Agreement for Design Services

(Erie Municipal Airport (EIK) Consultant Selection (P25-735))

This Agreement for Design Services (the "Agreement") is made and entered into this _____ day of _____, 2025 (the "Effective Date"), by and between the Town of Erie, a Colorado home rule municipality with an address of 645 Holbrook Street, P.O. Box 750, Erie, CO 80516 (the "Town"), and H.W. Lochner, Inc., an independent contractor with a principal place of business at 6855 South Havana Street, Suite 635, Centennial, CO 80112 ("Consultant") (each a "Party" and collectively the "Parties").

Whereas, the Town requires design services; and

Whereas, Consultant has held itself out to the Town as having the requisite expertise and experience to perform the required design services.

Now Therefore, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. Scope of Services

A. This Agreement establishes the terms and conditions under which Consultant agrees to provide services to the Town on specific projects that the Town may authorize Consultant to perform from time to time. For each such project, the Town and Consultant shall enter into a mutually agreeable Task Order, agreed to and signed by both the Town and Consultant, which will be appended hereto (each a "Task Order"). Each Task Order shall describe the specific scope of services to be performed by Consultant, compensation, commencement date and required completion date(s) applicable to the specific scope of services authorized by the Task Order. In the event of any conflict in terms between this Agreement and any Task Order, the terms of that Task Order shall govern for the specific scope of services authorized by that Task Order only.

B. There is no minimum value of Task Orders associated with this Agreement and the Town has no obligation to give Consultant the opportunity to perform Task Orders.

C. Consultant shall furnish all of the professional services, labor, materials, and equipment required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from the Scope of Services set forth in **Exhibit A**, attached hereto and incorporated herein by this reference, and set forth in any subsequent Task Order mutually executed by the Town and Consultant (collectively, the "Services").

D. A change or addition to the Services shall not be effective unless authorized as a duly executed amendment or Task Order to this Agreement. If Consultant proceeds without such written and duly executed authorization, Consultant shall be deemed to

have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the Town is authorized to modify any term of this Agreement, either directly or implied by a course of action.

II. Term and Termination

A. *Term*. The term of this Agreement shall commence on the Effective Date, and shall continue for a period of 5 years, unless earlier terminated as provided herein.

B. *Termination for Convenience*. The Town may, at any time and without cause, terminate the Agreement in whole or in part for the Town's convenience and without cause upon 30 days' written notice to Consultant. If the Town terminates this Agreement or any Task Order for convenience, the following shall apply:

1. Consultant is not entitled to any claim for any amount, including lost profits or other special or consequential damages, for or in connection with any portion of the Services yet to be performed.

2. Upon receipt of a termination notice, Consultant shall, unless otherwise directed by the Town, take all of the following actions: (a) cease operations as directed by the Town in the notice; (b) take all actions necessary or that the Town may direct for the protection and the preservation of work performed by Consultant pursuant to the Agreement; and (c) use all reasonable efforts to cancel or divert outstanding commitments and subcontracts for procurement of services, materials or equipment to the extent they relate to the terminated portion of the Services.

3. The Town shall pay Consultant for that portion of the Services properly executed prior to the date of the termination and, to the extent approved by the Town, actual cancellation charges or loss incurred by Consultant upon outstanding commitments or subcontracts that Consultant is unable to cancel, provided Consultant has proven reasonable efforts to divert the commitments to other activities. Within 60 days of the effective date of the termination, Consultant shall submit a claim to the Town, along with all supporting backup documentation and cost records substantiating the amounts claimed. Consultant shall not be entitled to lost profits or any other form of special or consequential damages, or any costs incurred due to Consultant's or any of its suppliers or subconsultants fault or failure to mitigate as a result of any such termination by the Town for convenience.

C. *Termination for Default*. If Consultant defaults in the timely and proper performance of any of Consultant's obligations under this Agreement, without prejudice to any other rights or remedies, the Town may terminate this Agreement or reassign all or any portion of the Services upon 30 days' written notice to Consultant. Upon termination, the Town shall pay Consultant for that portion of the Services previously

authorized and satisfactorily completed prior to the date of the notice of termination, subject to any offset or other claim for damages suffered by the Town that are attributable to Consultant's default.

III. Compensation

In consideration for the completion of the Services by Consultant, the Town shall pay Consultant an amount not to exceed $0, which shall include all fees, costs and expenses incurred by Consultant. Payment shall be made in accordance with **Exhibit B**, attached hereto and incorporated herein by reference.

IV. Professional Responsibility

A. Consultant represents and warrants that it is qualified to assume the responsibilities and render the Services and has all requisite corporate authority and professional licenses in good standing, required by law. The work and Services performed by Consultant shall be performed in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of work or services in the applicable community. Consultant shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, incidental services or materials, and other work furnished by Consultant under this Agreement. Consultant shall, without additional compensation, correct or resolve any errors, omissions or deficiencies in its designs, drawings, specifications, reports, and other work that fails to maintain the level of skill and care that an ordinary prudent professional in the same or similar circumstances would maintain, or fails to conform to applicable law, and Consultant shall reimburse the Town for any costs, expenses, or other liabilities caused by or attributable to such errors, omissions or deficiencies.

B. Approval, review or acceptance by the Town of drawings, designs, specifications, reports, incidental Services or materials, and other work or Services furnished by Consultant or its subcontractors or subconsultants hereunder shall not in any way relieve Consultant of responsibility for the Services.

C. Because the Town has hired Consultant for its professional expertise, Consultant agrees not to employ subconsultants or subcontractors to perform any work under this Agreement, except as expressly set forth in **Exhibit A**.

D. Consultant shall at all times comply with all applicable law, including all federal, state and local statutes, regulations, ordinances, decrees and rules relating to the emission, discharge, release or threatened release of a hazardous material into the air, surface water, groundwater or land, the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a hazardous material, and the protection of human health and safety, including without limitation the following, as amended: the Comprehensive

Environmental Response, Compensation and Liability Act; the Hazardous Materials Transportation Act; the Resource Conservation and Recovery Act; the Toxic Substances Control Act; the Clean Water Act; the Clean Air Act; the Occupational Safety and Health Act; the Solid Waste Disposal Act; the Davis Bacon Act; the Copeland Act; the Contract Work Hours and Safety Standards Act; the Byrd Anti-Lobbying Amendment; the Housing and Community Development Act; and the Energy Policy and Conservation Act.

E. Consultant shall comply with the accessibility standards for an individual with a disability adopted by the State Office of Information Technology pursuant to C.R.S. § 24-85-103, and shall indemnify, hold harmless and assume liability on behalf of the Town and its officers, employees, agents and attorneys for all costs, expenses, claims, damages, liabilities, court awards, attorney fees and related costs, and any other amounts incurred by the Town in relation to Consultant's noncompliance with such accessibility standards.

F. Consultant shall comply with the Federal Provisions and Requirements set forth in **Exhibit C**, attached hereto and incorporated herein by this reference.

V. Ownership

Any materials, items, and work specified in the Scope of Services or in any subsequent Task Order, and any and all related documentation and materials provided or developed by Consultant shall be exclusively owned by the Town. Consultant expressly acknowledges and agrees that all work performed under the Scope of Services or any subsequent Task Order constitutes a "work made for hire." To the extent, if at all, that it does not constitute a "work made for hire," Consultant hereby transfers, sells, and assigns to the Town all of its right, title, and interest in such work. The Town may, with respect to all or any portion of such work, use, publish, display, reproduce, distribute, destroy, alter, retouch, modify, adapt, translate, or change the work product without providing notice to or receiving consent from Consultant; provided that Consultant shall have no liability for any work that has been modified by the Town.

VI. Independent Contractor

Consultant is an independent contractor. Notwithstanding any other provision of this Agreement, all personnel assigned by Consultant to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Consultant for all purposes. Consultant shall make no representation that it is a Town employee for any purposes.

VII. Insurance

A. Consultant agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Consultant pursuant to this Agreement. At a minimum, Consultant shall procure and maintain, and shall cause any subcontractor to procure and

maintain, the insurance coverages listed below, with forms and insurers acceptable to the Town.

1. Worker's Compensation insurance as required by law.

2. Commercial General Liability insurance with minimum combined single limits of $1,000,000 each occurrence and $2,000,000 general aggregate. The policy shall be applicable to all premises and operations, and shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall contain a severability of interests provision, and shall include the Town and the Town's officers, employees, and contractors as additional insureds. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

3. Professional liability insurance with minimum limits of $1,000,000 each claim and $2,000,000 general aggregate.

B. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least 30 days prior written notice to the Town. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Any insurance carried by the Town, its officers, its employees or its contractors shall be excess and not contributory insurance to that provided by Consultant. Consultant shall be solely responsible for any deductible losses under any policy.

C. Consultant shall provide to the Town a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Agreement.

VIII. Indemnification

A. Consultant agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including reasonable attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by, the omission, error, professional error, mistake, negligence, or other fault of Consultant, any subcontractor or subconsultant of Consultant, or any officer, employee, representative, or agent of Consultant, or which arise out of a worker's compensation claim of any employee of Consultant or of any employee of any subcontractor or subconsultant of Consultant; provided that Consultant's liability under this indemnification

provision shall be to the fullest extent of, but shall not exceed, that amount represented by the degree or percentage of negligence or fault attributable to Consultant, any subcontractor or subconsultant of Consultant, or any officer, employee, representative, or agent of Consultant or of any subcontractor or subconsultant of Consultant.

B. The extent of Consultant's obligation to indemnify and hold harmless the Town may be determined only after Consultant's liability or fault has been determined by adjudication, alternative dispute resolution or otherwise resolved by mutual agreement between the Parties, as provided by C.R.S. § 13-50.5-102(8)(c).

IX. Miscellaneous

A. *Governing Law and Venue*. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Weld County, Colorado.

B. *No Waiver*. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

C. *Integration*. This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

D. *Third Parties*. There are no intended third-party beneficiaries to this Agreement.

E. *Notice*. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class U.S. Mail to the Party at the address set forth on the first page of this Agreement.

F. *Severability*. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

G. *Modification*. This Agreement may only be modified upon written agreement of the Parties.

H. *Assignment*. Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

I. *Governmental Immunity*. The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities or protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

J. *Rights and Remedies*. The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

K. *Subject to Annual Appropriation*. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

L. *Force Majeure*. No Party shall be in breach of this Agreement if such Party's failure to perform any of the duties under this Agreement is due to Force Majeure, which shall be defined as the inability to undertake or perform any of the duties under this Agreement due to acts of God, floods, fires, sabotage, terrorist attack, strikes, riots, war, labor disputes, forces of nature, the authority and orders of government or pandemics.

M. *Electronic Signatures*. The Parties intend that this Agreement be governed by the Uniform Electronic Transactions Act, C.R.S. § 24-71.3-101, *et seq*.

In Witness Whereof, the Parties have executed this Agreement as of the Effective Date.

Town of Erie, Colorado

_____
Andrew J. Moore, Mayor

Attest:

_____
Debbie Stamp, Town Clerk

Consultant

_____

State of Colorado)
) ss.
County of _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me this ___ day of _____, 2025, by _____ as _____ of H. W. Lochner, Inc.

My commission expires:

(Seal)

_____
Notary Public

Exhibit A
Scope of Services

Consultant hereby agrees to and accepts responsibility to perform the following Services as requested by the Town on an as-needed basis and authorized in individual Task Orders to this Agreement in connection with various airport related projects at the Erie Municipal Airport ("Airport"):

A. Survey, geotechnical, civil design, architectural design, estimating, analysis of alternatives, and/or preparation of construction documents using Federal Aviation Administration ("FAA"), Colorado Department of Aviation ("CDOA"), and Town design and engineering standards;

B. Preparation of FAA engineering reports, FAA modification to standards, FAA and CDOA close out reports, grant applications, grant forms (including but not limited to the SF 425, Federal Financial Report), and/or requests for reimbursement;

C. Provision of resident engineering services, construction administration and assistance to the Town in the bidding process for Airport construction projects;

D. Other work or services requested by the Town.

Exhibit B
Compensation

As compensation for completion of the Services in compliance with this Agreement, the Town shall pay Consultant as follows:

Except as expressly provided in this Exhibit B, Consultant shall not be entitled to reimbursement or payment for any travel, meals, entertainment, administrative or overhead (copies, telephone, supplies, etc.), vehicle, mileage, or equipment costs.

Consultant may submit invoices to the Town no more frequently than once per month that itemize the Services completed since the last invoice. Consultant shall include in all invoices an itemization of the Services rendered and the hourly breakdown for all personnel and other charges, and supporting documentation as may be required by the Town.

Exhibit C
Federal Provisions and Requirements

Consultant agrees that it will comply with and incorporate the following terms into any subcontract that Consultant enters into concerning any portion of the Services:

I. Suspension and Debarment.

A. If this Agreement constitutes a covered transaction for purposes of 2 C.F.R. part 180, Consultant must comply with 2 C.F.R. part 180, subpart C and 2 C.F.R. part 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction that Consultant enters into.

B. Consultant certifies by executing this Agreement that neither Consultant, its principals, nor its affiliates are debarred, suspended, declared ineligible, voluntarily excluded or proposed for debarment, suspension, ineligibility or exclusion by any Federal department or agency. Further, Consultant shall immediately notify the Town in writing if at any point during the performance of this Agreement or any renewal or extension hereof if it or any of its principals or affiliates is suspended, debarred, declared ineligible, voluntarily excluded or proposed for debarment, suspension, ineligibility or exclusion by any Federal department or agency. Consultant shall execute and return the Certification Regarding Debarment, Suspension, Ineligibility, Voluntary Exclusion and Other Responsibility Matters included as **Exhibit C-1**, attached hereto and incorporated herein by this reference.

C. Consultant agrees that neither Consultant nor any of its third-party subcontractors shall enter in to any third-party subcontracts for any portion of the Work with a third-party that is debarred, suspended, ineligible or otherwise excluded from participation by any Federal department or agency. Consultant shall verify the status of each of all third-party subcontractors prior to entering in to any subcontracts for any portion of the Work.

D. The certification in this Section I and in **Exhibit C-1** is a material representation of fact upon which the Town relied in contracting with Consultant. If it is later determined that Consultant knowingly rendered an erroneous certification or failed to comply with the requirements of this Exhibit C, in addition to other remedies available to the Town, the Town may terminate the Agreement for default and pursue all available remedies and damages.

II. Byrd Anti-Lobbying Amendment Certification.

A. By signing this Contract, Consultant certifies that it will not and has not used Federal appropriated funds to pay any person or organization for the purpose of 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 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 covered by 31 U.S.C. § 1352. Further, Consultant certifies that it has not engaged in lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Consultant shall execute and return the Anti-Lobbying Certification included as **Exhibit C-2**, attached hereto and incorporated herein by this reference.

B. Consultant shall require the certification in this clause and execution of the Anti-Lobbying Certification from all subcontractors with subcontracts performing any portions of the Work under this Agreement valued in excess of $100,000.

C. The certification in this Section II and in **Exhibit C-2** is a material representation of fact upon which the Town relied in contracting with Consultant. If it is later determined that Consultant knowingly rendered an erroneous certification or failed to comply with the requirements of this Exhibit C, in addition to other remedies available to the Town, the Town may terminate the Agreement for default and pursue all available remedies and damages.

III. Equal Employment Opportunity. During the performance of this Agreement, Consultant agrees as follows:

A. Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Consultant shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include the following, without limitation: 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. Consultant shall post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

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

C. Consultant shall 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 Consultant's legal duty to furnish information.

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

E. Consultant shall 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.

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

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

H. Consultant will include the portion of the sentence immediately preceding subsection III.A and the provisions of subsections III.A through III.H 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. Consultant shall take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that if Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

IV. <u>Contract Work Hours and Safety Standards Act</u>. Pursuant to 40 U.S.C. § 3701, this Section IV shall apply to Consultant if the amount payable under this Agreement exceeds $100,000 and may involve the employment of mechanics or laborers.

A. *Overtime Requirements*. No consultant or subcontractor contracting for any part of Consultant's work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1.5 times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

B. *Violations*; *Liability; Liquidated Damages*. In the event of any violation of the clause set forth in subsection IV.A, Consultant and any responsible subcontractor shall be liable for the unpaid wages. In addition, Consultant and such subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subsection IV.A, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by subsection IV.A.

C. *Withholding.* The Town shall withhold from payment due under the Agreement sufficient funds required to satisfy any Consultant or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the Agreement are insufficient to satisfy Consultant or subcontractor liabilities, the Town will withhold payments from other Federal or federally assisted contracts held by the same Consultant that are subject to the Contract Work Hours and Safety Standards statute, if applicable.

D. *Payroll and Basic Records.* Consultant and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the Agreement and shall make them available to the Town for a period of at least 3 years after completion of the Services. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 C.F.R. 5.5(a)(3) implementing the Construction Wage Rate Requirements statute. Consultant and its subcontractors shall allow authorized representatives of the Town or the Department of Labor to inspect, copy, or transcribe records maintained under this Section IV. Consultant and its subcontractors shall allow authorized representatives of the Town or the Department of Labor to interview employees in the workplace during working hours.

E. *Subcontracts*. Consultant and its subcontractors shall insert in any subcontracts the clauses set forth in subsections IV.A through IV.D and also a clause

requiring all subcontractors to include these clauses in any lower tier subcontracts. Consultant shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subsections IV.A through IV.D hereof.

V. Clean Air Act and Federal Water Pollution Control Act. Consultant shall comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401 – 7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. §§ 1251 – 1387). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Further, Consultant agrees to include this clause in all subcontracts in excess of $150,000.

VI. MBE/WBE Requirements. When possible, Consultant shall assure that small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms are considered. Consultant shall also ensure that all of its subcontractors comply with the requirements of 2 C.F.R. § 200.321. For purposes of this Section VI, such consideration means:

A. Including qualified small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms on solicitation lists;

B. Assuring that small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms are solicited whenever they are deemed eligible as potential sources;

C. Dividing procurement transactions into separate procurements to permit maximum participation by small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms;

D. Establishing delivery schedules, where the requirement permits, which encourage participation by small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms;

E. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

F. Requiring all subcontractors to take the steps listed in subsections VI.A through VI.E.

VII. Procurement of Recovered Materials. Consultant shall comply with § 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of § 6002 include procuring only items designated in guidelines of the Environmental Protection Agency ("EPA") at 40 C.F.R. part 247, that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000;

procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

VIII. Domestic Preference for Procurements. Consultant shall, to the greatest extent practicable and consistent with applicable laws, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to, iron, aluminum, steel, cement, and other manufactured products. For purposes of this subsection, "produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

IX. Prohibition on Contracting for Covered Telecommunications Equipment or Services. Consultant is required to comply with all terms of 2 C.F.R. § 200.216 and is prohibited from obligating or expending any federal grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications and video surveillance or equipment pursuant to 2 C.F.R. § 200.216.

X. Grant / Funding Specific Provisions.

A. *Compliance with Nondiscrimination Requirements.* During the performance of this Agreement, Consultant, for itself, its assignees, and successors in interest, agrees as follows:

1. **Compliance with Regulations**: Consultant 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 Agreement.

2. **Non-discrimination**: Consultant, with regard to the work and services performed by it during the term of this Agreement, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation or gender identity), age, or disability in the selection and retention of subcontractors or subconsultants, including procurements of materials and leases of equipment. Consultant 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 Agreements, Including Procurements of Materials and Equipment**: In all solicitations, either by competitive bidding, or negotiation made by Consultant for work or services to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subconsultant, subcontractor or

supplier will be notified by Consultant of Consultant's obligations under this Agreement and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. **Information and Reports**: Consultant 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 Consultant is in the exclusive possession of another who fails or refuses to furnish the information, Consultant will so certify to Town 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 Consultant's noncompliance with the non-discrimination provisions of this Agreement, the Town will impose such sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to (a) withholding payments to Consultant under the Agreement until Consultant complies, and/or (b) cancelling, terminating, or suspending the Agreement, in whole or in part.

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

B. *Real Property Acquired or Improved Under the Airport Improvement Program*. Consultant, for itself, its heirs, personal representatives, successors in interest, and assign, as a part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Agreement for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, Consultant will maintain and operate such facilities and

services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

C. *Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program*. Consultant, for itself, its heirs, personal representatives, successors in interest, and assign, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, and (3) that Consultant will use the premises in compliance with all other requirements imposed by or pursuant to the List of discrimination Acts And Authorities.

D. *Title VI List of Pertinent Nondiscrimination Acts and Authorities*. During the performance of this Agreement, Consultant, for itself, its assignees, and successors in interest, agrees to comply with the following non-discrimination statutes and authorities, including but not limited to:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq*., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);

2. 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);

3. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

4. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq*.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27 (nondiscrimination on the Basis of Disability in Programs or Activities receiving Federal Financial Assistance);

5. The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et seq*.) (prohibits discrimination on the basis of age);

6. Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);

7. The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

8. Titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, *et seq.*) (prohibits 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 Department of Transportation regulations at 49 CFR Parts 37 and 38;

9. The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

10. 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);

11. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 (2005)); and

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

E. *General Civil Rights Provision*. In all its activities within the scope of its airport program, Consultant agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Act 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 Consultant and its subconsultants and subcontractors from the bid or proposal solicitation period through completion of this Agreement.

F. *Right of Re-entry*. In the event of breach of any of the above Nondiscrimination covenants, the Town shall have the right to terminate the Agreement and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the Agreement had never been made or issued.

G. *Subcontracts*. Consultant agrees that it shall insert the above six provisions (Sections (A) through Section (F)) in any agreement by which Consultant grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public under this Agreement.

H. *Fair Labor Standards Act*. This Agreement incorporates by reference the provisions of 29 CFR Part 201, the Federal Fair Labor Standards Act ("FLSA"), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers. Consultant has full responsibility to monitor its own and its subcontractors' compliance with 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.

I. *Occupational Safety and Health Act*. This Agreement incorporates by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Consultant and its subcontractors must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Consultant retains full responsibility to monitor its compliance and any subconsultant's or subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). Consultant 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.

J. *Access to Records and Reports*. Consultant must maintain an acceptable cost accounting system. Consultant agrees to provide the Town, 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 Consultant which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. Consultant 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.

K. *Debarment and Suspension*. Consultant, 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. Consultant shall accomplish this by:

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

2. Collecting a certification statement similar to the the Certification Regarding Debarment, Suspension, Ineligibility, Voluntary Exclusion and Other Responsibility Matters included as **Exhibit C-1** hereto.

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.

L. *Distracted 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 Town encourages Consultant 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 this Agreement. Consultant 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 this Agreement.

M. *Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment*. Consultant and its subconsultants and subcontractors 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)].

N. *Equal Employment Opportunity Specifications*.

1. As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this Agreement 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 Consultant, or any subconsultant or 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 Agreement resulted.

3. If Consultant 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. Consultant and its subconsultants and subcontractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each consultant, contractor or subcontractor participating in an approved plan is individually required to comply with its obligations under the Equal Employment Opportunity 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 consultants, contractors or

subcontractors toward a goal in an approved Plan does not excuse any covered consultant's, contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. Consultant shall implement the specific affirmative action standards provided in 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 Consultant 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 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. Consultant 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 Consultant has a collective bargaining agreement, to refer either minorities or women shall excuse Consultant'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 Consultant during the training period, and Consultant 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. Consultant shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of Consultant's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. Consultant 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 Consultant's employees are assigned to work. Consultant, where possible, will assign two or more women to each construction project. Consultant shall specifically ensure that all foremen,

superintendents, and other onsite supervisory personnel are aware of and carry out Consultant'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 Consultant 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 Consultant by the union or, if referred, not employed by Consultant, this shall be documented in the file with the reason therefore, along with whatever additional actions Consultant may have taken.

d. Provide immediate written notification to the Director when the union or unions with which Consultant has a collective bargaining agreement has not referred to Consultant a minority person or woman sent by Consultant, or when Consultant has other information that the union referral process has impeded Consultant'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 Consultant's employment needs, especially those programs funded or approved by the Department of Labor. Consultant shall provide notice of these programs to the sources compiled under subsection 7.b above.

f. Disseminate Consultant's Equal Employment Opportunity policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting Consultant in meeting its Equal Employment Opportunity 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 Equal Employment Opportunity policy on

bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's Equal Employment Opportunity 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 Consultant's Equal Employment Opportunity 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 Consultant's Equal Employment Opportunity policy with other contractors and subcontractors with whom Consultant 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 Consultant'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, Consultant shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

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

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

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

m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the Equal Employment Opportunity policy and Consultant'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 Consultant's Equal Employment Opportunity 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. The efforts of a contractor association, joint contractor union, contractor community, or other similar group of which Consultant is a member and participant may be asserted as fulfilling any one or more of its obligations under subsections 7.a through 7.p of these specifications provided that Consultant 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 Consultant'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 Consultant. The obligation to comply, however, is Consultant's and failure of such a group to fulfill an obligation shall not be a defense for Consultant's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. Consultant, 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, Consultant may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though Consultant has achieved its goals for women

generally, Consultant may be in violation of the Executive Order if a specific minority group of women is underutilized).

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

12. Consultant 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. Consultant, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in subsection 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If Consultant 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. Consultant shall designate a responsible official to monitor all employment related activity to ensure that the company Equal Employment Opportunity 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).

O. *Disadvantaged Business Enterprises*.

1. **Contract Assurance**. Consultant, subconsultants or subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Consultant shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient 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 Consultant from future bidding as non-responsible.

2. **Prompt Payment**. Consultant agrees to pay each subconsultant or subcontractor under this Agreement for satisfactory performance of its contract no later than 30 days from the receipt of each payment Consultant receives from the Town. Consultant agrees further to return retainage payments to each subconsultant or subcontractor within 30 days after the subconsultant's or 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 Town. This clause applies to both DBE and non-DBE subconsultants and subcontractors.

3. **Termination of DBE Subcontracts**. Consultant must not terminate a DBE subconsultant or subcontractor listed in response to DBE solicitation language (or an approved substitute DBE firm) without prior written consent of the Town. This includes, but is not limited to, instances in which Consultant seeks to perform work originally designated for a DBC subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm. Consultant shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless Consultant obtains written consent of the Town. Unless the Town's consent is provided, Consultant shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. The Town may provide such written consent only if the Town agrees, for reasons stated in

the concurrence document, that Consultant has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the circumstances listed in 49 CFR § 26.53. Before transmitting to the Town its request to terminate and/or substitute a DBE subcontractor, Consultant must give notice in writing to the DBE subcontractor, with a copy to the Town, of its intent to request to terminate and/or substitute, and the reason for the request. Consultant must give the DBE 5 days to respond to Consultant's notice and advise the Town and Consultant of the reasons, if any, why it objects to the proposed termination of its subcontract and why the Town should not approve Consultant's action. If required in a particular case as a matter of public necessity (e.g., safety), the Town may provide a response period shorter than 5 days. In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

P. *Trade Restriction Certification*. By submission of an offer and entering into this Agreement, Consultant certifies that with respect to this solicitation and the resultant Agreement, 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 Town if Consultant learns that its certification or that of a subconsultant or subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. Consultant must require subconsultants and subcontractors to provide immediate written notice to 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 any 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 Consultant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Consultant agrees that it will incorporate this provision for certification without modification in all lower tier subcontracts. Consultant may rely on the certification of a prospective subconsultant or 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 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 Consultant or its subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Town cancellation of this Agreement for default at no cost to the Town or the Federal Aviation Administration.

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

R. *Davis-Bacon Requirements.*

1. **Minimum Wages**.

a. All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between Consultant and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of subsection 1.g of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under subsection 1.b of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by Consultant and its subconsultants or subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

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

i. The work to be performed by the classification requested is not performed by a classification in the wage determination;

ii. The classification is utilized in the area by the construction industry; and

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

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

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

e. The wage rate (including fringe benefits where appropriate) determined pursuant to subsections 1.c or 1.d of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

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

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

3. **Payrolls and Basic Records.**

a. Payrolls and basic records relating thereto shall be maintained by Consultant during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, Consultant shall maintain records that show that the commitment to provide such benefits is

enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Consultant's employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

c. Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by Consultant, subconsultant or subcontractor or his or her agent who pays or supervises the

payment of the persons employed under the contract and shall certify the following:

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

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

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

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

e. The falsification of any of the above certifications may subject Consultant, subconsultant or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

f. Consultant, subconsultant or subcontractor shall make the records required under paragraph (iii)(1) of this section available for inspection, copying, or transcription by authorized representatives of the Sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If Consultant, subconsultant or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to Consultant, Sponsor, applicant, or the Town, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records

available may be grounds for debarment action pursuant to 29 CFR § 5.12.

4. **Apprentices and Trainees.**

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

recognized by the Office, withdraws approval of an apprenticeship program, Consultant will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

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

5. **Compliance with Copeland Act Requirements**. Consultant shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this Agreement.

6. **Subcontracts**. Consultant, subconsultant or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR §§ 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Consultant shall be responsible for the compliance by any subconsultant, subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR § 5.5.

7. **Contract Termination: Debarment**. A breach of the requirements of this section may be grounds for termination of the Agreement, and for debarment as a contractor and a subcontractor as provided in 29 CFR § 5.12.

8. **Compliance with Davis-Bacon and Related Act Requirements**. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this Agreement.

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

10. **Certification of Eligibility**.

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

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

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. § 1001.

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

T. *Prohibition of Segregated Facilities*.

1. Consultant 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. Consultant agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this Agreement.

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. Consultant shall include this clause in every subcontract and purchase order that is subject to the Equal Employment Opportunity clause of this Agreement.

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

V. *Tax Delinquency and Felony Convictions*. Consultant represents that it 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. Consultant further represents that it is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

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Exhibit C-1

Certification Regarding Debarment, Suspension, Ineligibility, Voluntary Exclusion and Other Responsibility Matters

The undersigned duly authorized official of Consultant certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, and/or declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.

2. Have not, within a 3-year period preceding the Effective Date, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements or receiving stolen property.

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in Section 2 hereof.

4. Have not within a 3-year period preceding the Effective Date, had one or more public transaction(s) (federal, state or local) terminated for cause or default.

5. Are not on a list of debarred, suspended, ineligible or excluded bidders maintained by any governmental entity (federal, state or local).

6. Where Consultant is unable to certify any of the statements in this Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, such Bidder shall attach a verified explanation to this Agreement.

(Check One)

I Do Certify (_____) I Do Not Certify (_____)

Date: _____

Signature: _____

Printed Name & Title: _____

Exhibit C-2
Anti-Lobbying Certification

In accordance with § 319 of Public Law 101-121, the undersigned duly authorized official of Consultant hereby certifies that, to the best of their knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for the purpose of 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 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 or agency for influencing or attempting to influence an offer 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 the 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 and ensure that the language of this certification be included in any award documents for subcontracts, grants, loans, and cooperative agreements, and that all subcontractors shall so certify and disclose accordingly.

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

(Check One)

I Do Certify (_____) I Do Not Certify (_____)

Date: _____

Signature: _____

Printed Name & Title: _____