



Rhode Island Airport Corporation

June 25, 2021

**REQUEST FOR QUALIFICATIONS
RUNWAY 16/34 RECONSTRUCTION
AT
QUONSET STATE AIRPORT
CONTRACT NO. 31740**

INTRODUCTION

The Rhode Island Airport Corporation (RIAC) is seeking Request for Qualifications (RFQ) from qualified aviation consulting firms with capabilities to perform design engineering, bid phase, construction phase, and environmental services to develop design drawings, specifications, construction cost estimates, perform general administration and produce final bid documents associated with the Runway 16-34 Reconstruction project at Quonset State Airport (OQU).

Firms should provide realistic project schedule for completion identifying key milestones and completion date.

The anticipated timeline for the selection process is as follows:

RFQ Advertisement	June 25, 2021
Pre Proposal Meeting/Conference Call	June 30, 2021
Deadline for Questions	July 9, 2021
Addendum Issued	July 14, 2021
RFQ Deadline for Proposals	July 30, 2021
Interviews	August 9-13, 2021

REQUEST FOR PROPOSALS REQUIREMENTS

RIAC will conduct a pre-proposal meeting/site tour on **June 30, 2021, at 2:00 PM at Quonset State Airport, 150 Airport Street, North Kingstown, RI.** RIAC highly encourages participation in the site tour.

RIAC requires respondents to keep proposal to a maximum of **ten (10)** double sided 8 ½ x 11 pages, no less than size 12 font, excluding:

- Cover Letter (one page, single sided)
- Executive Summary (which should not exceed one page, double sided)
- Resumes (each resume should not exceed one page, double sided)
- Professional References

RIAC will not accept videos, simulations, or other electronic presentations for this submittal. However, such electronic information may be presented during an interview process for the shortlisted proposers.

Proposing firm's shall submit one electronic (Thumb/Flash Drive only accepted) and five (5) printed copies of the proposal to:

Office of Procurement
Rhode Island Airport Corporation
Rhode Island T. F. Green International Airport
2000 Post Road, 3rd Floor
Warwick, RI 02886-1533

Attn: OQU Runway 16/34 Reconstruction –Contract No. 31740

The proposal must be received **no later than 2:00PM EDT, July 30, 2021**. RIAC accepts deliveries during normal business hours Monday through Friday 8:30am to 4:00pm EDT excluding national and local state holidays. It is the sole responsibility of the responding firm to ensure delivery of its proposal/bid on or before the due date/time. RIAC will not accept any bid/proposal that is received after the due date/time with NO EXCEPTIONS. RIAC will not accept electronic submissions (email, web, fax, etc.). In order to control the dissemination of information regarding this Request for Proposals (RFQ), organizations interested in submitting proposals shall not make personal contact with any member of RIAC staff or Board of Directors regarding this RFQ. Questions concerning this RFQ should be directed, via email, to procurement@pvdairport.com no later than **2:00PM EDT, July 9, 2021**. RIAC will respond to all relevant questions no later than **end of day, July 14, 2021** via addendum. This addendum will be posted to RIAC's website (www.pvdairport.com/corporate/procurement) and the State of Rhode Island's Division of Purchasing website (www.purchasing.ri.gov/).

RIAC accepts no financial responsibility for any costs incurred by a firm in responding to this RFQ, participating in oral presentations, or meeting with RIAC prior to being awarded the contract. The proposals in response to this RFQ become the property of RIAC and may be used by RIAC in any way it deems appropriate. All information submitted in response to this RFQ is deemed public and subject to disclosure unless a separate redacted public copy is submitted, regardless of whether the information is marked confidential/proprietary. Firms may redact in the public copy any trade secrets or commercial or financial information which is of a privileged or confidential nature pursuant to the Access to Public Records Act (R.I. Gen. Laws § 38-2 et. seq.). If firm does not submit a redacted public copy, RIAC assumes that firm is not seeking confidential treatment for any of its information and thus, all information is subject to public disclosure. By submitting a proposal, the firm certifies that it has fully read and understands the RFQ, has full knowledge of the scope of work to be provided, and accepts the terms and conditions under which the services are to be performed. RIAC will be the sole judge in determining as equivalent products (if applicable).

RIAC reserves the right to interview some, all, or none of the firms responding to this RFQ based solely on its judgment as to the firm's proposals and capabilities. Please note, RIAC is tentatively reserving **August 9** through **August 13, 2021** for any potential interviews. Proposers are asked to reserve these dates accordingly. RIAC expects to notify proposers no later than **August 6, 2021**. RIAC reserves the right to request and consider additional information from submitters and to reject any and all submittals on any basis without disclosing the reason. No firm may withdraw their submittal for at least **one hundred twenty (120) days** after the time and date set for submission.

RIAC reserves the right to waive any irregularities and technical defects. RIAC reserves the right to modify, amend or waive any provision of this RFQ, prior to the issuance of a contract for the consulting services.

SCOPE

An initial investigation and conceptual design have already been developed. The full conceptual design package is included for reference in this RFQ (Exhibit A). The design services in this RFQ will build on the conceptual design to develop plans and specifications that can be used to procure a construction contractor. All phases of this project will require coordination between RIAC, the FAA, and airport users (Rhode Island National Guard (RING), and FBO). The project design Scope of Services consists of but is not limited to the following elements:

- Full depth reconstruction of unimproved portions of RW 16-34 (see Exhibit A);
- Relocation of Taxiway A (see Exhibit A);
- New runway and taxiway lighting, signs and associated electrical systems;
- Drainage system improvements;
- New runway and taxiway markings;
- FAA NAVAID coordination and improvements as necessary;
- Geotechnical and borings services and investigations;
- Airfield Electrical systems expertise;
- Environmental controls, support and permitting, including best management practices for low impact design on an active airfield and appropriate NEPA documentation;
- Follow ANG ETLs 15-01 Design Policy, 16-03 Design Meetings & Presentations to include NGB/A4O approval at designated submittal review milestones, as well as, all other applicable Unified Facilities Criteria (UFC), Air Force Instructions (AFIs), ANGI, and ANGETLs;
- Coordination of design and permitting schedule to meet project milestones and grant deadlines; and
- Other related elements to support above scope items.

The final deliverables shall consist of construction contract documents, which shall be complete and shall set forth in detail all requirements for the survey, civil, environmental, geotechnical, mechanical, electrical, security, safety, phasing, and site work, and all necessary permits and approvals required for the Runway 16-34 Reconstruction project.

The anticipated schedule for this project is as follows:

- | | |
|-----------------------------------------|-------------------|
| • Notice to Proceed: | November 1, 2021 |
| • FAA Grant Application (design): | May 1, 2022 |
| • Final Design: | November 31, 2022 |
| • Draft IFB (construction): | December 2022 |
| • Final IFB (construction): | January 2023 |
| • Bid Opening: | February 2023 |
| • FAA Grant Application (construction): | May 2023 |
| • Construction Start: | August 2023 |
| • Construction Complete: | December 2024 |

REQUIRED CONTRACT PROVISIONS

RIAC adheres to all applicable FAA contractual and grant requirements, the FAA required contract clauses are set forth and attached to this RFQ in ARTICLE VII. FAA REQUIRED CONTRACT CLAUSES of the Professional Services Contract (PSC). The selected firm shall abide by the required contract clauses set forth in ARTICLE VII. FAA REQUIRED CONTRACT CLAUSES of the PSC. The FAA required contract clauses are attached to the agreement governing and controlling the project and the selected firm shall agree that the FAA required contract clauses may be unilaterally amended by RIAC as necessary for RIAC to comply with its grant assurances and applicable law.

SUBMITTAL & EVALUATION CRITERIA

Proposals will be evaluated by a Selection Committee, which will be seeking to distinguish which proposer has, through the appropriate combination of several criteria, the abilities to best perform the required services to the satisfaction of RIAC. While some criteria may be ranked higher than others in the selection process, the proposal that achieves the highest overall ranking will be considered top-ranked by the Selection Committee. The proposals will be evaluated using the following criteria:

1. Experience of Proposed Team – 40%

- a. Provide an organizational chart for the proposed team
- b. Key personnel's professional qualifications and experience and availability (include percentage) for the proposed project; their reputation and professional integrity and competence; and their knowledge of FAA and DoD regulations, policies, and procedures.
- c. For each team member, indicate the percentage of dedicated availability for this project.
- d. Provide demonstrated experience working with Federal Aviation Administration, National Guard Bureau, Rhode Island Department of Environmental Management, RIPDES, and CRMC permitting, as applicable.
- e. Provide contact information (phone number & email address) of the primary contact for this solicitation.

2. Experience of Firm – 30%

- a. Capability to perform all or most aspects of the project and recent experience in airport projects comparable to the proposed task.
- b. Quality of projects previously undertaken and capability to complete projects without having major cost escalations or overruns.
- c. Include at least two (2) representative projects to be used as relevant experience, and only those for which some or all of the project team were involved, and include a contact for the respective client.

3. Project Understanding and Approach – 25%

- a. Demonstrate an understanding of and familiarity with this project and

- describe your approach to completing it.
- b. Degree of interest shown in undertaking the project and their familiarity with and proximity to the geographic location of the project.
 - c. Demonstrate how you will meet the schedule to ensure we are ready to submit the FAA grant application and subsequently receive grant offer(s).

4. DBE Participation Goal – 5%

- a. For the purpose of this RFQ, firms must provide a statement committing to the use of available DBE's as determined by the over-all three-year DBE participation goal and to provide a representative list of potential DBE firms who may be able to participate on all work elements associated with this RFQ.

INSURANCE REQUIREMENTS

Evidence of insurance as specified in the Professional Services Contract.

DISADVANTAGED BUSINESS ENTERPRISE (DBE):

In accordance with Title 49, CFR.26, it is RIAC's policy to provide DBEs the opportunity to compete and/or participate in the performance of RIAC contracts. There is no specific DBE goal for this project. However, RIAC, utilizing race-neutral DBE procedures has established an overall three-year DBE participation goal is 9.56% for FAA funded projects for federal fiscal years 2021 through 2023. The selected Proposer will, as necessary, complete DBE reporting requirements.

PROFESSIONAL SERVICES CONTRACT (PSC)

RIAC's standard PSC is attached hereto and incorporated herein by this reference. RIAC expects the proposer to execute this form of PSC. The term of the Professional Services Contract (PSC) will be for four years at the sole discretion of RIAC.

ADDITIONAL REQUIREMENTS

Campaign Finance Compliance

Every person or business entity providing goods or services at a cost of \$5,000 cumulated value is required to file an affidavit regarding political campaign contributions with the RI State Board of Elections even if no reportable contributions have been made (RI General Law 17-27). Forms may be obtained at Board of Elections Campaign Finance Division website at <https://elections.ri.gov/finance/index.php>. Please call (401) 222-2345 or e-mail campaign.finance@elections.ri.gov with any questions or concerns.

Major State Decision-Maker

Does any Rhode Island "Major State Decision-Maker", as defined below, or the spouse or dependent child of such person, hold (i) a ten percent or greater equity interest, or (ii) a \$5,000 or greater cash interest in this business?

For purposes of this question, "Major State Decision-Maker" means:

- (i) All general officers; and all executive or administrative head or heads of any state executive agency enumerated in R.I.G.L § 42-6-1 as well as the executive or administrative head or heads of state quasi-public corporations, whether appointed or serving as an employee. The phrase "executive or administrative head or heads" shall include anyone serving in the positions of president, senior vice president, general counsel, director, executive director, deputy director, assistant director, executive counsel or chief of staff;
- (ii) All members of the general assembly and the executive or administrative head or heads of a state legislative agency, whether appointed or serving as an employee. The phrase "executive or administrative head or heads" shall include anyone serving in the positions of director, executive director, deputy director, assistant director, executive counsel or chief of staff; and
- (iii) All members of the state judiciary and all state magistrates and the executive or administrative head or heads of a state judicial agency, whether appointed or serving as an employee. The phrase "executive or administrative head or heads" shall include anyone serving in the positions of director, executive director, deputy director, assistant director, executive counsel, chief of staff or state court administrator.

If your answer is "Yes", please identify the Major State Decision-Maker, specify the nature of their ownership interest, and provide a copy of the annual financial disclosure required to be filed with the Rhode Island Ethics Commission pursuant to R.I.G.L. §36-14-16, 17 and 18.

Title VI Solicitation Notice:

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

- END OF RFQ -

PROFESSIONAL SERVICES CONTRACT

WITH

Consultant Name

ARTICLE I. PARTIES

A. ADDRESS

THIS CONTRACT, entered into as of _____, 2021 by and between the Rhode Island Airport Corporation (hereinafter referred to as "RIAC"), and **Consultant Name**, **Address**, (hereinafter referred to as the "Consultant"), who shall render certain technical and professional consulting services herein after described in this Contract in connection with the Design Services for Runway 16/34 Reconstruction at Quonset State Airport, North Kingstown, RI (OQU). In consideration of the mutually covenanted terms and conditions herein, the RIAC and Consultant agree that:

B. EMPLOYMENT OF COMPANY

The RIAC hereby engages Consultant, and Consultant hereby agrees to perform the services hereinafter set forth in connection with the attached Scope of Services in Exhibit B. This contract will be lump sum and means that the consultant shall be paid a fixed amount) to perform the scope(s) of work defined per task(s) and/or phase(s) in the applicable Exhibits A and B. The Lump Sum is inclusive of labor, overhead, direct non-salary expenses; and profit and shall be invoiced on a monthly basis on a percentage complete basis in accordance with Exhibit G.

C. MODIFICATION

This Contract may not be modified unless such modification is in writing and signed by both parties to this Contract.

D. PARTS INCORPORATED

The Contract, together with the Request for Qualifications (RFQ) specifications issued by RIAC seeking a proposal on July 23, 2021, the documents submitted by Consultant in response to the RFQ, and attached exhibits, constitute the "Contract Documents" and are incorporated by reference. The above documents are to be considered as one and whatever is called for by any one of the documents shall be as binding as if called for by all. In the event of a conflict between the terms and conditions of the Contract Documents, the more restrictive on the Consultant shall control.

E. CONTROLLING PARTS

Except as provided in if there is a conflict or inconsistency between the provisions of the Articles or exhibits; the Articles control over the exhibits.

F. TERM OF CONTRACT

Subject to the provisions for termination herein, the term of this Contract is through December 2025.

G. TABLE OF CONTENTS

The RIAC and Consultant hereby agree to the terms and conditions of this Contract. This Contract consists of the following sections:

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ARTICLE II. DEFINITIONS

As used in this Contract, the following terms have the meanings given below:

"Airport" means Quonset State Airport, North Kingstown, RI (OQU), located at 150 Airport St, North Kingstown, RI.

"Construction Cost" means the direct actual cost to the RIAC of all construction contract items for the Project, including labor, materials and equipment required for the Project and reflected by the actual construction contract(s) or, if no contract(s) are awarded, the lowest bona fide bid received plus the total value of all labor, material and equipment purchased or furnished directly by the RIAC for the Project, but excluding: (1) fees or other costs of Consulting, legal and related services; (2) cost of land and rights-of-way; (3) the RIAC's administrative expenses; and (4) any additional exclusions that may be listed in Exhibit B, Scope of Services.

"Construction Documents" mean all of the graphic and written information prepared or assembled by Consultant or RIAC for communicating the design and for the bidding and construction of the Project.

"Contract" means this document, including all attached exhibits and amendments to this document by written agreement of the parties.

"Consultant" means Consultant Name, Consultant Address.

"Senior Vice President & RIAC" means the Senior Vice President & Chief Operations Officer of the Rhode Island Airport Corporation, or his/her designee.

"Notice to Proceed" means a written communication from the Senior Vice President & Chief Operations Officer to Consultant instructing Consultant to begin performance.

"Project" means scope of project as fully described in Exhibit A.

"Project Schedule" means a schedule of Project activities and events, showing initiation point, duration, and ending points. The preliminary Project Schedule is attached as Exhibit D. It is the intent that tasks associated with dates and durations be finalized as depicted.

"Reimbursable Expenses" means (i) the ordinary and reasonable cost of copying and printing (excluding such for Consultant's internal use), postage, message and delivery services incurred by Consultant in the course of its performance under this Contract; and (ii) sales and use tax which Consultant is legally required to pay arising from Consultant's services under this Contract, if upon the request of RIAC, Consultant provides documentation supporting the payment of such legally required tax.

"Subcontract Cost" means the ordinary and reasonable cost of subcontracts made by Consultant for services rendered under this Contract.

"Staffing Organization Chart" means Consultant's organizational structure and staffing assignments for key positions on the Project as shown in Exhibit E.

ARTICLE III. RIGHTS AND DUTIES OF CONSULTANT

A. SERVICES OF CONSULTANT

1. Services in General

Consultant shall perform the following services:

- (a) Provide all labor, supervision, parts, equipment, materials, tools, instruments, expendable items, supplies, reports, transportation, insurance, subcontracts, warranties, and incidentals necessary to perform professional consulting and services as defined in Exhibit B, Scope of Services;
- (b) Coordinate its performance with RIAC staff, and all governmental entities having jurisdiction over the Project;
- (c) Make periodic written reports, meeting notes, and recommendations with respect to conditions, transactions, situations or circumstances encountered by Consultant relating to its services under this Contract;
- (d) Attend meetings with representatives from RIAC, local, State and Federal agencies, contractors, and others, as required;
- (e) Provide copies of written materials prepared by it or made available to it under this Contract, upon request by RIAC;
- (f) Meet the standards prevailing in its profession for Consulting services performed for similar projects in Rhode Island;
- (g) Ensure the professional quality, technical accuracy and coordination of all Construction Documents prepared by the Consultant and services under this Contract;
- (h) Correct or revise all errors and deficiencies in Documents prepared by the Consultant as directed by the RIAC; no compensation will be paid for corrections or revisions;
- (i) To ensure adequate review and evaluation of the Work and proper coordination among interested parties, the RIAC shall be kept fully informed at all times concerning the Consultant's Services being performed by Consultant under this Contract. Review and progress meetings shall be held at times as identified in the Scope of Services. Copies of any material to be discussed or reviewed at such meetings shall be furnished to the RIAC for review within a reasonable time prior to each such meeting;
- (j) Consultant shall, at the request of the RIAC, furnish RIAC with its work-product to be rendered pursuant to this Contract as such work-product is completed, or as otherwise directed by the RIAC.

2. Basic Services

The Basic Services in this Contract are divided into three phases: Phase I - Preliminary Design, and Phase II -Final Design. Consultant shall perform the services required for each phase only after it receives written notice of acceptance of the preceding phase, a Notice to Proceed, and assurance that adequate funds have been allocated. The RIAC is not required to proceed with this Contract after

completion of Consultant's services for any phase. If the RIAC terminates this Contract prior to the completion of one or more phases, the RIAC shall notify Consultant in writing of his intent to terminate this Contract under Article V.

3. Special Services

Consultant shall perform Special Services only in response to a Letter of Authorization ("LOA") signed by the RIAC. An LOA will describe the scope of work included in Special Services, the length of time to perform the service, and the maximum amount of compensation that may be earned for the performance of that service. Payment for Special Services shall be in the form of either a lump sum, or reimbursement of actual hourly salary costs based on Salary Costs and Reimbursable Expenses, as specified in the LOA. Any and all LOA's issued shall be part of and consistent with the terms and conditions expressed within this Contract.

4. Reimbursable Expenses

The RIAC will reimburse Consultant for reimbursable expenses incurred while providing services under this Contract as indicated in the Scope of Services.

B. TIME OF PERFORMANCE

Consultant shall perform the Basic Services set forth in Exhibit B in accordance with the time schedule shown on Exhibit D, the Project Schedule. Except for matters beyond the control of Consultant, circumstances for which are identified in Article VI (8) of this Contract, Force Majeure, Consultant shall perform the Basic Services within the time periods identified below, which period begins upon Consultant's receipt of the Notice to Proceed for each phase.

Services	Calendar Days
Phase I – Preliminary Design	XX
Phase II – Final Design	XX

C. CONSULTANT'S PERSONNEL AND LICENSING

Consultant shall perform services under this Contract through its employment of individuals listed in Exhibit E, its Staffing Organization Chart. Consultant may revise its Staffing Organization Chart only with the prior written approval of the RIAC. Any revision must be requested within ten days after Consultant receives a written Notice to Proceed with a specific Phase of Basic Services or a particular task under Special Services. Any revised Staffing Organization Chart shall include the following information for each professional-level employee proposed for assignment on the Project:

1. Name of employee;
2. Description of Project task(s);
3. Applicable registration;
4. Principal office of employment;
5. Summary of relevant experience; and
6. Date and expected duration of assignment

At RIAC's discretion, for any reason, the RIAC may require removal from the Project of any employee of Consultant providing services under this Contract. During the term of this Contract, Consultant must obtain, maintain and pay for all licenses, permits, and certificates, including all professional

licenses required by any statute, ordinance, rule or regulation. If Consultant does not maintain these professional licenses, the RIAC may terminate this Contract in accordance with the provision of Article V (A), herein. Consultant shall immediately notify the RIAC of any suspension, revocation, or other negative action involving its license or the license of any person who has acted or is acting on behalf of the Consultant on the Project.

D. ASSIGNMENT OF OWNERSHIP OF INTELLECTUAL PROPERTY

Consultant acknowledges and agrees that all ideas and concepts first conceived, created and developed by Consultant for the RIAC shall, upon payment to the Consultant of all amounts due hereunder, be the sole and exclusive property of the RIAC and shall be in the name of the RIAC, including but not limited to all intellectual property, e.g., copyrights, trademarks, service marks. Consultant further acknowledges and agrees that the expression of said ideas and concepts shall be “works made for hire” as that term is used in the copyright laws of the United States, as set forth in 17 U.S.C. 101, et. seq. Notwithstanding the foregoing, Consultant agrees that to the extent, if any, that Consultant may be deemed an “author” of any material expressing said concepts and ideas, Consultant hereby grants, assigns and transfers to the RIAC exclusively, perpetually and throughout the world all right, title and interest in and to said material and intellectual property, including but not limited to ownership of the Construction Documents. Consultant shall take any actions the RIAC may request to confirm the RIAC’s ownership of such intellectual property. It is understood that any reuse of documents or other data, in whole or in part, for work not covered by this Agreement without the written consent of the Consultant, will relieve the Consultant and their sub-consultants of all liability pertaining to such reuse.

The Consultant shall include the provision contained in the above paragraph in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Consultant shall take such action with respect to any subcontract or procurement as the RIAC or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subconsultant or supplier as a result of such direction, the Consultant may request the RIAC to enter into such litigation to protect the interests of the RIAC and, in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

E. CONFIDENTIALITY

Consultant recognizes that the documents to be prepared under this Contract and all RIAC data received by Consultant are confidential. Consultant shall not divulge this information except as necessary for the performance of its duties under this Contract, with approval in writing by the RIAC or as otherwise required by law. This section shall not apply to any and all information or documents that are already public or become public due to no fault of the parties or is disclosed pursuant to the requirements of a governmental authority or judicial order, but only to the extent required to comply with the said requirements of the government authority or judicial order. The provisions of this section shall survive the expiration and termination of this Contract.

F. INSURANCE

1. Commercial General Liability Insurance.

(a) The Consultant and all subconsultants and subcontractors shall obtain and maintain

continuously in effect at all times during the term of this Contract, at its sole cost and expense, commercial general liability insurance coverage (the “CGL Coverage”), with coverage limits of not less than \$1,000,000 per occurrence and \$2,000,000 in aggregate, that insures against claims, damages, losses and liabilities arising from bodily injury, death and/or property damage. Each insurance policy providing the CGL Coverage shall name the RIAC and the State of Rhode Island and their respective current and former commissioners, officers and employees as additional insureds thereunder and shall provide that such insurance policy will be considered primary insurance as to any other valid and collectible insurance or self-insured retention the RIAC may possess or retain. Any insurance coverage maintained by the RIAC shall be considered excess insurance only.

(b) Each insurance company issuing an insurance policy providing the CGL Coverage shall be (i) admitted to do business in the State of Rhode Island and rated not less than the Minimum Rating (as defined herein) or (ii) otherwise approved by RIAC. Such approval may be denied or withheld based upon an insurance company’s rating by the Rating Service (as defined herein) or other indications of financial inadequacy, as determined in the sole discretion of RIAC.

2. Automobile Liability Insurance.

(a) The Consultant and all subconsultants and subcontractors shall obtain and maintain continuously in effect at all times during the term of this Contract, at its sole cost and expense, automobile liability insurance coverage (the “Auto Coverage”), with a coverage limit of not less than \$1,000,000 per occurrence, that insures against claims, damages, losses and liabilities arising from automobile related bodily injury, death and/or property damage. Each insurance policy providing the Auto Coverage shall name the RIAC, the State of Rhode Island and their respective current and former commissioners, officers and employees as additional insureds thereunder and shall provide that such insurance policy will be considered primary insurance as to any other valid and collectible insurance or self-insured retention the RIAC may possess or retain. Any insurance coverage maintained by the RIAC shall be considered excess insurance only.

(b) Each insurance company issuing an insurance policy providing the Auto Coverage shall be (i) admitted to do business in the State of Rhode Island and rated not less than the Minimum Rating (as defined herein) or (ii) otherwise approved by RIAC. Such approval may be denied or withheld based upon an insurance company’s rating by the Rating Service (as defined herein) or other indications of financial inadequacy, as determined in the sole discretion of RIAC.

3. Workers’ Compensation Insurance.

(a) The Consultant and all subconsultants and subcontractors shall obtain and maintain continuously in effect at all times during the term of this Contract, at its sole cost and expense, workers’ compensation insurance coverage (the “WC Coverage”) in accordance with statutory requirements and providing employer’s liability coverage with limits of not less than \$100,000 for bodily injury by accident, \$100,000 for bodily injury by disease, and \$500,000 policy limit for disease.

(b) Each insurance company issuing an insurance policy providing the WC Coverage shall be (i) admitted to do business in the State of Rhode Island and rated not less than the Minimum Rating (as defined herein) or (ii) otherwise approved by RIAC. Such approval may be denied or withheld based upon an insurance company’s rating by the Rating Service (as defined herein) or other indications of financial inadequacy, as determined in the sole discretion RIAC.

4. Professional Liability Insurance.

(a) The Consultant shall obtain and maintain continuously in effect at all times during the term of this Contract, at its sole cost and expense, professional liability insurance coverage (the “PL Coverage”), with coverage limits of not less than \$2,000,000 per claim and \$2,000,000 in aggregate, that insures against claims, damages, losses and liabilities arising from any errors, omissions or negligent acts of the Consultant in the performance of professional services under this Contract. The policy Prior Acts or Retroactive Date shall at all times precede the effective date of this contract. The Consultant and all subconsultants and subcontractors also shall maintain the PL Coverage for a period of three (3) years after all services and work required under the terms of this Contract have been completed by the Consultant and all subconsultants and subcontractors or after the Consultant and all subconsultants and subcontractors have been terminated by the RIAC, whichever shall last occur.

(b) Each insurance company issuing an insurance policy providing the PL Coverage shall be (i) rated not less than the Minimum Rating (as defined herein) or (ii) otherwise approved by RIAC. Such approval may be denied or withheld based upon an insurance company’s rating by the Rating Service (as defined herein) or other indications of financial inadequacy, as determined in the sole discretion of RIAC.

5. Umbrella Liability Coverage Requirements

(a) The Consultant and all subconsultants and subcontractors shall obtain and maintain continuously in effect at all times during the term of this Contract, at its sole cost and expense, umbrella liability insurance coverage (the “UL” Coverage), with coverage limits of not less than \$10,000,000 per occurrence for primary layer airfield construction services and \$1,000,000 per occurrence otherwise, that insures against all claims, damages, losses and liabilities arising out of Consultant and all subconsultants and subcontractors performance of services under this Contract. Each insurance policy providing the UL Coverage shall name the RIAC and the State of Rhode Island and their respective commissioners, officers and employees as additional insureds thereunder and shall provide that such insurance policy will be considered primary insurance as to any other valid and collectible insurance or self-insured retention the RIAC may possess or retain. Any insurance coverage maintained by the RIAC shall be considered excess insurance only.

(b) Each insurance company issuing an insurance policy providing the UL Coverage shall be (i) admitted to do business in the State of Rhode Island and rated not less than the Minimum Rating (as defined herein) or (ii) otherwise approved by RIAC. Such approval may be denied or withheld based upon an insurance company’s rating by the Rating Service (as defined herein) or other indications of financial inadequacy, as determined in the sole discretion of RIAC.

6. General Insurance Requirements.

(a) For purposes of this Contract, the CGL Coverage, the Auto Coverage, the PL Coverage, the WC Coverage, and the UL Coverage are collectively referred to as the “Insurance Coverages”. The Consultant and all subconsultants and subcontractors agree that each insurance policy providing any of the Insurance Coverages (i) shall not be altered, modified, cancelled or replaced without thirty (30) days prior written notice from the Consultant to the RIAC, (ii) shall provide for a waiver of subrogation by the issuing insurance company as to claims against the RIAC and its commissioners, officers and employees, (iii) shall provide that any “other insurance” clause in such insurance policy shall exclude any policies of insurance maintained by the RIAC and that such insurance policy shall not be brought into contribution with any insurance maintained by the RIAC, and (iv) shall have a term of not less than one year.

(b) The RIAC shall have the right to change the terms of the Insurance Coverages if such changes are recommended or imposed by the RIAC's insurers, so long as the RIAC agrees to reimburse the Consultant for any increases in insurance premium costs resulting solely from any such change. The Consultant shall provide, prior to the commencement of the Consultant's performance under this Contract, one or more certificates of insurance which shall indicate that the Consultant maintains the Insurance Coverages and that the insurance policy or policies referenced or described in each such certificate of insurance comply with the requirements of this Contract. Each such certificate of insurance shall provide that the insurance company issuing the insurance policy or policies referenced or described therein shall give to the RIAC written notice of the cancellation or non-renewal of each such insurance policy not less than thirty (30) days prior to the effective date of such cancellation or the expiration date of such insurance policy, as applicable. Upon receipt of a written request from the RIAC, the Consultant also agrees to provide to the RIAC duplicate originals of any or all of the insurance policies providing the Insurance Coverages. The certificate(s) of insurance provided by the Consultant to evidence the WC Coverage shall specifically certify that the insurance policy or policies which provide the WC Coverage cover the Consultant's activities in the State of Rhode Island.

(c) If the Consultant shall at any time fail to obtain or maintain any of the Insurance Coverages, the RIAC may take, but shall not be obligated to take, all actions necessary to effect or maintain such Insurance Coverages, and all monies expended by it for that purpose shall be reimbursed to the RIAC by the Consultant upon demand therefore or set-off by the RIAC against funds of the Consultant held by the RIAC or funds due to the Consultant. The Consultant hereby grants, approves of and consents to such right of set-off for the RIAC. If any of the Insurance Coverages cannot be obtained for any reason, the RIAC may require the Consultant to cease any and all work under this Contract until all Insurance Coverage are obtained. If any of the Insurance Coverages are not obtained within a period of time to be determined solely by the RIAC, the RIAC may terminate this Contract.

(d) It is expressly understood and agreed that the minimum limits set forth in the Insurance Coverages shall not limit the liability of the Consultant for its acts or omissions as provided in this Contract.

(e) The term "Rating Service" shall mean A.M. Best Company, or, if A.M. Best Company no longer exists or discontinues its rating of insurance companies, such alternative rating service for insurance companies as determined in the sole discretion of RIAC. The term "Minimum Rating" shall mean a rating (if A.M. Best Company is the Rating Service) of A- (Financial Size: X) based upon the criteria for financial strength and financial size ratings utilized by A.M. Best Company on the date of this Contract, or such equivalent rating (if A.M. Best Company is not the Rating Service or if A.M. Best Company subsequently revises its criteria for financial strength and financial size ratings) as determined in the sole discretion of the Chief Financial Officer of the RIAC.

G. INDEMNIFICATION AND HOLD HARMLESS

1. Indemnified Parties.

For purposes of this Contract, the term "Indemnified Parties" shall mean the RIAC and the State of Rhode Island and/or their current and former commissioners, officers, employees, agents, servants, representatives, Consultants, subconsultants, affiliates, subsidiaries, successors and assigns.

2. Indemnification.

- (a) Negligent or Intentional Act or Omission: The Consultant agrees to indemnify, and defend and hold each of the Indemnified Parties harmless from and against losses, costs, damages, penalties, fines, settlements, liabilities and expenses (including, without limitation, reasonable attorneys' fees, court costs and litigation/arbitration expenses) claimed or incurred by reason of any damages, including, but not limited to, bodily injury, death and/or property damage to the extent caused by any negligent act, willfully tortious act, error or omission, of the Consultant or any of the Consultant's officers, Consultants, subconsultants, subcontractors, agents, representatives or employees in the performance of professional services under this agreement.
- (b) Ownership or Use of the Construction Documents: The Consultant agrees to indemnify and defend and hold each of the Indemnified Parties harmless from and against any and all suits, losses, costs, claims, damages, demands, penalties, fines, settlements, liabilities and expenses (including, without limitation, reasonable attorneys' fees, court costs and litigation expenses) arising from the ownership or use of the Construction Documents, including, without limitation, claims of infringement of property rights by a third party.
- (c) Hazardous Materials and Environmental Laws: The Consultant agrees to indemnify and defend and hold each of the Indemnified Parties harmless from and against any and all suits, losses, costs, claims, damages, demands, penalties, fines, settlements, liabilities and expenses (including, without limitation, reasonable attorneys' fees, court costs and litigation expenses) arising from any negligent or intentional act or omission of the Consultant or any of the Consultant's officers, Consultants, subconsultants, subcontractors, agents, representatives or employees with respect to (i) any investigation, monitoring, clean-up, containment, removal, storage or restoration work performed by the RIAC or a third party with respect to the use or placement of Hazardous Materials (of whatever kind or nature, known or unknown) on the Airport premises or any other areas; (ii) any actual, threatened or alleged contamination by Hazardous Materials on the Airport premises or other areas; (iii) the disposal, release or threatened release of Hazardous Materials on the Airport premises or other areas that is on, from or affects the soil, air, water, vegetation, buildings, personal property, persons or otherwise; (iv) any bodily injury, death or property damage with respect to the use or placement of Hazardous Materials on the Airport premises or other areas; or (v) any violation of any applicable Environmental Laws.
- (d) Supersede and Survival: The Consultant's indemnity and defense obligation under this Section G shall supersede any provision contained herein or elsewhere to the contrary, and shall survive expiration or earlier termination of this Contract for a period equal to the statute of limitations for any action which could be brought against RIAC, the state of Rhode Island or their respective agents, officers, directors and employees and shall continue through the duration of any such action brought during the applicable time periods.
- (e) Indemnification Limitation: In claims against any person or entity indemnified under this Section G by an employee of the Consultant or its subcontractor, subconsultant, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section G shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the consultant, a subcontractor or a subconsultant under workers' compensation acts, disability benefit acts or other employee benefit acts.

H. COMPLIANCE WITH LAWS

Consultant shall exercise the required professional care in its efforts to comply with all federal, state, and local laws applicable in the rendering of the services by Consultant under this Contract and all rules and regulations of the RIAC and any other governmental agencies.

Consultant shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, CFR, Part 21, as they may be amended from time to time (hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Contract.

I. EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

During the performance of this Contract, the Consultant agrees as follows:

1. Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, disability, or creed. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. Consultant will, 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, national origin, disability, or creed.
3. Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Consultant's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
6. In the event of Consultant's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

7. Consultant will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subconsultant or vendor. Consultant will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however*, that in the event Consultant becomes involved in, or is threatened with, litigation with a subconsultant or vendor as a result of such direction, Consultant may request the United States to enter into such litigation to protect the interests of the United States.

J. NON-PARTICIPATION

Consultant shall not participate in the bidding process as a bidder and shall not engage in construction of the Project.

K. CONFLICTS OF INTEREST

If an actual or potential conflict arises between the interests of the RIAC and the interests of other clients represented by Consultant regarding this Project, Consultant shall immediately notify the RIAC in writing. If the RIAC consents to Consultant's continued representation of these other clients, it will notify Consultant in writing. If the RIAC does not issue such written consent within three business days after receiving Consultant's notice of an actual or potential conflict, Consultant shall immediately terminate its representation of these other clients if such termination is permitted by contract. If Consultant does not or cannot resolve the conflict of interest arising from its representation of other clients through termination of such contracts or by other means within the time period reasonably set by the RIAC, the RIAC shall terminate this Contract immediately without providing any further opportunity to cure under Article V. Nothing in this section shall be construed by Consultant as an attempt to interfere with any contract between Consultant and a third party, and the indemnification and hold harmless provisions of this Contract apply to any litigation involving the RIAC arising from this Section.

L. AIRPORT SECURITY

Consultant understands and agrees that fines and/or penalties may be assessed by the Transportation Security Administration for Consultant's non-compliance with the provisions of Title 49 CFR Part 1542 entitled "Airport Security", as amended from time to time, or by other agencies for noncompliance with laws or regulations applicable to Consultant's operations. Any fines or penalties assessed against the RIAC because of Consultant's non-compliance with Title 49 CFR Part 1542 or other applicable laws or regulations must be reimbursed to the RIAC by Consultant within ten days of receipt of written notice from the RIAC stating the amount of the fine or penalty. Consultant's failure to reimburse the RIAC within ten days may result in immediate termination of this Contract without any further opportunity to cure under Article V.

M. ENVIRONMENTAL LAWS

1. Consultant shall comply with all applicable federal, state and local statutes, ordinances, regulations, rules, policies, codes or guidelines now or hereafter in effect, as same may be amended from time to time, including permits and authorizations issued subsequent thereto by competent authority, which govern Hazardous Materials or relate to the protection of human health, safety or the environment, and shall include but not be limited to: the Federal Insecticide, Fungicide, and Rodenticide Act, Title 7 U.S.C. Section 136 et seq.; the Safe Drinking Water Act, Title 42 U.S.C. Section 300(f) et seq.; the Oil Pollution Act of 1990, Title 33 U.S.C. Section 2701 et seq.; the

Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, Title 42 U.S.C. Section 9601 et seq. and as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub. Law No. 99-499, Stat. 1613 et seq.; the Toxic Substances Control Act, Title 15 U.S.C. Section 2601 et seq.; the Clean Air Act as amended, Title 42 U.S.C. Section 7401 et seq.; the Clean Water Act, Title 33 U.S.C. Section 1251 et seq.; the Hazardous Materials Transportation Act, Title 49 U.S.C. Section 1801 et seq.; the Resources Conservation and Recovery Act, Title 42 U.S.C. Section 6901 et seq.; and those substances defined as hazardous waste or as hazardous substances under the laws of Rhode Island and/or the United States or in regulations promulgated pursuant to such laws (collectively, “Environmental Laws”).

2. Failure to comply with the Environmental Laws shall be considered a default that may result in the termination of this Contract by the RIAC. Further, any fines or penalties that may be levied against the RIAC by the Environmental Protection Agency or the Rhode Island Department of Environmental Management (RIDEM), the Rhode Island Department of Health, the Rhode Island Department of Labor and Training, or any other governmental agency, arising from or related to Consultant’s failure to comply with the Environmental Laws shall be reimbursed to the RIAC by Consultant within ten days of receipt of an invoice from the RIAC for such fines or penalties. Consultant’s failure to reimburse the RIAC within ten days may result in immediate termination of this Contract, without any further opportunity to cure under Article V.

3. Consultant shall not present, use, generate, release, emit, discharge, store, dispose or transport any Hazardous Materials on, under, in, above, to or from the Airport, or any other areas or facilities subject to this Contract, other than in strict compliance with all applicable Environmental Laws. For purposes of this Section, “Hazardous Materials” shall be interpreted in the broadest sense to include any and all substances, materials, wastes, pollutants, oils, or governmentally regulated substances or contaminants as defined or designated as hazardous, toxic, radioactive, dangerous, or any other similar term in or under any of the Environmental Laws, including but not limited to, asbestos and asbestos containing materials, petroleum products such as crude oil or any fraction thereof, gasoline, aviation fuel, jet fuel, diesel fuel, lubricating oils and solvents, urea formaldehyde, flammable explosives, PCBs, radioactive materials or waste, lead, or any other substance that, because of its quantity, concentration, physical, chemical, or infectious characteristics may cause or threaten a present or potential hazard to human health or the environment when improperly generated, used, stored, handled, treated, discharged, distributed, disposed, or released. Hazardous Materials shall also mean any and all hazardous materials, hazardous wastes, toxic substances, or regulated substances under any Environmental Laws.

4. The RIAC and Consultant agree to provide each other, upon request, with any non-privileged information collected and submitted to any government entity(ies) pursuant to applicable permits or authorizations.

5. All such remedies of the RIAC with regard to environmental requirements as set forth herein shall be deemed cumulative in nature and shall survive termination and or expiration of this Contract.

6. Consultant acknowledges that RIAC follows a Rhode Island Pollutant Discharge Elimination System (RIPDES) permit issued by the RIDEM to comply with the Clean Water Act and that RIAC operating permits pertaining to air emissions issued by RIDEM and sewer discharge permits issued by the Warwick Sewer RIAC. The Consultant acknowledges that close cooperation is necessary to ensure compliance with permit terms and conditions, as well as to ensure safety and minimize costs.

N. DRUG-FREE WORKPLACE

Consultants that are involved with services for RIAC are required to maintain, enforce and submit to

a Drug Free Workplace Policy at least as stringent as the Policy enforced by the RIAC attached hereto as Exhibit K.

O. KICKBACKS PROHIBITED

The Rhode Island Airport Corporation prohibits any person from:

1. Providing or attempting to provide or offering to provide any kickback;
2. Soliciting, accepting or attempting to accept any kickback; or
3. Including directly or indirectly, the amount of any kickback in the contract price.

“Kickback” as used in this clause means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any Consultant, Consultant employee, subconsultant or subconsultant employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a Consultant in connection with a subcontract relating to a prime contract.

ARTICLE IV. RIGHTS AND DUTIES OF RIAC

A. PAYMENT

1. Fees In General

The RIAC shall pay fees to Consultant as specified in Article IV for all services rendered by Consultant in accordance with the terms and conditions of this Contract, subject to appropriations made by RIAC.

2. Service Fees; Method of Payment

(a) The RIAC shall pay the following lump sum fees basis, to Consultant for Basic Services rendered by Consultant in accordance with the terms and conditions of this Contract, as follows:

Phase I - Preliminary Design	Lump Sum Fee	\$XX
Phase II - Final Design	Lump Sum Fee	\$XX

(b) The RIAC shall make partial payment of the fees on the basis of monthly invoices submitted by Consultant and approved by RIAC. The invoice template to be used by the consultant for invoice submittals is included in Exhibit G. The invoice template must be completed to show the percentage of total services completed in Phases I, II , special services and reimbursable expenses in the preceding month and the amount due for the services for the month being billed. With each monthly invoice, the Consultant shall submit a brief narrative of the services performed in the preceding month, a list of the planned activities for the following month and an updated Project Schedule. Invoices are to be submitted electronically as a single PDF document with items in the order discussed above. One hard copy shall also be submitted. The amount of partial payment due for services performed during each phase is a percentage of the lump sum fee equal to the percentage of services performed for the phase during the period covered by the invoice, plus Special Services and Reimbursable Expenses. After the Consultant has completed the performance of all required services for each phase, the RIAC shall pay Consultant the total amount owed for that phase less any amounts paid under the monthly invoices.

(c) An affidavit and release of all liens and claims (Exhibit H and Exhibit I) is to be submitted with the completion of each Phase of work. The RIAC may periodically request an interim affidavit and release of all liens and claims throughout the term of the Contract, and Consultant will submit requested affidavits.

(d) The invoices shall be paid within 30 days of approval by RIAC. Neither partial payments made nor approval of invoices or services by RIAC, constitute final acceptance or approval of Consultant's services to which the partial payment or approval relates nor does such relieve Consultant of any obligations under this Contract.

3. Fees For Special Services; Method Of Payment

Subject to all the terms and conditions of this Contract, the RIAC shall pay and Consultant shall accept as full compensation for the Special Services described herein and as approved in the LOA, the fees and method of payment specified. If hourly cost plus is used, with an agreed upon multiplier of the same, the hourly rates and multipliers in Exhibit F shall be used. To receive payment for Special Services, Consultant must submit invoices following the requirements defined within the LOA. Invoices for Special Services must be submitted for payment within 60 days from the date of completion of the Special Services. Funds may be interchanged between various Special Services and between Special Services and Reimbursable Expenses, when approved in writing by the RIAC.

(a) No special services are programmed.

4. Payment of Subconsultants

Consultant shall make timely payments to all persons and entities supplying labor, materials, and equipment for this Contract, in accordance with the billing terms of the subconsultant's agreement with Consultant. Consultant agrees further to return retainage payments to each subconsultant in accordance with the terms of the subcontract, following satisfactory completion of the work by the subcontractor, and any delay or postponement of payment that varies from that required in the subcontract may occur only for good cause following written approval of the RIAC.

Consultant agrees to protect and indemnify the RIAC from any claims or liability arising out of Consultant's failure to make these payments as agreed, including but limited to, payment of court costs and reasonable attorneys' fees.

Consultant agrees to pay each DBE subcontractor or DBE subconsultant under this Contract for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the Consultant receives from RIAC. Consultant agrees further to return retainage payments to each subcontractor or subconsultant within ten (10) days after the subcontractor's or subconsultant'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 RIAC. This clause applies to both DBE and non-DBE subcontractors and subconsultants.

Disputes relating to Consultant's payment of DBE subconsultants shall be submitted to binding arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect. If Consultant does not comply with the decision of the arbitrator, the RIAC may terminate this Contract under Article V.

If Consultant receives payment from the RIAC for Work performed by any subcontractor or for

materials provided by any supplier, and Consultant withholds payment to any subcontractor, supplier or other vendor on account of a deficiency in the quality or quantity of the Work or materials, the RIAC shall withhold a corresponding amount from any pending or future payments to Consultant until the RIAC receives sufficient documentation that the deficiency has been remedied. After the RIAC receives such documentation, it shall pay the withheld amount to Consultant at the time of Consultant's next scheduled payment.

5. Fees for Reimbursable Expenses; Method of Payment

The RIAC requires electronic submittals from the Consultant and hard copies as specified. If the RIAC requests additional hard copy submittals, the Consultant shall be compensated for the Reimbursable Expenses as follows: The RIAC shall pay the amount of the printer's invoice plus a ten percent (10%) administrative fee. The RIAC's obligation to pay expenses shall not exceed 6.0 cents per page plus a ten percent (10%) administrative fee for specifications, \$0.50 per page plus a ten percent (10%) administrative fee for 11 x 17 bond plans and \$ 1.00 per page plus a ten percent (10%) administrative fee for full-size bond plans. The RIAC shall reimburse for overnight or express courier services at the cost of the Consultant.

B. LIMIT OF APPROPRIATION - ALLOCATED FUNDS: LIMITATION OF RIAC'S DUTIES

1. The RIAC's duties to pay money to Consultant for any purpose under this Contract are limited in their entirety by the provisions of this Section.
2. The RIAC has appropriated and allocated the sum of **\$XX** to be used to discharge its duties to pay money under this Contract (the "Original Allocation"). The RIAC is never obligated to pay any money for services rendered or reimbursable under this Contract in an aggregate amount that exceeds the Original Allocation. Consultant must assure itself that sufficient allocations have been made to pay for services provided. If allocated funds are exhausted, Consultant's only remedy is suspension or termination of its performance under this Contract. Consultant has no other remedy in law or in equity against the RIAC and has no right to damages of any kind.
3. The sum of **\$XX** has been allocated for Basic Services and the sum of **\$.00** has been allocated for Special Services and Reimbursable Expenses.

The parties recognize that officers of the RIAC, in the exercise of their sound discretion, may allocate supplemental sums of money for the purpose of this Contract. In this case, the aggregate of the Original Allocation and all supplemental allocations effected by notice to Consultant in substantially the foregoing form, if any, are the Allocated Funds.

C. COORDINATION OF PERFORMANCE WITH CONSULTANT

In addition to its other duties under this Contract, the RIAC shall perform the following services:

1. Provide information to Consultant concerning the requirements for the Project;
2. Provide existing plans, maps, field notes, statistics, computations, and other data in the possession of the RIAC which may assist Consultant in performing services under the Contract; and
3. Examine the documents submitted by Consultant and render decisions pertaining to them within a reasonable time to avoid unnecessary delay of Consultant's services.

ARTICLE V. TERMINATION

A. TERMINATION BY THE RIAC FOR DEFAULT OR MATERIAL BREACH

The RIAC may suspend or terminate this Contract at any time, without forfeiture, waiver, or release of any other rights of the RIAC, upon default or breach by Consultant in the performance of the Work to be provided by Consultant under this Contract or in observance of or compliance with any of the terms and conditions of this Contract, or if the RIAC determines that the services rendered and/or work performed by Consultant are unsatisfactory in any way. The RIAC shall give Consultant seven days prior written notice of such termination and an opportunity to cure the default or breach within said notice period, if not otherwise provided under a separate provision of this Contract. If default or breach is not timely cured, Consultant shall immediately cease or cause to be ceased all services. Consultant shall invoice and be paid for only those services rendered and work performed in accordance with the terms and conditions of this Contract through the date of termination that are reasonably satisfactory to the RIAC. Notwithstanding the above, Consultant shall not be relieved of liability to the RIAC for damages sustained by the RIAC by reason of any breach or default of this Contract by Consultant, and the RIAC may withhold any payments to Consultant for the purpose of set-off for such damages sustained by the RIAC.

B. TERMINATION BY RIAC FOR CONVENIENCE

The RIAC may terminate this Contract at any time for any reason or no reason whatsoever upon 30 days written notice to Consultant of such termination. Consultant shall cease or cause to be ceased all services upon the expiration of such 30 day period. Consultant shall invoice and be paid for only those services rendered and work performed through the date of termination. The RIAC shall have the right to terminate this Contract for lack of funding at any time, in the same manner as set forth in this subparagraph. Consultant shall not be paid for its anticipated profit for unperformed services.

C. TERMINATION BY CONSULTANT

Consultant shall have the right to terminate this Contract only for substantial failure of the RIAC to perform in accordance with the terms of this Contract. The Consultant shall give the RIAC seven days prior written notice of such termination and an opportunity to cure the default or breach within said period. If default or breach is not timely cured, Consultant shall immediately cease or cause to be ceased all services. Consultant shall invoice and be paid for services rendered through the date of termination that are reasonably satisfactory to the RIAC.

D. WAIVER OF RIGHTS BY RIAC

Neither any failure nor any delay on the part of the RIAC in exercising any right, power, or privilege hereunder, or under any document or instrument delivered or executed pursuant hereto, shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise or the exercise of any other right, power, or privilege. The rights and remedies of the RIAC, as stated in this Article V, are in addition to any other rights and remedies provided by law or under this Contract.

ARTICLE VI. MISCELLANEOUS

A. FORCE MAJEURE

1. Timely performance by both parties is essential to this Contract. However, neither party will be liable for delays or other failures to perform its obligations under this Contract to the extent the

delay or failure is caused by an event of Force Majeure. For purposes of this Contract, Force Majeure means fires, floods, explosions, and other acts of God, war, terrorist acts, riots, court orders and the acts of superior governmental or military RIAC.

2. This relief is not applicable unless the affected party does the following:
 - (a) uses due diligence to remove the Force Majeure as quickly as possible;
 - (b) provides the other party with prompt written notice of the cause and its anticipated effect; and
 - (c) provides the other party with written notice describing the actual delay or non-performance incurred within seven days after the Force Majeure
3. The RIAC may perform Consultant's services itself or contract for such services with a third party during periods of Force Majeure and withhold from Consultant any payments for such services from the lump sum amount for the applicable phase in an amount equal to the greater of the RIAC's payment of such services or the percentage of completion of the applicable phase of such services by such third party. Performance of such services by the RIAC or other entity does not constitute a default or breach of this Contract by the Consultant or RIAC.
4. If the Force Majeure continues for more than 14 days, the RIAC may terminate this Contract by giving seven days written notice to Consultant. Consultant waives any claim it may have for financial losses or other damages resulting from such termination, except for amounts due for services completed by Consultant, in accordance with the terms and conditions of this Contract, that are reasonably satisfactory to the RIAC, prior to the effective date of termination.
5. A strike or work slowdown by the Consultant's employees, among other circumstances, does not constitute Force Majeure under this Contract.

B. SEVERABILITY

Should any section or any part of any section of this Contract be rendered void, invalid, or unenforceable by any court of competent jurisdiction for any reason, such a determination shall not render void, invalid, or unenforceable any other section or any part of any section of this Contract.

C. WRITTEN AGREEMENT

All notices, requests, demands, or other communications hereunder shall be in writing unless otherwise noted.

D. DISPUTE RESOLUTION PROCEDURES

The parties agree to endeavor, in good faith and in recognition of the costs and expenses associated with legal proceedings, to resolve and settle among themselves any disputes or controversies pertaining to the Contract. However, if settlement or resolution cannot be reached, the parties agree to the following dispute resolution procedures:

1. **Mediation:** If during the course of this Contract the parties are unable to resolve any dispute or controversy arising out of or relating to the Contract, such claims shall first be subject to non-binding mediation as a condition precedent to the initiation of any legal action (either court action or arbitration). The mediation, unless the parties mutually agree otherwise in writing, shall be in accordance with the Construction Industry Rules of the American Arbitration Association. Demand for mediation shall be made in writing. The parties agree to share in the mediator's fee

and any filing fees. Any mediation will be held in Warwick, Rhode Island. Agreements reached in mediation shall be as enforceable as settlement agreements. Each party agrees to bear its own attorneys' fees associated with the mediation.

2. **Arbitration and Litigation:** If the mediation described in Section (a) is unsuccessful, then, in RIAC's sole discretion, any controversy or claim arising out of or relating to this Contract, or the breach thereof, shall be resolved by either binding arbitration or litigation (filed in the state or local courts of Warwick, Rhode Island). The RIAC will notify the Consultant in writing of its election of arbitration or litigation within 20 days after the date of the unsuccessful mediation, and Consultant agrees not to commence any legal action against the RIAC until such election is made and communicated. If the RIAC elects binding arbitration, it shall be administered, unless the parties mutually agree otherwise in writing, in accordance with the most recent Construction Industry Rules of the American Arbitration Association. Whether arbitration or litigation is elected by the RIAC, any hearing shall be held in Warwick, Rhode Island, and the Court or Arbitrator(s) shall have the power to award to the prevailing party its reasonable attorneys' fees, expenses and costs.
3. **Governing Law:** This Contract shall be construed and enforced in accordance with the substantive and procedural laws of the State of Rhode Island, exclusive of its choice-of-law rules.

E. PAYMENTS, NOTICES AND CONSENTS

All written communications, including but not limited to payments, notices, consents and demands must be sent to the addresses shown in Article I or at such other address the receiving party may have prescribed by notice to the sending party. All notices required or permitted by this Contract must be in writing and are considered delivered when actually received or on the third day after being deposited in a United States Postal Service post office, postage prepaid, certified mail, return receipt requested, whichever is earlier.

F. CAPTIONS AND HEADINGS

The captions and headings in this Contract are for the purpose of reference only and shall not limit or otherwise affect any of the terms contained herein.

G. INSPECTIONS. AUDITS AND ENFORCEMENT

1. Consultant shall maintain an acceptable cost accounting system.
2. Representatives of the RIAC, the FAA and the Comptroller General of the United States shall have the right to perform, or cause to be performed (1) audits of the books, documents, papers, and records of Consultant (the "Records" which are directly pertinent to this Contract for the purpose of making an audit, examination, excerpts, and transcriptions); and (2) inspections of all places where services are undertaken in connection with this Contract. Consultant shall be required to keep such Records available for such purpose for at least three years after final payment is made and all pending matters are closed under this Contract. Nothing in this provision shall affect the time for bringing a cause of action, nor the applicable statute of limitations.
3. Consultant covenants to provide to the RIAC, the FAA, and the Comptroller General of the United States all Records that the RIAC deems necessary to assist in determining Consultant's compliance with this Contract, for audit and/or inspection purposes.

4. Consultant, upon receipt of notice that an inspection is to be made of any or all Records, work in progress or plans for future work, which relate to the services to be provided pursuant to this Contract, shall make such Records available for inspection in Consultant's office where such Records are normally maintained, during normal business hours.
5. The Consultant shall include the provisions of paragraphs 1 through 4 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Consultant shall take such action with respect to any subcontract or procurement as the RIAC or the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a sub consultant or supplier as a result of such direction, the Consultant may request the RIAC to enter into such litigation to protect the interests of the RIAC and, in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

H. AWARDING OF OTHER CONTRACTS

The RIAC may award other contracts for services on the Project for which Consultant is providing services for under this Contract and Consultant shall cooperate with such other Consultants and shall coordinate its services to be performed hereunder with the work of the other consultants in such manner as the RIAC may reasonably direct, but in all instances shall be entitled to rely on the directions of RIAC. Upon receiving written notice from Consultant that another Consultant is failing to coordinate its services with Consultant's services as directed, the RIAC shall investigate the matter and take such action as may be necessary. However, the RIAC shall not in any event be liable to Consultant for any damages suffered by Consultant by reason of the failure of another consultant to carry out the directions of the RIAC. If Consultant suffers damage by reason of any act or omission of any Consultant or subconsultant, Consultant shall have no claim against the RIAC. To the extent the RIAC determines in its sole discretion that acts and omissions of any Consultant or subconsultant cause unreasonable or unnecessary delays in Consultant's performance of this Contract, the RIAC shall grant an appropriate time extension to Consultant

I. NO PERSONAL LIABILITY

This Contract does not create any personal liability on the part of any officer, director, agent, or employee of the RIAC.

J. ASSIGNABILITY AND SUBCONTRACTS

Consultant shall not assign any interest in this Contract, and shall not subcontract any services to be provided or work to be performed hereunder, without the prior written consent of the RIAC.

K. AMBIGUITIES

If any term of this Contract is ambiguous, it shall not be construed for or against any party on the basis of draftsmanship or preparation.

L. SURVIVAL

Consultant shall remain obligated to the RIAC under all clauses of this Contract that expressly or by their nature may extend beyond or survive the expiration or termination of this Contract.

M. NON-WAIVER

If either party fails to require the other to perform any term of this Contract, that failure shall not prevent such party from later enforcing that term and all other terms. If either party waives the other's breach of this Contract, that waiver shall not waive a later breach of this Contract.

N. NO EXPENDITURE BY THE RIAC

Except for Article III, nothing in this Contract requires the RIAC to pay Consultant or any other party for other services rendered by a third party or for reimbursables claimed by a third party.

O. NO THIRD PARTY BENEFICIARY

This Contract is made for the benefit of the parties, and it does not create any right or benefit enforceable by any third party.

P. SUCCESSORS

This Contract shall bind and benefit the parties and their legal successors.

Q. REMEDIES CUMULATIVE

Except as otherwise provided herein, the rights and remedies contained in this Contract shall not be exclusive, and are cumulative of all rights and remedies now or hereafter existing by statute, at law, or in equity.

R. INTEGRATION

This Contract embodies the entire understanding of the parties, and there are no further agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof unless expressly referred to herein.

S. DOCUMENTS PROPERTY OF RIAC

All documents, data, plans, reports and other materials prepared by Consultant under this Contract shall become the property of RIAC and, at RIAC's option, shall be provided to RIAC in the electronic medium specified by RIAC (provided Consultant has such capability); provided, however, that Consultant shall have the right to retain copies of such documents and other materials for its records.

T. DATA TO BE FURNISHED TO CONSULTANT

All data, reports, records, plans, maps and other information as are available, in RIAC's custody, and necessary to carry out the Services under this Contract shall be furnished to Consultant, without charge by RIAC, in a timely manner. RIAC shall coordinate with and assist Consultant in obtaining all other information necessary to carry out the Services.

U. COORDINATION BETWEEN RIAC AND CONSULTANT

1. Continuing coordination and communication shall be maintained between Consultant and RIAC to ensure the timely completion of the Services in accordance with the mutually agreed upon schedule. To expedite such coordination and communications, RIAC shall designate a staff member as its

representative to whom Consultant shall direct all correspondence, progress reports, requests for information or assistance and other materials.

2. The Consultant's designee, shall serve as the representative of Consultant for the Services and he/she or another Consultant staff member acceptable to RIAC shall attend all meetings upon the reasonable request of RIAC.

V. PERSONNEL

Consultant represents that it has, at its sole cost and expense, all personnel required to perform the Services required under this Contract. Any and all persons engaged by Consultant to perform the Services shall be considered employees of Consultant, not RIAC. Any of Consultant's personnel or those of its subcontractors or subconsultants, specifically identified are considered essential to performance and may not be removed or replaced without the prior approval of RIAC. All personnel employed or engaged by Consultant shall possess the necessary skills for performance under this Contract. Consultant will at all times enforce proper discipline and good order among the personnel under its control or supervision.

W. TIME IS OF THE ESSENCE

The parties hereto agree that time is of the essence with respect to any deadline or schedule set forth in this Contract.

ARTICLE VII. FAA REQUIRED CONTRACT CLAUSES

As applicable, Consultant agrees as follows:

A. NONDISCRIMINATION – GENERAL

1. Applicability: Clauses A.2 to A.5 apply to all contracts and must be included in all subcontracts.
2. Consultant agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.
3. This provision binds the Consultant subconsultants, and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.
4. This provision also obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal assistance is extended to the airport through the Airport Improvement Program, except where Federal assistance is to provide, or is in the form of personal property; real property or interest therein; structures or improvements thereon.
5. In these cases the provision obligates the party or any transferee for the longer of the following periods:
 - (a) the period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits; or

(b) the period during ring which the airport sponsor or any transferee retains ownership or possession of the property.

B. NONDISCRIMINATION – TITLE VI

1. Applicability: Clause B.2. applies to all contracts and must be included in all subcontract
2. During the performance under this Contract, Consultant, for itself, its assignees, and successors in interest, agrees as follows:

(a) Compliance with Regulations. Consultant shall comply with the Title VI List of Pertinent Nondiscrimination Statutes and Authorities listed below in Section 2. b. vii. (“Regulations”) as they may be amended from time to time, which are hereby incorporated herein by reference and made a part of this Contract.

(b) Nondiscrimination. Consultant, with regard to the Services performed by it during the term of this Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Consultant will not participate directly or indirectly in the discrimination prohibited by the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

(c) Solicitations for Subcontracts. In all solicitations either by competitive bidding or negotiation made by Consultant for services to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant’s obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(d) Information and Reports. Consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by RIAC or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, Consultant shall so certify to RIAC or the FAA as appropriate, and shall set forth what efforts it has made to obtain the information.

Sanctions for Noncompliance. In the event of Consultant’s noncompliance with the nondiscrimination provisions of this Contract, RIAC shall impose such contractual sanctions as it or the FAA may determine to be appropriate, including, but not limited to:

- (i) withholding of payments to Consultant under this Contract until Consultant complies, and/or
 - (ii) cancellation, termination, or suspension of this Contract, in whole or in part.
- (e) Incorporation of Provisions. Consultant shall include the provisions of 2.b. (i) through (vi) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. Consultant shall take such action with respect to any subcontract or procurement as RIAC or the FAA may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that, in the event

Consultant becomes involved in, or is threatened with, litigation, Consultant may request the United States to enter into such litigation to protect the interests of the United States or RIAC.

- (f) Title VI List of Pertinent Nondiscrimination Statutes and Authorities. During the performance of this Contract, 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:

Pertinent Non-Discrimination Authorities:

- (i) Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- (ii) 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);
- (iii) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- (iv) Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- (v) The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- (vi) Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- (vii) 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);
- (viii) Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- (ix) The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- (x) Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which 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;

- (xi) Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- (xii) Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 et seq).

C. ACCESS TO RECORDS AND REPORTS

- 1. Applicability: Clause C.2. applies to all AIP eligible projects and must be included in all subcontracts.
- 2. Consultant must maintain an acceptable cost accounting system. Consultant agrees to provide RIAC, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized representatives' access to any books, documents, papers, and records of the Consultant which are directly pertinent to 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.

D. BREACH OF CONTRACT TERMS

- 1. Applicability: Clause D.2. applies to all AIP eligible projects that exceed \$100,000 and must be included in all subcontracts meeting that threshold.
- 2. Any violation or breach of terms of this Contract on the part of the Consultant or its subcontractors or subconsultants may result in the suspension or termination of this Contract or such other action that may be necessary to enforce the rights of the parties of this Contract. The duties and obligations imposed by the Contract and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law

E. BUY AMERICAN PREFERENCE

- 1. Applicability: Clause E.2. applies to all AIP eligible projects under which this Contract has a manufactured product as a deliverable and must be included in all applicable subcontracts.
- 2. Consultant agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP eligible projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

F. CLEAN AIR AND WATER POLLUTION CONTROL

1. Applicability: Clause F.2 applies to all AIP eligible projects that exceed \$100,000 and must be included in all subcontracts meeting that threshold.
2. Consultant agrees:
 - i. That any facility to be used in the performance of the contract or subcontract or to benefit from the contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities;
 - ii. To comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. 1857 et seq. and Section 308 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114 and Section 308 of the Acts, respectively, and all other regulations and guidelines issued thereunder;
 - iii. That, as a condition for the award of this contract, the contractor or subcontractor will notify the awarding official of the receipt of any communication from the EPA indicating that a facility to be used for the performance of or benefit from the contract is under consideration to be listed on the EPA List of Violating Facilities;
 - iv. To include or cause to be included in any construction contract or subcontract which exceeds \$100,000 the aforementioned criteria and requirements.

G. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

1. Applicability: Clause G.2 applies to all AIP eligible projects that exceed \$100,000 and must be included in all subcontracts meeting that threshold.
2. Consultant Agrees:
 - (a) Overtime Requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
 - (b) Violation: Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this clause.
 - (c) Withholding for Unpaid Wages and Liquidated Damages. The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from

any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this clause.

(d) Subcontractors. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a) through (d) of this clause.

H. DEBARMENT AND SUSPENSION

1. Applicability: Clauses H.2 and H.3 apply to all AIP eligible projects that exceed \$25,000 and must be included in all subcontracts meeting that threshold.
2. By submitting a bid/proposal under the solicitation for this Contract, Consultant certifies that at the time Consultant submits its proposal that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.
3. Consultant, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, must verify each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. Consultant will accomplish this by:
 - (a) Checking the System for Award Management at website: <http://www.sam.gov>
 - (b) Collecting a certification statement similar to the Certificate Regarding Debarment and Suspension (Bidder or Offeror), above.
 - (c) Inserting a clause or condition in the covered transaction with the lower tier contract

If the FAA later determines that a lower tier participant failed to tell a higher tier that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedy, including suspension and debarment.

I. FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

1. Applicability: Clause I.2 applies to all AIP eligible projects and must be included in all subcontracts.
2. Consultant agrees to abide by the federal minimum wage provisions contained in the Fair Labor Standards Act (29 USC 201). Consultant has full responsibility to monitor compliance to the referenced statute or regulation. Consultant must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

J. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

1. Applicability: Clause J.2 applies to all AIP eligible projects and must be included in all subcontracts.

2. Consultant certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

K. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

1. Applicability: Clause K.2 applies to all AIP eligible projects and must be included in all subcontracts.
2. Consultant agrees to abide by the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Consultant has full responsibility to monitor compliance to the referenced statute or regulation. Consultant must address any claims or disputes that pertain to a referenced requirement directly with the Federal Agency with enforcement responsibilities.

L. RIGHT TO INVENTIONS

1. Applicability: Clause M.2 applies to all AIP eligible projects and must be included in all subcontracts.
2. All rights to inventions and materials generated under this Contract are subject to requirements and regulations issued by the FAA and RIAC of the Federal grant under which this contract is executed.

M. TERMINATION OF CONTRACT

1. Applicability: Clause M.2 applies to all AIP eligible projects that exceed \$10,000 and must be included in all subcontracts meeting that threshold.
2. Additional Termination Rights:
 - (a) RIAC may, by written notice, terminate this contract in whole or in part at any time, either for the RIAC's convenience or because of failure to fulfill the contract obligations. Upon receipt of such notice services must be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this contract, whether completed or in progress, delivered to RIAC.
 - (b) If the termination is for the convenience of RIAC, an equitable adjustment in the contract price will be made, but no amount will be allowed for anticipated profit on unperformed services.
 - (c) If the termination is due to failure to fulfill the contractor's obligations, RIAC may take over the work and prosecute the same to completion by contract or otherwise. In such case, the contractor is liable to RIAC for any additional cost occasioned to RIAC thereby.
 - (d) If, after notice of termination for failure to fulfill contract obligations, it is determined that the contractor had not so failed, the termination will be deemed to have been effected for the convenience of RIAC. In such event, adjustment in the contract price will be made as provided in paragraph ii of this clause.
 - (e) The rights and remedies of RIAC provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

N. TRADE RESTRICTION

1. Applicability: Clause N.2 applies to all AIP eligible projects and must be included in all subcontracts.
2. By submission of an offer, the Consultant certifies that with respect to this solicitation and any resultant contract, the Consultant:
 - (a) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
 - (b) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
 - (c) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

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

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

- i) 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
- ii) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
- iii) who incorporates in the public works project any product of a foreign country on such USTR list.

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

Consultant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. Consultant may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless 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 subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through RIAC cancellation of the contract or subcontract for default at no cost to RIAC or the FAA.

O. TEXTING WHEN DRIVING

1. Applicability: Clauses Q.2 and Q.3 apply to AIP eligible projects and must be included in all subcontracts.
2. 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), FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.
3. Consultant must promote policies and initiatives for employees and other work personnel that decrease crashes by distracted drivers, including policies to ban text messaging while driving. Consultant must include these policies in each third party subcontract involved on this project.

P. VETERAN'S PREFERENCE

1. Applicability: Clause P.2. applies to all AIP eligible projects and must be included in all subcontracts that involve labor.
2. In the employment of labor (except in executive, administrative, and supervisory positions), preference must be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Title 49 United States Code, Section 47112. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

Q. DISADVANTAGED BUSINESS ENTERPRISES

1. Applicability: Clauses S.2 through S.5 apply to all AIP eligible projects and must be included in all subcontracts.
2. In connection with the performance of this Contract, Consultant shall cooperate with RIAC in meeting its commitments and goals with respect to the maximum utilization of Disadvantaged Business Enterprises (DBEs). Consultant shall use reasonable efforts to ensure that DBEs shall have the maximum opportunity to compete for subconsultant and subcontractor work under this Contract in accordance with RIAC's requirements relating to disadvantaged businesses. The stated goal for DBE participation under this Contract will be determined for each project scope.
3. On a monthly basis, in such form as RIAC may require, Consultant shall provide a written report setting forth the efforts undertaken by Consultant to comply with the requirements of this section and the level of participation of disadvantaged enterprises in the work undertaken pursuant to this Contract. Such report shall accompany the monthly invoices for payment submitted by Consultant.
4. Consultant, and any subcontractor or subconsultant, shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. 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 contract, which may result in the termination of this Contract or such other remedy, as the recipient deems appropriate.

ARTICLE VIII. EXECUTION

SIGNATURES

IN WITNESS WHEREOF, the RIAC and Consultant have executed this Professional Services Contract as of the date first written above.

CONSULTANT NAME, "Consultant"

By: **name**

Signature: _____

Title: **Title**

RHODE ISLAND AIRPORT CORPORATION

RECOMMENDED:

Dennis Greco
Chief Operations Officer

APPROVED AS TO FORM & LEGALITY:

SUFFICIENCY OF FUNDS:

Brittany Pagliarini, Esq.
Assistant Vice President
Human Resource, Internal Legal Affairs

Brian Schattle
Senior Vice President, Chief Financial Officer

APPROVED:

ATTEST/SEAL:

Iftikhar Ahmad
President & CEO
