

AGREEMENT
For
PROFESSIONAL SERVICES FOR CONSTRUCTION PHASE OF COU – SOUTH
PARKING LOT
Between
THE CITY OF COLUMBIA, MISSOURI
And
BURNS & MCDONNELL ENGINEERING COMPANY, INC.

THIS AGREEMENT made by and between the City of Columbia, Missouri (hereinafter called "City"), and **Burns & McDonnell Engineering Company, Inc.** (hereinafter called "Consultant"), is entered into on the date of the last signatory noted below (the "Effective Date").

WITNESSETH, that whereas City intends to make improvements as described below, hereinafter called the Project, consisting of the following:

**CONSTRUCTION PHASE SERVICES FOR THE PAVING
OF THE SOUTH PARKING LOT AT COLUMBIA
REGIONAL AIRPORT**

WHEREAS, on March 25, 2022, CITY and CONSULTANT entered into an Agreement for Professional Engineering Services at Columbia Regional Airport; and

WHEREAS, the Agreement for Professional Engineering Services permitted Consultant to provide services to City as needed for construction phase inspection and administration.

NOW, THEREFORE, in consideration of the mutual covenants set out herein the parties agree as follows:

Consultant shall serve as City's consultant in those assignments to which this Agreement applies, and shall give consultation and advice to City during the performance of the services. All services shall be performed under the direction of a professional engineer registered in the State of Missouri and qualified in the particular field.

SECTION 1 - AUTHORIZATION OF SERVICES

1.1 Consultant shall not undertake to begin any of the services contemplated by this agreement until directed in writing to do so by City. City may elect to authorize the Project as a whole or in parts.

1.2 Authorized work may include services described hereafter as Basic Services or as Additional Services of Consultant.

SECTION 2 - BASIC SERVICES OF CONSULTANT

2.1 General

2.1.1 Perform professional consulting services as set forth in Exhibit I - "Scope of Basic Services," (hereinafter referred to as "Scope of Basic Services").

2.1.2 Consultant will designate the following listed individuals as its project team with responsibilities as assigned. Consultant shall dedicate whatever additional resources are necessary to accomplish the Project within the specified time frame but will not remove these individuals from the assigned tasks for any reason within the control of Consultant without the written approval of City.

<u>Name and Title</u>	<u>Assignment</u>
Jason Fuehne – Project Manager	Project Manager
Thomas Dowse – Senior Civil Engineer	Senior Civil Engineer
Ken Wachira – Senior Civil Engineer	Staff Civil Engineer
Zavian Hill – Resident Project Representative	Resident Project Representative

All of the services required hereunder will be performed by Engineer or under its supervision and all personnel engaged in the work shall be fully qualified and authorized or permitted under state and local law to perform such services.

2.2 Consultant shall furnish such periodic reports as City may request pertaining to the work or services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred, and any other matters covered by this Agreement.

2.3 Consultant shall maintain accounts and records, including personnel, property and financial records, adequate to identify and account for all costs pertaining to the Agreement and any other records as deemed necessary by City to assure proper accounting for all project funds. These records must be available to City or its authorized representatives, for audit purposes, and must be retained for three (3) years after expiration or completion of this Agreement.

SECTION 3 - ADDITIONAL SERVICES OF CONSULTANT

3.1 General

If authorized in writing by City, and agreed to in writing by Consultant, Consultant shall furnish or obtain from others Additional Services of the following types which are not considered normal or customary Basic Services. The scope of Additional Services may include:

3.1.1 Obtaining Services of Others

Provide through subcontract the services or data set forth in Scope of Basic Services. Consultant is prohibited from holding a retainage on any payment to a subcontractor that provides any services or work on this Project.

3.1.2 Extra Services

Services not specifically defined heretofore that may be authorized in writing by City.

SECTION 4 - RESPONSIBILITIES OF CITY

4.1 Provide full information as to City's requirements for the Project.

4.2 Assist Consultant by placing at Consultant's disposal available information pertinent to the assignment including previous reports and other data relative thereto, including the items outlined in Scope of Basic Services.

4.3 Guarantee access to and make all provisions for Consultant to enter upon public and private property as required for Consultant to perform Consultant's services under this Agreement.

4.4 Examine all reports, sketches, estimates, Drawings, proposals and other documents presented by Consultant and render in writing decisions pertaining thereto.

4.5 Provide such professional legal, accounting, financial and insurance counseling services as may be required for the Project.

4.6 Designate **Shane Creech**, Acting Public Works Director, as City's representative with respect to the services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define City's policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement. The City's designated representative may be changed during the duration of this Agreement by written notice from the City Manager, or City Manager's designee, to Consultant.

4.7 Give prompt written notice to Consultant whenever City observes or otherwise becomes aware of any defect in the Project.

4.8 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.

4.9 Furnish Consultant data such as probings and subsurface explorations, with appropriate professional interpretations; property, boundary, easement, right-of-way, topographic and utility surveys; zoning and deed restriction; and other special data

or consultations, all of which Consultant may rely upon in performing his services under this Agreement.

SECTION 5 - PERIOD OF SERVICE

5.1 This Agreement will become effective upon the first written notice by City authorizing services hereunder.

5.2 This Agreement shall be applicable to all work assignments authorized by City subsequent to the date of its execution and shall be effective as to all assignments authorized.

5.3 Services shall be started within 10 calendar days of Notice to Proceed and completed within **ninety (90)** calendar days from City final acceptance of the parking lot paving project (performed by Others). City shall have the right to establish performance times for individual phases or elements of the Project by delivering a written schedule setting out the performance times to the Consultant.

SECTION 6 - PAYMENTS TO CONSULTANT

6.1 Amount of Payment

6.1.1 For services performed, City agrees to pay Consultant the lump sum of eighty-nine thousand and six hundred dollars (**\$89,600.00**), which shall constitute complete compensation for all services and payment of expenses to be rendered under this Agreement, which is shown in Exhibit II, "Derivation of Consultant Project Costs" and Exhibit III, "Summary of Costs?"

6.1.2 It is expressly understood that in no event will the total amount paid to Consultant under the terms of this Agreement, or any amendment thereto, exceed the sum set forth in paragraph 6.1.1 unless otherwise agreed to in writing between the parties in advance of the provision of such services.

6.2 Payments

6.2.1 Consultant shall submit an invoice to City for the percentage of services rendered to date under this Agreement not more than once every month. Upon receipt of the invoice and progress report, City will, as soon as practical, pay Consultant for the services rendered, provided City does not contest the invoice.

SECTION 7 - GENERAL CONSIDERATIONS

7.1 Insurance

7.1.1 **CONSULTANT'S INSURANCE:** Consultant agrees to maintain, on a primary basis and at its sole expense, at all times during the life of this contract the

following insurance coverages, limits, including endorsements described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by Consultant is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Consultant under this contract.

Commercial General Liability Consultant agrees to maintain Commercial General Liability at a limit of liability not less than **\$1,000,000** per occurrence and **\$3,000,000** aggregate covering both bodily injury and property damage, including accidental death. Coverage shall not contain any endorsement(s) excluding nor limiting Contractual Liability or Cross Liability. If the contract involves any underground/digging operations, the general liability certificate shall include X, C and U (Explosion, Collapse and Underground) coverage.

Professional Liability Consultant agrees to maintain Professional (Errors & Omissions) Liability at a limit of liability not less than **\$1,000,000** per occurrence and **\$3,000,000** aggregate. For policies written on a "Claims-Made" basis, Consultant agrees to maintain a Retroactive Date prior to or equal to the Effective Date of this contract. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced; or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract, Consultant agrees to purchase a SERP with a minimum reporting period not less than two (2) years. The requirement to purchase a SERP shall not relieve Consultant of the obligation to provide replacement coverage.

Business Automobile Liability Consultant agrees to maintain Business Automobile Liability at a limit of liability not less than **\$1,000,000** per occurrence and **\$3,000,000** aggregate, covering both bodily injury, including accidental death, and property damage, to protect themselves from any and all claims arising from the use of the Consultant's own automobiles, and trucks; hired automobiles, and trucks; and automobiles both on and off the site of work. Coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event Consultant does not own automobiles, Consultant agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation Insurance & Employers' Liability Consultant agrees to take out and maintain during the life of this contract, Employers' Liability and Workers' Compensation Insurance for all of their employees employed at the site of the work, and in case any work is sublet, the Consultant shall require the subcontractor similarly to provide Workers' Compensation Insurance for all the latter's employees unless such employees are covered by the protection afforded by the Consultant. Workers' Compensation coverages shall meet Missouri statutory limits. Employers' Liability limits shall be \$500,000 each employee, \$500,000 each accident and \$500,000 policy limit. In case any class of employees engaged in hazardous work under this contract is not protected under the Workers' Compensation Statute, the Consultant shall provide and shall cause each subcontractor to provide Employers' Liability Insurance for the protection of their employees not otherwise protected.

Excess/Umbrella Liability The above liability limits may be satisfied by any combination of primary and excess/umbrella liability policies.

Additional Insured Consultant agrees to endorse City as an Additional Insured with a CG 2026 Additional Insured – Designated Person or Organization endorsement, or similar endorsement, to the Commercial General Liability. The Additional Insured shall read “City of Columbia.”

Waiver of Subrogation Consultant agrees by entering into this contract to a Waiver of Subrogation for each required policy herein except professional liability. When required by the insurer, or should a policy condition not permit Consultant to enter into an pre-loss agreement to waive subrogation without an endorsement, then Consultant agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should Consultant enter into such an agreement on a pre-loss basis.

Certificate(s) of Insurance Consultant agrees to provide City with Certificate(s) of Insurance evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect. Said Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. The Certificate(s) of Insurance shall name the City as additional insured in an amount as required in this contract and contain a description of the project or work to be performed.

Right to Revise or Reject City reserves the right, but not the obligation, to review and revise any insurance requirement, not limited to limits, coverages and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work / specifications affecting the applicability of coverage. Additionally, City reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated herein or any insurer providing coverage due of its poor financial condition or failure to operating legally.

7.1.2 HOLD HARMLESS AGREEMENT: To the fullest extent not prohibited by law, Consultant shall indemnify and hold harmless the City of Columbia, its directors, officers, agents and employees from and against all claims, damages, losses and expenses (including but not limited to reasonable attorney's fees) arising by reason of any negligent act or failure to act, or willful misconduct, of Consultant, of any subcontractor (meaning anyone, including but not limited to consultants having a contract with Consultant or a subcontractor for part of the services), of anyone directly or indirectly employed by Consultant or by any subcontractor, or of anyone for whose acts Consultant or its subcontractor may be liable, in connection with providing these services except as provided in this Agreement. This provision does not, however, require Consultant to indemnify, hold harmless or defend the City of Columbia from its own negligence, except as set out herein.

7.2 Professional Responsibility

7.2.1 Consultant will exercise reasonable skill, care, and diligence in the performance of its services and will carry out its responsibilities in accordance with customarily accepted good professional engineering practices. If Consultant fails to meet the foregoing standard, Consultant will perform at its own cost, and without reimbursement from City, the professional engineering services necessary to correct errors and omissions which are caused by Consultant's failure to comply with above standard, and which are reported to Consultant within one year from the completion of Consultant's services for the Project.

7.2.2 In addition, Consultant will be responsible to City for damages caused by its negligent conduct during its activities at the Project site or in the field.

7.2.3 Professional Oversight Indemnification

Consultant understands and agrees that City has contracted with Consultant based upon Consultant's representations that Consultant is a skilled professional and fully able to provide the services set out in this Agreement. In addition to any other indemnification set out in this Agreement, Consultant agrees to defend, indemnify and hold and save harmless City from any and all claims, settlements and judgments whatsoever arising out of City's alleged negligence in hiring or failing to properly supervise Consultant. Consultant agrees to provide City with Certificate(s) of Insurance evidencing that all coverages, limits and endorsements are maintained and in full force and effect.

7.3 Estimates and Projections

Estimates and projections prepared by Consultant relating to construction costs and schedules, operation and maintenance costs, equipment characteristics and performance, and operating results are based on Consultant's experience, qualifications and judgment as a design professional. Since Consultant has no control over weather, cost and availability of labor, material and equipment, labor productivity, construction contractor's procedures and methods, unavoidable delays, construction contractor's methods of determining prices, economic conditions, competitive bidding or market conditions and other factors affecting such estimates or projections, Consultant does not guarantee that actual rates, costs, performance, schedules, etc., will not vary from estimates and projections prepared by Consultant.

7.4 On-Site Services

Project site visits by Consultant during construction shall not make Consultant responsible for construction means, methods, techniques, sequences or procedures; for construction safety precautions or programs; or for any construction contractor(s)' failure to perform its work in accordance with the plans and specifications.

7.5 Changes

City shall have the right to make changes within the general scope of Consultant's services, with an appropriate change in compensation and/or schedule,

upon execution of a mutually acceptable amendment or change order signed by an authorized representative of City and the President or any Vice President of Consultant.

7.6 Suspension of Services

Should City fail to fulfill its responsibilities as provided under Section 4 to the extent that Consultant is unduly hindered in Consultant's services or if City fails to make any payment to Consultant on account of its services and expenses within ninety (90) days after receipt of Consultant's bill therefor, Consultant may, after giving seven (7) days' written notice to City, suspend services under this Agreement until City has satisfied his obligations under this Agreement.

7.7 Termination

Services may be terminated by the City at any time and for any reason, and by Consultant in the event of substantial failure to perform in accordance with the terms hereof by City through no fault of Consultant, by ten (10) days' notice. If so terminated, City shall pay Consultant all uncontested amounts due Consultant for all services properly rendered and expenses incurred to the date of receipt of notice of termination.

7.7.1 In the event of City's termination of this Agreement pursuant to the above section, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared under this Agreement, shall at the option of City become its property.

Further, Consultant shall not be relieved of any liability to City for any damages sustained by City by virtue of any breach of this Agreement by Consultant and City may withhold any payments due Consultant for the purpose of set-off until such time as the exact amount of damages to City, if any, is determined.

7.8 Publications

Recognizing the importance of professional development on the part of Consultant's employees and the importance of Consultant's public relations, Consultant may prepare publications, such as technical papers, articles for periodicals, and press releases, pertaining to Consultant's services for the Project. Such publications will be provided to City in draft form for City's advance review. City will review such drafts promptly and will provide comments to Consultant. City may require deletion of proprietary data or confidential information from such publications but otherwise will not unreasonably withhold its approval. The cost of Consultant's activities pertaining to any such publication shall be paid entirely by Consultant.

7.9 Nondiscrimination

During the performance of this Agreement, Consultant agrees to the following:

7.9.1 Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, national origin, ancestry,

marital status, disability, sexual orientation, gender identity or expression, or any other protected category designated by local, state, or federal law. Consultant shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, age, national origin, ancestry, marital status, disability, sexual orientation, gender identity or expression, or any other protected category designated by local, state, or federal law. 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 notices in conspicuous places, available to employees and applicants for employment.

7.9.2 Consultant shall, in all solicitation 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, age, national origin, ancestry, marital status, disability, sexual orientation, gender identity or expression, or any other protected category designated by local, state, or federal law.

7.9.3 Consultant shall comply with all provisions of State and Federal Laws governing the regulation of Equal Employment Opportunity including Title VI of the Civil Rights Act of 1964.

7.10 Successor and Assigns

City and Consultant each binds himself and his successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither City nor Consultant shall assign, sublet or transfer his interest in the Agreement without the written consent of the other.

7.11 Rights and Benefits

Consultant's services will be performed solely for the benefit of the City and not for the benefit of any other persons or entities.

7.12 Compliance with Local Laws

Consultant shall comply with all applicable laws, ordinances and codes of the state and city.

7.12.1 Federal and/State Grant Requirements

Consultant acknowledges that state and/or federal grant funds are being used for this Project. Consultant shall familiarize itself and shall comply with all conditions and requirements for the utilization of such grant funds, including but not limited to, those set forth in Exhibit IV attached hereto (collectively "Grant Requirements"). Consultant shall include in contracts with its subcontractors provisions that require subcontractors to comply with Grant Requirements.

7.13 Law; Submission to Jurisdiction Governing

This Agreement shall be governed by, interpreted and enforced in accordance with the laws of the State of Missouri and/or the laws of the United States, as applicable. The venue for all litigation arising out of, or relating to this Agreement, shall be Boone County, Missouri or the United States Western District of Missouri. The parties hereto irrevocably agree to submit to the exclusive jurisdiction of such courts in the State of Missouri and waive any defense of forum non conveniens.

7.14 Employment of Unauthorized Aliens Prohibited

7.14.1 Consultant agrees to comply with Missouri State Statute section 285.530 in that they shall not knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri.

7.14.2 As a condition for the award of this Agreement, Consultant shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Consultant shall also sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.

7.14.3 Consultant shall require each subcontractor to affirmatively state in its contract with Consultant that the subcontractor shall not knowingly employ, hire for employment or continue to employ an unauthorized alien to perform work within the state of Missouri. Consultant shall also require each subcontractor to provide Consultant with a sworn affidavit under the penalty of perjury attesting to the fact that the subcontractor's employees are lawfully present in the United States.

7.15 Missouri Anti-Discrimination Against Israel Act: To the extent required by Missouri Revised Statute Section 34.600, Consultant certifies it is not currently engaged in and shall not, for the duration of this Agreement, engage in a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel. If any provision of this paragraph, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. This paragraph shall not apply to contracts with a total potential value of less than one hundred thousand dollars (\$100,000.00) or to contractors with fewer than ten (10) employees.

7.16 No Waiver of Immunities

In no event shall the language of this Agreement constitute or be construed as a waiver or limitation for either party's rights or defenses with regard to each party's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitutions or laws.

7.17 Counterparts and Electronic Signatures

This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Faxed signatures, or scanned and electronically transmitted signatures, on this Agreement or any notice delivered pursuant to this Agreement, shall be deemed to have the same legal effect as original signatures on this Agreement.

7.18 Agreement Documents

This Agreement includes the following exhibits, which are incorporated herein by reference:

<u>Exhibit</u>	<u>Description</u>
I	Scope of Work
II	Derivation of Consultant Project Costs
III	Summary of Costs
IV	Federal Provisions
V	Work Authorization Affidavit

In the event of a conflict between the terms and conditions of this Agreement and any exhibit hereto, the terms contained in this Agreement shall prevail and the terms contained in any exhibit shall subsequently prevail in the order attached hereto.

7.19 Entire Agreement

This Agreement represents the entire and integrated Agreement between Consultant and City relative to the Scope of Basic Services herein. All previous or contemporaneous agreements, representations, promises and conditions relating to Consultant's services described herein are superseded.

[SIGNATURES ON FOLLOWING PAGE]

CITY OF COLUMBIA, MISSOURI

By: _____
City Manager

[Handwritten Signature]
10/12/22

Date: _____

ATTESTED BY:

Sheela Amin, City Clerk

APPROVED AS TO FORM:

Nancy Thompson, City Counselor

CERTIFICATION: I hereby certify that the above expenditure is within the purpose of the appropriation to which it is charged, Account No. 55416288-604990, AP124, and that there is an unencumbered balance to the credit of such appropriation sufficient to pay therefor.

By: _____
Director of Finance

Burns & McDonnell Engineering Company, Inc.

By: DocuSigned by:
Jason Fuchne _____
8C1BE58C92BF457...

Date: 10/25/2022

ATTEST:

By: _____

Name: _____

EXHIBIT I

PROJECT DESCRIPTION

1. Provide professional services for the construction phase of the paving of the new south parking lot at the Columbia Regional Airport (COU). This Project includes the following improvements:
 - a. Installation of base rock, asphalt pavement, and concrete curbing for the new parking lot.
 - b. Installation of pavement markings.
 - c. Installation of signage.
2. This Project excludes to the following:
 - a. Site grading.
 - b. Site restoration.
 - c. Site storm drainage infrastructure.
 - d. Site electrical lighting and lighting systems.
 - e. Site utilities improvements.

SCOPE OF SERVICES

CONSTRUCTION SERVICES

1. Construction Phase Services (Office): Construction duration is estimated at 60 Calendar Days for the Contractor's performance time during the 2022 Calendar Year. The CONSULTANT has assumed the successful Contractor will work Monday thru Friday for 40 actual working days.

This phase will include providing construction phase services for the construction of the Project including the following activities:

- a. Attend and conduct, at the Airport, one preconstruction meeting with the Contractor, and SPONSOR. This meeting will be attended by the CONSULTANT'S Project Manager, Office Representative, and Resident Project Representative (RPR). The preconstruction conference will comply with FAA Central Region, AIP Sponsor Guide, Section 1040. Meeting minutes will be prepared by the CONSULTANT and distributed to the point of contact for each attending entity.
- b. Develop a Construction Observation Program, (COP). This document will outline the general responsibilities of the SPONSOR, CONSULTANT and Construction Contractor. The document will be developed in accordance to FAA's Section 1030 – Construction Observation Program. The COP will include the following items:
 - i. Name of the person representing the SPONSOR who has overall responsibility of contract administration for the Project and the authority to take necessary actions to comply with the contract.
 - ii. Names of testing laboratories and a certificate of accreditation, indicating proficiency in specific test standards.
 - iii. Names of other engineering firms with quality assurance responsibilities for the Project including a description of the services to be provided by each firm.
 - iv. Listing of qualifications for the CONSULTANT'S management team including; Project Manager, site observers, laboratory personnel, and testing personnel.
 - v. Listing of tests required by the contract specifications, including the type and frequency of tests to be taken, the method of sampling, the applicable test standard, and the acceptance criteria or tolerances permitted for each type of test.
 - vi. Procedures for confirming that:
 - (a) Tests are taken in accordance with the approved construction observation program.
 - (b) Tests are documented properly.

- (c) Corrective actions/retesting are taken for failed tests.
 - (d) Mix designs meet project specifications and CONSULTANT'S review is properly documented.
 - (e) Quality and quantity of materials meet project requirements.
- c. Respond to field issues throughout the duration of the construction. It is assumed this effort will require 2 hours per week for 8 weeks for a not-to-exceed total of 16 hours.
 - d. Prepare and procure construction services contracts for material testing laboratory.
 - e. Review and provide recommendations for monthly and final Contractor pay estimates and submit weekly progress reports. Assumed to be two pay estimates at 1-hour each and nine progress reports at 1-hour each for a not-to-exceed total of 11 hours.
 - f. Prepare routine Change Orders as requested by SPONSOR. This effort assumes 2 change order at 6 hours per change order for a not-to-exceed total of 12 hours.
 - g. Coordinate and review weekly test reports. CONSULTANT assumes 1 hour per week for a duration of 8 weeks and not-to-exceed 8 total hours.
 - h. Attend weekly progress meetings via conference call and prepare meeting minutes. CONSULTANT assumes 2-hours per week for 9-weeks for a not-to-exceed total of 18 hours.
 - i. Project Management: CONSULTANT shall provide project management throughout the duration of construction. This effort is estimated at 2 hours per week for a duration of 9 weeks for a not-to-exceed 18 total hours.
 - j. Make milestone site visits. The planned site visits are as follows:
 - i. Trip No. 1: Observe the initial base rock installation operations. The duration of this trip (including travel, time on site, preparation, and reporting) will be 8 hours.
 - ii. Trip No. 2: Observe the initial paving operations. The duration of this trip (including travel, time on site, preparation, and reporting) will be 8 hours.
 - iii. Trip No. 3: Attend final walk through with the SPONSOR. The duration of this trip (including travel, time on site, preparation, and reporting) will be 8 hours.

2. Construction Phase Services (Field): Construction duration, at this time, is estimated at 60 Calendar Days. The CONSULTANT has assumed the successful Contractor will work Monday thru Friday for 40 actual working days.

This phase will include providing construction phase services for the construction of the Project including the following activities:

- a. Provide a PART-TIME Resident Project Representative (RPR) on site for 32 working days, Monday thru Thursday, for 8 hours per day or for a not-to-

exceed duration of 256 hours. The RPR will be responsible for the following reporting:

- i. Weekly Reports: Testing summaries, weather reports, DBE reports, labor and equipment reports, and weekly progress photos. The weekly reports will be submitted on a weekly basis to the OWNER.
 - ii. Final Report: At the conclusion of the Project, the CONSULTANT shall submit a final test and quality testing report documenting the results of tests performed. The reports shall include the pay reductions applied and justification of accepting any out-of-tolerance materials.
 - iii. Wage Rate Interviews and DBE Compliance Reports: These reports will be conducted on a random basis as work progresses throughout the duration of the Project.
- b. Keep an ongoing record set of drawings based on the Contractor's onsite red lined drawings.
 - c. Attend the preconstruction meeting and weekly construction progress meetings.
 - d. Prepare a final punch list for the Project.

CONSULTANT'S RPR will observe the progress and quality of the executed Work, and to determine, in general, if the Project is proceeding in reasonably close conformance with the Contract Documents.

3. Project Closeout Phase: This includes activities for verification of punch list completion, providing final project closeout documentation and creating a record set of conforming to construction records drawings. The specific elements of work include:

- a. Prepare and submit to the SPONSOR one (1) electronic set of redlined construction drawings. These drawings will be developed from documentation created by the Contractor and CONSULTANT throughout the duration of the Project. CONSULTANT shall be entitled to rely on the documentation created and provided by the Contractor.
- b. Final Construction Report: The CONSULTANT will prepare information for the final construction report work in accordance with the FAA Central Region, Airport Sponsor Guide, Section 1610, Development Project Closeout, as applicable to this project.

SPECIAL SERVICES

- A. Construction Materials Testing
 - 1. Perform materials testing (field and laboratory) as required by the COP.

EXCLUSIONS

- A. Develop Issued for Construction (IFC) Documents and provide copies of documents to the Contractor and the CONSULTANT. This work shall be completed by the SPONSOR's design engineer and SPONSOR staff.
- B. Develop Contractor's construction contracts and facilitate execution of contracts with the SPONSOR and MoDOT. This work shall be completed by the SPONSOR's design engineer and SPONSOR staff.
- C. Perform shop drawing reviews, material certifications and "Buy American" verifications as received from the Contractor. This work shall be completed by the SPONSOR's design engineer.
- D. Airport Layout Plan (ALP) drawing update.

SUMMARY EXHIBIT II

DERIVATION OF CONSULTANT PROJECT COSTS

COU - South Parking Lot Construction
 Construction Phase Services
 Columbia, MO
 BASIC & SPECIAL SERVICES
 September 19, 2022

1 DIRECT SALARY COSTS

<u>TITLE</u>	<u>HOURS</u>	<u>RATE/HR</u>	<u>COST (\$)</u>		
			<u>Office</u>	<u>Field</u>	<u>Contract</u>
Project Manager	74.00	\$ 55.00	\$ 4,070.00	\$ -	\$ -
Sr. Civil Engineer	65.00	\$ 45.00	\$ 2,925.00	\$ -	\$ -
Staff Civil Engineer	24.00	\$ 40.00	\$ 960.00	\$ -	\$ -
Resident Project Representative	288.00	\$ 42.00	\$ 12,096.00	\$ -	\$ -
Total Hours	451.00				
Total Direct Salary Costs			\$ 20,051.00	\$ -	\$ -

2 LABOR & GENERAL ADMINISTRATIVE OVERHEAD

a. Percentage of Direct Salary Cost: (Office Rate)	224.89%	\$ 45,092.69			
b. Percentage of Direct Salary Cost: (Field Rate)	188.24%	\$ -			
c. Percentage of Direct Salary Cost: (Contract Employee Rate)	0.00%	\$ -			
d. FCCM Rate (Optional)	0.00%	\$ -			

3 SUBTOTAL

Summary of Items No. 1 and No. 2 (a,b,c): \$ 65,143.69 \$ - \$ -

4 PROFIT/FIXED FEE:

Percentage: 10.00% \$ 6,514.37 \$ - \$ -

5 SUBTOTAL

Summary of Items No. 1, No. 2 & No. 4: (Lump Sum Fee) \$ 71,658.06 \$ - \$ -

6 OUT OF POCKET EXPENSES

<u>OFFICE</u>	No. of Units	Units	Cost/Unit			
Travel: Mileage	1,320.00	Miles	\$ 0.625	\$ 825.00		
Food: Per Diem	5.00	Per Day	\$ 59.00	\$ 295.00		
Printing, Shipping & Misc.				\$ 449.71		
Subtotal				\$ 1,569.71	\$ -	\$ -

<u>FIELD</u>	No. of Units	Units	Cost/Unit			
Travel: Mileage	3,840.00	Miles	\$ 0.625	\$ 2,400.00	\$ -	
Food: Per Diem	45.00	Per Day	\$ 59.00	\$ 2,655.00	\$ -	
Lodging: Per Diem (incl. taxes)	45.00	Per Day	\$ 116.00	\$ 5,220.00	\$ -	
Printing, Shipping & Misc.				\$ 297.23	\$ -	
Subtotal				\$ -	\$ 10,572.23	\$ -

Summary of Out of Pocket Expenses: (Not to Exceed) \$ 1,569.71 \$ 10,572.23 \$ -

7 SUBCONSULTANTS

ES&S	\$ -	\$ -	\$ -	\$ 5,800.00
Subtotal (Not to Exceed)	\$ -	\$ -	\$ -	\$ 5,800.00

8 MAXIMUM TOTAL FEE

Subtotal \$ 73,227.77 \$ 10,572.23 \$ 5,800.00

TOTAL (Not to Exceed) \$ 89,600.00

SUMMARY EXHIBIT III								
SUMMARY OF COSTS								
COU - South Parking Lot Construction								
Construction Phase Services								
Columbia, MO								
BASIC & SPECIAL SERVICES								
September 19, 2022								
		Principal	Project Manager	Sr. Civil Engineer	Staff Civil Engineer	Resident Project Representative	Other Costs	
Gross Hourly Rates		\$ 250.17	\$ 196.56	\$ 160.82	\$ 142.95	\$ 150.10		
BASIC SERVICES								
	1	Construction Phase Services (Office)	0.0	74.0	49.0	24.0	0.0	Sum: (1, 2, 3, 4, & 5)
Total =		\$ 27,100.00	\$ -	\$ 14,545.33	\$ 7,880.21	\$ 3,430.84	\$ -	\$ 1,243.63
	2	Construction Phase Services (Field)	0.0	0.0	0.0	0.0	280.0	Sum: (1, 2, 3, 4, & 5)
Total =		\$ 52,600.00	\$ -	\$ -	\$ -	\$ -	\$ 42,027.77	\$ 10,572.23
	3	Construction Phase Services (Closeout)	0.0	0.0	16.0	0.0	8.0	Sum: (1, 2, 3, 4, & 5)
Total =		\$ 4,100.00	\$ -	\$ -	\$ 2,573.13	\$ -	\$ 1,200.79	\$ 326.08
PART A SUBTOTAL		\$ 83,800.00						
SPECIAL SERVICES								
	1	Construction Materials Testing	0.0	0.0	0.0	0.0	0.0	Sum: (1, 2, 3, 4, & 5)
Total =		\$ 5,800.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,800.00
PART B SUBTOTAL		\$ 5,800.00						
PART A & PART B TOTAL		\$ 89,600.00						
(1) Mileage, Motel & Meals		(3) Computer Services		(5) Miscellaneous Items				
(2) Equipment, Materials & Supplies		(4) Vendor Services						
SUMMARY EXHIBIT 3								

FEDERAL CONTRACT PROVISIONS FOR A/E AGREEMENTS

ALL REFERENCES MADE HEREIN TO "CONTRACTOR", "PRIME CONTRACTOR", "BIDDER", AND "OFFEROR" SHALL PERTAIN TO THE ARCHITECT/ENGINEER (A/E).

ALL REFERENCES MADE HEREIN TO "SUBCONTRACTOR", "SUB-TIER CONTRACTOR" OR "LOWER TIER CONTRACTOR" SHALL PERTAIN TO ANY SUBCONSULTANT UNDER CONTRACT WITH THE A/E.

ALL REFERENCES MADE HEREIN TO "SPONSOR" AND "OWNER" SHALL PERTAIN TO THE STATE, CITY, AIRPORT AUTHORITY OR OTHER PUBLIC ENTITY EXECUTING CONTRACTS WITH THE A/E.

ACCESS TO RECORDS AND REPORTS

Reference: 2 CFR § 200.333, 2 CFR § 200.336, and FAA Order 5100.38

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

CIVIL RIGHTS – GENERAL

Reference: 49 USC § 47123

The contractor 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.

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

CIVIL RIGHTS – TITLE VI ASSURANCE

Reference: 49 USC § 47123 and FAA Order 1400.11

A) Title VI Solicitation Notice

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

B) Title VI Clauses for Compliance with Nondiscrimination Requirements

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

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

C) Title VI List of Pertinent Nondiscrimination Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

DISADVANTAGED BUSINESS ENTERPRISE

Reference: 49 CFR part 26

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

Prompt Payment (§26.29) - The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) calendar days from the receipt of each payment the prime contractor receives from the Sponsor. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Sponsor. This clause applies to both DBE and non-DBE subcontractors.

ENERGY CONSERVATION REQUIREMENTS

Reference: 2 CFR § 200, Appendix II (H)

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

FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

Reference: 29 USC § 201, et seq.

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

The Consultant has full responsibility to monitor compliance to the referenced statute or regulation. The Consultant must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Wage and Hour Division.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Reference: 20 CFR part 1910

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

RIGHT TO INVENTIONS

Reference: 2 CFR § 200 Appendix II (F) and 37 CFR §401

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

SEISMIC SAFETY

Reference: 49 CFR part 41

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

TRADE RESTRICTION CERTIFICATION

Reference: 49 USC § 50104 and 49 CFR part 30

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

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

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

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

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

- a) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or
- b) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or
- c) who incorporates in the public works project any product of a foreign country on such U.S.T.R. list;

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

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

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

VETERAN'S PREFERENCE

Reference: 49 USC § 47112(c)

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

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$3,500

DISTRACTED DRIVING

Reference: Executive Order 13513 and DOT Order 3902.10

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), the FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The

Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$10,000

TERMINATION OF CONTRACT

Reference: 2 CFR § 200 Appendix II (B)

Termination for Convenience

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

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

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

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

Termination by Default

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

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

- a) Termination by Owner: The Owner may terminate this Agreement in whole or in part, for the failure of the Consultant to:
 - 1) Perform the services within the time specified in this contract or by Owner approved extension;
 - 2) Make adequate progress so as to endanger satisfactory performance of the Project;
 - 3) Fulfill the obligations of the Agreement that are essential to the completion of the Project.

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

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

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are

incomplete as a result of the termination action under this clause.

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

- b) Termination by Consultant: The Consultant may terminate this Agreement in whole or in part, if the Owner:
 - 1) Defaults on its obligations under this Agreement;
 - 2) Fails to make payment to the Consultant in accordance with the terms of this Agreement;
 - 3) Suspends the Project for more than [180] days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Engineer is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$25,000

DEBARMENT AND SUSPENSION

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

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that at the time the bidder or offeror 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.

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

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

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

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$100,000

CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

Reference: 2 CFR § 200 Appendix II (E)

1) Overtime Requirements.

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

2) Violation; Liability for Unpaid Wages; Liquidated Damages.

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

3) Withholding for Unpaid Wages and Liquidated Damages.

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

4) Subcontractors.

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

LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

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

The bidder or offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress

in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- 3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$150,000

BREACH OF CONTRACT TERMS

Reference: 2 CFR § 200 Appendix II (A)

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

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

CLEAN AIR AND WATER POLLUTION CONTROL

Reference: 2 CFR § 200 Appendix II (G)

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

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

NOTICE TO VENDORS

Section 285.525 – 285.550 RSMo Effective January 1, 2009

Effective January 1, 2009 and pursuant to RSMo 285.530 (1), No business entity or employer shall knowingly employ, hire for employment, or continue to employ an unauthorized alien to perform work within the state of Missouri.

As a condition for the award of any contract or grant in excess of five thousand dollars by the state or by any political subdivision of the state to a business entity, or for any business entity receiving a state administered or subsidized tax credit, tax abatement, or loan from the state, the business entity shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Every such business entity shall sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. [RSMO 285.530 (2)]

An employer may enroll and participate in a federal work authorization program and shall verify the employment eligibility of every employee in the employer's hire whose employment commences after the employer enrolls in a federal work authorization program. The employer shall retain a copy of the dated verification report received from the federal government. Any business entity that participates in such program shall have an affirmative defense that such business entity has not violated subsection 1 of this section. [RSMO 285.530 (4)]

For vendors that are not already enrolled and participating in a federal work authorization program, E-Verify is an example of this type of program. Information regarding E-Verify is available at:
http://www.dhs.gov/xprevprot/programs/gc_1185221678150.shtm.

