6.3 City shall provide written notice to the Consultant of any errors or omissions discovered in the Consultant's services, or performance, or of any development that affects the scope or timing of Consultant's services.

6.4 City promptly will give written notice to Consultant whenever City observes, discovers or otherwise becomes aware of any defect in Consultant's services, or any development that affects the scope or timing of Consultant's services.

6.5 Unless otherwise required by City, City shall furnish approvals and permits from all governmental authorities having jurisdiction over the Project and other such approvals and consents from others, as may be necessary, for the completion of the Project. Consultant shall provide City and the Project Program Manager/Construction Manager (PM/CM) reasonable assistance in connection with such approvals and permits, such as the furnishing of appropriate drawings, calculations, models and data required by and appropriate for use by permitting authorities and compiled by Consultant pursuant to other provisions of the Agreement, but Consultant shall not be obligated to develop additional data, prepare extensive reports or appear at hearings or the like unless compensated therefore under other provisions of this Agreement.

ARTICLE VII. AMENDMENTS

Any alterations, additions, or deletions to the terms of this Agreement shall be effected by amendment, in writing, executed by City and Consultant. The Director shall have the authority to execute amendments that require up to $50,000.00, or such higher amount as approved by Council ,in increased cost on behalf of the City without further action by the San Antonio City Council, subject to appropriation of funds for the increase in cost. In the event Council delegates to Director or Assistant City Manager the authority to execute amendments in excess of $50,000, such increased signature authority, such increased authority shall automatically apply to this Agreement without further amendment hereto. Any other change will require approval of the City Council by passage of an ordinance therefore.

ARTICLE VIII. OWNERSHIP OF DOCUMENTS

8.1 Except for any preexisting intellectual property, Consultant acknowledges and agrees that City exclusively shall own any and all information in whatsoever form and character created or produced in accordance with, pursuant to or as a result of this Agreement, to include correspondence, and shall not be the subject of any copyright or proprietary claim by Consultant. Consultant further agrees that City has the right to use said information as City desires without restriction. Any and all documents, including the original drawings, estimates, specifications and all other documents and data shall be delivered to City, at no additional cost to City, upon request, termination or completion of this Agreement without restriction on future use. Any reuse by City of such information and/or documents created by Consultant and provided to City pursuant to this Agreement will be at City's sole risk and without liability or legal exposure to Consultant. Consultant shall not, under any circumstances, release any records created during the course of performance of the Agreement to any entity without City's written permission, unless required to do so by a Court of competent jurisdiction. City will be providing reports developed pursuant to this Agreement to the FAA.

8.2 Consultant agrees and covenants to protect any and all proprietary rights of City in any materials provided to Consultant. Such protection of proprietary rights by Consultant shall include, but not be limited to, the inclusion in any copy intended for publication of copyright mark reserving all rights to City. Additionally, any materials provided to Consultant by City shall not be released to any third party without the written consent of City and shall be returned intact to City upon request by City and/or upon termination or completion of this Agreement.

8.3 **CONSULTANT HEREBY ASSIGNS ALL STATUTORY AND COMMON LAW COPYRIGHTS TO ANY COPYRIGHTABLE WORK TO CITY THAT, IN PART OR IN WHOLE, WAS PRODUCED FROM THIS AGREEMENT, INCLUDING ALL EQUITABLE RIGHTS. NO REPORTS, MAPS, PROJECT LOGOS, DRAWINGS, DOCUMENTS OR OTHER COPYRIGHTABLE WORKS, PRODUCED IN WHOLE OR IN PART UNDER THIS AGREEMENT, SHALL BE SUBJECT OF AN APPLICATION FOR COPYRIGHT BY CONSULTANT. ALL REPORTS, MAPS, PROJECT LOGOS, DRAWINGS OR OTHER**

COPYRIGHTABLE WORK PRODUCED UNDER THIS AGREEMENT SHALL BECOME THE PROPERTY OF CITY (EXCLUDING ANY INSTRUMENT OF SERVICES, AS OTHERWISE SPECIFIED HEREIN). CONSULTANT SHALL, AT ITS OWN EXPENSE, DEFEND ALL SUITS OR PROCEEDINGS INSTITUTED AGAINST CITY AND CONSULTANT SHALL PAY ANY AWARD OF DAMAGES OR LOSS RESULTING FROM AN INJUNCTION AGAINST CITY, INSOFAR AS THE SAME IS BASED ON ANY CLAIM THAT MATERIALS OR WORK PROVIDED UNDER THIS AGREEMENT CONSTITUTE AN INFRINGEMENT OF ANY PATENT, TRADE SECRET, TRADEMARK, COPYRIGHT OR OTHER INTELLECTUAL PROPERTY RIGHTS.

8.4 Upon request by the City, all documents and information, in whatever form, given to, prepared or assembled by the Consultant in connection with its performance of its duties under this Agreement, which are the sole property of the City, shall be delivered at no cost to the City without restriction on future use. The City shall have free and immediate access to all such information at all times during the term of this Agreement with the right to make and retain copies documents, notes and data, whether or not the Project has been completed. Prior to surrender of the documents and information, Consultant may make copies of any and all documents for its files, at its sole cost and expense.

8.4.1 The audit, examination or inspection may be performed by a City designee, which may include its internal auditors or an outside representative engaged by City. Consultant agrees to retain its records for a minimum of four (4) years following termination of the Agreement, unless there is an ongoing dispute under the Agreement which last beyond the four-year retention period, then, such retention period shall extend until final resolution of the dispute.

8.4.2 "Consultant's records" include any and all information, materials and data of every kind and character generated as a result of the work under this Agreement. Example of Consultant records include, but are not limited to, billings, books, general ledger, cost ledgers, invoices, production sheets, documents, correspondence, meeting notes, subscriptions, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, reports, drawings, receipts, vouchers, memoranda, time sheets, payroll records, policies, procedures, federal and state tax filings for issue in question and any and all other agreements, sources of information and matters that may, in City's judgment, have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Agreement Documents.

8.4.3 City agrees that it will exercise the right to audit, examine or inspect Consultant’s records only during regular business hours. Consultant agrees to allow City's designee access to all of Consultant's Records, Consultant's facilities and current or former employees of Consultant, deemed necessary by City or its designee(s), to perform such audit, inspection or examination. Consultant also agrees to provide adequate and appropriate work space necessary to City or its designees to conduct such audits, inspections or examinations.

8.4.4 Consultant must include this audit clause in any subcontractor, supplier or vendor Agreement.

8.5 Consultant agrees to maintain all books, records and reports required under this Agreement for a period of not less than four (4) years after final payment is made and all pending matters are closed. In addition, the Consultant shall maintain an acceptable cost accounting system during the term of this Agreement. The Consultant agrees to provide the City, 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 Consultant which are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcriptions.

8.6 Notwithstanding anything to the contrary contained herein, all previously owned intellectual property of Consultant, including but not limited to, drawings, estimates, specifications, documents, data, any computer software (object code and source code), tools, systems, equipment or other information used by Consultant or its suppliers in the course of delivering the services hereunder, and any know-how, methodologies or processes used by Consultant, to provide the services or protect deliverables to City, including without limitation, all copyrights, trademarks, patents, trade secrets and any other proprietary rights inherent therein and appurtenant thereto, shall remain the sole and exclusive property of Consultant or its suppliers. However, it is to be understood City shall have free access to all such information and hold the right to make and retain copies of drawings, estimates, specifications and all other documents and data. Any reuse, without specific written verification or adaptation by Consultant, shall be at City's sole risk and without liability or legal exposure to Consultant.

8.7 Consultant shall notify City, immediately, in the event Consultant receives any requests for information from a third party, which pertain to the documentation and records referenced herein. Consultant understands and agrees that City will process and handle all such requests.

8.8 The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Agreement and Consultant agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

ARTICLE IX. TERMINATION OF AGREEMENT

9.1 Right of Either Party to Terminate for Default

9.1.1 This Agreement may be terminated by either Party for substantial failure by the other Party to perform, through no fault of the terminating Party, in accordance with the terms of this Agreement and a failure to cure as provided in this **Article 9**.

9.1.2 The Party not in default must issue a written and signed notice of termination, citing this **Article 9.1**, to the other Party declaring the other Party to be in default and stating the reason(s) why it is in default. Upon receipt of such written Notice of Default, the Party in receipt shall have a period of ten (10) calendar days to cure any failure to perform under this Agreement. Upon the completion of said ten-day period, commencing upon receipt of Notice of Termination, if such Party has not cured any failure to perform, such termination shall become effective without further written notice.

9.2 Right of City to Terminate

9.2.1 City reserves the right to terminate this Agreement, without cause, by issuing a signed notice of termination, citing this **Article 9.2**, which shall take effect on the effective date stated in such notice of termination. Consultant shall not, however, be entitled to lost or anticipated profit on unperformed services, should City choose to exercise its option to terminate, nor shall Consultant be entitled to compensation for any unnecessary or unapproved work, performed during time between the issuance of the City's notice of termination and the actual termination date.

9.2.2 In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue Consultant for any default hereunder or other action.

9.3 Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

9.4 Orderly Transfer Following Termination. Regardless of how this Agreement is terminated, Consultant shall affect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City. Upon the effective date of expiration or termination of this Agreement, Consultant shall cease all operations of work being performed by Consultant, or any of its subcontractors, pursuant to this Agreement. All completed or partially completed designs, plans, specifications, exhibits, drawings, reports, data, documents, papers, records, charts, and any other materials or information produced, or provided to Consultant, in connection with the services rendered by Consultant under this Agreement, regardless of storage medium, shall be transferred to City. Such record transfer shall be completed within thirty (30) calendar days of the termination date and shall be completed at Consultant's sole cost and expense. Payment of compensation due or to become due to Consultant is conditioned upon delivery of all such documents prepared in association with this Agreement shall be delivered to City as a pre- condition to final payment.

9.5 City, as a public entity, has a duty to document the expenditure of public funds. Consultant acknowledges this duty imposed upon the City. Consultant further acknowledges that the

failure of Consultant substantially to comply with the submittal of the statements and documents, as required herein, shall constitute a waiver by Consultant of any portion of the fee for which Consultant did not supply such necessary statements and/or documents

9.6 Claims for Outstanding Fees. Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, Consultant shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. **Failure by Consultant to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a Waiver by Consultant of any and all right or claims to collect moneys that Consultant may rightfully be otherwise entitled to for services performed pursuant to this Agreement.**

9.7 Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue Consultant for any default hereunder or other action.

ARTICLE X. SUSPENSION OF WORK UNDER AGREEMENT

10.1 City may suspend this Agreement for any reason, with or without cause upon the issuance of written notice of suspension in accordance with the Notice provisions contained in this Agreement. Such suspension shall take effect upon the date specified in such notice. The notice of suspension will set out the reason(s) for the suspension and the anticipated duration of the suspension but will in no way guarantee the total number of days of suspension.

10.2 In the event such suspension exceeds one hundred and twenty (120) calendar days, Consultant shall have the right to terminate this Agreement. Consultant may exercise this right to terminate by issuing a written Notice of Termination to the City, delivered in accordance with the Notice provisions contained in this Agreement after the expiration of one hundred and twenty (120) calendar days from the effective date of the suspension. Termination pursuant to this paragraph shall become effective immediately upon receipt of said written notice by City and such termination shall be subject to all the requirements set out in **Articles 9.4 and 9.5**, related to the orderly transfer and fee payment.

10.3 Procedures Upon Receipt of Notice of Suspension.

10.3.1 Upon receipt of a notice of suspension and prior to the effective date of the suspension, Consultant shall, unless otherwise directed, immediately begin to phase-out and discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement.

10.3.2 Consultant shall prepare a statement showing in detail the services performed under this Agreement prior to the effective date of suspension.

10.3.3 Copies of all completed or partially completed studies, plans and other documents prepared under this Agreement prior to the effective date of suspension shall be prepared for possible delivery to the City but shall be retained by Consultant until such time as Consultant may exercise the right to terminate.

10.3.4 During the period of Suspension, Consultant shall have the option to at any time submit the above referenced statement to the City for payment of any unpaid portion of the prescribed fee for services which have actually been performed to the benefit of the City under this Agreement, adjusted for any previous payments of the fee in question.

10.3.5 In the event Consultant exercises its right to terminate this Agreement at any time after the effective Suspension date, Consultant shall submit, within forty-five (45) calendar days after receipt by City of Consultant's notice of termination (if he has not previously done so) the above referenced statement showing in detail the services performed under this Agreement prior to the effective date of suspension. Failure by Consultant to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a Waiver by Consultant of any and all right or claims to collect moneys that Consultant may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

10.3.6 Any documents prepared in association with this Agreement shall be delivered to City as a pre-condition to final payment.

10.3.7 City, as a public entity, has a duty to document the expenditure of public funds. Consultant acknowledges this duty imposed upon the City. Consultant further acknowledges that the failure of Consultant substantially to comply with the submittal of the statements and documents, as required herein, shall constitute a waiver by Consultant of any portion of the fee for which Consultant did not supply such necessary statements and/or documents

10.3.8 Upon the above conditions being met, the City's review of the submissions and finding the claimed compensation to be appropriate to the terms of this agreement, the City shall pay Consultant that portion of the agreed prescribed fee for those as yet uncompensated services actually performed under this Agreement to the benefit of the City, adjusted for any previous payments of the fee in question.

10.4 City, as a public entity, has a duty to document the expenditure of public funds. Consultant acknowledges this duty imposed upon the City. Consultant further acknowledges that the failure of Consultant substantially to comply with the submittal of the statements and documents, as required herein, shall constitute a waiver by Consultant

of any portion of the fee for which Consultant did not supply such necessary statements and/or documents.

ARTICLE XI. CONSULTANT'S WARRANTY/STANDARD OF CARE

Consultant warrants the services required under this Agreement shall be performed with the professional skill and care ordinarily provided by competent architects or engineers practicing under the same or similar circumstances and professional license ("Standard of Care"). Consultant further warrants it has not employed or retained any company or person other than a bona fide employee, working solely for Consultant, to solicit or secure this Agreement, and it has not, for the purpose of soliciting or securing this Agreement, paid or agreed to pay any company or person a commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach of this warranty, City shall have the right to terminate this Agreement under the provisions of **Article 9**.

ARTICLE XII. NON-DISCRIMINATION POLICY

12.1 As a Party to a contract with City, Consultant understands and agrees to comply with the *Non-Discrimination Policy* of the City of San Antonio contained in Chapter 2, Article X of the City Code and further, shall not discriminate on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity, veteran status, age or disability, unless exempted by state or federal law, or as otherwise established herein. Consultant represents and warrants it has complied with City's *Non-Discrimination Policy* throughout the course of this solicitation and Agreement award process and shall continue to comply with said *Non-Discrimination Policy*.

12.2 Consultant shall adhere to City's *Non-Discrimination Policy* in the solicitation, selection, hiring or commercial treatment of sub-consultants, vendors, suppliers or commercial customers, nor shall Consultant retaliate against any person for reporting instances of such discrimination. Consultant shall provide equal opportunity for Sub-Consultants, vendors and suppliers to participate in all of its public sector and private sector sub-consulting and supply opportunities, provided nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination which have occurred or are occurring in City's Relevant Marketplace. Consultant shall incorporate this clause into each of its sub-consultant and supplier agreements entered into, pursuant to City agreements/contracts.

12.3 Consultant acknowledges it understands and agrees a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, disqualification of Consultant from participating in City contracts, or other sanctions.

12.4 This **Article 12** is not enforceable by or for the benefit of, nor creates any obligation to, any third party.

12.5 Consultant understands and agrees to comply with the Mandatory Federal Contract Provisions attached hereto as **Exhibit C.**

ARTICLE XIII. ASSIGNMENT OR TRANSFER OF INTEREST

13.1 Consultant shall not sell, assign, pledge, convey or transfer Consultant's interest in this Agreement without the prior written consent of City.

13.2 Any attempt to assign, transfer, pledge, convey or otherwise dispose of any part of, or all of its right, title, interest or duties to or under this Agreement, without said written approval, shall be void, and shall confer no rights upon any third person. Should Consultant assign, transfer, convey or otherwise dispose of any part of, or all of its right, title or interest or duties to or under this Agreement, City may, at its option, terminate this Agreement as provided herein, and all rights, titles and interest of Consultant shall thereupon cease and terminate, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by Consultant shall in no event release Consultant from any obligation under the terms of this Agreement, nor shall it relieve or release Consultant from the payment of any damages to City, which City sustains as a result of such violation.

13.3 Consultant agrees to notify Director of any changes in ownership interest greater than thirty percent (30%), or control of its business entity not less than sixty (60) days in advance of the effective date of such change. Notwithstanding any other remedies that are available to City under this Agreement, any such change of ownership interest or control of its business entity may be grounds for termination of this Agreement in accordance with **Article 9**, Termination.

ARTICLE XIV. INSURANCE REQUIREMENTS

14.1 Prior to the commencement of any work under this Agreement, Contractor shall furnish copies of all required endorsements and completed Certificate(s) of Insurance to the City's Aviation Department, which shall be clearly labeled "*Master Architect for the Terminal Development Program*" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized bythat insurer to bind coverage on its behalf. The City will not accept a Memorandum of Insurance or Binder as proof of insurance. The certificate(s) must be signed by the Authorized Representative of the carrier andlist the agent's signature and phone number. The certificate shall be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no dutyto pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City's Aviation Department. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

14.2 The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify

insurance coverages and their limits when deemed necessary and prudent by City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereby City may incur increased risk.

14.3 A Contractor's financial integrity is of interest to the City; therefore, subject to Contractor's right to maintain reasonable deductibles in such amounts as are approved by the City, Contractor shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed below:

INSURANCE TYPE	***LIMITS***
1. Workers' Compensation 2. Employers' Liability	Statutory $5,000,000/$5,000,000/$5,000,000
3. Commercial General Liability Insurance toinclude coverage for the following: a) Premises/Operations b) Products/Completed Operations c) Personal/Advertising Injury d) Contractual Liability e) Independent Contractors	For Bodily Injury and Property Damage $1,000,000 per occurrence; $10,000,000 general aggregate, or its equivalent inUmbrella or Excess Liability Coverage.
4. Business Automobile Liability a) Owned/leased vehicles b) Non-owned vehicles c) Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of $5,000,000 per occurrence.If AOA access required $5,000,000 CSL
5. Professional Liability (Claims-made Coverage)	$10,000,000 per claim damages by reason of any act, malpractice, error, or omission in theprofessional service.
6. Umbrella or Excess Liability Coverage	$10,000,000 per occurrence combined limit BodilyInjury (including death) and Property Damage. (per occurrence limit depends on scope of operation)
7. Cyber Liability to include coverage for the following: a) Legal expenses b) IT forensics c) Negotiation & payment of ransomware d) Data restoration	$1,000,000 per claim $1,000,000 general aggregate, or its equivalent in Umbrella or Excess Liability Coverage.

14.4 As they apply to the limits required by the City, the City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page, and all required

endorsements. Contractor shall be required to comply with any such requests and shall submit requested documents to City at the address provided below within 10 days. Contractor shall pay any costs incurred resulting from provision of said documents.

City of San Antonio
Attn: Aviation Department
P.O. Box 839966
San Antonio, Texas 78283-3966

14.5 Contractor agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

14.5.1 Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;

14.5.2 Provide for an endorsement that the "other insurance" clause shall not apply to the City of San Antonio where the City is an additional insured shown on the policy;

14.5.3 Workers' compensation, employers' liability, general liability and automobile liability policies will provide a waiver of subrogation in favor of the City.

14.5.4 Provide advance written notice directly to City of any suspension or non-renewal in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

14.6 Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor's performance should there be a lapse in coverage at any timeduring this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.

14.7 In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.

14.8 Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractors' performance of the work covered under this Agreement.

14.9 It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of San Antonio for liability arising out of operations under this Agreement.

14.10 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to.

ARTICLE XV. INDEMNIFICATION

15.1 **CONSULTANT FULLY SHALL INDEMNIFY AND HOLD HARMLESS CITY AND ITS OFFICIALS, OFFICERS, AGENTS, EMPLOYEES, VOLUNTEERS, DIRECTORS AND REPRESENTATIVES (HEREAFTER INDIVIDUALLY AND COLLECTIVELY REFERRED TO AS "INDEMNITEE") FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LIABILITIES OR COSTS, INCLUDING REASONABLE ATTORNEY FEES AND DEFENSE COSTS, MADE UPON INDEMNITEE CAUSED BY OR RESULTING FROM AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER COMMITTED BY CONSULTANT OR ITS AGENT, CONSULTANT UNDER CONTRACT OR ANOTHER ENTITY OVER WHICH CONSULTANT EXERCISES CONTROL WHILE IN THE EXERCISE OF RIGHTS OR PERFORMANCE OF THE DUTIES UNDER THIS AGREEMENT. THIS INDEMNIFICATION SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM INDEMNITEE'S NEGLIGENCE OR WILLFUL MISCONDUCT IN INSTANCES WHERE THE NEGLIGENCE OR WILLFUL MISCONDUCT CAUSES PERSONAL INJURY, BODILY INJURY, DEATH OR PROPERTY DAMAGE. IF A COURT OF COMPETENT JURISDICTION FINDS CONSULTANT AND CITY JOINTLY LIABLE, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**

15.2 The provisions of this article are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Consultant shall advise City in writing within twenty four (24) hours of any claim or demand against City or Consultant known to Consultant related to or arising out of Consultant's activities under this Agreement.

15.3 Employee Litigation - In any and all claims against any party indemnified hereunder by any employee of Consultant, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or

for Consultant or any subcontractor under worker's compensation or other employee benefit acts.

15.4 Acceptance of any designs, plans, specifications, exhibits, drawings, reports, data, and documents, by City shall not constitute nor be deemed a release of the responsibility and liability of the Consultant, its employees, associates, agents or subcontractors for the accuracy and competency of their designs, plans, specifications, exhibits, drawings, reports, data, or other documents, and services; nor shall such acceptance be deemed an assumption of responsibility or liability by the City for any defect in the report or other documents prepared or services rendered by said Consultant.

15.5 Intellectual Property - Consultant shall pay all royalties and licensing fees if required for its Scope of Services. Consultant shall **hold the City harmless and indemnify the City from the payment of any royalties, damages, losses or expenses including attorney's fees for suits, claims or otherwise, growing out of infringement or alleged infringement of copyrights, patents, materials and methods used in the performance of services, but only if such claims arise out of Consultant's Scope of Services. It shall defend all suits for infringement of any Intellectual Property rights, but only if such claims arise out of Consultant's Scope of Services.** Further, if Consultant has reason to believe that the design, service, process, or product specified is an infringement of an Intellectual Property right, it shall promptly give such information to the City.

15.5.1 Upon receipt of notification that a third-party claim that the program(s), hardware or both the program(s) and the hardware infringe upon any United States patent or copyright, Consultant will immediately:

15.5.1.1 obtain, at Consultant's sole expense, the necessary license(s) or rights that would allow the City to continue using the programs, hardware, or both the programs and hardware, as the case may be, or,

15.5.1.2 alter the programs, hardware, or both the programs and hardware so that the alleged infringement is eliminated, and

15.5.1.3 reimburse the City for any expenses incurred by the City to implement emergency backup measures if the City is prevented from using the programs, hardware, or both the programs and hardware while the dispute is pending.

Notwithstanding the aforementioned indemnity obligations in 15.5, there shall be no duty to defend or indemnify any parties unless such claim of infringement arises out of Consultant's Scope of Services.

ARTICLE XVI. CLAIMS AND DISPUTES

16.1 Every Claim of Consultant shall be signed and sworn to by an authorized corporate officer (if Consultant is not a corporation, then an official of the company authorized to bind

Consultant by his/her signature) of Consultant, verifying the truth and accuracy of the Claim. The responsibility to substantiate Claims shall rest with the party making the Claim.

16.2 Time Limit on Claims

Claims by Consultant must be initiated in writing to City within twenty-one (21) calendar days after the occurrence of the event giving rise to such Claim.

16.3 Continuing Contract Performance

Pending final resolution of a Claim, except as otherwise agreed in writing, Consultant shall proceed diligently with performance of the Agreement and, subject to the provision of Article 3.4, City shall continue to make payments in accordance with this Agreement.

16.4 Claims for Consequential Damages

Except as otherwise provided in this Agreement, in calculating the amount of any Claim or any measure of damages for breach of contract (such provision to survive any termination following such breach), the following standards shall apply both to claims by Consultant and to claims by City:

16.4.1 No consequential damages shall be allowed; and

16.4.2 Damages are limited to extra costs specifically shown to have been directly caused by a proven wrong for which the other Party is claimed to be responsible; and

16.4.3 No profit shall be allowed on any damage claim.

16.5 No Waiver of Governmental Immunity

NOTHING IN THIS ARTICLE 15 SHALL BE CONSTRUED TO WAIVE CITY'S GOVERNMENTAL IMMUNITY FROM LAWSUIT, WHICH IMMUNITY IS EXPRESSLY RETAINED TO THE EXTENT IT IS NOT CLEARLY AND UNAMBIGUOUSLY WAIVED BY STATE LAW.

16.6 Alternative Dispute Resolution

16.6.1 Continuation of Services Pending Dispute Resolution

Each Party is required to continue to perform its obligations under this Agreement, pending a final resolution of any dispute arising out of or relating to this Agreement, unless it would be impossible or impracticable under the circumstances.

16.6.2 Requirement for Senior Level Negotiations

Before invoking mediation or any other alternative dispute process set forth herein, the Parties agree they first shall try to resolve any dispute arising out of or related to this Agreement through discussions directly between those senior management representatives within their respective organizations who have overall managerial responsibility for similar projects. This step shall be a condition precedent to use of any other alternative dispute resolution process. If the Parties' senior management representatives cannot resolve the dispute within thirty (30) calendar days, after a Party delivers a written notice of such dispute, then the Parties shall proceed with the mediation alternative dispute resolution process contained herein. All negotiations pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.

16.6.3 Mediation

a. In the event City or Consultant shall contend the other has committed a material breach of this Agreement, the Party alleging such breach shall, as a condition precedent to filing any lawsuit, request mediation of the dispute.

b. Request for mediation shall be in writing and shall request mediation commence not less than thirty (30) or more than ninety (90) calendar days following the date of the request, except upon agreement of both Parties.

c. In the event City and Consultant are unable to agree to a date for the mediation or to the identity of the mediator or mediators within thirty (30) calendar days following the date of the request for mediation, all conditions precedent in this Article 16 shall be deemed to have occurred.

d. The Parties shall share the mediator's fee and any filing fees equally. Venue for any mediation or lawsuit arising under this Agreement shall be in Bexar County, Texas. Any agreement reached in mediation shall be enforceable as a settlement agreement in any court having jurisdiction thereof. No provision of this Agreement shall waive any immunity or defense. No provision of this Agreement shall be deemed consent to suit.

16.7 Consultant and City expressly agree that, in the event of litigation, both parties waive rights to payment of attorneys' fees that might otherwise be recoverable pursuant to the Texas Civil Practice and Remedies Code Chapter 38, Texas Local Government Code Section 271.153, the Prompt Payment Act, common law or any other provision for payment of Attorneys' fees.

ARTICLE XVII. SEVERABILITY

If, for any reason, any one or more paragraphs of this Agreement are held invalid or unenforceable, such invalidity or unenforceability shall not affect, impair or invalidate the remaining paragraphs

of this Agreement but shall be confined in its effect to the specific sentences, clauses or parts of this Agreement held invalid or unenforceable, and the invalidity or unenforceability of any sentence, clause or parts of this Agreement, in any one or more instance, shall not affect or prejudice in any way the validity of this Agreement in any other instance.

ARTICLE XVIII. INTEREST IN CITY CONTRACTS PROHIBITED

18.1 No officer or employee of City shall have a financial interest, directly or indirectly, in any contract with City or shall be financially interested, directly or indirectly, in the sale to City of any land, materials, supplies or service, except on behalf of City as an officer or employee. This prohibition extends to City's Public Service Board, SAWS and other City boards and commissions, which are more than purely advisory. The prohibition also applies to Sub-Contracts on City projects.

18.2 Consultant acknowledges it is informed the Charter of the City of San Antonio and its Ethics Code prohibit a City officer or employee, as those terms are defined in the Ethics Code, from having a financial interest in any contract with City or any City agency, such as City-owned utilities. Consultant's officer or employee has a "prohibited financial interest" in a contract with City or in the sale to City of land, materials, supplies or service, if any of the following individual(s) or entities is a party to the contract or sale:

18.2.1 A City officer or employee;

18.2.2 A City officer or employee's parent, child or spouse;

18.2.3 A business entity in which City officer or employee, or the officer or employee's parent, child or spouse, owns ten percent (10%) or more of the voting stock or shares of the business entity, or ten percent (10%) or more of the fair market value of the business entity; or

18.2.4 A business entity in which any individual or entity above listed is a subconsultant or subcontractor on a City contract, a partner or a parent or subsidiary business entity.

18.3 Consultant warrants and certifies, and this Agreement is made in reliance thereon, Consultant, its officers, employees and agents are neither officers nor employees of City. Consultant further warrants and certifies it has tendered to City a Discretionary Contracts Disclosure Statement in compliance with City's Ethics Code.

ARTICLE XIX. PROHIBITION ON CONTRACTS WITH COMPANIES

19.1 Texas Government Code §2270.002 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it:

19.1.1 does not boycott Israel; and
19.1.2 will not boycott Israel during the term of the contract.

"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. Based on the definition above, Consultant qualifies as a Company.

By executing contract documents with the City of San Antonio, Consultant hereby verifies that it does not boycott Israel, and will not boycott Israel during the term of the contract. City hereby relies on Consultant's verification. If affirmation is found to be false, City may terminate the contract for material breach.

19.2 Texas Government Code §2252.152 provides that a governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Texas Government Code §§2270.0201 or 2252.153. Consultant hereby certifies that it is not identified on such a list and that it will notify City should it be placed on such a list while under contract with City.

City hereby relies on Consultant's certification. If found to be false, or if Consultant is identified on such list during the course of its contract with City, City may terminate this Agreement for material breach.

19.3 **Texas Government Code §2274.002** provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it:

19.3.1 does not boycott energy companies; and
19.3.2 will not boycott energy companies during the term of the contract.

"Boycott Energy Company" means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to

penalize, inflict economic harm on, or limit commercial relations with a company because the company either:

a) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or
b) does business with a company described by Paragraph (a).

"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. **By executing contract documents with the City of San Antonio, Consultant hereby verifies that it does not boycott energy companies and will not boycott energy companies during the term of the contract. City's hereby relies on Consultant's verification. If affirmation is found to be false, City may terminate the contract for material breach.**

19.4 **Texas Government Code §2274.002** provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it:

19.4.1 does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trading association; and
19.4.2 will not discriminate during the term of the contract against a firearm entity or firearm trading association.

"Firearm entity" means:
a) a firearm, firearm accessory, or ammunition manufacturer, distributor, wholesaler, supplier, or retailer; and
b) a sport shooting range as defined by Section 250.001, Local Government Code.

"Firearm trade association" means any person, corporation, unincorporated association, federation, business league, or business organization that:
a) is not organized or operated for profit and for which none of its net earnings inures to the benefit of any private shareholder or individual;
b) has two or more firearm entities as members; and
c) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code.

By executing contract documents with the City of San Antonio, Consultant hereby verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trading association, and will not practice, policy, guidance or directive during the term of the contract. City's hereby relies on Consultant's verification. If affirmation is found to be false, City may terminate the contract for material breach.

XX. AIRPORT SECURITY

20.1 To the extent Consultant will be responsible for work which necessitates entrance to the Air Operations Area or other secure area of the Airport, this Agreement is expressly subject to the airport security requirements of Title 49 of the United States Code, Chapter 449, as amended ("Airport Security Act"), the provisions of which govern airport security and are incorporated by reference, including without limitation the rules and regulations promulgated under it. Consultant is subject to, and further must conduct with respect to its Subcontractors and the respective employees of each, such employment investigations, including criminal history record checks, as the Aviation Director, the Transportation Security Administration ("TSA") or the FAA may deem necessary. Further, in the event of any threat to civil aviation, Consultant must promptly report any information in accordance with those regulations promulgated by the FAA, the TSA and the City. Consultant must, notwithstanding anything contained in this Agreement to the contrary, at no additional cost to the City, perform under this Agreement in compliance with those guidelines developed by the City, the TSA and the FAA with the objective of maximum security enhancement.

20.2 Consultant must comply with, and require compliance by its Subcontractors, with all present and future laws, rules, regulations, or ordinances promulgated by the City, the TSA or the FAA, or other governmental agencies to protect the security and integrity of the Airport, and to protect against access by unauthorized persons. Subject to the approval of the TSA, the FAA and the Aviation Director, Consultant must adopt procedures to control and limit access to the Airport Premises utilized by Consultant and its Subcontractors in accordance with all present and future City, TSA and FAA laws, rules, regulations, and ordinances. At all times during the Term, Consultant must have in place and in operation a security program for the Airport Premises utilized by Consultant that complies with all applicable laws and regulations. All employees of Consultant that require regular access to sterile or secure areas of the Airport must be badged in accordance with City and TSA rules and regulations.

20.3 Gates and doors located in and around the Airport Premises utilized by Consultant that permit entry into sterile or secured areas at the Airports, if any, must be kept locked by Consultant at all times when not in use, or under Consultant's constant security surveillance. Gate or door malfunctions must be reported to the Aviation Director or the Aviation Director's designee without delay and must be kept under constant surveillance by Consultant until the malfunction is remedied.

20.4 In connection with the implementation of its security program, Consultant may receive, gain access to or otherwise obtain certain knowledge and information related to the City's overall Airport security program. Consultant acknowledges that all such knowledge and information is of a highly confidential nature. Consultant covenants that no person will be permitted to gain access to such knowledge and information, unless the person has been approved by the City or the Aviation Director in advance in writing.

XXI. VENUE AND CHOICE OF LAW

THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS AND COURT DECISIONS OF THE STATE OF TEXAS, WITHOUT REFERENCE TO CONFLICT OF LAW PRINCIPLES, AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS AND, IF LEGAL ACTION BECOMES NECESSARY, EXCLUSIVE VENUE SHALL LIE IN BEXAR COUNTY, TEXAS. The federal and state courts in Bexar County shall have exclusive jurisdiction to adjudicate any dispute relating to this Agreement and, in the event of any such dispute, the parties waive all rights to interpose any objections to personal jurisdiction or venue in those courts.

ARTICLE XXII. NOTICES

Unless otherwise expressly provided elsewhere in this Agreement, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or on receipt after mailing the same by certified mail, return receipt request with proper postage prepaid, or three (3) days after mailing the same by first class U.S. mail, postage prepaid (in accordance with the "Mailbox Rule"), or when sent by a national commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier.

If intended for City, to:	If intended for Consultant, to:
City of San Antonio	_____
Attn.: Director of Airports	_____
9800 Airport Blvd., Mezzanine	_____
San Antonio, TX 78216	_____

ARTICLE XXIII. INDEPENDENT CONTRACTOR

23.1 Consultant covenants and agrees that it is an independent contractor and not an officer, agent, servant, or employee of City; that Consultant shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors; that the doctrine of *respondeat superior* shall not apply as between City and Consultant, its officers, agents, employees, contractors, and subcontractors, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Consultant. No term or provision of this Agreement or act of the Consultant in the performance of this Agreement shall be construed as making the

Consultant the agent, servant or employee of the City, or as making the Consultant or any of its agents or employees eligible for any fringe benefits, such as retirement, insurance and worker's compensation, which the City provides to or for its employees.

23.2 No Third Party Beneficiaries - For purposes of this Agreement, including its intended operation and effect, the Parties specifically agree and contract that: (1) this Agreement only affects matters/disputes between the Parties to this Agreement, and is in no way intended by the Parties to benefit or otherwise affect any third person or entity, notwithstanding the fact that such third person or entities may be in a contractual relationship with City or Consultant or both, or that such third parties may benefit incidentally by this Agreement; and (2) the terms of this Agreement are not intended to release, either by contract or operation of law, any third person or entity from obligations owing by them to either City or Consultant.

ARTICLE XXIV. DISADVANTAGED BUSINESS ENTERPRISE REQUIREMENTS

24.1 It is the policy of the City of San Antonio that disadvantaged business enterprises (DBEs) as defined under 49 CFR Part 26, shall have "equality of opportunity" to participate in the awarding of federally-assisted Aviation Department contracts and related subcontracts, to include sub-tier subcontracts. This policy supports the position of the U.S. Department of Transportation (DOT) and the FAA in creating a level playing field and removing barriers by ensuring nondiscrimination in the award and administration of contracts financed in whole or in part with federal funds under this contract. Therefore, on all Department of Transportation or FAA-assisted projects the DBE program requirements of 49 CFR Part 26 apply to the contract.

24.2 The Consultant agrees to employ good-faith efforts (as defined in the Aviation Department's DBE Program) to carry out this policy through award of sub-consultant contracts to disadvantaged business enterprises to the fullest extent participation is consistent with the performance of the Aviation Department Contract, and/or the utilization of DBE suppliers where feasible. Consultants are expected to solicit bids from available DBE's on contracts which offer subcontracting opportunities.

24.3 Consultant specifically agrees to comply with all applicable provisions of the Aviation Department's DBE Program. The DBE Program may be obtained through the airport's DBE Liaison Officer at (210) 207-3592 or by contacting the City's Aviation Department.

24.4 DBE contract specific goal has been established on this RFQ. The applicable DBE goal for Master Architect for the Terminal Development Program is **14%** of the total amount of the contract.

24.5 The Consultant shall appoint a high-level official to administer and coordinate the Consultant's efforts to carry out the DBE/ Policy and Program requisites The Consultant's official should coordinate and ensure approval of the required "Good-Faith Effort Plan" (DBE Form 1)

24.6 All Consultants with contracts subject to formal review and approval shall make good-faith efforts (as defined and approved by the City through the Aviation Department in its DBE Program) to subcontract and achieve the applicable contract specific DBE goal with certified DBEs. Consultants failing to achieve the applicable contract specific DBE goal or Consultants failing to maintain the specific DBE goal percentage involvement initially achieved, will be required to provide documentation demonstrating that they have made good-faith efforts in attempting to do so through the submittal of an Aviation Department approved "DBE Good-Faith Effort Plan".

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

a) Withholding monthly progress payments;
b) Assessing sanctions;
c) Liquidated damages; and/or
d) Disqualifying the contractor from future bidding as non-responsible."

Consultant agrees to include this clause in each sub-consultant contract the prime consultant signs with a sub-consultant.

24.8 Additionally, Consultant agree to the following prompt payment clause for all services performed pursuant to this Agreement and the retainage payment clause for construction services in the event Consultant performs such work. Consultant further confirms and agrees that Consultant will not withhold any portion of payments due to any subconsultant for work performed pursuant to this contract.

The Consultant agrees to pay each sub-consultant under this Contract for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the Consultant receives from the City of San Antonio. In the event Consultant performs any construction work pursuant to this agreement and hires subcontractors to perform such construction work for which Consultant retains any funds as retainage, Consultant agrees to return retainage payments to each sub-consultant within ten (10) days after the sub-consultant'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 City. When the City has made an incremental acceptance of a portion of a prime contract, the work of a sub-consultant covered by that acceptance is deemed to be satisfactorily completed.

From the total of the amount determined to be payable on a partial payment for construction work, depending on contract value, not to exceed 10 percent of such total amount will be deducted and retained by the City until the final payment is made, except as may be provided (at the Consultant's option) in the subsection 90-08 titled PAYMENT OF WITHHELD FUNDS of this section. The balance of the amount payable, less all previous

payments, shall be certified for payment. Should the Consultant exercise his or her option, as provided in the subsection 90-08 titled PAYMENT OF WITHHELD FUNDS of this section, no such percent retainage shall be deducted.

When at least 95% of the construction work has been completed, the Engineer shall, at the City'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.

For construction work, the City may retain an amount not less than twice the contract value or estimated cost, whichever is greater, of the construction work remaining to be done. The remainder, less all previous payments and deductions, will then be certified for payment to the Consultant.

24.9 Consultant will be prohibited from terminating a DBE subcontractor listed in response to a covered solicitation (or an approved substitute DBE firm) without the prior written consent of the City. This includes, but is not limited to, instances in which Consultant seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or another DBE firm.

24.10 The Consultant shall utilize the specific DBEs listed to perform the work and supplies for which each is listed) unless Consultant obtains written consent by the City. Unless the City consent is provided, the Consultant shall not be entitled to any payment for work or material unless it is performed by the listed DBE.

24.11 Consultant will be required to obtain the City's DBE Liaison Officer's (DBELO) prior approval for any changes to the list of subcontractors/suppliers submitted with the bid and approved by the City. Consultant shall submit a completed Change of Subcontractors/Suppliers DBE Form 3 to DBELO for prior approval when adding, changing, or deleting subcontractors/suppliers that were submitted with the bid and approved by the City's Aviation Department. The Consultant will be required to make good faith efforts to find another DBE subcontractor to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal the City has established for this contract.

24.12 Such written consent will be provided only if the City agrees, for reasons stated in the concurrence document, that the Consultant has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes circumstances listed in 49 CFR § 26

24.13 Before transmitting to the City a request to terminate and/or substitute a DBE subcontractor, the Consultant must give notice in writing to the DBE subcontractor, with a copy to the City's Aviation Department of its intent to request to terminate and/or substitute the DBE, and the reason(s) for the request.

24.14 The Consultant must give the DBE five (5) business days to respond to the Consultant's notice and advise the City and the Consultant of the reasons, if any, why the DBE objects to the proposed termination of its subcontract and why the Consultant's action should not

be approved. If required in a particular case as a matter of public necessity (e.g., safety), a response period shorter than five days may be provided.

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

24.16 During the term of this Agreement, the Consultant must report the actual payments made to all subcontractors to the City in a time interval and a format determined by the City. The City reserves the right, at any time during the term of this Agreement, to request additional information, documentation or verification of payments made to subcontractors in connection with this Agreement. Verification of amounts being reported may take the form of requesting copies of cancelled checks paid to participating DBEs and/or confirmation inquiries directly with participating DBEs. Proof of payment such as copies of check must properly identify the project name or project number to substantiate payment.

24.17 Consultant shall report Disadvantaged Business Enterprise (DBE) Subcontractor/Supplier Activity and Expenditures through the City of San Antonio online monitoring system. The reporting shall be done on a monthly basis and in the format required by the City's online monitoring system. Reporting shall include all awards and payments to subcontractors/suppliers for goods and services provided under the agreement during the previous month. This report may be used by the City to verify utilization of and payment to DBEs

24.18 The Consultant shall maintain records, as specified in the audit and records section of the contract, showing: (i) all subcontract/supplier awards, specifically awards to DBE firms; (ii) specific efforts to identify and award such contracts to DBEs; and (iii) submit when requested, copies of executed contracts to establish actual DBE participation

24.19 The Consultant shall agree to submit periodic reports of subcontract and/or supplier awards to DBE firms in such form and manner and at such times as the Aviation Department shall prescribe and shall provide access to books, records, and accounts to authorized officials of the City, Aviation Department, state, and/or federal agencies for the purpose of verifying DBE participation and good-faith efforts to carry out the DBE Policy and Program. All Aviation Department Consultants may be subject to a post-contract DBE audit. Audit determination(s) may be considered and have a bearing in the evaluation of a Consultant's good-faith efforts on future airport contracts

24.20 The Consultant shall comply with the DBE Compliance and Enforcement Policy attached hereto as **Exhibit E.**

24.21 Failure or refusal by Consultant to comply with the DBE provisions herein or any applicable provisions of the DBE Program, either during the proposal process or at any time during the term of the Contract, may constitute a material breach of Contract, whereupon the Contract, at the option of the Aviation Department, may be cancelled, terminated, or

suspended in whole or in part, and the Contractor may be debarred from further contracts with the City of San Antonio.

24.22 The goals on this contract shall also apply to amendments that require work beyond the scope of services originally required to accomplish the project. The Consultant is asked to make "good faith efforts' to obtain DBE/ participation for additional scope(s) of services. Amendments that do not alter the type of service originally required to accomplish the project may be undertaken using the subcontractor and suppliers already under contract to the prime contractor. Any amendment affecting the scope of service or value of the contract should be documented on a form acceptable to the City

24.23 The City requires prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for a minimum of four (4) years. These records will be made available for inspection upon request by any authorized representative of the City or DOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE

ARTICLE XXV. CAPTIONS

The captions for the individual provisions of this Agreement are for informational purposes only and shall not be construed to effect or modify the substance of the terms and conditions of this Agreement to which any caption relates.

ARTICLE XXVI. CONTRACT CONSTRUCTION

All parties have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement.

ARTICLE XXVII. NON-WAIVER OF PERFORMANCE

A waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the San Antonio City Council.

ARTICLE XXIII. FORCE MAJEURE

In the event that performance by either party of any of its' obligations or undertakings hereunder shall be interrupted or delayed by any occurrence and not occasioned by the conduct of either party hereto, whether such occurrence be an act of God or the common enemy or the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not party or privy hereto, then such party shall be excused from performance for a period of time as is reasonably necessary after such occurrence to remedy the effects thereof, and each party shall bear the cost of any expense it may incur due to the occurrence.

ARTICLE XXIX. FAMILIARITY WITH LAW AND CONTRACT TERMS

29.1 Consultant represents that, prior to signing this Agreement; Consultant has become thoroughly acquainted with all matters relating to the performance of this Agreement, all applicable laws, regulations and FAA Advisory Circulars and guidelines, and all of the terms and conditions of this Agreement and will comply therewith.

29.2 It is understood and agreed by the Parties hereto that changes in local, state or federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto and shall become a part hereof as of the effective date of the rule, regulation or law.

ARTICLE XXX. ATTORNEY FEES

The Parties hereto expressly agree neither Party shall be responsible for payment of attorney's fees pursuant to Texas Civil Practice and Remedies Code Chapter 38, Texas Local Government Code §271.153, common law or any other provision for payment of attorney's fees. Both Parties hereto expressly waive any claim to attorney's fees, should litigation result from any dispute in this Agreement.

ARTICLE XXXI. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

31.1 By execution of this Agreement, the undersigned authorized representative of Consultant certifies, and the City relies thereon, that neither Consultant., nor its Principals are presently debarred, suspended, proposed for debarment, or declared ineligible, or voluntarily excluded for the award of contracts by any Federal governmental agency or department;

"Principals", for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a

business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

31.2 Consultant shall provide immediate written notice to City, in accordance the notice provisions of this Agreement, if, at any time during the term of this Agreement, including any renewals hereof, Consultant learns that this certification was erroneous when made or has become erroneous by reason of changed circumstances.

31.3 Consultant's certification is a material representation of fact upon which the City has relied in entering into this Agreement. Should City determine, at any time during this Agreement, including any renewals hereof, that this certification is false, or should it become false due to changed circumstances, the City may terminate this Agreement in accordance the terms of this Agreement.

ARTICLE XXXII. SUCCESSORS

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and, except as otherwise provided in this Agreement, their assigns.

ARTICLE XXXIII. ENTIRE AGREEMENT

33.1 This Agreement, together with its authorizing ordinance, Exhibits and Attachments, embodies the complete Agreement of the Parties hereto, superseding all oral or written previous and contemporary agreements between the Parties relating to matters herein; and except as otherwise provided herein, cannot be modified without written consent of the parties and approved by ordinance passed by the San Antonio City Council.

33.2 It is understood and agreed by the Parties hereto that changes in local, state or federal rules, regulations or laws applicable hereto may occur during the term of this Agreement and that any such changes shall be automatically incorporated into this Agreement without written amendment hereto and shall become a part hereof as of the effective date of the rule, regulation or law.

Signatures to follow

Executed by City and effective on this _____ day of _____, 2023.

CITY OF SAN ANTONIO

By:_____
Erik Walsh
City Manager

CORGAN ASSOCIATES, INC.

By:_____
John Trupiano
Principal

Federal Tax ID#: 75-1079692

APPROVED AS TO FORM:

By:_____
City Attorney

EXHIBIT A

SCOPE OF SERVICES

Consultant shall be responsible for architectural and engineering services for the Terminal Development Program (TDP) through the life of the program. Consultant shall provide the services set out below. City and Consultant may by amendment add additional phases of work and associated compensation for particular TDP projects.

General Scope of Services shall include:

- Design and coordination for projects in the TDP. Level of design for each project shall be defined as the program progresses. These include, but are not limited to:
  - New Terminal, including central processor and Federal Inspection Station
  - Ground Transportation Center and Parking Garage
  - Terminal Support Facilities (triturator, trash compactor, etc.)
  - Public Safety Building
  - Centralized Concessions Receiving and Distribution Facility
  - Terminal Roadway Realignment
  - Jet A Hydrant Fueling System
- Incorporate sense of place into design and construction of facilities through application of SAT Airport Design Standard Manual, review of technical documents and incorporation of the City's Public Art Program.
- Function as the City's independent representative to represent the interests of City throughout all subsequent TDP design and construction for the duration of those projects as requested by the Airport Director
- Review and comment on:
  - TDP planning and design alternatives as to consistency with Program objectives and priorities, as well as with the SAT Airport Design Standard Manual.
  - TDP phasing, constructability, and maintenance of operations.
- Participate in project construction to the extent required to facilitate efficient delivery and accomplishment of Program objectives.
- Work collaboratively with the Executive Program Manager (EPM), Program Management/Construction Management (PM/CM) team, construction teams, any subsequent design teams and City staff, tenants, other consultant teams and public entities to ensure that the entire TDP is aligned and executed in the manner directed by the City
- Support City, EPM and PM/CM and others by:
  - developing implementation strategies, preparing scopes, and evaluating procurements for construction packages and any subsequent design packages as requested
  - developing and presenting status reports on the TDP and specific projects
  - preparing supporting information for funding including FAA (AIP, PFC, AIG, ATP) and bonds.
  - Provide construction phase services including but not limited to, responding to Requests for Information, Field Alterations/Change Orders, Payment Requests, percentage complete, construction inspection reports and construction materials testing reports
  - using leadership and technical skills to facilitate a partnering approach to issues identification and resolution.

- Participate in TDP team meetings
- Provide technical review of all construction documents produced by any subsequent design teams and review of as-built submittals at end of each project.
- Engage in punch list and walk-through activities at interim completion milestones and project completion.
- Provide other support and services as defined and directed by City.

EXHIBIT B

FEE SCHEDULE

SAN ANTONIO AIRPORT SYSTEM MASTER ARCHITECT

Project Team Master Billing Rates

Labor Category	Approved Hourly Billing Range	
MANAGEMENT/LEADERSHIP		
Associate Consultant	$ 135.00	$ 155.00
Consultant	$ 150.00	$ 190.00
Senior Consultant	$ 165.00	$ 260.00
Manager	$ 185.00	$ 215.00
Senior Manager	$ 195.00	$ 225.00
Project Manager I	$ 85.00	$ 170.00
Project Manager II	$ 150.00	$ 250.00
Senior Project Manager	$ 200.00	$ 390.00
Associate	$ 135.00	$ 230.00
Senior Associate	$ 145.00	$ 265.00
Vice President	$ 200.00	$ 295.00
Senior Vice President	$ 250.00	$ 315.00
Associate Director	$ 210.00	$ 245.00
Director	$ 225.00	$ 320.00
Associate Principal	$ 170.00	$ 300.00
Principal	$ 170.00	$ 405.00
Managing Principal	$ 270.00	$ 485.00
ADMINISTRATION		
Administration I	$ 45.00	$ 140.00
Administration II	$ 100.00	$ 170.00
Administration III	$ 150.00	$ 195.00
Senior Administration I	$ 195.00	$ 260.00
Senior Administration II	$ 255.00	$ 325.00
AVIATION PLANNING		
Aviation Planner I	$ 85.00	$ 130.00
Aviation Planner II	$ 115.00	$ 145.00
Aviation Planner III	$ 125.00	$ 155.00
Aviation Planner IV	$ 135.00	$ 170.00
Senior Aviation Planner I	$ 140.00	$ 185.00
Senior Aviation Planner II	$ 160.00	$ 210.00
Aviation Planning Director I	$ 235.00	$ 290.00
DESIGN		
Student/Intern	$ 64.00	$ 95.00
Project Specialist I	$ 100.00	$ 120.00

Project Specialist II	$ 105.00	$ 125.00
Project Coordinator I	$ 125.00	$ 165.00
Project Coordinator II	$ 130.00	$ 170.00
Project Lead I	$ 145.00	$ 180.00
Project Lead II	$ 150.00	$ 190.00
Project Lead III	$ 155.00	$ 200.00
Architect I	$ 105.00	$ 130.00
Architect II	$ 110.00	$ 140.00
Architect III	$ 130.00	$ 175.00
Architect IV	$ 140.00	$ 180.00
Project Architect I	$ 145.00	$ 185.00
Project Architect II	$ 150.00	$ 195.00
Project Architect III	$ 160.00	$ 205.00
Designer I	$ 95.00	$ 155.00
Designer II	$ 110.00	$ 165.00
Designer III	$ 125.00	$ 175.00
Designer III	$ 130.00	$ 180.00
Designer IV	$ 140.00	$ 195.00
Project Designer I	$ 145.00	$ 200.00
Project Designer II	$ 155.00	$ 205.00
Project Designer III	$ 160.00	$ 210.00
Design Manager	$ 185.00	$ 230.00
Senior Design Manager	$ 205.00	$ 310.00
ID Project Specialist I	$ 95.00	$ 110.00
ID Project Specialist II	$ 100.00	$ 115.00
ID Project Coordinator I	$ 110.00	$ 150.00
ID Project Coordinator II	$ 130.00	$ 165.00
ID Project Lead I	$ 140.00	$ 170.00
ID Project Lead II	$ 145.00	$ 180.00
ID Project Lead III	$ 150.00	$ 190.00
Interior Designer I	$ 100.00	$ 200.00
Interior Designer II	$ 105.00	$ 120.00
Interior Designer III	$ 115.00	$ 155.00
Interior Designer IV	$ 135.00	$ 165.00
Project Interior Designer I	$ 145.00	$ 175.00
Project Interior Designer II	$ 150.00	$ 185.00
Project Interior Designer III	$ 155.00	$ 195.00
ID Project Manager	$ 155.00	$ 215.00
Senior ID Project Manager	$ 170.00	$ 260.00
Sustainability Specialist	$ 95.00	$ 150.00
Sustainability Manager	$ 120.00	$ 160.00
Design Data Specialist	$ 140.00	$ 165.00
Design Research Specialist	$ 125.00	$ 155.00
Technical Design Specialist I	$ 105.00	$ 125.00
Technical Design Specialist II	$ 120.00	$ 170.00

Senior Technical Design Specialist I	$ 150.00	$ 210.00
Senior Technical Design Specialist II	$ 200.00	$ 290.00
Specification Coordinator	$ 80.00	$ 110.00
Specifier	$ 145.00	$ 165.00
Senior Specifier	$ 205.00	$ 275.00
ENGINEERING		
Engineer in Training	$ 45.00	$ 90.00
Engineer I	$ 80.00	$ 165.00
Engineer II	$ 105.00	$ 205.00
Engineer III	$ 140.00	$ 250.00
Engineer IV	$ 200.00	$ 325.00
Engineer V	$ 275.00	$ 375.00
Engineer VI	$ 320.00	$ 390.00
ENVIRONMENTAL GRAPHIC DESIGN		
Environmental Graphic Designer I	$ 75.00	$ 120.00
Environmental Graphic Designer II	$ 90.00	$ 135.00
Environmental Graphic Designer III	$ 100.00	$ 150.00
Environmental Graphic Designer IV	$ 115.00	$ 165.00
Design Director	$ 190.00	$ 240.00
ESTIMATING		
Estimator	$ 95.00	$ 140.00
Senior Estimator	$ 135.00	$ 180.00
Chief Estimator	$ 170.00	$ 215.00
LANDSCAPE		
Landscape Designer	$ 85.00	$ 130.00
Landscape Architect	$ 90.00	$ 135.00
Licensed Irrigator	$ 90.00	$ 130.00
SPECIALIST		
Surveyor	$ 80.00	$ 125.00
BHS Designer I	$ 110.00	$ 140.00
BHS Designer II	$ 130.00	$ 150.00
BHS Designer III	$ 140.00	$ 165.00
BHS Designer IV	$ 155.00	$ 195.00
BHS Designer V	$ 180.00	$ 210.00
Fuels Specialist I	$ 95.00	$ 130.00
Fuels Specialist II	$ 130.00	$ 160.00
Senior Fuels Specialist	$ 160.00	$ 185.00
Document Control Specialist I	$ 125.00	$ 140.00
Document Control Specialist II	$ 140.00	$ 225.00
Senior Document Controls Specialist	$ 225.00	$ 275.00
TECHNICAL (BIM, CAD, ETC)		

Technical I	$ 75.00	$ 120.00
Technical II	$ 90.00	$ 135.00
Technical III	$ 105.00	$ 150.00
Technical IV	$ 130.00	$ 180.00
VISUALIZATION		
Model Shop Specialist	$ 125.00	$ 165.00
Model Shop Director	$ 145.00	$ 180.00
Editor	$ 125.00	$ 135.00
Technical Artist	$ 135.00	$ 155.00
Shooter/Editor	$ 180.00	$ 210.00
Digital Artist	$ 160.00	$ 185.00
Motion Graphics Artist	$ 170.00	$ 210.00
Immersive Tech Specialist	$ 170.00	$ 210.00
Senior Producer	$ 170.00	$ 210.00
Creative Director	$ 180.00	$ 220.00
Senior Editor	$ 205.00	$ 225.00
Lead Look Development Artist	$ 195.00	$ 220.00
Executive Producer	$ 270.00	$ 290.00
Executive Creative Director	$ 270.00	$ 290.00
VFX Creative Director	$ 270.00	$ 290.00

Actual labor rates for individuals within a particular labor category shall be negotiated per phase of work based on the type of work to be performed and the level of expertise needed to perform the work. Labor categories and rates for any individual performing services hereunder must be negotiated and approved by City prior to any individual performing any services under this Agreement. In no event shall Consultant charge a rate for a particular labor category that exceeds the maximum labor rate set out for that labor category above, as such may be adjusted herein. A list of negotiated and approved labor rates shall be kept on file by City.

Should the Consultant need to replace key personnel, Consultant shall follow **Section 4.5** of the Agreement. Consultant's key personnel shall not be replaced without the City's prior written consent, which shall not be unreasonably withheld.

Additions or deletions to the approved classification of labor categories and labor rates require written notification to and approval by Director or his designee. The addition of any new labor category must include category title and labor rate.

At the request of Consultant, labor rates may be adjusted every second year beginning in calendar year 2025 based on the overall percentage increase reflected in the Consumer Price Index (CPI) released each January by the Bureau of Labor Statistics. In those years in which rates are eligible for adjustment (2025, 2027 and 2029), the rate increase shall be limited to the cumulative CPI percentage increase for that year and the year immediately prior thereto without compounding (e.g. if the CPI for 2023 is 2% and the CPI for 2024 is 3%, then the labor rates shall increase by 5% in 2025). Any rate increase resulting from an increase in CPI shall be effective the month following

Consultant's request to increase labor rates and City's written approval of such rate increase. No adjustments may be made for a decrease in the CPI.

EXHIBIT C
REQUIRED FEDERAL CONTRACT PROVISIONS

As used in this Exhibit, the term "contractor" or "Contractor" shall refer to Consultant. Consultant shall include the provisions of set out in this exhibit in every subcontract, including procurements of materials and leases of equipment, unless exempt by Federal regulations and directives issued pursuant thereto.

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.

BREACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the Consultant 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 Consultant written notice that describes the nature of the breach and corrective actions the Consultant 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 Consultant must correct the breach. Owner may proceed with termination of the contract if the Consultant 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.

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.

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.

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.

CERTIFICATION OF OFFEROR/BIDDER REGARDING DEBARMENT

By entering into this contract, Contractor 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

Contractor, 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. Contractor will accomplish this by:

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

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

CONTRACT ASSURANCE

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

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the prime contractor receives from City of San Antonio. The prime contractor agrees further to return retainage payments to each subcontractor within ten (10)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 San Antonio. This clause applies to both DBE and non-DBE subcontractors.

TERMINATION OF DBE SUBCONTRACTS

The prime contractor must not terminate a DBE subcontractor listed in response to Exhibit G and/or Exhibit H of the Request for Qualifications (RFQ:#AVI080522JR) (or an approved substitute DBE firm) without prior written consent of City of San Antonio. 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 City of San Antonio. Unless City of San Antonio 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.
[Name of Recipient] may provide such written consent only if City of San Antonio 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 City of San Antonio 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 City of San Antonio, 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 [Name of Recipient] and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why City of San Antonio should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), City of San Antonio 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.

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.

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)].

EQUAL OPPORTUNITY CLAUSE

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

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

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

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

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

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

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

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

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

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:
        i. Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
        ii. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
        iii. 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
        iv. American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable

goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

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

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

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

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

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

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

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

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

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

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

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

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility

for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

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

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

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

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

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

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

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

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

solicitations to minority and female contractor associations and other business associations.

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

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

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

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

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

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure

equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.

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

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

FAIR LABOR STANDARDS ACT (Federal Minimum Wage)

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

Consultant must include this requirement in all subcontracts.

CERTIFICATION REGARDING LOBBYING

Contractor certifies by signing and submitting this contract, 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 Contractor, 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.

PROHIBITION OF SEGREGATED FACILITIES

1. 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.

2. "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.

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

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

This contract hereby incorporates by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee.

Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). The Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.
Contractor must include this requirement in all subcontracts.

SEISMIC SAFETY

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

CERTIFICATION OF OFFEROR/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS

Contractor must complete the following two certification statements. Contractor 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. Contractor will incorporate this provision for certification in all lower tier subcontracts.

Certifications

1. Contractor 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. Contractor 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 Contractor responds in the affirmative to either of the above representations, Contractor 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. Contractor 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.

TERMINATION FOR CONVENIENCE

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

TERMINATION FOR CAUSE

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The

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

1. **Termination by Owner**: The Owner may terminate this Agreement for cause in whole or in part, for the failure of the Consultant to:

   a. Perform the services within the time specified in this contract or by Owner approved extension;
   b. Make adequate progress so as to endanger satisfactory performance of the Project; or
   c. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

   Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

   Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

   Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

   If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

2. **Termination by Consultant**: The Consultant may terminate this Agreement for cause in whole or in part, if the Owner:

   a. Defaults on its obligations under this Agreement;
   b. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
   c. Suspends the project for more than [180] days due to reasons beyond the control of the Consultant.

   Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent.

   If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

   In the event of termination due to Owner breach, the Consultant is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the

effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

TRADE RESTRICTION CERTIFICATION

Consultant certifies that with respect to the solicitation and this contract, Consultant –

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.

Consultant must provide immediate written notice to the Owner if the Consultant learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. Consultant must require subcontractors provide immediate written notice to the Consultant 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 Consultant 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.

Consultant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. Consultant 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 Consultant 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 Consultant 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.

CERTIFICATION REGARDING DOMESTIC PREFERENCES FOR PROCUREMENTS

Consultant certifies by signing this contract, to the greatest extent practicable, Consultant 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 D

AVIATION DEPARTMENT

CONSULTANT TRAVEL AND EXPENSE POLICY

This policy is based on the City of San Antonio Administrative Directive 8.31 Travel and Employee Expense Reimbursement and is intended to ensure that all travel related to City business is conducted in such a manner as to ensure good and efficient stewardship of the public monies funding such travel.

Definitions:

Official Travel Time: Official travel starts at the time the traveler leaves the designated point of departure and ends when traveler returns to the designated return point at the trip's conclusion. Travelers are eligible for a per diem allowance while on an approved, official business when the travel status is for more than 12 hours

Official Travel Status: When Official Travel Time exceeds 12 hours, the traveler is eligible for per diem.

Per Diem: A flat sum, dollar amount allowable for Meals and Incidental Expenses (M & IE). Meals include food, snacks, meal delivery service, taxes, and tips. Examples of incidental expenses include fees and tips to porters, baggage carriers, and hotel staff.

Traveler(s): A consultant or other vendor providing services to the City. This individual cannot be a City employee.

Air Travel:

1. Travelers must consider all expenses to be incurred when comparing airfares including add-in costs such as baggage fees, fuel surcharge, etc. to meet the lowest cost requirement.
2. Travelers should make every effort to book travel as soon as possible after travel authorization has been received to obtain the best fares.
3. Optional and additional costs for "premium" seats or other 'upgrades' (exit row or aisle seats, early check-in programs, etc.) are not reimbursable.
4. The City will be responsible for mandatory surcharges added to the base ticket price such as fuel surcharges, airport fees, and taxes.
5. Travelers may consider duration of travel time including layover time, and cost of direct versus indirect flights when choosing the best airfare. Selection of a higher cost flight should be documented as to why this is the best arrangement and should be authorized prior to booking the flight.
6. First class airfare will not be eligible for reimbursement unless Traveler can document that it is a reasonable accommodation for persons with a physical disability when travel plans would be impeded by coach travel. Such expenses must receive prior approval from the City.

7. Cancellation fees and re-booking fees are eligible for reimbursement when the change in arrangements was required by and benefits the City or conditions outside of the control of the traveler, i.e. inclement weather. Re-booking fees incurred for the convenience of the traveler are not reimbursable.
8. Baggage fees & guidelines:
    a. If Airline charges for checked-in baggage:
        - City will not reimburse any baggage fees for trip of 1 night or less.
        - City will reimburse for first bag only for trips of 2 to 7 nights.
        - City will reimburse reasonable expense for a second bag only when the authorized trip is 8 nights or more.
    b. City will not reimburse for any overweight fee.
    c. Reimbursement for baggage fees requires an itemized receipt to include traveler name, date, and amount from the carrier.
    d. Travelers are reminded that baggage fees are not included in the price of the ticket and the traveler must most often pay these fees at time of checking the baggage with the airline. These fees should be included in the travel authorization estimate and be included in any advance requested.
    e. Additional baggage fees incurred for transportation of materials to / from a conference related to City business that is the responsibility of the Traveler to transport may be allowed with approval of City. Travelers should plan ahead and use alternate delivery and shipping arrangements when available and compare the costs of shipping versus checked-in baggage.
9. Frequent traveler memberships are not reimbursable by City.
10. Flight insurance (cancellation policy) is an allowable cost for international travel only.
11. Vouchers or compensation received from an airline for delays or cancellation of flights belongs to the traveler.

Personal Vehicles:

1. If a traveler uses their personal vehicle on a business trip, reimbursement will be at the federal government mileage rate in effect at the time of travel.
    a. The City reimburses for actual mileage using the most direct route. Miles will be documented by attaching backup from mapping software such as Google maps, MapQuest, etc.
    b. A single line entry for roundtrip mileage is acceptable.
    c. Mapping backup can be the one-way miles
    d. Mapping of travel to/from home to work may be required if calculation needed for net miles.
2. The cost of parking a vehicle when necessary to conduct City business may be itemized *(attachment of receipts required).*
3. Reimbursable travel mileage for a given day may not include the mileage required for commuting between home/hotel and office or place of assignment. Miles traveled more than the normal daily commute may be submitted. Mileage to and from a travel destination, which is less miles than the individual's normal daily commute is not reimbursable.

4. If a City vehicle is available and provided for travel to/from the destination for an individual traveler or group of travelers, the traveler may not choose to drive a personal vehicle and then submit mileage.

Local Transportation Costs

1. Reimbursable costs are generally limited to transfers between the airport and trip destination and between meeting sites and places on trip itinerary. The chosen mode of ground transportation will be the most economical and practical of those available (shuttles, cab, bus, train, rental car, ride sharing apps, etc.).
2. Travelers are required to use complimentary shuttle service to and from the airport and to and from the conference meeting sites if provided by the hotel or conference.

Rental Car Requirements

1. Rental car expense must receive prior approval from City and will only be authorized when it is more practical and/ or less expensive than the use of taxi cabs or other public transportation.
2. Car rental insurance, including collision damage waivers, should not be included, or accepted in the rental agreement for all domestic rentals because the City is self-insured. Such fees are not reimbursable. If approved for international travel, insurance for a rental car may be required and is reimbursable.
3. Taxicab and other local transportation expenses will not be reimbursed if a traveler has an approved rental vehicle.

Lodging

1. Costs will be based on the actual costs of lodging, including taxes and fees, and should not exceed the single-occupancy rate. Traveler shall be eligible for reimbursement at the lower of the Federal Government's General Services Administration (GSA) rate for federal employees or the actual cost of lodging.
2. Where two or more travelers occupy the same room, arrangements should be made to obtain separate itemized bills and original receipts. If unavailable, an adequate accounting of the original bill should be kept by one of the designated travelers and submitted through their travel reimbursement at full cost. The other traveler(s) should obtain a copy and submit it with their travel reimbursement at no cost.

Meals

1. The cost of meals, snacks, and other incidental expenses, including taxes and tips, will be reimbursed at the per diem rate authorized for the destination city.
2. The authorized per diem allowances shall be the rates set annually by the Federal Government's General Services Administration (GSA) for different areas of the Country. Foreign per diem rates shall be the rate set annually, and updated monthly, by the Federal Government's State Department.
3. To assist in determining the per diem rates for cities or county not listed, a traveler can use the per diem figures identified for the city closest to the intended destination.

4. When circumstances cause meal and incidentals expenses more than the daily per diem rate, detailed original receipts for all expenses are required for review and approval by City.
5. Meal expenses, including snacks and drinks, for others are allowed for reimbursement where there is a benefit to the City to host this type of activity. The traveler may not receive per diem for the same meal or may receive per diem if the traveler's portion of the expense is deducted from the reimbursement request. Detailed receipt, with listing of individuals, and purpose is required.

Incidental expenses

1. Other miscellaneous expenses eligible for reimbursement include tolls, parking charges, cab fares, ride sharing, motorized scooters, faxes and copying. Receipts are required for these items.
2. Reasonable gratuity expenses, other than those described as part of per diem, shall be reimbursed. Reasonable gratuity varies by service performed and by the destination city but is generally 10-20% of the expense. Tips should be detailed on the corresponding receipt.
3. Parking a personal vehicle at San Antonio International Airport while on City business. Reimbursement should not exceed the posted rate for Long-Term parking lots at the airport. Travelers with designated City paid parking should use it instead of requesting parking reimbursement. Reimbursement for a round trip ride sharing or taxi instead of airport parking will be considered if the cost is less than long term parking at the airport
4. Fees incurred for internet access required for conducting City business.

Ineligible Expenses:

The following list is provided as examples of, but not inclusive of all, expenditures which may be incurred while traveling on official City business, but which will not be reimbursed:

1. Flight or trip insurance (except as noted for international travel), collision damage waivers, personal telephone calls, laundry/ dry cleaning if travel is less than seven days, fitness center usage charges and other personal services or goods in general.
2. Any form of personal entertainment such as, but not limited to, alcoholic beverages including wine, in room movies or games, and tickets or entry fees to entertainment venues.
3. Personal calls or business calls not associated with City business.
4. City business calls on the traveler's personal cell phone for which the traveler does not incur any additional expense above the base monthly rate are not reimbursable.
5. Travelers may not use free travel and then claim the value of that travel on an invoice submitted to City.
6. Expenses of a traveling companion
7. Other items as mentioned herein as not eligible.

Exceptions:

While it is expected that each traveler shall adhere to the practices outlined in this Travel Policy, it is recognized that, at times, expenses not specifically listed in this policy may be incurred for the

promotion of the City's interests and may be considered for reimbursement.

1. Exception requests should be fully documented in accordance with the travel provisions outlined herein.
2. Review and consideration of unusual expenses should be reasonable, and approval of such expenses should be granted only when there is a clear benefit to the City.
3. Although this policy is intended to be comprehensive, circumstances may arise which are not specifically addressed by this Travel Policy. In such circumstances, review and approval of associated travel and expenses shall be made by City.

Calculation of Per Diem:

Meal expenses incurred by travelers while on City business are reimbursed on a per diem basis.

2. Official travel time starts at the time the traveler leaves the designated point of departure and ends at time the traveler returns to that point.
3. Travelers are eligible for a per diem allowance while on City business when the official travel status is for more than 12 hours.
    a. Travel status for intercity air transportation is calculated from arrival at airport but not more than 2 hours prior to scheduled departure time for domestic travel, and no more than 3 hours for international travel. Until return to point of departure or another destination that is not associated with City business.

    Travelers choosing to extend travel time prior to or at the end of official travel for personal convenience will not be considered on travel status for that time. Travel status would be calculated as if the travel had begun and ended had the traveler not extended the travel
4. Where meals are provided at no cost to the traveler (i.e., paid by someone else, hosted, etc.), the per diem allowance for meals should be reduced for each meal provided.
    a. Hors d'oeuvres or a continental breakfast, including breakfast service offered at hotels without additional charge, will not be considered a meal for the purpose of discounting per diem.
    b. A meal provided on an airplane, if included in the price of the ticket, qualifies as a meal deduction. If there is a separate charge for the meal, do not deduct per diem.
5. On the day of departure and day of return, the per diem amount will be pro- rated according to the table below:

Beginning of "Official Travel Time" Date of Departure		Ending of "Official Travel Time" Date of return	
Prior to 11:00 am	100% per diem	Prior to 11:00 am	33% per diem
11:01 am- 5:00 pm	67% per diem	11:01 am- 5:00 pm	67% per diem
After 5:00 pm	34% per diem	After 5:00 pm	100% per diem

Expense Reporting:

1. Travelers seeking reimbursement for City business travel shall include the associated expenses in their monthly invoice to City as soon as is practical following the travel, but no later than 60 days following the conclusion of the trip. The invoices shall include a description of the trip to include City business reason for travel, Consultant employees traveling and start and end dated of travel.
2. An approved format for personal vehicle mileage.
3. Travelers shall include original receipts for the following expense items shall be included with the invoice for such travel:
    a. Airfare - Itemized statement from airlines
    b. Any additional fees by airline or airport paid by employee must have a receipt for reimbursement. i.e. Baggage fees as allowed and defined above.
    c. Lodging – Itemized statement showing detailed description of each charge.
    Exception: If lodging is booked and pre-paid on-line and a detailed hotel receipt is not available, substantiation of the on-line transaction including a confirmation or itinerary and proof of payment is required.
    d. Rental car (with prior approval) and associated costs such as parking, fuel, etc.
    e. All unusual and incidental expenses as defined previously
    f. Any other allowable expense with detailed description and amount of expense

4. In the absence of lost, forgotten or otherwise unavailable receipts, a traveler may prepare a written statement of expenses.
    a. Correspondence must provide as much detail as possible to document the expenses including date, place of purchase, type of purchase, dollar amount, bank, or credit card transactions (credit card # redacted), if possible, and reason for no receipt.
    b. City approval is required to be included in lieu of receipt.
    c. The statement will then be included with the monthly invoice in lieu of the required receipt.

EXHIBIT E

DBE COMPLIANCE AND ENFORCEMENT

DBE Subcontracting Obligation - Upon approval of the required DBE utilization documentation, the Submitting Firm receiving award of the contract shall enter into a subcontract with each approved DBE subcontractor listed in their Submittal. The contract shall be for the scope of workand amount stated in the Submittal documents. DBE subcontracts shall not be terminated, nor shall the scope of work or the amount to be paid to the DBE be altered by the prime consultant without the written approval of the Aviation Department's DBE Liaison Officer (DBELO).

Subcontractor Substitutions, Addition or Deletions - The Prime Consultant/Contractor must notify the DBELO in writing of the necessity to substitute, add or delete a DBE in order to fulfillthe DBE requirements. A change shall not be made before the DBELO's approval is given as tothe acceptability of the change. The request shall be made utilizing DBE Form 3 (Change of Subcontractor/Supplier).

Failure to Meet DBE Contract Requirements – Failure to utilize DBEs as stated in the Consultant's/Contractor's Submittal assurances constitute breach of contract and may lead to thecancellation or termination of the Contract.

Relief from DBE Requirements – After award of the Contract, no relief of the DBE requirements will be granted except in exceptional circumstances. Requests for complete or partial wavier of the DBE requirements of this Contract must be submitted in writing the DBELO. The request forrelief must contain details of the request, the circumstances that make the request necessary, and any additional relevant information. The request must be accompanied by a record of all efforts taken by the Consultant/Contractor to contract with the DBEs listed in the Submittal documents, locate and solicit replacement or substitute DBE subcontractor.

Penalties for Noncompliance - Failure to comply with any portion of the DBE Program, and whose failure to comply continues for a period of 30 calendar days after the Consultant/Contractor receives written notice of such noncompliance, may be subject to any or allof the following penalties:

a. Withholding of ten percent of all future payments for the Eligible project until it isdetermined the Consultant/Contractor is in compliance.
b. Withholding of all future payments for the Eligible project until it is determined theConsultant/Contractor is in compliance.
c. Cancellation of the Eligible Project.
d. Refusal of all future contracts or sub-contracts with the San Antonio Airport System for a minimum of one year and a maximum of three years from the date upon which

this penalty is imposed. In the event a penalty is imposed, the Consultant/Contractor continues to be obligated to pay its subcontracts, laborer, suppliers, etc.

The San Antonio Airport System will provide a cure-period to allow Consultants/Contractors tocomply with the terms of the contract and associated default provisions.

The City will actively implement the enforcement actions detailed above.