PROJECT MANUAL

FOR

FIELD MAINTENANCE BUILDING CANOPY ADDITION

Project Number: LD17-011

CITY OF CHARLOTTE, NORTH CAROLINA

ADVERTISEMENT DATE: MAY 15, 2017
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I. INVITATION TO BID
INVASATION TO BID

The City of Charlotte (the “City”) hereby invites sealed bids for the following project at Charlotte Douglas International Airport:

**PROJECT NAME:** Field Maintenance Building Canopy Addition  
**PROJECT NUMBER:** LD17-011

**PRE-BID CONFERENCE DATE AND TIME:** May 31, 2017 @ 9:00am – PLEASE NOTE THE LOCATION ADDRESS  
**PRE-BID CONFERENCE LOCATION:** Airfield Maintenance Building  
4302 Yorkmont Road  
Charlotte, NC 28208

**BID DUE DATE AND TIME:** June 14, 2017 @ 1:30pm – PLEASE NOTE THE LOCATION ADDRESS  
**BID OPENING LOCATION:** CLT Center  
5601 Wilkinson Blvd  
Charlotte, NC 28208

**SCOPE OF WORK:** To construct and install a 70'x 130' pre-fabricated steel canopy structure that is equipped with adequate electrical, lighting and fire sprinkler system for the Airfield Maintenance Building located at 4302 Yorkmont Rd, Charlotte, NC 28208.

This scope also includes the demolition of a 20'x135' asphalt section of pavement that is to be replaced with a 20'x135'x 6" deep concrete section. Contactor is to include disposal of all waste materials from the sight.

**Pre-Bid Conference:** Attendance at the Pre-Bid Conference is not mandatory, but is strongly encouraged. All visitors to the CLT Center are required to show photo ID and obtain a visitor’s pass from the CLT Center front desk. Please allow time for this procedure as the Pre-Bid Conference and Bid Opening times can NOT be changed for any reason. Preferred brand alternates, to the extent applicable, will be addressed at the Pre-Bid Conference.

**Title VI Solicitation Notice:** The City, 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 Invitation to Bid, 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.
II. INSTRUCTIONS TO BIDDERS
1.0 DEFINITIONS

1.1 AIP. The Airport Improvements Program, a grant program administered by the Federal Aviation Administration.

1.2 Addendum or Addenda. Written or graphic instruments issued by the Owner prior to the submission of Bids which modify or interpret the Bidding Documents by additions, deletions, clarifications, or corrections or other type of modifications. Bidders, upon receiving Addenda, shall insert same into the Bid Documents.

1.3 Additive or Deductive Bid Item (Alternate Bid). An amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted by the Owner.

1.4 Air Operations Area (AOA). Any area of the Airport used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft. An air operation area shall include such paved or unpaved areas that are used or intended to be used for the unobstructed movement of aircraft in addition to its associated runway, taxiway, or apron.

1.5 Airport. The Charlotte Douglas International Airport, including all areas of land or water used or intended to be used for the landing and takeoff of aircraft and including its buildings and facilities, if any.

1.6 Authorized Representative. The firm or individual nominated by the Owner to act on behalf of the Owner; e.g., Engineer and/or Architect of Record, City Project Manager or others as designated by Owner.

1.7 Award. The acceptance, by the Owner, of the successful bidder’s proposal upon authorization of the Charlotte City Council.

1.8 Base Bid. The sum stated in the Bid for which the Bidder offers to perform the work described in the Bidding Documents as the base, to which work may be added or from which work may be deducted for sums stated in Additive or Deductive Bid Items.

1.9 Bid. A complete and properly signed offer to do the work or designated portion thereof for the sums stipulated therein submitted in accordance with the Bidding Documents.

1.10 Bid Documents. All documents and forms contained in this Project Manual.

1.11 Bid Security. The security furnished with a Bid to guarantee that the Bidder will enter into the Contract if its Bid is accepted by the Owner.

1.12 Bidder. Any individual, partnership, firm, corporation or other business entity acting directly through a duly authorized representative, who submits a bid for the Work contemplated.

1.13 Calendar Day. Every day on the calendar between Notice to Proceed and Substantial Completion of all the work to be performed.

1.14 Change Order. A written order to the Contractor covering changes in the Plans, Specifications, or Contract Item quantities and establishing the basis of payment and Contract Time adjustment, if any, for the Work affected by such changes.
1.15 **Claim.** A demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term “Claim” also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract.

1.16 **Contract Documents or Contract.** The executed agreement between the Owner and the successful bidder, covering the performance of and compensation for the Work. The term Contract is all inclusive with reference to all written agreements affecting a contractual relationship and all documents referred to therein. The Contract shall include, but not be limited to the Invitation to Bid, Instructions to Bidders, Bid Form and Supplements, Contract Requirements and Forms, required certificates and affidavits, bonds, addenda, technical specifications and plans. The Contract shall constitute one instrument.

1.17 **Contract Item or Pay Item.** A specific unit of Work for which a price is provided in the Contract.

1.18 **Contract Time.** The number of calendar days or working days, stated in the proposal, allowed for completion of the Contract, including authorized time extensions. If a calendar date of completion is stated in the proposal, in lieu of a number of calendar or working days, the Contract shall be completed by that date.

1.19 **Contractor.** The successful Bidder with whom the City contracts for the Work.

1.20 **Date of Substantial Completion.** The date certified by the Owner on which the Project is complete to the extent it can be used for its intended purpose in accordance with the requirements of the Contract.

1.21 **Disadvantaged Business Enterprise (DBE).** A for-profit small business concern: (a) that is at least fifty-one (51%) percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which fifty-one (51%) percent of the stock is owned by one or more such individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

1.22 **Engineer.** The individual, partnership, firm or corporation duly authorized by the Owner to be responsible for engineering inspection of the contract work and acting directly or through an authorized representative.

1.23 **FAA.** The Federal Aviation Administration of the U.S. Department of Transportation. When used to designate a person, FAA shall mean the Administrator or his duly authorized representative.

1.24 **Inspector or Project Inspector.** An authorized representative of the Engineer assigned to make all necessary inspections and/or tests of the work performed or being performed, or of the materials furnished or being furnished by the Contractor.

1.25 **Invitation to Bid (ITB).** A public announcement, as required by local law, inviting Bids for Work.

1.26 **Major and Minor Contract Items.** A major Contract item shall be any item that is listed in the proposal, the total cost of which is equal to or greater than 25 percent of the total amount of the awarded Contract. All other items shall be considered Minor Contract items.

1.27 **Notice To Proceed (NTP).** A written notice to the Contractor to begin the Work on a specified date.

1.28 **Owner.** The City of Charlotte. For the purpose of this Project Manual, the Owner may also be referred to as the Sponsor or City.

1.29 **Payment Bond.** The approved form of security furnished by the Contractor and its surety as a guaranty that it will pay in full all bills and accounts for materials and labor used in the construction of the Work.
1.30 **Performance Bond.** The approved form of security furnished by the Contractor and his surety as a guarantee that the Contractor will complete the Work in accordance with the terms of the Contract.

1.31 **Plans.** The official drawings or exact reproductions, approved by the Owner, which show the location, character, dimensions and details of the Airport and the Work to be done and which are to be considered as part of the Contract.

1.32 **Project.** A specific Airport development. The Work may be a portion or the whole of a Project.

1.33 **Runway.** The area on the Airport prepared for the landing and takeoff of aircraft.

1.34 **Small Business Enterprise (SBE)** means a business which (a) is at least fifty-one percent (51%) owned by one or more persons (b) the owner has a personal net worth less than 750,000 a year; (c) is located within the metropolitan statistical area and finally (d) has been in business a minimum of 1 year.

1.35 **Socially and Economically Disadvantaged Individual** means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

   - any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis;

   - any individual in the following groups, members of which are reputedly presumed to be socially and economically disadvantaged:

     - “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;

     - “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South America, or other Spanish or Portuguese culture or origin, regardless of race;

     - “Native Americans,” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

     - “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Naura, Federated States of Micronesia, or Hong Kong;

     - “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

     - Women;

   - Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such times as the SBA designation becomes effective.

1.36 **Specifications.** The written directions and requirements for completing the Work. Standards for specifying materials or testing which are cited in the specifications by reference shall have the same force and effect as if included in the Contract physically.
1.37 **Structures.** Airport facilities such as buildings, bridges; culverts; catch basins; inlets; retaining walls; cribbing; storm and sanitary sewer lines; water lines; underdrains; electrical ducts, manholes, handholes, lighting fixtures and bases; transformers; flexible and rigid pavements; navigational aids; buildings; vaults; and, other manmade features of the Airport that may be encountered in the Work and not otherwise classified herein.

1.38 **Surety.** The corporation, partnership, or individual, other than the Contractor, executing a Bid Payment, Performance or Guaranty Bonds that are furnished to the Owner by the Contractor.

1.39 **Taxiway.** For the purpose of this document, the term taxiway means the portion of the AOA of an airport that has been designated by for movement of aircraft to and from the airport's runways or aircraft parking areas.

1.40 **Work.** The furnishing of all labor, materials, tools, equipment, and incidentals necessary to the Contractor’s performance of all duties and obligations imposed by the Contract.

**2.0 CONTRACT TIME**

2.1 The contractor shall achieve Substantial Completion of the Work within **100 Calendar Days** from the date of commencement stated in the written Notice to Proceed. Contractor acknowledges that the time for completion of the Work is sufficient for it to perform all the Work.

**3.0 CHARLOTTE BUSINESS INCLUSION (“CBI”) PROGRAM**

The City has established an MSBE participation goal of six percent (6%) for this Contract. For information about the CBI Program requirements and forms, please review the Section V of the Bid Documents, which contains instructions and forms for the CBI Program.

**4.0 SITE TOURS**

A site tour may be conducted immediately after the Pre-Bid Conference.

**5.0 GOVERNING ORDER OF BIDDING AND CONTRACT DOCUMENTS**

Addenda, Change Orders and Supplementary Agreements will take precedence over other Contract Documents. Detailed provisions shall have precedence over general provisions.

Bidders shall take no advantage of any apparent error or omission in the Bid Documents or Contract Documents. In the event a Bidder discovers an error or omission, the Bidder shall immediately notify the Owner. The Owner will then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the Bid Documents.

**6.0 BIDDER REPRESENTATIONS**

6.1 Each Bidder by making its Bid represents that it:

A. Has examined the site of the proposed Work and the Bidding Documents; and

B. Is satisfied as to the character, quality and quantities of work to be performed, materials to be furnished and as to the requirements of the proposed Contract; and
C. Acknowledges that submission of a Bid shall be prima facie evidence that the Bidder has made such examination and is satisfied as to the conditions to be encountered, and has adequate time to perform the Work in accordance with the requirements of the Contract Documents.

D. Warrants and certifies that as of the date of this Bid, Bidder is not identified on the Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 143-6A-4. The person signing this Bid certifies that he or she is authorized by the Bidder to make the foregoing certification. Bidder further agrees that it will not utilize on this Contract any subcontractor that is identified on the Final Divestment List.

6.2 Bidders for this Work shall be qualified and licensed for this particular Work by the State of North Carolina prior to time of Bid Opening. North Carolina License type, number and dollar limit must be indicated where requested for the Bidder.

6.3 Bidders shall have previous acceptable experience, of current personnel, in the construction of at least two (2) projects in the last ten (10) years that demonstrate the ability to accomplish the Work required by this Contract. If the Bidder is a recently formed entity, then the previous experience of the component entities will be considered. The Owner shall be the sole judge of acceptable previous experience. The Bidder shall have regularly and principally engaged in work of the quality and scope indicated by the Contract Documents, utilizing administrators and supervisors regularly employed by the Bidder for managing the Work, and utilizing workers regularly employed by the Bidder for construction not performed by subcontractors.

6.4 In the event that a Bidder is discovered to be ineligible after a Contract is awarded, the ineligible bidder shall indemnify the City against any losses suffered by the City because of the Bidder’s ineligibility. The City reserves the right to take any steps it believes appropriate to lessen its actual or potential loss, including termination of the Contract or withholding payments sufficient to cover losses.

6.5 Bidder shall abide by the confidentiality requirements set forth in Section 13 of the Instruction to Bidders.

6.6 Bidder shall comply with all federal, state and local laws and regulations relating to the preparation and submission of the Bid including, without limitation, E-Verify and shall submit to Owner all required certifications, verifications, permits and licenses.

7.0 BID DOCUMENTS

7.1 Documents

Bidders may obtain complete sets of the Bid Documents as indicated in the Advertisement in the number desired and for the cost stated therein.

Bidders shall use complete sets of Bid Documents in preparing Bids. The Owner assumes no responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bid Documents.

The Owner, by making copies of the Bid Documents available on the above terms, does so only for the purpose of obtaining Bids on the Work and does not confer a license or grant for any other use.

Boring logs and other records of subsurface investigations and tests may be available for inspection by Bidders. It is understood and agreed that such subsurface information, whether included in the plans, specifications, or otherwise made available to the Bidder, was obtained and is intended for the Owner’s design and estimating purposes only. Bidder expressly waives any right to rely on such information for any purpose. Such information has been made available for the convenience of all Bidders. It is further understood and agreed that each bidder is solely responsible for all assumptions, deductions, or
conclusions which it may make or obtain from his examinations of the boring logs and other records of subsurface investigations and tests that are furnished by the Owner. Such supplementary data may not be construed as part of the Contract Documents.

7.2 Interpretation or Correction of Bid Documents

Bidders shall promptly notify the Owner in writing of any ambiguity, inconsistency or error that they may discover upon examination of the Bid Documents or of the site and local conditions.

Bidders requiring clarification or interpretation of the Bid Documents shall make a written request for clarification and forward the same to the appropriate address below. The Owner will only respond to written questions. Any interpretation, correction or change of the Bid Documents will be made only by an Addendum. Interpretations, corrections or changes of the Bid Documents made in any other manner will not be binding, and Bidders shall not rely upon such interpretations, corrections and changes.

**The deadline for submitting written requests for clarification shall be 10:00 AM June 2, 2017.**

Address questions in written form to:

**City of Charlotte – Aviation Department**

Crystal Bailey
cibailey@cltairport.com

7.3 Substitutions

Materials, products and equipment specified in Bid and Contract documents are used to set forth and convey to bidders the general style, type, function, dimension and quality of product desired by the Owner.

Any request by Contractor for material substitution of "an equal" item must be received by the Architect / Engineer or Owner at least ten (10) days prior to receipt of Bids.

Prior to proposing any substitute item, Contractor shall satisfy itself that the item proposed is, in fact, equal to item originally specified, that such item will fit into the space allocated, that such item affords comparable ease of operation, maintenance and service, that the appearance, longevity and suitability for the climate are comparable, and that by reason of cost savings, reduced construction time, or similar demonstrable benefit, the substitution of such item will be in Owner’s interest.

The burden of proof of equality of a proposed substitution for a specified item shall be upon Contractor. Contractor shall support its request with sufficient test data and other means to permit Owner to make a fair and equitable decision on the merits of the proposed substitution. Any item by a manufacturer other than those specified or of brand name or model number or of generic species other than those specified will be considered a substitution. Architect / Engineer of Record or Owner may be the sole judge of whether or not the substitution is equal in quality, utility and economy to that specified.

Materials and methods proposed as substitutions for specified items shall be supported by certification of their approval for use by any or all government agencies having jurisdiction over use of the specific material or method.

Substitutions may not be permitted in those instances where the products are designed to match artistic design, specific function or economy of maintenance.
Approval of a substitution shall not relieve Contractor from responsibility for compliance with all requirements of the Contract. Contractor shall bear the expense for any changes in other parts of the Work caused by any substitutions. If Owner rejects Contractor’s proposed substitution, Contractor may not make any additional requests for substitution in the same category. If the proposed substitution is approved, such approval will be set forth in an Addendum.

If a substitution is installed without prior knowledge and written approval by the Owner, the Contractor will bear all costs associated with removal and replacement of the same at the Owner’s request.

7.3.1 Addenda

Addenda will be mailed or delivered to all contractors on the project plan list maintained by Richa Graphics, Inc. Copies of Addenda will be made available for inspection at Richa Graphics, Inc., 800 North College Street, Charlotte, NC 28204 or registered users on the project plan list at www.Richa.com. The Bidder shall acknowledge receipt of Addenda by completing the acknowledgment space on the Bid Form.

8.0 BIDDING PROCEDURE

8.1 Form and Style of Bids

Bids shall consist of the following forms:

(1) Bid Form
(2) Certificate of Non-discrimination
(3) CBI form # 3
(4) Bid Bonds – Performance and Payment

Changes or additions to the Bid, recalculation or changes in the work bid upon, alternative proposals, or any other modifications of the Bid Form which are not specifically called for in the Bid Documents may result in the Owner’s rejection of the Bid as non-responsive to the Invitation to Bid.

The Bidder must execute all pages of the Bid Form, in their entirety. All blanks on the Bid Form shall be filled in by typewriter or manually in ink.

Unit prices shall include the cost for materials, equipment, tools, labor, sales tax and all incidentals necessary for proper execution and completion of the Work. As the quantities represented are estimates, quantity adjustments will be made as necessary during the project.

In the event there are unit price Bid Items provided in the Bid Form or its attachments, and the "amount" indicated for a unit price Bid Item does not equal the product of the unit price and quantity, the unit price shall govern and the amount will be corrected accordingly. In the event there is more than one Bid Item in the Bid Form or its attachments and the total indicated therein does not agree with the sum of the prices bid for the individual items, the prices bid on the individual items shall govern and the total for the schedule will be corrected accordingly. Where so indicated by the make-up of the Bid Form, sums shall be expressed in both words and figures, and in case of discrepancy between the two, the amount written in words shall govern.

All requested, Additive or Deductive Bid Items shall be bid. If no change in the Base Bid is required, enter "No Change."

No person, firm or corporation shall be allowed to submit (or have an interest in) more than one prime Bid for the same work. For example, a company may not submit one bid for itself and one bid for a joint venture in which it will participate. However, a person, firm or corporation that has submitted a sub-bid
to a Bidder is not, however, disqualified from submitting a sub-bid or quoting prices to other Bidders or submitting a prime Bid.

8.2 Sales and Use Tax

The Owner is NOT exempt from applicable sales or use taxes assessed by North Carolina or other states. However, the North Carolina Department of Revenue does reimburse the Owner for the North Carolina sales or use taxes the Owner pays for certain construction related goods. Therefore, the Owner utilizes the below procedures for such sales tax. The Contractor agrees to follow the procedures set forth below for all sales or use taxes related to the Work and any other work performed pursuant to this Contract.

**Eligible Taxes** are defined as North Carolina sales or use taxes paid by the Contractor for buildings, materials, supplies, fixtures and equipment that become a part of or annexed to any building or structure that is owned or leased by the Owner and is being erected, altered or repaired by the Owner (North Carolina GS 105-164-14(c)).

**Non-Eligible Taxes** are defined as all other sales or use taxes including those paid to states other than North Carolina, or sales or use taxes paid to North Carolina on purchases or rental of tools, equipment, and disposable supplies, including fuel, used in the Work.

**Non-Eligible Taxes** shall be included in the Bid and will be included in the Contract Price.

The Contract Price as shown on the bid form includes full and complete compensation for the Contractor for any and all Non-Eligible Taxes paid by the Contractor in the prosecution of the Work and any other work performed pursuant to this Contract.

**Eligible Taxes**

Eligible Taxes shall not be included in the Bid and will not be included in the Contract Price. Eligible Taxes will be reimbursed separately pursuant to the procedures below.

*Prior to award of the Contract, the Contractor shall provide the Owner with the estimated amount of total Eligible Taxes for the Contract. This estimated amount of total Eligible Taxes will be used solely for the purpose of the Owner's budget planning for the Project and will not be included in the Contract Price.*

The Contract Price as shown on the bid form excludes Eligible Taxes. The Contractor shall invoice the Owner for Eligible Taxes as set forth below and the Owner will reimburse the Contractor for those Eligible Taxes pursuant to the procedures below.

In the event the Contractor fails to materially follow the procedures set forth by this Article, and/or fails to properly document its payment of Eligible Taxes, the Owner will not be liable to the Contractor in any way for the payment of such Eligible Taxes.

In order to receive the reimbursement for Eligible Taxes, the Contractor shall provide a detailed listing of Eligible Taxes on the Sales/Use Tax Statement ("Tax Statement") provided in the Contract Documents. Tax Statements must be submitted with each payment request and shall include invoices documenting the Eligible Taxes and the underlying purchases made by the Contractor or by the Contractor’s subcontractor.

Tax Statements must indicate whether such Eligible Taxes was paid by the Contractor or by the Contractor’s subcontractor.
If no Eligible Taxes have been paid for the period in which a payment request is being submitted by the Contractor, then the Contractor shall indicate “No Eligible Taxes paid this period” and submit the Tax Statement accordingly.

Tax Statements must be completed and signed by the Contractor/subcontractor’s company officer submitting the statement and certified by a Notary Public.

Tax Statement must list in detail the Eligible Taxes paid for each individual invoice paid by the Contractor/subcontractor. No lump sum, running total, or copies of previously reported statements will be accepted.

Tax Statements must show separately the portion of Eligible Taxes that are paid to the State of North Carolina and the applicable North Carolina county, identifying the county accordingly.

Tax Statements will be reviewed and approved by the Owner prior to paying the Eligible Taxes reimbursement. Such approval will not be unreasonably withheld.

8.3 E-Verify

Bidder is required to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, if Bidder utilizes a subcontractor, Bidder shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

8.4 Iran Divestment Act

Bidder certifies that: (i) it is not identified on the Final Divestment List or any other list of prohibited investments created by the NC State Treasurer pursuant to N.C.G.S. 147-86.58; (ii) it will not take any action causing it to appear on any such list during the term of this Contract; and (iii) it will not utilize any subcontractor that is identified on any such list to provide goods or services hereunder.

8.5 Bid Security

Each Bid shall be accompanied by a Bid security in the form of, at Bidder’s option, cashier’s check, certified check, money order or bid bond (in favor of the Owner) in the amount of 5% of the Base Bid amount pledging that the Bidder will after notice of award, enter into a Contract with the Owner on the terms stated in its Bid and will furnish bonds as described in Contract Documents, covering the faithful performance of the Contract and the payment of all obligations arising thereunder.

The Bid Bond shall be written on standard Surety Bid Bond form by a firm licensed to provide such forms in the State of North Carolina, and the attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of his power of attorney.

The OWNER will have the right to retain the Bid security of Bidders to whom an award is being considered until either (a) the Contract has been executed and bonds have been furnished; (b) the specified time has elapsed so that Bids may be withdrawn, or (c) all Bids have been rejected.

8.6 Submission of Bids

Bids shall be submitted in an opaque, sealed envelope, and printed with the following information on the outside of the envelope:
If a Bid is delivered by mail, the sealed envelope shall be placed inside another envelope. The outer envelope shall be addressed to “CLT CENTER, ATTN: CRYSTAL BAILEY - CONTRACTS MANAGER, 5601 WILKINSON BOULEVARD, CHARLOTTE, NC 28208.” The outer envelope and the inner envelope must both be marked with the required information above.

If the Bid is delivered in person, it shall be delivered to “CLT CENTER, ATTN: CRYSTAL BAILEY - CONTRACTS MANAGER, 5601 WILKINSON BOULEVARD, CHARLOTTE, NC 28208.” All Bids must be delivered prior to the bid opening date and time specified in the Invitation to Bid.

Bidders shall be responsible for the timely delivery of Bids at the bid opening location specified.

No responsibility will be attached to the OWNER for premature opening of or failure to open a Bid not properly identified.

The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids. Oral, telephonic or telegraphic Bids are invalid and will not receive consideration. Bids received after the time and date for receipt of Bids will be returned to Bidder unopened.

8.7 Modification or Withdrawal of Bid
After opening, each Bid is a firm offer by the Bidder to contract which may not be withdrawn for 120 Calendar Days from bid opening.

Prior to bid opening, any Bid submitted may be withdrawn by notice to the City. For withdrawal to be effective, the City must actually receive the notice prior to bid opening. Such notice shall be in writing over the signature of the Bidder, and it shall be worded so that it does not reveal the amount of the original Bid.

Withdrawn Bids may be modified and resubmitted up to the time designated for the receipt of Bids provided that they are then fully in conformance with these Instructions to Bidders.

9.0 CONSIDERATION OF BIDS
It is the intent of the Owner to award a Contract to the lowest responsive and responsible Bidder, provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available. The Owner shall have the right to waive abnormalities and irregularities in a Bid received and to accept the Bid which, in the Owner’s judgment, is in the Owner’s best interests.

9.1 Opening of Bids
The Bids received on time will be opened publicly and will be read aloud. An abstract of the Bids may be made available to Bidders.
9.2 Alternates
The Owner shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Bidding Documents, and to determine the low Bidder on the basis of the sum of the Base Bid and Alternates accepted.

9.3 Rejection of Bids
The Owner reserves the right to reject any and or all Bids.

A. Notwithstanding any of the above, the Owner reserves the right to reject any or all Bids and to waive any informality or technicality. Being the low Bidder, does not mean that the Contract is required to be awarded to said Bidder or that the Contract will be awarded at all.

B. Bids may be considered non-responsive for reasons such as but not limited to the following:
   1. If the Bid is on a form other than that furnished by the Owner, or if the Owner’s form is altered, or if any part of the Bid Form is detached.
   2. If there are unauthorized additions, known substitutions, conditional or alternate pay items, or irregularities of any kind which make the Bid incomplete, indefinite, or otherwise ambiguous.
   3. If the Bid does not contain a unit price for each pay item listed in the Bid, except in the case of authorized alternate pay items, for which the Bidder is not required to furnish a unit price.
   4. If the Bid is not accompanied by the Bid Bond specified by the Owner.
   5. Failure of authorized person to sign Bid Form.
   6. Failure to Submit Necessary Forms per this Instruction to Bidders

C. A Bidder may be considered disqualified for any of the reasons such as but not limited to the following:
   1. Submitting more than one Bid from the same partnership, firm, or corporation under the same or different name.
   2. Evidence of collusion among Bidders. Bidders participating in such collusion shall be disqualified as Bidders for any future work of the Owner until any such participating Bidder has been reinstated by the Owner as a qualified Bidder.

10.0 PRE-AWARD

10.1 Submittals

The Bidder shall, within ten days after notice of award, furnish to the Owner in writing:

A. A statement of the required experience; and

B. The names of manufacturers, products, and the suppliers of principal items or systems of materials and equipment proposed for the Work; and

C. A designation of the Work to be performed with the Bidder’s own forces; and

D. The names of persons or entities who are to furnish the principal portions of the Work; and

E. The executed Agreement; and

F. A detailed breakdown of any compound unit prices; and
G. All post-bid opening CBI documents required (see Section V – Charlotte Business Inclusion Program); and

H. Performance and payment bonds, each in an amount equal to the Contract sum.

I. Upon Owner’s request, form copies of subcontractors Contractor will use on this Project.

11.0 AWARD OF CONTRACT

11.1 Contract work may not proceed until the properly executed Agreement and all required submittals are delivered to the Owner in acceptable form and the City has executed the Contract. The time of completion for the Project will not be extended due to delays by the Contractor in executing and delivering required documents.

12.0 FINANCIAL

12.1 Audit Rights
The Owner shall have the right to inspect, examine and make copies of any and all books, accounts, records, and other writings of contractors relating to the performance of the Work under the Contract, including change orders. Such audit rights shall be extended to any duly authorized representatives designated by the Owner. Audits shall take place at times and locations mutually agreed upon by both parties, but not later than one week following the date of a request for an audit.

12.2 Owner’s Contingency
The City has established an owner’s contingency of 10% of the Bid amount for this Project. The City is in full control of all owner contingency funds and the Contractor is not entitled to any portion of the owner contingency funds unless and until the City is in agreement with all aspects of any potential work the Contractor may perform that is beyond the original scope (or unit quantity estimates) of this Contract, which shall be determined through the change, dispute and other processes set forth by this Contract. Contractor must obtain the City’s written approval in the form of a Contingency Authorization to expend any owner contingency funds.

13.0 CONFIDENTIALITY REQUIREMENTS

13.1 Bidder hereby agrees to comply with all confidentiality requirements set forth in this section in connection with this Project.

13.2 Confidential Information
Confidential Information includes any information, not generally known in the relevant trade or industry, obtained from the Owner or its vendors or licensors or which falls within any of the following general categories:

A. Trade secrets. For purposes of this Contract, trade secrets consist of information of the Owner or any of its suppliers, contractors or licensors: (a) that derives value from being secret; and (b) that the owner has taken reasonable steps to keep confidential. Examples of trade secrets include information relating to proprietary software, new technology, new products or services, flow charts or diagrams that show how things work, manuals that tell how things work and business processes and procedures.

B. Information of the Owner or its suppliers, contractors or licensors marked “Confidential” or “Proprietary.”

C. Information relating to criminal investigations conducted by the Owner, and records of criminal
intelligence information compiled by the Owner.

D. Information contained in the City/County’s personnel files, as defined by N.C. Gen. Stat. 160A-168. This consists of all information gathered and/or maintained by the Owner about employees, except for that information which is a matter of public record under North Carolina law.

E. Citizen or employee social security numbers collected by the Owner.

F. Computer security information of the Owner, including all security features of electronic data processing, or information technology systems, telecommunications networks and electronic security systems. This encompasses but is not limited to passwords and security standards, procedures, processes, configurations, software and codes.

G. Local tax records of the Owner that contains information about a taxpayer’s income or receipts.

H. Any attorney / Owner privileged information disclosed by either party.

I. Any data collected from a person applying for financial or other types of assistance, including but not limited to their income, bank accounts, savings accounts, etc.

J. The name or address of individual homeowners who, based on their income, have received a rehabilitation grant to repair their home.

K. Building plans of Owner-owned buildings or structures, as well as any detailed security plans.

L. Billing information of customers compiled and maintained in connection with the Owner providing utility services.

M. Other information that is exempt from disclosure under the North Carolina public records laws. Categories 14.2.3 through 14.2.13 above constitute “Highly Restricted Information,” as well as Confidential Information. The Company acknowledges that certain Highly Restricted Information is subject to legal restrictions beyond those imposed by these requirements, and agrees that: (a) all requirements set forth herein applicable to Confidential Information shall apply to Highly Restricted Information; and (b) the Contractor will also comply with any more restrictive instructions or written policies that may be provided by the Owner from time to time to protect the confidentiality of Highly Restricted Information.

13.3 Restrictions
The Contractor shall keep the Confidential Information in the strictest confidence, in the manner set forth below:

A. It shall not copy, modify, enhance, compile or assemble (or reverse compile or disassemble), or reverse engineer Confidential Information.

B. It shall not, directly or indirectly, disclose, divulge, reveal, report or transfer Confidential Information of the other to any third party or to any individual employed by the Contractor, other than an employee, agent, subcontractor or vendor of the Owner or Contractor who: (i) has a need to know such Confidential Information, and (ii) has executed a confidentiality agreement incorporating substantially the form of this Section and containing all protections set forth herein.

C. It shall not use any Confidential Information of the Owner for its own benefit or for the benefit of a third party, except to the extent such use is authorized by Owner as set forth herein, or is for the purpose for which such Confidential Information is being disclosed.
D. It shall not remove any proprietary legends or notices, including copyright notices, appearing on or in the Confidential Information of the other.

E. The Contractor shall use its best efforts to enforce the proprietary rights of the Owner and the Owner’s vendors, licensors and suppliers (including but not limited to seeking injunctive relief where reasonably necessary) against any person who has possession of or discloses Confidential Information in a manner not permitted by Owner.

F. In the event that any demand is made in litigation, arbitration or any other proceeding for disclosure of Confidential Information, the Contractor shall assert these provisions as grounds for refusing the demand and, if necessary, shall seek a protective order or other appropriate relief to prevent or restrict and protect any disclosure of Confidential Information.

G. All materials which constitute, reveal or derive from Confidential Information shall be kept confidential to the extent disclosure of such materials would reveal Confidential Information, and unless otherwise agreed, all such materials shall be returned to the Owner or destroyed upon satisfaction of the purpose of the disclosure of such information.

13.4 Exceptions
The parties agree that the Contractor shall have no obligation with respect to any Confidential Information which the Contractor can establish:

A. Was already known to the Contractor prior to being disclosed by the disclosing party;

B. Was or becomes publicly known through no wrongful act of the Contractor;

C. Was rightfully obtained by the Contractor from a third party without similar restriction and without breach hereof;

D. Was used or disclosed by the Contractor with the prior written authorization of the Owner;

E. Was disclosed pursuant to the requirement or request of a governmental agency, which disclosure cannot be made in confidence, provided that, in such instance, the Contractor shall first give to the Owner notice of such requirement or request;

F. Was disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued subpoena, provided that the Contractor shall take use its best efforts to obtain an agreement or protective order providing that, to the greatest possible extent possible, the confidentiality requirements set forth herein will be applicable to all disclosures under the court order or subpoena.

13.5 Unintentional Disclosure
Notwithstanding anything contained herein in to the contrary, in the event that the Contractor is unintentionally exposed to any Confidential Information of the Owner, the Company agrees that it shall not, directly or indirectly, disclose, divulge, reveal, report or transfer such Confidential Information to any person or entity or use such Confidential Information for any purpose whatsoever.

13.6 Remedies
The Contractor acknowledges that the unauthorized disclosure of the Confidential Information of the Owner will diminish the value of the proprietary interests therein. Accordingly, it is agreed that if the Contractor breaches its obligations hereunder, the Owner shall be entitled to equitable relief to protect its interests, including but not limited to injunctive relief, as well as monetary damages.
III.  BID FORM AND SUPPLEMENTS
A. ITEMIZED BID

Project Name: Field Maintenance Building Canopy Addition
Charlotte Douglas International Airport
Project No: LD17-011

<table>
<thead>
<tr>
<th>Cost Breakdown</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil - Architectural, &amp; Engineering Drawings/Permitting</td>
<td></td>
</tr>
<tr>
<td>Demolition and Removal of 20' x 135' asphalt section of pavement</td>
<td></td>
</tr>
<tr>
<td>Replacement of 20'x135x6&quot; deep concrete section</td>
<td></td>
</tr>
<tr>
<td>Footing and concrete</td>
<td></td>
</tr>
<tr>
<td>Labor/Installation</td>
<td></td>
</tr>
<tr>
<td>Steel</td>
<td></td>
</tr>
<tr>
<td>Concrete</td>
<td></td>
</tr>
<tr>
<td>Other Material</td>
<td></td>
</tr>
<tr>
<td>Electrical</td>
<td></td>
</tr>
<tr>
<td>Fire Sprinkler System</td>
<td></td>
</tr>
<tr>
<td>All Other Work</td>
<td></td>
</tr>
<tr>
<td>General Conditions</td>
<td></td>
</tr>
<tr>
<td><strong>BASE BID TOTAL</strong></td>
<td></td>
</tr>
</tbody>
</table>

Drawings must be sealed to satisfy code requirements by a licensed architect/engineer licensed in the State of North Carolina.

**BASE BID** (Lump Sum Total Amount = BASE BID) – INCLUDE SCHEDULE OF VALUES
The undersigned Bidder, having carefully examined the Bidding and Contract Documents, and having visited the site, and being familiar with all conditions and requirements of the Work, hereby agrees to furnish all material, labor, equipment, permits, and services, including all scheduled Allowances, necessary to complete the Work for the above-named project, in accordance with the requirements of the Bidding Documents, for the sum of:

$________________

**CONTINGENCY** (Contingency equals ten percent 10% of base bid) – NOT TO BE INCLUDED IN BASE BID

$________________

**CONTRACT TOTAL** (Base bid + Contingency)

$________________

In case of error in extension of prices in the bid, the unit prices, where available shall govern.

**BID GUARANTEE**
The undersigned Bidder agrees to execute the Agreement for the above amount and to furnish surety as specified within 10 days after notice of award, if offered within 120 calendar days after receipt of bids, and upon failure to do so agrees to forfeit the attached cash, cashier's check, certified check, U. S. money order, or bid bond, as liquidated damages for such failure, in the amount of:

$________________

the stated amount constituting five percent (5%) of the Base Bid amount above.
If the Project costs is greater than $300,000, NCGS 143-128(d) requires all single prime bidders to identify their subcontractors for the above subdivisions of work. A contractor whose bid is accepted shall not substitute any person as subcontractor in the place of the subcontractor listed in the original bid, except (i) if the listed subcontractor’s bid is later determined by the contractor to be non-responsive or the listed subcontractor refuses to enter into a contract for complete performance of the bid work, or (ii) with the approval of the awarding authority for good cause shown by the contractor.

List the following subcontractors you are using on this project

<table>
<thead>
<tr>
<th></th>
<th>License #</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electrical</td>
<td>____________________</td>
</tr>
<tr>
<td>Mechanical, if applicable</td>
<td>____________________</td>
</tr>
<tr>
<td>Plumbing, if applicable</td>
<td>____________________</td>
</tr>
<tr>
<td>Fire Protection, if applicable</td>
<td>____________________</td>
</tr>
</tbody>
</table>

BID SUPPLEMENTS
Attached to this Bid Form and incorporated herein are the following documents, completed in full by the undersigned:

Certificate of Non-Discrimination
CBI forms
Bid Bonds

PROPOSED CONTRACT TIME
The Contractor proposes to achieve Substantial Completion of the entire Work no later than 100 Calendar Days from the date of commencement, subject to adjustments of this Contract Time as provided in the Contract Documents.

CONTRACTOR’S LICENSE
The undersigned further states that he is a duly licensed Contractor, for the type of work proposed, in the State of North Carolina, and that all fees, permits, etc., pursuant to the submission of this proposal have been paid in full. LICENSE # ____________.

CONFIDENTIALITY REQUIREMENTS
By signing this bid form, I acknowledge that I have read and understood the confidentiality agreement as stated in the Instruction to Bidders, Section 13.
B. EXECUTION OF BID

NON-COLLUSION AFFIDAVIT, DEBARMENT CERTIFICATION AND GIFT BAN CERTIFICATION

The person executing the bid, on behalf of the Bidder, being duly sworn, solemnly swears (or affirms) that neither he, nor any official, agent or employee of the Bidder has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in connection with any bid or contract, that the Bidder has not been convicted of violating North Carolina General Statute 133-24 within the last three years, and that the Bidder intends to do the work with its own bona fide employees or subcontractors and is not bidding for the benefit of another contractor.

In addition, execution of this bid in the proper manner also constitutes the Bidder’s certification of status under penalty of perjury under the laws of the United States in accordance with the Debarment Certification attached, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

NC General Statute 133-32 prohibits the offer to, or acceptance by, any City Employee of any gift from anyone with a contract with the City or State, or from any person seeking to do business with the City of Charlotte. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

The undersigned, having carefully examined the site and familiarized himself with the existing conditions on the Project area affecting the cost of work and hereby proposes to furnish all supervision, labor, equipment, materials and services required to construct and complete the Project in accordance with the Bid Documents at and for the total Bid amount.

The undersigned attests that he/she has the legal authority to execute this Bid on behalf of the corporation.

The undersigned acknowledges receipt of the following addenda (initial next to each addendum):

# 1: ___ # 2: ___ # 3: ___ # 4: ___ # 5: ___ # 6: ___ # 7: ___ # 8: ___ # 9: ___

Type of Bidder:
☐ Sole Proprietor  ☐ Partnership  ☐ Corporation  ☐ Limited Liability Company
☐ Joint Venture
(if joint venture, complete this “Execution of Bid” sheet for each joint venture company and identify the “Name of Joint Venture” on each sheet)

Name of Joint Venture: _________________________________________________

Company Name: ________________________________________________________
Mailing Address: _________________________________________________________
City/State/Zip: ___________________________________________________________
Phone: __________________________ Email: __________________________
Printed Name: __________________________ Title: __________________________
Signature: __________________________
**C. CBI FORM 3: SUBCONTRACTOR/SUPPLIER UTILIZATION COMMITMENT (page 1 of 2)**

This form **MUST** be submitted at the time of Bid Opening. **Copy this CBI Form 3 as needed.** Failure to properly complete and submit Form 3 with the Bid constitutes grounds for rejection of the Bid.

Per Part B, Section 3.5 of the CBI Policy, the Subcontractor/Supplier Utilization Commitment (CBI Form 3), captures information regarding the MSBEs and other subcontractors and suppliers that the Bidder intends to use on the Contract **FOR ALL TIERS.**

<table>
<thead>
<tr>
<th>Bidder Name:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Name:</td>
<td></td>
</tr>
<tr>
<td>Project Number:</td>
<td></td>
</tr>
</tbody>
</table>

**Established SBE Goal:**

| Established MBE Goal: |  |

List below all **MSBEs (Non-Hauling Services)** that you intend to use on this contract. **NOTE:** You will only receive credit for SBEs that are currently certified with the City as of the Bid Opening Date. Furthermore, you will only receive credit for MBEs that are registered with the City as of Bid Opening Date and who have an ethnic designation of African American, Hispanic, or Native American.

<table>
<thead>
<tr>
<th>MSBE Vendor Name (Non-Hauling Services)</th>
<th>Mark X for Certification</th>
<th>Description of work / materials</th>
<th>NIGP Code</th>
<th>Vendor #</th>
<th>Total Projected Utilization ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SBE</td>
<td>MBE</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

List below all MSBEs that you intend to use for **hauling services** on this contract and the **Total Projected Utilization ($) for all hauling services for the contract.** **If the project has both MBE and SBE subcontracting goals established and the Bidder utilizes a hauling vendor that is both a MBE and a SBE, the Bidder must designate the specific dollar amount to be committed to that hauling vendor. The Bidder will still indicate the total utilization for haulers that are only SBE certified.**

<table>
<thead>
<tr>
<th>MSBE Vendor Name (Hauling Services)</th>
<th>Mark X for Certification</th>
<th>Description of work / materials</th>
<th>NIGP Code</th>
<th>Vendor #</th>
<th>Utilization ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SBE</td>
<td>MBE</td>
<td></td>
<td></td>
<td>Input Total SBE Hauling Utilization</td>
</tr>
<tr>
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<td>X</td>
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</table>

**Total SBE Utilization** $  
**Total MBE Utilization** $  

**Total Bid Amount** (including Contingency and excluding Allowance Amount) $  

**Percent SBE Utilization***(Total SBE Utilization divided by Total Bid Amount) %  

**Percent MBE Utilization***(Total MBE Utilization divided by Total Bid Amount) %  

*THE MSBE Utilization percentage stated **MUST** be rounded to two (2) decimal places
### CBI FORM 3: Subcontractor / Supplier Utilization Commitment (page 2 of 2)

List below all **non-MSBEs subcontractors and suppliers** that you intend to use on this contract:

<table>
<thead>
<tr>
<th>Vendor Name</th>
<th>Description of work / materials</th>
<th>NIGP Code</th>
<th>Vendor #</th>
<th>Projected Utilization (if known) ($)</th>
</tr>
</thead>
<tbody>
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**Letters of Intent submitted upon notice from the City**

Per Part B, Section 3.6 of the CBI Policy, within three (3) Business Days after receiving a request from the City (or within such longer time as may be communicated by the City in writing), Bidders must submit a separate Letter of Intent (*CBI Form 4*) for each MSBE listed on *CBI Form 3* and for any additional MSBEs for which the Bidder seeks credit under the last sentence of Part B, Section 3.5. Each Letter of Intent must be executed by both the MSBE and the Bidder. The City shall not count proposed MSBE utilization for which it has not received a Letter of Intent by this deadline. Per Part B, Section 3.3, a Regular Dealer as defined in the CBI Policy shall only count 60% of all expenditures towards the established Subcontracting Goal(s). In addition, a Hauler, Broker, or Packager shall only count fees or commissions charged by the established Subcontracting Goal(s). The Bidder is still obligated to pay the MSBE the full amount listed on the Contract with the MSBE regardless of what percentage is actually counted towards the established Subcontracting Goal(s).

**Adding subcontractors or suppliers after submitting this form**

Nothing in this certification shall be deemed to preclude you from entering into subcontracting arrangements after submission of this form. However, per Part D of the CBI Policy, you must comply with the following:

- You must maintain the level of MSBE participation proposed on this *CBI Form 3* (and *CBI Form 3A*, if applicable) throughout the duration of the Contract, except as specifically allowed in Part D.
- If you need to terminate or replace a MSBE, you must comply with Part D, Section 5.
- If the scope of work on the Contract increases, or if you elect to subcontract any portion of work not identified on this form as being subcontracted, then you must comply with Part D, Section 6.
- A Letter of Intent (*CBI Form 4*) must also be submitted for each MSBE you add subsequent to contract award.

**All Subcontractors and Suppliers must be registered with the City of Charlotte.**

Pursuant to the City’s Vendor Registration Policy, each subcontractor or supplier (non-MSBEs and MSBEs) that you use on this contract must be registered in the City’s vendor database. You will need to provide the vendor number for each subcontractor or supplier used on this contract as a condition for receiving payment on this Contract.

**Signature**

Your signature below indicates that the undersigned firm certifies and agrees that:

(a) It has complied with all provisions of the CBI Policy; and,

(b) Failure to properly document such compliance in the manner and within the time periods established by the CBI Policy shall constitute grounds for rejection of your bid.

<table>
<thead>
<tr>
<th>Signature of Authorized Official</th>
<th>Printed Name</th>
<th>Title</th>
<th>Submittal Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td></td>
</tr>
</tbody>
</table>
D. COMMERCIAL NON-DISCRIMINATION CERTIFICATION

Project: ________________________________________________________

Name of Company (Bidder): _______________________________________

The undersigned Bidder hereby certifies and agrees that the following information is correct:

1. In preparing the enclosed bid, the Bidder has considered all bids submitted from qualified, potential subcontractors and suppliers and has not engaged in discrimination as defined in Section 2.

2. For purposes of this Section, discrimination means discrimination in the solicitation, selection, or treatment of any subcontractor, vendor or supplier on the basis of race, ethnicity, gender, age or disability or any otherwise unlawful form of discrimination. Without limiting the foregoing, discrimination also includes retaliating against any person or other entity for reporting any incident of discrimination.

3. Without limiting any other remedies that the City may have for a false certification, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the City to reject the bid submitted with this certification and terminate any contract awarded based on such bid. It shall also constitute a violation of the City’s Commercial Non-Discrimination Ordinance and shall subject the Bidder to any remedies allowed thereunder, including possible disqualification from participating in City contracts or bid processes for up to two years.

4. As a condition of contracting with the City, the Bidder agrees to promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation and selection of subcontractors in connection with this solicitation process. Failure to maintain or failure to provide such information shall constitute grounds for the City to reject the bid submitted by the Bidder and terminate any contract awarded on such bid. It shall also constitute a violation of the City’s Commercial Non-Discrimination Ordinance and shall subject the Bidder to any remedies allowed thereunder.

5. As part of its bid or proposal, the Bidder or Proposer shall provide to the City a list of all instances within the past ten years where a complaint was filed or pending against Bidder or Proposer in a legal or administrative proceeding alleging that Bidder or Proposer discriminated against its subcontractors, vendors or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.

6. As a condition of submitting a proposal to the City, the Bidder agrees to comply with the City’s Commercial Non-Discrimination Policy as described in Section 2, Article V of the Charlotte City Code, and consents to be bound by the award of any arbitration conducted thereunder.

By: __________________________________________________________
    Signature of Authorized Official

Title: _________________________________________________________
IV. CONTRACT REQUIREMENTS AND FORMS
A. AIA DOCUMENT A101-2007 – STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR

AGREEMENT made as of the «» day of «» in the year «»
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Charlotte Douglas International Airport
5501 Josh Birmingham Parkway
Charlotte, NC 28208
Telephone: (704) 359-4000

and the Contractor:
(Name, legal status, address and other information)

«»«»
«»
«»
«»

for the following Project:
(Name, location and detailed description)

test
«»
«»

The Architect:
(Name, legal status, address and other information)

«»«»
«»
«»
«»

The Owner and Contractor agree as follows.
TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS
2 THE WORK OF THIS CONTRACT
3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
4 CONTRACT SUM
5 PAYMENTS
6 DISPUTE RESOLUTION
7 TERMINATION OR SUSPENSION
8 MISCELLANEOUS PROVISIONS
9 enumeration of contract documents
10 INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS
The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT
The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.
(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The Date of Commencement will be established in a written Notice to Proceed.

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner’s time requirement shall be as follows:

N/A

§ 3.2 The Contract Time shall be measured from the date of commencement in the Notice to Proceed.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than «  » ( «  » ) calendar days from the date of commencement, or as follows:
(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)
**Portion of Work**

<table>
<thead>
<tr>
<th>Substantial Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

, subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)

Liquidated Damages are set in the amount of [INSERT] per Calendar Day for failure to achieve Substantial Completion.

## ARTICLE 4 CONTRACT SUM

### § 4.1

The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor’s performance of the Contract. The Contract Sum shall be « » ($ « » ), subject to additions and deductions as provided in the Contract Documents.

### § 4.2

The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

<table>
<thead>
<tr>
<th>Item</th>
<th>Units and Limitations</th>
<th>Price Per Unit ($0.00)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### § 4.3

Unit prices, if any:

(Identify and state the unit price; state quantity limitations, if any, to which the unit price will be applicable.)

### § 4.4

Allowances included in the Contract Sum, if any:

(Identify allowance and state exclusions, if any, from the allowance price.)

<table>
<thead>
<tr>
<th>Item</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## ARTICLE 5 PAYMENTS

### § 5.1 PROGRESS PAYMENTS

#### § 5.1.1

Based upon Applications for Payment submitted to the Owner by the Contractor and Certificates for Payment issued by the Owner, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

#### § 5.1.2

INTENTIONALLY DELETED.

#### § 5.1.3

Owner shall make payment of the certified amount to the Contractor not later than the thirty (30) days following receipt of an Application for Payment.

#### § 5.1.4

Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Contractor’s Applications for Payment.

#### § 5.1.5

Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.
§ 5.1.6 REPLACED AND SUPERSEDED BY SUPP GC 6.0.

§ 5.1.7 REPLACED AND SUPERSEDED BY SUPP GC 6.0.

§ 5.1.8 REPLACED AND SUPERSEDED BY SUPP GC 6.0.

§ 5.1.9 Except with the Owner’s prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 FINAL PAYMENT
§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when
  .1 the Contractor has fully performed the Contract except for the Contractor’s responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201–2007, and to satisfy other requirements, if any, which extend beyond final payment; and
  .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner’s final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect’s final Certificate for Payment, or as follows:

Upon Owner’s approval.

ARTICLE 6   DISPUTE RESOLUTION
§ 6.1 INITIAL DECISION MAKER
The Owner, as identified below, will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201–2007.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

Aviation Director
Charlotte Douglas International Airport
5501 Josh Birmingham Parkway
Charlotte, NC  28208
Telephone: (704) 359-4000

§ 6.2 BINDING DISPUTE RESOLUTION
For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:
(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

[ ]  Arbitration pursuant to Section 15.4 of AIA Document A201–2007

[XX]  Litigation in a court of competent jurisdiction

[ ]  Other (Specify)

ARTICLE 7   TERMINATION OR SUSPENSION
§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2007.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007.

ARTICLE 8   MISCELLANEOUS PROVISIONS
§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

zero % (0)

§ 8.3 The Owner’s representative:

(Name, address and other information)

Aviation Director
Charlotte Douglas International Airport
5501 Josh Birmingham Parkway
Charlotte, NC  28208
Telephone: (704) 359-4000

§ 8.4 The Contractor’s representative:

(Name, address and other information)

§ 8.5 Neither the Owner’s nor the Contractor’s representative shall be changed without ten days written notice to the other party.

§ 8.6 Other provisions:

N/A

ARTICLE 9   ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in their entirety in the Project Manual.

§ 9.1.1 The Agreement is this executed AIA Document A101–2007, Standard Form of Agreement Between Owner and Contractor.

§ 9.1.2 The General Conditions are AIA Document A201–2007, General Conditions of the Contract for Construction.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

<table>
<thead>
<tr>
<th>Document</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>I.</td>
<td>Invitation to Bid</td>
</tr>
<tr>
<td>II.</td>
<td>Instruction to Bidders</td>
</tr>
<tr>
<td>III.</td>
<td>Bid Form and Supplements</td>
</tr>
<tr>
<td>IV.</td>
<td>Contract Requirements and Forms</td>
</tr>
<tr>
<td>V.</td>
<td>Small Business Opportunity Program</td>
</tr>
<tr>
<td>VI.</td>
<td>Airport Security Requirements</td>
</tr>
</tbody>
</table>
§ 9.1.4 The Specifications are set forth in the Project Manual.

§ 9.1.5 The Drawings are set forth in the Project Manual.

§ 9.1.6 The Addenda, if any:

<table>
<thead>
<tr>
<th>Number</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
</table>

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents:

1. AIA Document E201™–2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:

N/A

2. Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor’s bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)

N/A

ARTICLE 10 INSURANCE AND BONDS
The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201–2007.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201–2007.)

<table>
<thead>
<tr>
<th>Type of insurance or bond</th>
<th>Limit of liability or bond amount ($0.00)</th>
</tr>
</thead>
<tbody>
<tr>
<td>As set forth in the Contract Documents.</td>
<td></td>
</tr>
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</table>

ARTICLE 11 CHARLOTTE BUSINESS INCLUSION (“CBI”) PROGRAM COMMITTED GOAL
The Contractor has committed to achieve CBI participation in the following percentage of the Contract Sum:

% ( )

[SIGNATURES APPEAR ON FOLLOWING PAGE]
This Agreement entered into as of the day and year first written above.

_______________________________ (CONTRACTOR):

Signature:  
Printed Name:  
Title:  
Address:  
Date:  
Federal Tax ID:  

CITY OF CHARLOTTE:

Signature:  
Printed Name:  
Title:  
Date:  

This instrument has been pre-audited in the manner required by the “Local Government Budget and Fiscal Control Act.”

__________________________________________
Deputy Finance Officer Date
## CONTRACT REQUIREMENTS AND FORMS

**CONTRACTOR SURETY COMPANY CONTACTS (IF APPLICABLE):**

<table>
<thead>
<tr>
<th>Performance Bond No.</th>
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</tr>
</thead>
<tbody>
<tr>
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<td>__________________________________________________________________________</td>
</tr>
<tr>
<td>Point of Contact:</td>
<td>__________________________________________________________________________</td>
</tr>
<tr>
<td>Address:</td>
<td>__________________________________________________________________________</td>
</tr>
<tr>
<td>Phone No.</td>
<td>__________________________________________________________________________</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Labor/Material Bond No.</th>
<th>__________________________________________________________________________</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surety Name:</td>
<td>__________________________________________________________________________</td>
</tr>
<tr>
<td>Point of Contact:</td>
<td>__________________________________________________________________________</td>
</tr>
<tr>
<td>Address:</td>
<td>__________________________________________________________________________</td>
</tr>
<tr>
<td>Phone No.</td>
<td>__________________________________________________________________________</td>
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</table>

<table>
<thead>
<tr>
<th>Guaranty Bond No.</th>
<th>__________________________________________________________________________</th>
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</thead>
<tbody>
<tr>
<td>Surety Name:</td>
<td>__________________________________________________________________________</td>
</tr>
<tr>
<td>Point of Contact:</td>
<td>__________________________________________________________________________</td>
</tr>
<tr>
<td>Address:</td>
<td>__________________________________________________________________________</td>
</tr>
<tr>
<td>Phone No.</td>
<td>__________________________________________________________________________</td>
</tr>
</tbody>
</table>

**PLEASE ATTACH THE FOLLOWING TO THIS SHEET:**

1. **BONDS**
2. **A CERTIFIED COPY OF POWER OF ATTORNEY**
3. **CERTIFICATE OF INSURANCE**
4. **EXECUTED COPIES OF CBI FORM 4 – LETTERS OF INTENT**
B. AIA DOCUMENT A201- 2007 – GENERAL CONDITIONS

for the following PROJECT:
(Name and location or address)
«test» «»

THE OWNER:
(Name, legal status and address)
Charlotte Douglas International Airport
5501 Josh Birmingham Parkway
Charlotte, NC 28208
Telephone: (704) 359.4000

THE ARCHITECT:
(Name, legal status and address)
« » « » « »

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<td><strong>Contractor’s Construction Schedules</strong></td>
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ARTICLE 1 GENERAL PROVISIONS
§ 1.1 BASIC DEFINITIONS
§ 1.1.1 THE CONTRACT DOCUMENTS
The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Plans, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor’s bid or proposal, or portions of Addenda relating to bidding requirements.

§ 1.1.2 THE CONTRACT
The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect’s consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect’s consultants or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect’s duties.

§ 1.1.3 THE WORK
The term “Work” means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 THE PROJECT
The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by separate contractors.

§ 1.1.5 THE PLANS
The Plans are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

§ 1.1.6 THE SPECIFICATIONS
The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 INSTRUMENTS OF SERVICE
Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect’s consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, plans, specifications, and other similar materials.

§ 1.1.8 INITIAL DECISION MAKER
The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2 and certify termination of the Agreement under Section 14.2.2.

§ 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS
§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent
consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Plans shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 CAPITALIZATION
Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 INTERPRETATION
In the interest of brevity the Contract Documents frequently omit modifying words such as “all” and “any” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 OWNERSHIP AND USE OF PLANS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE
§ 1.5.1 The Owner shall be deemed the authors and owners of their respective Instruments of Service, including the Plans and Specifications, and will retain all common law, statutory and other reserved rights, including copyrights. The Architect, the Architect’s consultants, Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect’s or Architect’s consultants’ reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect’s consultants.

§ 1.5.3 The Contractor shall be required to obtain at least one copy each of Plans and Specifications – released for construction from Owner’s plan room provider. The Contractor shall have available on the work at all times one copy each of the Plans and Specifications. Additional copies of Plans and Specifications may be obtained by the Contractor for the cost of reproduction.

§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM
If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Contract or the Contract Documents.

ARTICLE 2  OWNER
§ 2.1 GENERAL
§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner’s approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term “Owner” means the Owner or the Owner’s authorized representative.

§ 2.1.2 INTENTIONALLY DELETED.
§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.2.1 INTENTIONALLY DELETED.

§ 2.2.2 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.2.3 The Owner may, at its election, furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. If the Owner elects to furnish a survey(s), the Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.2.4 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner’s control and relevant to the Contractor’s performance of the Work with reasonable promptness after receiving the Contractor’s written request for such information or services.

§ 2.2.5 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.3 OWNER’S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.4 OWNER’S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner’s expenses and compensation for the Architect’s additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

ARTICLE 3 CONTRACTOR

§ 3.1 GENERAL

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term “Contractor” means the Contractor or the Contractor’s authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect’s administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.
§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor’s review is made in the Contractor’s capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor’s notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor’s best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required means, methods, techniques, sequences or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor’s employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors as if such acts or omissions had been conducted or performed by the Contractor.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.
§ 3.4 LABOR AND MATERIALS
§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work authorized by the Architect in accordance with Sections 3.12.8 or 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor’s employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 WARRANTY
The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor’s warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.6 TAXES
The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS
§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions. If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Owner and Architect will promptly investigate such conditions and, if the Owner and Architect determines that they differ materially and cause an increase or decrease in the Contractor’s cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner and Architect determine that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Owner and Architect shall promptly notify the Contractor in writing, stating the reasons. If the Contractor disputes the Owner/Architect’s determination or recommendation, the Contractor may proceed as provided in Article 15.
§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 ALLOWANCES
§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

1. Allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
2. Contractor’s costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
3. Whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor’s costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 SUPERINTENDENT
§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the name and qualifications of a proposed superintendent. The Owner or Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to the proposed superintendent or (2) that the Owner or Architect requires additional time to review. Failure of the Owner or Architect to reply within the 14 day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner’s consent, which shall not unreasonably be withheld or delayed.

§ 3.10 CONTRACTOR’S CONSTRUCTION SCHEDULES
§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner’s and Architect’s information a Contractor’s construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

§ 3.10.2 The Contractor shall prepare a submittal schedule, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Architect’s approval. The Architect’s approval shall not unreasonably be delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor’s construction schedule, and (2) allow the Architect reasonable time to review
submittals. If the Contractor fails to submit a submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE
The Contractor shall maintain at the site for the Owner one copy of the Plans, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES
§ 3.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Their purpose is to demonstrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect’s approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect’s approval thereof.
§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice, the Architect’s approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor’s responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional’s written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

§ 3.13 USE OF SITE
The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 CUTTING AND PATCHING
§ 3.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting and patching shall be restored to the condition existing prior to the cutting, fitting and patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor’s consent to cutting or otherwise altering the Work.

§ 3.15 CLEANING UP
§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor’s tools, construction equipment, machinery and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 ACCESS TO WORK
The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.
§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS
The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Plans, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

§ 3.18 INDEMNIFICATION
§ 3.18.1 REPLACED AND SUPERSEDED BY INSURANCE AND INDEMNITY 1.0.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers’ compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 4 ARCHITECT
§ 4.1 GENERAL
§ 4.1.1 The Owner shall retain an architect lawfully licensed to practice architecture or an entity lawfully practicing architecture in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Contract and is referred to throughout the Contract Documents as if singular in number.

§ 4.1.2 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

§ 4.1.3 If the employment of the Architect is terminated, the Owner shall employ a successor architect as to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 4.2 ADMINISTRATION OF THE CONTRACT
§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner’s representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor’s rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor’s failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or
charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION
Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect’s consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

§ 4.2.5 Based on the Architect’s evaluations of the Contractor’s Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor’s submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect’s action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect’s professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect’s review of the Contractor’s submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect’s review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect’s approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 TheOwner will prepare Change Orders and Construction Change Directives; provided, however, the Architect may authorize minor changes in the Work as provided in Section 7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner’s review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect’s responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect’s response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations
and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect’s decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect’s response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Plans and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 DEFINITIONS

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term “Subcontractor” is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term “Subcontractor” does not include a separate contractor or subcontractors of a separate contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term “Sub-subcontractor” is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Subsubcontractor.

§ 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor’s Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person or entity previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 SUBCONTRACTUAL RELATIONS

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor’s Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor.
so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically
provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the
Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the
Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The
Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement,
copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the
Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may
be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of
such documents available to their respective proposed Sub-subcontractors.

§ 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS
§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to
Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the
Subcontractor and Contractor in writing; and

.2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the
Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor’s rights and
obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor’s
compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a
successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity,
the Owner shall nevertheless remain legally responsible for all of the successor contractor’s obligations under the
subcontract.

ARTICLE 6   CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
§ 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS
§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner’s
own forces, and to award separate contracts in connection with other portions of the Project or other construction or
operations on the site under Conditions of the Contract identical or substantially similar to these including those
portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is
involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations
on the site, the term “Contractor” in the Contract Documents in each case shall mean the Contractor who executes
each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner’s own forces and of each separate
contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with
other separate contractors and the Owner in reviewing their construction schedules. The Contractor shall make any
revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction
schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until
subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations
related to the Project with the Owner’s own forces, the Owner shall be deemed to be subject to the same obligations
and to have the same rights that apply to the Contractor under the Conditions of the Contract, including, without
excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.
§ 6.2 MUTUAL RESPONSIBILITY

§ 6.2.1 The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor’s construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor’s Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner’s or separate contractor’s completed or partially completed construction is fit and proper to receive the Contractor’s Work, except as to defects not then reasonably discoverable.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Contractor’s delays, improperly timed activities or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 6.2.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 OWNER’S RIGHT TO CLEAN UP
If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7  CHANGES IN THE WORK

§ 7.1 GENERAL

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor and Architect; a Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

§ 7.2 CHANGE ORDERS

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor and Architect stating their agreement upon all of the following:

1. The change in the Work;
2. The amount of the adjustment, if any, in the Contract Sum; and
3. The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 The form of change order shall be the form included in the Section IV.g. of the Project Manual and shall be accompanied by a complete cost breakdown showing computation of the cost together with a written explanation of the change and reason for the change.

§ 7.3 CONSTRUCTION CHANGE DIRECTIVES

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract

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Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

1. Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
2. Unit prices stated in the Contract Documents or subsequently agreed upon;
3. Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
4. As provided in Section 7.3.7.

§ 7.3.4 REPLACED AND SUPERSEDED BY SUPP GC 7.0.

§ 7.3.5 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor’s agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.6 A Construction Change Directive signed by the Contractor indicates the Contractor’s agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

1. Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers’ compensation insurance;
2. Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
3. Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
4. Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work;
5. Additional costs of supervision and field office personnel directly attributable to the change.
6. Overhead and profit as described in subparagraph 7.2.2; and
7. Additional costs including supervision and field office personnel attributable to the change.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect’s professional judgment, to be
reasonably justified. The Architect’s interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 MINOR CHANGES IN THE WORK
The Architect has authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor.

ARTICLE 8 TIME
§ 8.1 DEFINITIONS
§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term “day” as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 PROGRESS AND COMPLETION
§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.1.1 The Contract Time shall be the amount of consecutive calendar days stated in the Contract. Liquidated damages will be assessed at the rate stated in the Contract per consecutive calendar day for unauthorized delays beyond the Contract Time. This amount is hereby agreed to by the Contractor by execution of the Contract and other Contract Documents.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 DELAYS AND EXTENSIONS OF TIME
§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor’s control; or by delay authorized by the Owner pending mediation; or by other causes that the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.
ARTICLE 9   PAYMENTS AND COMPLETION

§ 9.1 CONTRACT SUM
The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.2 SCHEDULE OF VALUES
Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Architect, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data as to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Owner or Architect, shall be used as a basis for reviewing the Contractor’s Applications for Payment.

§ 9.3 APPLICATIONS FOR PAYMENT
§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. Such application shall be notarized, if required, and supported by such data substantiating the Contractor’s right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner’s title to such materials and equipment or otherwise protect the Owner’s interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor’s knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 CERTIFICATES FOR PAYMENT
§ 9.4.1 The Architect will, within seven days after receipt of the Contractor’s Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect’s reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect’s evaluation of the Work and the data comprising the Application for Payment, that, to the best of the Architect’s knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to
an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of
subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion
and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further
constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance
of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-
site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques,
sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers
and other data requested by the Owner to substantiate the Contractor’s right to payment, or (4) made examination to
ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 DECISIONS TO WITHHOLD CERTIFICATION

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary
to protect the Owner, if in the Architect’s opinion the representations to the Owner required by Section 9.4.2 cannot
be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the
Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised
amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to
make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of
subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to
such extent as may be necessary in the Architect’s opinion to protect the Owner from loss for which the Contractor
is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

.1 defective Work not remedied;
.2 third party claims filed or reasonable evidence indicating probable filing of such claims unless
security acceptable to the Owner is provided by the Contractor;
.3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or
equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a separate contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the
unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts
previously withheld.

§ 9.5.3 INTENTIONALLY DELETED.

§ 9.6 PROGRESS PAYMENTS

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and
within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor no later than seven days after receipt of payment from the
Owner the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to
the Contractor on account of the Subcontractor’s portion of the Work. The Contractor shall, by appropriate
agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar
manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of
completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on
account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid
Subcontractors and material and equipment suppliers amounts paid by the Owner to the Contractor for subcontracted
Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact
Subcontractors to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.

§ 9.6.5 Contractor payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 INTENTIONALLY DELETED.

§ 9.7 FAILURE OF PAYMENT
If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor’s Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect or awarded by a court of competent jurisdiction, then the Contractor may, upon seven additional days’ written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor’s reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 SUBSTANTIAL COMPLETION
§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor’s list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect’s inspection discloses any item, whether or not included on the Contractor’s list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 PARTIAL OCCUPANCY OR USE
§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided
the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 FINAL COMPLETION AND FINAL PAYMENT
§ 9.10.1 Upon receipt of the Contractor’s written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect’s knowledge, information and belief, and on the basis of the Architect’s on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect’s final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor’s being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner’s property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days’ prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from
   .1 Claims, security interests or encumbrances arising out of the Contract and unsettled;
   .2 failure of the Work to comply with the requirements of the Contract Documents; or
   .3 terms of special warranties required by the Contract Documents.
§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS
The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 SAFETY OF PERSONS AND PROPERTY

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to

1. employees on the Work and other persons who may be affected thereby;
2. the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor’s Subcontractors or Sub-subcontractors; and
3. other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

§ 10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor’s obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor’s organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor’s superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 INJURY OR DAMAGE TO PERSON OR PROPERTY

REPLACED AND SUPERSEDED BY SUPP GC 7.0.

§ 10.3 HAZARDOUS MATERIALS

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the
Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

§ 10.3.2 Upon receipt of the Contractor’s written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor’s reasonable additional costs of shut-down, delay and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect’s consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys’ fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Contractor’s fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner’s fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

§ 10.4 EMERGENCIES
In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor’s discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS
§ 11.1 CONTRACTOR’S LIABILITY INSURANCE
REPLACED AND SUPERSEDED BY INSURANCE AND INDEMNITY 2.0.

§ 11.2 OWNER’S LIABILITY INSURANCE
REPLACED AND SUPERSEDED BY INSURANCE AND INDEMNITY 2.0.
§ 11.3 PROPERTY INSURANCE
REPLACED AND SUPERSEDED BY INSURANCE AND INDEMNITY 2.0.

§ 11.4 PERFORMANCE BOND AND PAYMENT BOND
§ 11.4.1 The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

§ 11.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK
§ 12.1 UNCOVERING OF WORK
§ 12.1.1 If a portion of the Work is covered contrary to the Architect’s request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect’s examination and be replaced at the Contractor’s expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner’s expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor’s expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 CORRECTION OF WORK
§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION
The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect’s services and expenses made necessary thereby, shall be at the Contractor’s expense.

§ 12.2.2 AFTER SUBSTANTIAL COMPLETION
§ 12.2.2.1 In addition to the Contractor’s obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it within thirty (30) days after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within thirty (30) days after receipt of notice of nonconforming work from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.
§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor’s correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor’s liability with respect to the Contractor’s obligations other than specifically to correct the Work.

§ 12.3 ACCEPTANCE OF NONCONFORMING WORK
If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS
§ 13.1 GOVERNING LAW
The Contract shall be governed by the law of the place where the Project is located.

§ 13.2 SUCCESSORS AND ASSIGNS
§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner’s rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

§ 13.3 WRITTEN NOTICE
Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 13.4 RIGHTS AND REMEDIES
§ 13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 13.4.2 No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing.

§ 13.5 TESTS AND INSPECTIONS
§ 13.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public
authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

§ 13.5.2 If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.5.3, shall be at the Owner’s expense.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect’s services and expenses shall be at the Contractor’s expense.

§ 13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.5.5 If the Architect is to observe tests, inspections or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.6 INTEREST
Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may agree upon in writing.

§ 13.7 TIME LIMITS ON CLAIMS
The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in the Agreement within the time period specified by applicable law. The Owner and Contractor waive all claims and causes of action not commenced in accordance with this Section 13.7.

ARTICLE 14   TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 TERMINATION BY THE CONTRACTOR

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;

.3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor promptly, upon the Contractor’s request, reasonable evidence as required by Section 2.2.1.
§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days’ written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed; provided, however, Contractor shall submit to Owner documentation explaining in detail Contractor’s losses including reasonable overhead and profit and reasonable costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has repeatedly failed to fulfill the Owner’s obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days’ written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 TERMINATION BY THE OWNER FOR CAUSE

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;

.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the above reasons exist, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor’s surety, if any, seven days’ written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 Accept assignment of subcontracts pursuant to Section 5.4; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.3.1 The Aviation Director shall have the authority to terminate the Contract without additional authorization from the Charlotte City Council.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect’s services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.
§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent
1. that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
2. that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE
§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner’s convenience and without cause.

§ 14.4.4.1 The Aviation Director shall have the authority to terminate the Contract without additional authorization from the Charlotte City Council.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner’s convenience, the Contractor shall
1. cease operations as directed by the Owner in the notice;
2. take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
3. except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner’s convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, excluding overhead and profit on the Work not executed.

ARTICLE 15 CLAIMS AND DISPUTES
§ 15.1 CLAIMS
REPLACED AND SUPERSEDED BY SUPP GC 7.0.

§ 15.2 INITIAL DECISION
REPLACED AND SUPERSEDED BY SUPP GC 7.0.

§ 15.3 MEDIATION
REPLACED AND SUPERSEDED BY SUPP GC 8.0.

§ 15.4 ARBITRATION
REPLACED AND SUPERSEDED BY SUPP GC 8.0.

END OF AIA 201 – 2007
C. SUPPLEMENTAL GENERAL CONDITIONS

1.0 INDEPENDENT CONTRACTOR. Contractor represents that it is fully experienced and properly qualified to perform the class of work provided for herein, and that it is properly licensed, equipped, organized and financed to perform such work. Contractor shall act as an independent contractor and not as the agent of Owner in performing the Contract, maintaining complete control over its employees and all of its suppliers and subcontractors. Nothing contained in this Contract or any subcontract awarded by Contractor shall create any contractual relationship between any such supplier or subcontractor and Owner.

2.0 LAWS AND REGULATIONS. Contractor and its employees and representatives shall at all times comply with all applicable laws, ordinances, statutes, rules or regulations in effect at the time the Work is performed under this Contract.

3.0 PAYMENT AND PERFORMANCE BONDS. Contemporaneously with Contractor’s execution of the Contract Documents, Contractor shall supply the Owner with a performance bond and a payment bond, each in an amount equal to the Contract Sum.

4.0 CONTRACT MEETINGS. The Contractor shall, as requested by Owner, attend any and all meetings called by Owner to discuss the Work under the Contract. Such meetings shall be conducted and recorded by the Contractor with minutes of each meeting distributed to Owner, Contractor and subcontractors.

4.1 Pre-Construction Conference. As soon as practicable after award of Contract and prior to commencing any work, a pre-construction conference will be arranged. The purpose of the pre-construction conference is to determine procedures related to smooth progress of the Project and to review any items requiring clarification. Procedures for processing and distribution of all documents and correspondence related to the Contract will be established at the pre-construction conference.

5.0 SAFETY. All costs in connection with meeting all safety requirements set forth herein shall be borne by the Contractor.

5.1 Fire Prevention.

A. Contractor shall conform to all Federal, State, and local laws and regulations pertaining to burning, fire prevention and control within or adjacent to the project. Necessary precautions to avoid and eliminate fire hazards shall be the responsibility of the Contractor. This includes keeping the Contract Work area clear of all trash at all times.

B. All tarpaulins used for any purpose during construction of any work shall be made of material resistant to fire, water and weather and shall bear UL labels. Lighting of any fires on premises is strictly forbidden.

C. Contractor shall provide portable fire extinguishers compatible with the hazard of each work area and shall instruct its personnel in their location and use. Wherever welding and burning are conducted, no inflammable materials shall be allowed, and welding activities shall be shielded. The Contractor shall post a Hot Work Permit whenever an open flame shall be utilized for work.

5.2 Pumping and Drainage. Surface or sub-surface water or other fluid shall not be permitted to accumulate in excavations or under any structure. Should such conditions develop or be
encountered, the water or other fluid shall be controlled and suitably disposed of by means of temporary pumps, piping, drainage lines and ditches, dams or other methods approved by the Owner and other public agencies having jurisdiction.

5.3 Dust Control.

A. The Contractor, for the duration of the Contract, shall maintain all excavations, embankments, haul roads, access roads, plant sites, waste disposal areas, borrow areas, and all other work areas free from dust. Industry-accepted methods of dust control suitable for the area involved and approved by Owner will be permitted. No separate payment will be made for dust control.

B. If the Owner determines that dust from the Contract site constitutes a hazard to aircraft operations, the Contractor shall take immediate action to reduce the amount of dust to the satisfaction of the Owner. If the Contractor does not respond immediately, the Owner reserves the right to undertake dust control at Contractor’s expense.

5.4 Water Pollution. Contractor shall, at its expense, provide suitable facilities to prevent the introduction of any substances or materials into any stream, river, lake or other body of water, which may pollute the water or constitute substances or materials deleterious to fish and wild life.

5.5 Explosives. Use of explosives will not be allowed on this Contract.

5.6 Illumination. When any work is performed at night or where daylight is shut off or obscured, Contractor shall, at its expense, provide artificial light sufficient to permit work to be carried on efficiently, satisfactorily and safely, and to permit thorough inspection. During such time periods the access to the place of work shall also be clearly illuminated. All wiring for electric light and power shall be installed and maintained in compliance with local code, securely fastened in place at all points, and shall be kept as far as possible from telephone wires, signal wires, and wires used for firing blasts.

5.7 Cleaning Up. Contractor shall, at all times, keep its work areas in a neat, clean, and safe condition. Upon completion of any portion of the Work, Contractor shall promptly remove all of its equipment, construction plant, temporary structures and surplus materials not to be used at or near the same location during later stages of Work. Upon completion of the Work and before final payment is made, Contractor shall at its expense, satisfactorily dispose of all plant, buildings, rubbish, unused materials, and other equipment and materials belonging to it or used in the performance of the Work, and Contractor shall leave the premises in a neat, clean, and safe condition. In the event of Contractor’s failure to comply with the foregoing, the Owner may accomplish the same at Contractor’s expense.

5.8 Hazard Communication.

A. The Contractor shall be aware of OSHA Federal Standard 29 CFR 1910.1200, HAZARD COMMUNICATION and 29 CFR 1910.1020(C), ACCESS TO EMPLOYEE EXPOSURE AND MEDICAL RECORDS. The Contractor’s Safety Program shall address and include all aspects of the preceding OSHA rules, as well as any local or State hazard communication laws.
B. The Contractor shall furnish to the Owner the MSDS Sheet on any material requiring the same, for Owner review and approval prior to said material being delivered to the site. Contractor shall specifically follow all the safety requirements listed on the MSDS Sheet.

5.9 Hazardous Material.
A. The Contractor shall immediately notify the Owner of any hazardous materials subsequently found on the site and shall not remove same without the permission of Owner.

B. If the contractor caused the hazardous material and subsequent contamination, Contractor shall remove said hazardous material and contaminated soils or materials from the site and shall dispose of same in accordance with all Federal, State or Local laws or regulations. Removal of such materials and contamination shall be monitored by a licensed hazardous materials laboratory, and said laboratory shall prepare a written report attesting to the complete removal of the contaminating material and resulting contamination, all to the satisfaction of, and at no cost to, the Owner.

5.10 Erosion Control. Contractor shall conform to all Federal, State, and local laws and regulations pertaining to erosion control within or adjacent to the Project.

6.0 PAYMENT AFFIDAVITS.

To determine whether disparities exist in Owner contracting based on race, gender or other factors, and also to measure the effectiveness of the Owner’s Community Business Inclusion Program, the Owner tracks the utilization of first-tier subcontractors and suppliers on certain Owner contracts based on race, gender, small business status, and other factors. For analysis purposes, it is important that the Owner obtain this data not only for minority, female and small business suppliers and subcontractors, but also for other subcontractors and suppliers. As a condition to receiving payment under this Agreement, the Contractor agrees to provide to the Owner with each invoice for payment submitted under this Agreement, a written payment affidavit detailing the amounts paid by the Contractor to first tier subcontractors and suppliers in connection with this Agreement (“Payment Affidavits”). Payment Affidavits shall be in the format specified by the Owner from time to time, and shall include all payments made to first tier subcontractors and suppliers under this Agreement that are not included on a prior Payment Affidavit.

Failure to provide a properly completed version of each Payment Affidavit required by this Section shall constitute a default under this Agreement, and shall entitle the Owner to: (a) withhold payment of any amounts due the Contractor (whether under this Agreement or otherwise), or (b) exercise any other remedies legally available for breach of this Agreement; or (c) impose any other sanctions permitted under the Owner’s Community Business Inclusion Program. In order to have a properly completed Payment Affidavit, each prime contractor and first tier subcontractor identified must be registered in the Owner’s Vendor Registration System. The Owner may request on a case-by-case basis that the Contractor require certain suppliers to be registered in the Owner’s Vendor Registration System, and may withhold payment of any amounts due the Contractor in the event the Contractor fails to comply with such request.

7.0 PROGRESS PAYMENTS.

7.1 Sections 5.1.6, 5.1.7, and 5.1.8 of the Standard Form of Agreement (AIA Document 101 2007) have been superseded and replaced by Sections 6.2 through 6.4 below.
7.2 The Owner will make progress payments based on the Work progress estimates prepared by the Architect and on the payment requests submitted by the Contractor on a monthly schedule established by the Owner. Progress payments will be made within thirty (30) calendar days after receipt of a complete and accurate payment request. Progress payments will be approximate only and will be subject to correction in the final estimate and payment.

The Contractor shall submit the following required documents with each payment request:
1. Payment Affidavit (CBI Form 6 provided by the Owner); and
2. Sales/Use Tax Statement (provided by the Owner).

The Contractor shall submit an updated Project Schedule with every progress payment request. The Project Schedule shall detail the entire Project and shall be in a format that meets the approval of the Owner.

If any mechanic's or materialman's lien, or any notice or claim of such lien, is filed against the Project for any labor, materials, supplies, or equipment claimed to have been furnished to or incorporated into the Work, or for any other alleged contribution thereto, the Owner shall have the right to retain from payments otherwise due the Contractor, in addition to all other amounts properly withheld under this Article or under other provisions of the Contract, an amount equal to such lien or liens claimed. The Contractor warrants that: (i) all materials are free and clear of all liens, claims, security interests, or encumbrances; and (ii) no materials have been acquired by the Contractor, or by any other person performing Work at the site or furnishing materials for the Work under this Contract, that are subject to an agreement under which an interest in, or encumbrance on, the materials or equipment is retained by the seller or otherwise imposed.

In accordance with NCGS § 22C, the Contractor is required to pay subcontractors for satisfactory performance of their contracts within seven (7) calendar days after the Owner has paid the Contractor for such Work. Additionally, the Contractor shall pay the undisputed portions of subcontractors’ invoices within one hundred twenty (120) calendar days of the date of subcontractor’s invoice, independent of any payment by the Owner to the Contractor. If the Contractor withholds any retainage pending final completion of any subcontractor’s Work, the Contractor is required to pay the retainage so withheld within seven (7) calendar days after such subcontractor completes his Work satisfactorily, regardless of any payment of retainage by the Owner to the Contractor. The Contractor’s failure to pay subcontractors as provided herein shall be a material breach for which the Owner may cancel the Contract.

The Contractor shall have a copy of his current progress payment request on the Project job site available for review by subcontractors.

7.3 Five percent (5%) of each progress payment shall be retained until the completion of the Work, subject to the terms and conditions of N.C.G.S. 143-134.1.

7.4 The Contractor, in paying his subcontractors and suppliers, shall fully and strictly comply with N.C.G.S. 143-134.1, and shall include appropriate provisions in all subcontracts and orders for materials, supplies or equipment requiring all subcontractors and suppliers to fully and strictly comply with N.C.G.S. 143-134.1.

8.0 CLAIMS AND DISPUTES.

8.1 Sections 7.3.4, 10.2.8 (Injury or Damage to Person or Property), 15.1.1 (Definition), 15.1.2 (Notice of Claims), 15.1.3 (Continuing Contract Performance), 15.1.4 (Claims for Additional Cost), 15.1.5
(Claims for Additional Time), 15.1.6 (Claims for Consequential Damages), and 15.2 (Initial Decision) of the General Conditions (AIA Document A201 2007) are superseded and replaced by Sections 7.2 through 7.9 below.

8.2 All Claims presented by Contractor shall be in writing and accompanied by the following information and/or documentation:

A. The basis of the Claim including, without limitation, the specific requirements, clauses or provisions of the Contract which are pertinent to the Claim;

B. A full description of the Claim, with a narrative to support the Contractor’s position that Claim exceeds or falls outside of the Contract;

C. A detailed description of all costs associated with Claim;

D. A detailed description of all requested time extensions associated with the Claim including, if possible, a revised project schedule incorporating the requested time extension; and

E. Supporting documentation to substantiate Claim, including schedules, graphs, charts, photographs and any other pertinent documentation or information.

8.3 All Claims shall be submitted within a reasonable time not to exceed thirty (30) days after the occurrence of the event giving rise to such Claim or the date the Contractor first recognizes the condition giving rise to the Claim, whichever is later. Failure by Contractor to present the Claim within the specified time period and in the manner described in Section 13.2 shall constitute a waiver of the Claim by Contractor.

8.4 During its review of the Claim, the Owner may request such further information, documentation, and details as may be reasonably required to determine the facts, contentions, and validity of the Claim. It will be the responsibility of the Contractor to furnish, when requested by the Owner, the above information. Failure to submit such requested information will be sufficient cause for denying the Claim, and will constitute a waiver of any relief to which the Contractor might otherwise be entitled. The written claim required by this Article is in addition to any other notice as may be required by other provisions of this Contract.

8.5 From the time the Owner receives each Claim in writing, accompanied by complete supporting documentation as required by this Article, the Owner shall have a reasonable time, in no case more than thirty (30) days, to investigate, review, and evaluate such Claim. The reasonable time for the Owner review shall be tolled by any good faith request for further information from the Contractor. When the Owner has completed its investigation, review, and evaluation, it will notify the Contractor in writing of whether the claim was found to have merit and of any relief to which it has found the Contractor to be entitled. A failure by the Owner to respond within the thirty (30) day response period shall be deemed a denial of the Claim.

8.6 Submittal of Claims within the time and in the form stipulated herein shall be a condition precedent to the Contractor’s right to any compensation, time extension or other relief based thereon, and the Contractor’s failure to submit any claim as so stipulated shall waive any relief that might otherwise be due with respect to such claim.
8.7 The Contractor promises and agrees that the Contractor will not institute any action at law, suit
in equity, or other legal proceeding against the Owner, arising in any manner whatsoever or in
connection with the Contract or the performance or breach, or alleged breach, hereof, or the
warranty hereunder, unless and until the Contractor has first submitted a claim in the manner
described herein and requested and received the Owner’s final determination with respect to the
subject matter of such action, suit, or other proceeding as provided above. The Contractor
further promises and agrees that no action at law, suit in equity, or other legal proceeding arising
as aforesaid shall be brought more than one (1) year after the Contractor has received the
Owner’s final determination with respect to the subject matter thereof. Failure to commence any
action, suit, or other proceeding within the appropriate time stipulated above will constitute a
waiver of any and all damages or other relief that may be due in respect thereof.

8.8 Neither the submittal of a Claim hereunder nor the fact that any such Claim or Claims is or are
pending shall excuse the Contractor from the full and timely performance of all obligations under
the Contract. The Contractor shall continue such performance, unless otherwise instructed by
the Owner, notwithstanding any dispute that may arise concerning the compensation due the
Contractor or either party’s performance of or failure to perform any obligation under the
Contractor. The Contractor waives any right to cancel the Contract or to suspend or discontinue
work that may arise out of any breach, alleged breach, or other act, conduct, or omission by the
Owner.

8.9 Owner and Contractor shall each pay their own costs for preparation of and presentation of all
Claims.

9.0 MEDIATION.

9.1 Sections 15.3 (Mediation) and 15.4 (Arbitration) of the General Conditions (AIA Document A201
2007) shall be superseded and replaced by the by Sections 8.2 through 8.11 below.

9.2 The Owner and any party contracting with the Owner or with any first-tier or lower-tier
subcontractor for the construction of the project agree to participate in good faith in any
mediation of a dispute subject to this Section and N.C.G.S. 143-128(f1), including without
limitation the following parties (if applicable): architect(s), engineer(s), surveyor(s), construction
manager, construction manager at risk, prime contractor(s), surety(ies), subcontractor(s), and
supplier(s).

9.3 Full compliance with this Article is a precondition for any party to initiate any form of litigation
concerning the dispute. Unless otherwise directed by the Owner, the Contractor shall continue
performance under this Contract while matters in dispute are being resolved. The process set
forth by this Article may be foregone upon the mutual written agreement of all parties in interest
to the dispute.

9.4 The Contractor shall and hereby agrees to include this Article in every subcontract or any other
agreement it enters into with any party related to or that will be involved in this Project. Failure
to do so will constitute a breach of this Contract, and the Contractor shall indemnify and hold
harmless the Owner from and against any and all claims, including without limitation reasonable
attorney fees and other costs of litigation, arising in any manner from such breach.

9.5 The following disputes are not subject to the provisions of this Article:
1. A dispute seeking a non-monetary recovery; and
2. A dispute seeking a monetary recovery of $15,000 or less.
9.6 A dispute seeking the extension of any time limit set forth in this Contract shall be subject to mediation pursuant to this Article and N.C.G.S. 143-128(f1) only if the damages which would be suffered by the party seeking the extension would exceed $15,000 if the disputed extension is denied. To the extent that liquidated damages are set forth in such agreement as the measurement of damages for failure by such party to meet such time limit, such liquidated damages shall be the exclusive standard for determining the amount of damages associated with such dispute.

9.7 For purposes of this Article, a dispute is limited to the recovery of monetary damages from the same transaction or occurrence against a single party or two or more parties alleged to be liable jointly, severally or in the alternative. Two or more disputes may not be consolidated or otherwise combined without the consent of all parties to such disputes.

9.8 Prior to requesting mediation, a party must form a good faith belief that it is entitled under applicable law to recover the monetary amount to be included in the request from one or more of the remaining parties. Such belief must be based on a reasonable and prudent investigation into the dispute that is the subject of the request. The request for mediation must be based on such investigation and may not include any amount or the name of any remaining party, unless supported by such investigation and good faith belief by the party requesting the mediation.

9.9 If a party breaches any provision of Paragraph 9.8 above, it shall indemnify and hold harmless all other parties from any costs, including reasonable attorney fees and other costs of litigation, and damages incurred by such other parties that arise from such breach.

9.10 All expenses incurred by a party to a dispute in preparing and presenting any claim or defense at the mediation shall be paid by the party. The parties shall share the mediator’s fee and any filing fees equally with at least one-third of such fees to be paid by Owner, if Owner is party to the dispute. Agreements reached in mediation shall be enforceable as settlement agreements in any court have jurisdiction thereof.

9.11 The mediation shall be held in the Charlotte, Mecklenburg County, North Carolina, unless otherwise agreed by all parties in writing. The provisions of this Section are subject to any other provision of this Contract concerning the submission, documentation and/or proof of any claim or dispute. Such other provisions shall apply in full force and shall be satisfied as a condition precedent to mediation pursuant to this Article. The parties understand and agree that mediation in accordance with this Article shall be a condition precedent to institution of any legal or equitable proceeding seeking monetary recovery based on any dispute that is subject to mediation pursuant to this Article.

10.0 PROJECT SIGNS, PUBLICITY AND ADVERTISING.

With the exception of the right reserved by the Owner to erect a sign in connection with the project and unless otherwise provided in the Contract Documents, the Contractor shall not display or permit to be displayed on or about the project, any sign, trademark, poster or other advertising device, without prior written approval of Owner. Contractor shall not make any announcement or release any information concerning this Contract or the project or any part thereof to any member of the public, press or any official body, unless prior written consent is obtained from Owner.

11.0 SUCCESSORS, ASSIGNEES AND ASSIGNMENT.
Contractor shall not assign, transfer, convey or otherwise dispose of the Contract or its right, title or interest in or to the same or any part thereof, without previous written consent of the Owner and concurred to by the sureties.

12.0 AUDIT RIGHTS.

The Owner shall have the right to inspect, examine and make copies of any and all books, accounts, records, and other writings of contractors relating to the performance of the Work under the Contract, including change orders. Such audit rights shall be extended to any duly authorized representatives designated by the Owner. Audits shall take place at times and locations mutually agreed upon by both parties, but not later than one week following the date of a request for an audit.

13.0 COMPLIANCE WITH IMMIGRATION LAWS.

Contractor and its subcontractors shall not place any employee on Owner's worksite without first ensuring the employee's authorization to work.

Contract agrees and warrants that:

A. it maintains and follows an established policy to verify employment eligibility verification; and

B. it has verified the identity and employment eligibility of all employees; and

C. it has established internal safeguards and reporting policies to encourage employees to report suspected violations of immigration policies to senior management; and

D. it has no knowledge of any fact that would render an employee or subcontractor ineligible to legally work in the U.S.; and

E. it has complied with the Immigration Reform and Control Act of 1986 ("IRCA") at all times; and

F. it has properly maintained all records required by federal immigration authorities, including the Form I-9s; and

G. it has responded in a timely fashion to any inspection request from and has cooperated fully with inquiries, inspections or investigations by federal immigration officials.

14.0 NON-DISCRIMINATION PROVISION FOR ALL CITY CONTRACTS.

As a condition of entering into this agreement, the Contractor represents and warrants that it will fully comply with the Owner's Commercial Non-Discrimination Policy, as described in Section 2, Article V of the Charlotte City Code, and consents to be bound by the award of any arbitration conducted thereunder. As part of such compliance, the Contractor shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, age or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors or suppliers in connection with an Owner contract or contract solicitation process, nor shall the Contractor retaliate against any person or entity for reporting instances of such discrimination. The Contractor shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its subcontracting and supply opportunities on Owner contracts, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that has occurred or is occurring in the marketplace. The Contractor understands and agrees that a violation of this clause shall be considered a material breach of this
Agreement and may result in termination of this Agreement, disqualification of the Contractor from participating in Owner contracts or other sanctions.

As a condition of entering into this agreement, the Contractor agrees to:

A. Promptly provide to the Owner all information and documentation that may be requested by the Owner from time to time regarding the solicitation, selection, treatment and payment of subcontractors in connection with this Contractor; and

B. If requested, provide to the Owner within sixty days after the request a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Contractor has used on City contracts in the past five years, including the total dollar amount paid by Contractor on each subcontract or supply contract. The Contractor further agrees to fully cooperate in any investigation conducted by the Owner pursuant to the Owner’s commercial non-discrimination policy as set forth in Section 2, Article V of the City Code, to provide any documents relevant to such investigation that are requested by the Owner, and to be bound by the award of any arbitration conducted under such policy. The Contractor understands and agrees that violation of this clause shall be considered a material breach of this Contract and may result in contract termination, disqualification of the Contractor from participating in City contracts and other sanctions.

15.0 COMPLIANCE WITH E-VERIFY

As a condition for payment under this Contract, Contractor shall: (i) comply with the E-Verify requirements set forth in Article 2 of Chapter 64 of the North Carolina General Statutes (the “E-Verify Requirements”); and (ii) cause each subcontractor under this Contract to comply with such E-Verify Requirements as well. Contractor will indemnify and save harmless the Owner from all losses, damages, costs, expenses (including reasonable attorneys’ fees), obligations, duties, fines, penalties, interest charges and other liabilities (including settlement amounts) incurred on account of any failure by Contractor or any subcontractor to comply with the E-Verify Requirements.

16.0 WEATHER DELAYS

16.1 EXTENSIONS OF CONTRACT TIME. An extension of time on the basis of weather may be granted only for the number of Weather Delay Days in excess of the number of days listed as the Standard Baseline. For the purposes of this provision, Adverse Weather is defined as precipitation in excess of 0.10 inch liquid measure that prevents exterior construction activity or access to the site within twenty-four (24) hours.

16.2 STANDARD BASELINE FOR AVERAGE CLIMATIC RANGE:

1. The Owner has reviewed weather data available from the National Oceanic and Atmospheric Administration (NOAA) and determined a Standard Baseline of average climatic range for the Charlotte Douglas International Airport (CLT) – WSO.

2. Standard Baseline shall be regarded as the normal and anticipatory number of calendar days for each month during which construction activity shall be expected to be prevented and suspended by cause of precipitation in excess of 0.10 inch liquid measure. Suspension of construction activity for the number of days each month as listed in the Standard Baseline is included in the Work and is not eligible for extension of Contract Time.
3. Standard Baseline (based upon precipitation in excess of 0.10 inch liquid measure) established for this contract is as follows:

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16.3. ADVERSE WEATHER AND WEATHER DELAY DAYS. A Weather Delay Day may be counted as follows:

1. At a rate no greater than one (1) make-up day for each day of precipitation beyond the Standard Baseline that total 0.10 inch or more, liquid measure, if no substantial work is possible, unless specifically recommended otherwise by the Owner.

2. Owner will consider a request for a Weather Delay Day attributable to abnormal weather conditions other than precipitation (temperature, wind, “dry-out” or mud conditions) on a case-by-case basis. Such requests must be submitted to Owner in writing and must be fully documented with the cause and effect of the abnormal weather condition on critical path activities. Failure to properly document request for an extension of Contract Time due to abnormal weather conditions may result in the Owner denying such request.

16.4. The Contractor will compile monthly weather data from the Local National Weather Station, which shall be used to substantiate Contractor’s requests for Weather Delay Days.

16.5. Throughout the duration of the Contract, the Contractor and Owner shall reconcile impacts due to weather on a monthly basis. The Contractor shall submit monthly with the pay application an itemized list of: days impacted by weather, scheduled activity that was impacted, the impact which caused the delay (temperature, mud, snow, etc.) and any supporting documentation.

17.0 OVERHEAD AND PROFIT

Overhead (including without limitation bonuses, sick leave, vacation/holiday pay, bookkeeping, clerical, estimating, superintendence, project management, insurance or other items of indirect cost or overhead) and profit shall be compensated by payment of overhead and profit in accordance with the following schedule of percentages:

1. Contractor Overhead and Profit for work performed by the Contractor’s forces – 12.5% of the additional direct cost;
2. Contractor Overhead and Profit for work performed by a subcontractor’s forces – 7.5% of the additional direct cost;
3. Subcontractor Overhead or profit for work performed by the subcontractor’s forces – 12.5% of the additional cost;
4. Subcontractor Overhead and Profit for work performed by a sub-subcontractor’s forces – 7.5% of the additional cost;
5. Owner credit for work deleted that would have been performed by the Contractor’s forces – not less than 10% shall be credited to the Owner by the Contractor as the allowance for overhead and profit;
6. Owner credit for work deleted that would have been performed by a subcontractor’s forces – 5% shall be credited to the Owner by the Contractor as the allowance for overhead and profit.
7. Subcontractor – work deleted that would have been performed by the subcontractor or the subcontractor’s subcontractor – not less than 10% shall be credited to the Owner by the subcontractor as an allowance for overhead and profit.
In order to facilitate the review of quotations for additional work or deleted work, all proposals shall be accompanied by a complete itemization of costs including labor, materials, overhead and profit for all work performed by the Contractor or subcontractors.

18.0 ALLOWANCES

Any allowance included as a line item on the itemized Bid or Proposal, including but not limited to contingency allowances, may only be used by the Contractor upon written instructions from the City. Any portion of any allowance remaining at the end of the Contract shall revert to the City. The City reserves the right to change any allowance amount prior to the award of the Contract.
D. SPECIAL CONDITIONS FOR NON-FEDERAL PROJECTS

1.0 GENERAL WORK CONSTRAINTS.

The Contractor shall note that the Airport is in operation 24 hours per day, 7 days per week. Because of this, the Contractor shall plan and execute all construction activities, movement of materials, personnel and equipment, demolition of existing property, so as to not impede any operations of the Airport or public, such as the movement of vehicles, foot traffic, aircraft or emergency vehicles. Airport operations take precedence over all other activities.

A. Airport operations take precedence over all other operations when on the Airport Operations Area (AOA). To assure the safe operation of aircraft, safety of passengers and employees, the Contractor may be asked to work other than normal working hours to minimize impact to daily operations. This shall be anticipated whenever construction occurs on the AOA, unless construction fencing and barricades surround the project. The Contractor shall take this into consideration, and no additional costs will be borne by the Owner for this constraint.

B. Some work will be within the AOA and will take place adjacent to moving vehicles. Contractor shall give way to all air traffic. All vehicles and equipment shall remain inside the Contractor’s work area.

C. The Contractor shall be responsible for repairs to any paved or unpaved areas within the AOA that are damaged by the Contractor’s construction operations.

D. The Owner reserves the right to suspend any or all Contractor construction for periods of time as may be required for aircraft operations or weather emergencies.

E. All Work to be performed in the AOA must be accomplished under FAA, TSA and Airport rules, regulations and restrictions.

F. Contractor shall be responsible for maintaining continuity of lighting on operational runways, taxiways or aprons, even if this requires temporary wiring to be installed by the Contractor as part of the Work.

G. No smoking is permitted on the AOA. No open flame without specific Owner approval will be allowed on the Airport.

H. The Contractor is responsible for installing safety fencing to contain Contractor’s work operations when on the AOA. A four-foot high, orange fabric fence will be acceptable for this purpose. All temporary work areas within the AOA shall be properly barricaded and weighted so as not to be moved about in a high wind. If barricades cross all or a portion of apron, taxiway or runway, barricades shall be spaced at ten (10) foot centers and have flashing yellow lights for nighttime visibility. Contractor is responsible for all other necessary barricading to protect persons and property.

I. The Contractor may be required to perform Work during nighttime hours, requiring adequate lighting. The Owner prior to installation shall approve lights in an effort to prevent impact to air traffic operations.

J. Within a construction area, the Contractor shall make certain there is never any accumulation of spoil or debris which might be moved outside the fenced area by wind or jet blast from aircraft. The Contractor shall maintain the area in this condition on a continuous basis and shall leave the entire work area clean at the end of each work shift.

K. Contractor’s work cranes will be allowed in the Contractor’s work area, only as approved by the Owner. The Contractor shall comply with FAA Advisory Circular AC 70/7460-1 by providing necessary crane
information to the Owner in advance of crane arrival and erection. The Owner will then submit Form 7460-1 for FAA approval.

L. All trucks delivering, removing, or moving bulk materials about the Contractor’s work area shall be fully covered to eliminate any material or dust blowing from the truck.

2.0 SAFETY AND CONSTRUCTION ACTIVITY AND AIRCRAFT MOVEMENTS.

A. During the time that the Contractor is performing the work under this contract, the existing terminal ramps, taxiways, and runways at the Airport will remain in use by aircraft, except as provided herein. To the extent feasible and convenient, in the discretion of the Owner and to the extent permitted by the Federal Aviation Administration (FAA), the use by aircraft of runways and taxiways adjacent to areas where the Contractor is working will be scheduled so as to reduce disturbance to the Contractor’s operations. Aircraft operations, unless otherwise specified in the Contract Documents shall always have priority over any and all of the Contractor’s operations, and the Contractor shall not allow his employees, subcontractors, material suppliers, or any other persons over whom he has control to enter or remain upon any part of the Airport or allow any plant or materials to be brought or to remain upon any part of the Airport which, in the opinion of the Owner, would be a hazardous location. Should ramps, runways, or taxiways be required for use by aircraft, and should the Owner deem the Contractor to be too close to any portion of the ramps, runways or taxiways used by aircraft for safety, Owner may, in his sole discretion, order the Contractor to suspend his operations; remove his personnel, plant, equipment, and materials to a safe distance; and stand by until the ramps, runways and taxiways are no longer required for use by aircraft.

The Contractor shall not allow his/her employees, subcontractors, material suppliers, or any other persons under the Contractor’s control to cross any active runway without an escort by authorized Airport personnel. The Contractor will be subject to a fine of up to $10,000 for any incursion on a runway or taxiway by such person under the Contractor’s control.

B. Construction activity in the vicinity of the FAA navigational aids (i.e., ILS, VOR, ASR, ATCT) requires special consideration and poses potential constraints. Prospective bidders shall be alerted to this fact by the incorporating language requiring close coordination with the local Airway Facilities Sector and Airport staff as a condition of bid.

C. Additional Safety Requirements. The Contractor will adhere to the following requirements when working in close proximity to aircraft:

1. Brief each equipment and vehicle operator to thoroughly acquaint him with the absolute necessity of exercising discretion, care and proper judgment while in the vicinity of aircraft operations.

2. Assist the Owner and Airport security in monitoring the conduct of each operator.

3. Require all operators to maintain a safe and reasonable speed and to utilize equipment strictly in accordance with prevailing weather conditions.

4. At the direction of the Owner, dismiss from the Project any person operating unauthorized vehicles or equipment in an unauthorized area, or operating vehicles or equipment in a reckless and unreasonable manner.

5. The Contractor shall not allow trash or debris to accumulate in his work or operations area. Extreme caution will be taken to keep all trash and debris from taxiways, runways, and ramp areas.
6. The Contractor shall not allow his vehicles or equipment to be operated within 180 feet of the centerline of an active taxiway or within 250 feet of the centerline of an active runway, unless they are using a designated haul route in accordance with Contract Documents, and have the express consent of the Owner.

7. Immediately cease and remove his operations from any operations or work area at any time he is instructed to do so by the Owner or the FAA. These instructions will be issued by radio or other means, if appropriate. The Contractor shall not return operations to the area until he has received permission to do so from the Owner.

8. Contractor shall provide, erect, and maintain all necessary barricades, signs, danger signals, and lights for the protection of the work and the safety of the public for both land and air traffic. Obstructions shall be illuminated as required by the Owner.

D. Marking of Required Clearances. The Contractor will establish a system of visual aids for marking and delineating the limits of required clearances adjacent to active runways, taxiways, and NAVAIDS during the process of construction set forth in the Contract. The system shall be easily distinguishable during both day and nighttime work. A detailed plan of materials and procedures the Contractor proposes to use will be submitted to the Owner for approval prior to the start of any work under this Contract. Any deviations from the plan must be requested and approved by the Owner. The Owner may request changes to the established plan whenever it is necessary for the protection of Airport operations. The approved system of marking and delineation shall be installed, maintained, and protected at all times.

3.0 FEDERAL FINES

The Contractor agrees to accept and reimburse City for any fines levied against the Owner by the Federal Aviation Administration, Transportation Security Agency or any other federal department or agency for any violation of any federal law, regulation, rule or order by the Contractor and its employees or any of the Contractor’s subcontractors, vendors, suppliers and agents and their employees.

4.0 TEMPORARY FACILITIES

A. Description. Contractor shall furnish, install and maintain temporary facilities required for construction, including temporary utilities as needed.

B. Requirements of Regulator Agencies. Contractor shall comply with Federal, State, and Local laws, codes and regulations including without limitation utility company requirements and the National Electric Code. Contractor shall acquire all necessary permits for any temporary facilities or utilities.

C. Temporary Electricity and Lighting. Contractor shall provide temporary electrical service required for power and lighting, and pay all costs for service and for power used.

D. Temporary Water. Contractor shall provide water for construction purposes; pay all costs for installation, maintenance and removal, and service charges for water used. The Contractor shall make arrangements for securing and providing necessary water as required for the performance of the work.

E. Temporary Sanitary Facilities. Contractor shall provide sanitary facilities in compliance with laws and regulations, and shall service, clean and maintain the facilities and enclosures as required.

F. Temporary Support Facilities.
1. **General:** Contractor shall provide and maintain temporary support facilities in neat condition and uniform appearance that is reasonably acceptable to the Engineer and the Owner.

2. **Siting:** Contractor shall locate field offices, storage and fabrication sheds and other support facilities for easy access to the work, in locations approved by City.

3. **Maintenance:** Contractor shall maintain field offices, on-site plants, storage and fabrication sheds, temporary sanitary facilities, waste collection and disposal systems, and project identification and temporary signs until project completion.

4. **Staging Area:** Contractor shall prepare his staging area and access road by grading, drainage, and placing a four (4) inch minimum thickness stone base of coarse aggregate (#57 stone) over the entire staging area and access road(s). The Contractor shall apply a periodic top dressing to the stone base in order to minimize any fugitive dust or mud during the construction period. Upon completion of the project, the stone base shall be completely removed, the site graded to drain, and then seeded and mulched in accordance with Item T-901 and T-908.

5. **Access and Haul Roads:**
   a. Locations of access and haul roads will be approved by the Owner. These roads will be located to minimize conflict with Airport operations and shall be maintained, well defined, and confined to the minimum area required. All roads used to access the site that are damaged by the Contractor’s operations shall be promptly repaired at no cost by the Contractor to the satisfaction the Owner.
   b. The Contractor shall utilize existing or construct new access and haul roads as needed and shall maintain the roads as required to create no dust. All project traffic must be routed through these areas. The Contractor shall provide all markings required to clearly define the access and haul roads.
   c. The Contractor will be responsible for obtaining any necessary driveway permit(s) from local or state agencies for access and haul roads.
   d. If access or haul roads cross utility lines, power lines, FAA cables, etc., the Contractor shall protect these features as directed by the Owner.

6. **Facilities for Night Work:** To perform construction activities at night, Contractor shall furnish, install and maintain temporary construction lights to illuminate night work areas during hours of darkness. The equipment used for lighting shall provide a sufficient amount of light to illuminate the work areas satisfactorily for construction and inspection. The Contractor may be required to provide additional lighting units, as directed by the Owner. Upon completion of each nighttime operation, the lighting equipment shall be removed from the construction area and stored in the Contractor’s storage area.

   The Contractor will be required to coordinate lighting positions with Air Traffic Control (ATC) prior to any night work. This coordination will be accomplished and requested through the Owner/Engineer.

7. **Removal:** The Contractor shall completely remove temporary facilities, materials and equipment when their use is no longer required or the Project is complete. The Contractor shall clean and
repair damage caused by temporary installations or use of temporary facilities and restore grassed and paved areas to their pre-construction condition.
E. INSURANCE AND INDEMNITY

1.0 INDEMNITY.

1.1 Section 3.18 of the General Conditions (AIA Document A201 2007) is superseded and replaced by Section 1.2 below.

1.2 The Contractor shall indemnify, defend and hold harmless the Owner and the Owner’s public officials, officers, agents and employees from and against any and all claims, losses, damages, obligations, liabilities and expenses, including but not limited to attorneys’ fees, arising out of or resulting from, or alleged to arise out of or result from, Contractor’s performance under this Contract, except to the extent that the claims, losses, damages, obligations, liabilities and expenses are caused by the negligence or willful misconduct of the Owner or the Owner’s public officials, officers, agents and employees. Such liabilities shall include those arising from a violation of any federal, state or local law, regulation or ordinance by the Contractor or any of its subcontractors. Contractor shall purchase insurance, as described in Section 2.2.A below, which shall include coverage for the contractual liability described herein. In any case in which Contractor provides a defense to the Owner pursuant to this indemnity, the defense will be provided by attorneys reasonably acceptable to the Owner. This provision shall survive the expiration or early termination of the Contract.

2.0 INSURANCE AND BONDS.

2.1 Section 11.1 (Contractor’s Liability Insurance), Section 11.2 (Owner’s Liability Insurance) and 11.3 (Property Insurance) of the General Conditions (AIA Document A201 2007) are superseded and replaced by Sections 2.2 through 2.6 below.

2.2 Throughout the term of this Contract, the Contractor and any of its subcontractors will comply with the insurance requirements described in this section. The Contractor shall also provide any other insurance specifically recommended in writing by the Owner. In the event that the Contractor fails to maintain required insurance, the Owner shall be entitled to terminate or suspend the Contract immediately. The Contractor agrees to purchase and maintain the following insurance coverage during the life of the Contract:

A. Commercial General Liability Insurance. Contractor shall maintain in force during the term of this Contract commercial general liability insurance, in an amount acceptable to Owner but no less than One Million Dollars ($1,000,000) per occurrence, unless the Project is on the Air Operations Area, in which case the minimum coverage is Five Million Dollars ($5,000,000). This insurance shall include coverage for products/completed operations, bodily injury, personal injury, property damage and the contractual liability assumed under the indemnity provision of the Contract. The policy shall be occurrence-based and name the Owner as an additional insured.

B. Vehicle Liability Insurance. Contractor shall maintain in force during the term of this Contract liability insurance covering the operations of Contractors’ owned, non-owned and hired automobiles and other ground vehicles at the Airport, for limits satisfactory to Owner but not less than One Million Dollars ($1,000,000) bodily injury and property damage each occurrence, unless the Project is on the Air Operations Area, in which case the minimum coverage if Five Million Dollars ($5,000,000). The policy shall be occurrence-based and name the Owner as an additional insured.
C. **Worker’s Compensation and Employer’s Liability Insurance.** Contractor shall maintain worker’s compensation and employer’s liability insurance in the amounts and form required by the laws of the State of North Carolina.

D. **Builder’s Risk Insurance.** The Owner shall purchase builder’s risk insurance for all Projects other than site work and paving projects. When purchased, the Owner’s policy carries a deductible of $2,500 for Projects valued at up to $15,000,000 and a deductible of $5,000 for Projects valued at greater than $15,000,000 but less than $50,000,000. Notwithstanding the preceding sentence, the deductible for the perils of earthquake and flood is $25,000, and coverage is limited to $5,000,000, except in FEMA Flood Zones A or B, where the deductible is $500,000, and coverage is limited to $1,000,000. Coverage does not apply to Contractor’s tools or equipment. The owner, Contractor, Subcontractors or other entities or persons insured under the Builders Risk hereby mutually release and discharge each other from all claims or liabilities arising from or caused by fire or other casualty covered by Builder’s Risk Insurance. The party submitting the claim under this policy shall be solely responsible for the deductible associated with such claim.

2.3 The Owner shall be listed as an additional insured under the commercial general liability insurance for operations or services rendered under this Contract. The Contractor shall not commence any work in connection with the resulting Contract until it has obtained all of the types of insurance set forth in this section and furnished the Owner with proof of insurance coverage by certificates of insurance accompanying the Contract. The Contractor shall be responsible for notifying the Owner of any material changes (including renewals) to or cancellation of the insurance coverages required above. The Contractor must give notice in writing to the Owner within 48 hours of the changes. All insurance policies shall be written by insurers qualified to do business in the State of North Carolina. If any of the coverage conditions are met by a program of self-insurance, the Contractor must submit evidence of the right to self-insure as provided by the State of North Carolina.

2.4 The Contractor shall not allow any subcontractor to commence work until all such subcontractors have obtained the same insurance coverages as described above.

2.5 The Owner shall be exempt from, and in no way liable for any sums of money that may represent a deductible or self-insured retention in any insurance policy. The payment of the deductible/retention shall be the sole responsibility of the Contractor and/or subcontractor.

2.6 The Contractor’s insurance shall be primary of any self-funding and/or insurance otherwise carried by the Owner for all loss or damages arising from the Contractor’s operations under this Contract. The Contractor and each of its subcontractors shall and does waive all rights of subrogation against the Owner.
F. FEDERAL REQUIREMENTS

1. CIVIL RIGHTS – TITLE VI ASSURANCES

A. Title VI Solicitation Notice

The Owner, 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

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 Statutes 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 Acts and the Regulations, 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 Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

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

5. Sanctions for Noncompliance: In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
   a. Withholding payments to the contractor under the contract until the contractor complies; and/or
   b. Cancelling, terminating, or suspending a contract, in whole or in part.

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

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);
- 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 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).

2. FAIR LABOR STANDARDS ACT

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

3. **OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. 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.
G. CONTRACTOR’S AFFIDAVIT – RELEASE AND WAIVER OF CLAIMS

STATE OF: ___________________________  COUNTY OF: ___________________________

________________________________________, _________________________________________
(Name)     (Title)

__________________________________________, being first duly sworn, deposes and says that:
(Contractor)

1. The undersigned is authorized to execute this Affidavit, Release and Waiver of Claim on behalf of the Contractor and has personal knowledge of all facts set forth herein;

2. This Affidavit, Release and Waiver of Claim is made concerning the construction of the following project:

   Project Name:

   Project No.:

3. All payrolls, material bills, sales tax, social security tax, state and federal unemployment insurance, and all other liabilities and taxes owed by the Contractor and arising in any manner from the above-described project have been paid in full;

4. No claim or lien exists in favor of any supplier of materials or labor or in favor of any subcontractor furnishing materials or labor on the above-described project;

5. Notwithstanding the foregoing, if the City of Charlotte or property of the City of Charlotte is subject to any claim or lien which arises in any manner from the failure of the Contractor to pay any liability described above, the Contractor will indemnify and hold the City of Charlotte harmless for any amount which the City of Charlotte is required to pay to discharge such lien or settle such claim and further will pay the City of Charlotte’s expenses, costs, and attorney fees incurred in connection therewith;

6. All claims, suits, and proceedings of every name, description, or nature arising out of the above project against the City of Charlotte, its officers, employees and agents have been settled;

7. The Contractor releases and waives any and all claims of every type and description which the Contractor may have against the City of Charlotte arising in any manner from the construction of the above-described project.

________________________________________________________
(Contractors Signature)

Subscribed and sworn to before me this   _______ day of ___________________________  201__

Signature of Notary Public ________________________________

of ___________________________ County

State of ________________________________

My Commission Expires: ________________________________
### H. STATE/COUNTY SALES/USE TAX STATEMENT

**PROJECT:**

**CONTRACTOR/ SUBCONTRACTOR:**

**PERIOD COVERED:**

<table>
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<tr>
<th>Invoice No.</th>
<th>Invoice Date</th>
<th>Vendor’s Name</th>
<th>City Vendor No.</th>
<th>Amount Before Taxes</th>
<th>NC Tax</th>
<th>County Tax</th>
<th>Total Invoice Amount</th>
<th>County Paid</th>
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**Subtotal (Page 1)**

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<th>Vendor’s Name</th>
<th>Amount Before Taxes</th>
<th>NC Tax</th>
<th>County Tax</th>
<th>Total Invoice Amount</th>
<th>County Paid</th>
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Plus total cost of material withdrawn from our warehouse stock

**Grand Total**

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<th>Vendor’s Name</th>
<th>Amount Before Taxes</th>
<th>NC Tax</th>
<th>County Tax</th>
<th>Total Invoice Amount</th>
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I certify that the above listed vendors were paid sales tax upon purchases of building material during the period covered by the construction estimate, and the property upon which such taxes were paid with or will be used in the performance of this contract. No tax on purchases of tangible personal property purchased by such contractors for use in performing the contract which does not annex to, affix to, or in some manner become a part of the project, building, structure or repairs included in the above list.

Signed: ________________________________

Subscribed and sworn to before me this ______ day of ___________________________ 201__

Signature of Notary Public

of ____________________________ County

State of ____________________________

My Commission Expires: ____________________________
I. FORM CHANGE ORDER

DATE: _________________________

PROJECT NAME: _________________________

CONTRACTOR NAME: _________________________

ADDRESS: _________________________

CHANGE ORDER NUMBER: _________________________

CONTRACT NUMBER: _________________________

Description of Change

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description of Change</th>
<th>Addition</th>
<th>Deduction</th>
<th>Time Ext.</th>
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Financial Summary

Net Change for This Change Order

Net Change by Previous Change Orders

Original Contract Amount

Adjusted Contract Amount

Original Contract Contingency

Contingency Used To Date

Schedule Summary

Original Contract Time

Contract Time Adjustments to Date

Contract Time Adjustment for this Change Order

Adjusted Contract Time

This change order represents full and final settlement for time and money for the work set forth in this change order, including not only all direct costs of Contractor such as labor, material, job overhead, and profit markup but also any costs for modifications or changes in sequence of work to be performed, delays, rescheduling, disruptions, extended direct or general overhead, acceleration, material or other escalation which includes wages and other impact costs. The completion date, contract price and all other terms, covenants and conditions of the above referenced contract, except as duly modified by this and previous change orders, if any, remain in full force and effect.

[SIGNATURES APPEAR ON FOLLOWING PAGE]
ACCEPTED:

CONTRACTOR:

Name: ______________________________________________
Signature: ____________________________________________
Title: ______________________________________________
Date: ______________________________________________

OWNER:

Name: ______________________________________________
Signature: ____________________________________________
Title: ______________________________________________
Date: ______________________________________________

This instrument has been preaudited in the manner required by the "Local Government Budget and Fiscal Control Act".

________________________________________
Deputy Finance Officer Date
## J. CONTINGENCY AUTHORIZATION FORM

**DATE:** _________________________
**PROJECT NAME:** _________________________
**CONTRACTOR NAME:** _________________________
**ADDRESS:** _________________________
**CONTINGENCY AUTHORIZATION NUMBER:** _________________________
**CONTRACT NUMBER:** _________________________

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### Description of Change

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### Financial Summary

- Contingency Authorization Amount
- Original Contract Contingency
- Contract Contingency Spent To Date
- Contract Contingency Remaining

### Schedule Summary

- Original Contract Time
- Contract Time Adjustments to Date
- Contract Time Adjustment for this Contingency Authorization
- Adjusted Contract Time

This Contingency Authorization represents full and final settlement for time and money for the work set forth in this Contingency Authorization, including not only all direct costs of Contractor such as labor, material, job overhead, and profit markup but also any costs for modifications or changes in sequence of work to be performed, delays, rescheduling, disruptions, extended direct or general overhead, acceleration, material or other escalation which includes wages and other impact costs. The completion date, contract price and all other terms, covenants and conditions of the above referenced contract, except as duly modified by this and previous contingency authorizations and change orders, if any, remain in full force and effect.

[SIGNATURES APPEAR ON FOLLOWING PAGE]
ACCEPTED:

CONTRACTOR:

Name: ______________________________________________
Signature: ______________________________________________
Title: ______________________________________________
Date: ______________________________________________

OWNER:

Name: ______________________________________________
Signature: ______________________________________________
Title: ______________________________________________
Date: ______________________________________________

This instrument has been preaudited in the manner required by the "Local Government Budget and Fiscal Control Act".

________________________________________
Deputy Finance Officer  Date
K. DIGITAL CAD STANDARDS FOR AIRPORT PROJECTS (rev. 3.31.2016)

- Digital files shall be provided in AutoCAD R2013 format or newer.

- The Airport is to be given the most current digital version of any project drawing (contract documents or record drawings) including revisions and addenda. At any time during the design process the Airport may request project files (or portions thereof) for internal use.

- The Airport’s layering convention is preferred and is to be used for all drawings. Copies of this convention will be provided upon request. If other layering conventions are used a copy of the layering standards with a description/definition of all layers used shall be provided to the Airport.

- All ModelSpace entities are to be oriented according to NC SPCS (NAD83; N -E US foot). ModelSpace entities with an explicit elevation (e.g. topographic contour lines) shall have the corresponding Z coordinate. ModelSpace entities are not to be cut, trimmed, moved, scaled or rotated for plotting or for any other purpose.

- All plotted sheets shall be plotted using PaperSpace. All entities associated only with the plotted sheet shall be in PaperSpace. This includes title blocks, sheet borders, legends, general notes, north arrows, vicinity maps, professional certifications and seals, graphic scales, page break lines, and company logos. The Airport’s project name and number shall be clearly displayed on each sheet along with the file name. Text in ModelSpace is acceptable only where it is associated with an adjacent entity (e.g. street name near the street, sewer line sizes near the sewer line, metes and bounds, stationing text). Dimensions and hatching are not to be exploded.

- External referencing of data is mandatory where reduction of drawing size is possible. If used, referenced files such as external references (XREFs), and images shall be provided as referenced in host drawing file either as separate .dwg files or inserted into the host drawing as a block. XREF’s shall not be on layer ‘0.’

- Special fonts (any font not provided w/ AutoCad 2013) shall be provided with drawings. Only standard AutoCad linetypes and hatch patterns shall be used. Shapefiles should also be provided.

- The Airport shall be provided with all that is needed to reproduce hardcopies to their original form from the digital data. Plot supporting files such as PCP, PC2, PC3, CTB, and STB files shall be provided with drawing files.

- All unreferenced layers, blocks, styles, and linetypes shall be purged from drawings.

- Blocks shall be inserted on a layer indicative of the block or related entities (e.g., SS manhole block insert on SS layer). Blocks shall not be nested or placed on layer ‘0’.

- System variable settings:

```
Insbase 0.0, 0.0, 0.0  Visretain 1
Elevation 0.0          Linetype “Bylayer”
Thickness 0.0          Color “Bylayer”
UCS set to World Coordinate System
```

- Direction for angle 0 degrees is East or three o’clock position with positive rotation being counter-clockwise.

- All polylines shall be 2D polylines except where variations in Z coordinate requires use of 3D polylines. All
polylines shall have linetype setting of "ON" (intermittent linetypes generate without respect to number and proximity of vertices).

- All Contractors and Consultants shall provide digital files to the Airport with each formal submittal (i.e. 30%, 60% ...). The files should be on one disc or USB flash drive with all files using the following folder structure (DO NOT SEND INDIVIDUAL PDF FILES FOR EACH SHEET).

Lauren Scott  
Senior Planning Coordinator  
Charlotte/Douglas International Airport  
CLT Center  
5601 Wilkinson Blvd.  
Charlotte, NC 28214  
704-359-4814 (voice)  
lmscott@cltairport.com
V. CHARLOTTE BUSINESS INCLUSION PROGRAM
The City of Charlotte has a long history of creating and implementing strategies to support and encourage local business growth. In 2013, Charlotte City Council adopted the Charlotte Business INClusion Policy to promote diversity, inclusion, and local business opportunities in the City’s contracting and procurement process for Minority, Women, and Small Business Enterprises (MWSBEs) headquartered in the CSA, Charlotte Combined Statistical Area*.

A complete list of City of Charlotte certified Small Business Enterprises (SBEs) and City of Charlotte registered Minority and Women Business Enterprises (MWBEs) is available on the City’s website at www.charlottebusinessinclusion.com

Project Subcontracting Goals:

MSBE Goal¹: ___6___%

MBE Goal²: __________%

* The Charlotte CSA consists of the following 13 counties:
  In NC: Anson, Cabarrus, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Stanly, and Union
  In SC: Chester, Lancaster, and York

MSBE references throughout this document and CBI Forms 1-6 may refer to a SBE Subcontracting Goal, MBE Subcontracting Goal, or MBE and SBE Subcontracting Goals. The information in the Subcontracting Goal box above will supersede any general references in this document.

¹The SBE Goal established for this project can only be met with City of Charlotte Certified SBEs.

²The MBE Goal established for this project can only be met with City of Charlotte registered MBEs that have been certified as a Historically Underutilized Business by the State of North Carolina who have an ethnic designation of:
  • African American
  • Hispanic
  • Native American
1. **APPLICATION:**
The City’s Charlotte Business INClusion (CBI) Policy is incorporated into and made a part of this solicitation and the resulting contract (the “Contract”). Copies of the CBI Policy may be obtained by:

*Internet:* www.charlottebusinessinclusion.com

*Mail:* Charlotte Business INClusion Office
       600 East Trade Street, Suite 300
       Charlotte, North Carolina 28202

Capitalized terms used in this document shall have the meanings set forth in Part A, Appendix 1 of the CBI Policy. Each reference to “you” or “your” in these provisions refers to any entity that submits a bid, proposal or statement of qualifications on a City contract, and any entity that enters into a contract with the City.

For this solicitation, the CBI Policy requires that you either (a) meet the established Subcontracting Goal, as listed in the first page of this document; or (b) comply with the Good Faith Efforts and Good Faith Negotiation requirements referenced in Section 3 below. **Failure to comply with the CBI Policy in the bid phase constitutes grounds for rejection of your bid. Failure to comply after contract award may result in assessment of damages and/or termination of your contract.**

2. **SUBCONTRACTING GOALS:**
You must submit your proposed MSBE utilization for this Contract on CBI Form 3 (Subcontractor/Supplier Utilization Commitment Form) listing subcontractors and suppliers that will be providing goods or services.

In measuring MSBE Goal attainment, a firm that is certified as both an SBE by the City and also registered with the City as an MBE shall be counted in both the SBE category and the MBE category. For example, work committed to an SBE that is also an MBE shall count toward both the SBE and MBE Project Goals.

**MBE established Goals can only be met with City of Charlotte registered MBEs that have been certified as a Historically Underutilized Business by the State of North Carolina who have an ethnic designation of:**
- African American
- Hispanic
- Native American

**CBI Form 3 MUST be submitted with your bid.** Failure to submit CBI Form 3 with your Bid shall constitute grounds for rejecting the Bid.

Bidders must state the projected dollar amount for each MSBE firm listed on their CBI Form 3 and indicate the total dollar value of MSBE participation for the contract. In the event the Bidder has no MSBE participation, the Bidder is still required to indicate this on CBI Form 3 by entering the word or number zero. Blank forms will be deemed to represent zero participation. The City will only give Bidders credit towards the established Subcontracting Goal that:

- a. Is listed on CBI Form 3 submitted with the Bid; and
- b. Is listed on CBI Form 3A (when applicable); and
- c. Is documented by CBI Form 4 (CBI Letter of Intent) which is submitted to the City within three (3) Business Days after the City requests it; and
- d. Meets all of the requirements of Part B Section 3 of the CBI Policy.

**NOTE:** MSBEs listed on CBI Form 3 must be actively certified/registered with the City of Charlotte as of bid date and must be performing a Commercially Useful Function as defined in Part A of the CBI Policy.
Bids submitted that do not have the above required MSBE information indicated on CBI Form 3 constitutes grounds for the Bid to be considered non-responsive and rejected.

The established Subcontracting Goal will represent the total dollars to be spent with MSBEs as a portion of the total bid amount, which includes Contingency and excludes Allowances. The MSBE percentage will be rounded to two decimal places. As an example, if the MSBE percentage is 3.571, it should be listed as 3.57% or if it is 3.578, it should be listed as 3.58%. The percentage will not be rounded to the next “whole” number, i.e., 4%. A Bidder may round up if the third number after the decimal is a five (5) or greater.

In the event Alternates are selected by the City, the established Subcontracting Goal for this Contract will apply to the total contract amount, including Contingency, selected Alternates and excluding Allowances (“Total Contract Amount”). If a low Bidder would meet the established Subcontracting Goal on the base bid amount, but would not meet the established Subcontracting Goal for the Alternates selected by the City, the Bidder will have three (3) days after the City notifies it of its low bid status to secure enough additional participation to meet the established Subcontracting Goal calculated on the Total Contract Amount. The low Bidder will be required to utilize CBI Form 3A to meet this requirement. This in no way exempts the bidder from the CBI requirements due at bid time.

If the Bidder fails to meet the established Subcontracting Goal, calculated on the Total Contract Amount, then the Bidder must earn the Minimum Good Faith Effort (GFE) Points and meet the Good Faith Negotiation requirements set forth in Part B, Sections 4 and 5 of the CBI Policy. GFE Points will be calculated, independently, for each Subcontracting Goal that is not met. For instance, if the Bidder fails to meet both the SBE Goal and/or the MBE Goal that was set with respect to African American, Native American and Hispanic firms, the Bidder will have to earn the minimum GFE points for SBEs, and also the minimum GFE points for MBEs.

If the Bidder fails to meet the SBE Goal and MBE Goal on the Total Contract Amount, and fails to earn the required Good Faith Efforts points, the Bid will be rejected.

The City will request CBI Form 4 Letters of Intent if you are a finalist for contract award. You must submit a separate CBI Form 4 for each MSBE subcontractor/supplier identified on CBI Form 3 (and CBI Form 3A, if applicable) within three (3) Business Days after the City requests it.

**3. GOOD FAITH EFFORTS and GOOD FAITH NEGOTIATION:**

**IF BOTH A MBE AND SBE SUBCONTRACTING GOAL ARE ESTABLISHED, BOTH SUBCONTRACTING GOALS MUST BE MET.** IF YOU DO NOT MEET THE ESTABLISHED SUBCONTRACTING GOALS, then you must earn the Minimum Good Faith Effort (GFE) Points and meet the Good Faith Negotiation requirements as set forth in Part B, Sections 4 and 5 of the CBI Policy.

Detailed information of the City’s Good Faith Efforts and Good Faith Negotiation requirements can be found in the CBI Policy, Part B, Sections 4 and 5. Failure to meet the Good Faith Efforts and Good Faith Negotiation requirements will constitute grounds for rejection of your bid.

Documenting Good Faith Efforts. To demonstrate Good Faith Efforts (GFE) compliance, Bidders must complete and submit CBI Form 5: Good Faith Effort (GFE) and Statement of GFE Compliance. A minimum of fifty (50) GFE Points must be earned for each Subcontracting Goal not met. If more than one Subcontracting Goal is not met, then Bidders will be required to complete and submit a separate form for each unmet goal.

CBI Form 5 lists GFEs and the number of points attainable for each type of Good Faith Effort. The City will request your Good Faith Effort (GFE) / Statement of GFE Compliance if you are an apparent low Bidder for contract award, and you must submit CBI Form 5 and all supporting documentation within three (3) Business Days after the City requests it.
In deciding whether to award GFEs, the City will assess whether the efforts employed by the Bidder are those that a prime contractor would reasonably be expected to take if actively and aggressively trying to meet the established Subcontracting Goal for the Contract. This assessment will be made on a case-by-case basis taking all available facts into account. The focus will be on the likely effectiveness of steps taken. Mere pro forma efforts will not be sufficient.

In awarding GFEs, the City may also take into account: (1) the Bidder’s past performance in meeting Subcontracting Goals; and (2) the performance of other Bidders in meeting the established Subcontracting Goal on the Contract up for award. For example, when the apparent low Bidder fails to meet the established Subcontracting Goal, but other Bidders meet it, the City may reasonably raise the question of whether, with additional reasonable efforts, the apparent low Bidder could have met the goal.

It is important that you carefully review Part B, Sections 4 and 5 of the CBI Policy in order to understand and comply with all requirements. **All actions necessary to earn the required GFE Points must be undertaken prior to Bid Opening.** Failure to comply with the requirements set forth in this section shall constitute grounds for rejecting a bid.

### 3.1 MSBE Contacts.
To receive credit for GFE 5.3.1, MSBE Contacts, at least ten (10) Days prior to Bid Opening, the Bidder must contact MSBE firms in a manner reasonably calculated to meet the established Subcontracting Goal for the Contract. A MSBE Vendor List can be located at [www.charlottebusinessinclusion.com](http://www.charlottebusinessinclusion.com).

Please refer to Part B, Section 5.3.1 of the CBI Policy regarding how these Contacts must be made and documented. Contacts are to be recorded on CBI Form 2: CBI Solicitation Form, which is submitted along with CBI Form 5, within three (3) Business Days after requested by the City.

### 3.2 Good Faith Negotiation.
Bidders must negotiate in good faith with all interested MSBE firms. Part B, Section 4 of the CBI Policy defines what negotiating in “Good Faith” means. Among other things, it means that if a MSBE is low bid on a contract for construction or for the procurement of goods, then you must contract with that MSBE unless it is not “Qualified” within the meaning of the CBI Policy.

### 3.3 MSBE Assistance Organizations.
To receive credit for GFE 5.3.4, Working with MSBE Assistance Organization, the Bidder must document that it worked with one of the following organizations, as described in Part B, Section 5.3.4 of the CBI Policy:

- Metrolina Minority Contractors Association (MMCA)
- Hispanic Contractors Association of the Carolinas (HCAC)
- United Minority Contractors of North Carolina (UMCNC)
- Carolinas Association of General Contractors (CAGC)

### 3.4 Self-Performance.
A Bidder that intends to perform 100% of the work on a Contract with its own workforce may submit an affidavit (CBI Form 1) stating that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of work on this contract with its own current workforces. In such event the Bidder shall not be required to comply with Part B, Section 5 of the CBI Policy. However, if the Bidder is not licensed to perform each and every type of work included in the Contract, or if the City has cause to believe based on past practice or other grounds that the Bidder will not be performing all work under the Contract with its own workforce, then the City may reject the Bidder’s Bid for non-compliance with
the CBI Policy.

4. PROJECT DOCUMENTS / PLANS AND SPECIFICATIONS:
Plans and Specifications may be viewed at:

Richa Graphics
800 N. College Street
Charlotte, NC 28204
Phone: 704-331-9744
Email: orders@richa.com

5. MANDATORY SUBCONTRACTING REQUIREMENTS:
Per Part B, Section 2.4 of the CBI Policy, City Council has the authority to establish mandatory subcontracting requirements for certain contracts. The box checked below indicates whether such requirements have been established for this Contract:

☐ City Council has established a mandatory subcontracting requirement of xx.xx percent (%) for this Contract.
☐ City Council has not established a mandatory subcontracting requirement for this Contract.

6. CBI POLICY PROVISIONS APPLICABLE AFTER CONTRACT AWARD:
If you are awarded a Contract with the City, note in particular the following Part D Sections of the CBI Policy regarding Post Contract Award Requirements and activity:

I. Compliance with the committed established Subcontracting Goal throughout Contract completion (Part D, Section 2)
II. Performance of a Commercially Useful Function and affiliate status (Part D, Section 3)
III. Terminating or Replacing an MSBE on the Contract (Part D, Section 5)
IV. New Subcontractor Opportunities (Part D, Section 6)
V. Renewals (Part D, Section 7)
VI. Payments to MSBEs (Part D, Section 8)
VII. Utilization Reports and Documentation of Payments (Part D, Section 9)
VIII. Remedies and Liquidated Damages (Part D, Section 14)

7. CBI CONTRACT PROVISIONS:
The following provisions are incorporated into any contract that may result from this solicitation.

Charlotte Business INClusion. The City has adopted a Charlotte Business INClusion Policy (“CBI Policy”), which is posted on the City’s website and available in hard copy form upon request to the City.

The parties agree that:

I. The terms of the CBI Policy, as revised from time-to-time, together with all rules and guidelines established, are incorporated into this Agreement by reference; and

II. A violation of the CBI Policy shall constitute a material breach of this Agreement, and shall entitle the City to exercise any of the remedies set forth in Part D of the CBI Policy, including but not limited to liquidated damages; and

III. Without limiting any of the other remedies the City has under the CBI Policy, the City shall be entitled to withhold periodic payments and final payment due to the Contractor under this Agreement until the City has received in a form satisfactory to the City all claim releases and other documentation required by the City’s CBI Policy, and in the event payments are withheld under this provision, the Contractor waives any right to interest that might otherwise be warranted on such withheld amount under G.S. 143-134.1; and

IV. The remedies set forth in Part D, Section 14 of the CBI Policy shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy; and
V. The City will incur costs if the Contractor violates the CBI Policy, and such costs are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the Contractor agrees to pay the City liquidated damages at the rates set forth in Part D of the CBI Policy.

VI. The Contractor agrees to participate in any dispute resolution process specified by the City from time-to-time for the resolution of disputes arising from the CBI Policy.

VII. Nothing in this Section shall be construed to relieve a Contractor from any obligation it may have under N.C. Gen. Stat. 143-134.1 regarding the payment of subcontractors.

Remedies for Violation of CBI Policy. A violation of the CBI Policy by a Contractor shall constitute a material breach of the Contract, and shall entitle the City or private owner to:

I. Exercise all rights and remedies that it may have at law or at equity for violation of the CBI Policy;
II. Terminate the Contract for default;
III. Suspend the Contract for default;
IV. Withhold all payments due to the Contractor under the Contract until such violation has been fully cured or the City and the Contractor have reached a mutually agreeable resolution;
V. Assess liquidated damages as provided in Part D Section 14.2; and/or
VI. Offset any liquidated damages and/or any amounts necessary to cure any violation of the CBI Policy from any retainage being held by the City on the Contract, or from any other amounts due to the Contractor under the Contract.

The remedies set forth herein shall be deemed cumulative and not exclusive, and may be exercised successively or concurrently, in addition to any other available remedy.

Liquidated Damages. The City and the Contractor acknowledge and agree that the City will incur damages if the Contractor violates the CBI Policy in one or more of the ways set forth below, including but not limited to loss of goodwill, detrimental impact on economic development and diversion of internal staff resources. The parties further acknowledge and agree that the damages the City might reasonably be anticipated to accrue as a result of such failures are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the Contractor agrees to pay the liquidated damages assessed by the City at the rates set forth below for each specified violation of the CBI Policy. The Contractor further agrees that for each specified violation the agreed upon liquidated damages are reasonably proximate to the loss the City will incur as a result of such violation:

I. **Failure to Meet Committed Subcontracting Goal.** If the City determines upon completion or termination of a Contract that the Contractor did not meet a Committed Subcontracting Goal and that such failure is not otherwise excused under Part D of the CBI Policy, the City may assess the lesser of: (a) $200,000 or (b) the dollar difference between the Committed Subcontracting Goal that was missed and the Contractor’s actual MSBE utilization toward that Goal. Such amount may be assessed when it becomes apparent that it will not be possible for the Contractor to achieve the Committed Subcontracting Goal.

II. **Use of a Conduit.** If the Contractor lists a MSBE to receive credit towards a Committed Subcontracting Goal with knowledge that the MSBE will be acting as a Conduit or will not be performing a Commercially Useful Function reasonably commensurate with the payment amount for which the Contractor will be seeking credit, the City may assess the lesser of: (a) $100,000 per incident; or (b) the dollar amount the Contractor indicated that it would pay such MSBE in the MSBE’s contract (or if no contract has been signed, the MSBE’s Letter of Intent).

III. **Wrongful Termination or Replacement of MSBE.** If the Contractor terminates or replaces a MSBE in violation of the CBI Policy, the City may assess the lesser of: (a) $50,000 per incident; or (b) the dollar amount of the work remaining to be performed by the terminated MSBE at the time it was terminated (or if the MSBE was not terminated because it was never retained, then the dollar amount that the Contractor indicated it would pay the MSBE in the MSBE’s Letter of Intent).
IV. **Failure to Comply with CBI Policy Following Termination or Withdrawal of an MSBE.** If the Contractor fails to comply with the Modified Good Faith Efforts requirements (Part D, Section 5 of the CBI Policy) in replacing an MSBE that is terminated or withdraws from work on a project, the City may assess the lesser of: (a) $50,000 per incident or (b) the dollar amount of the work remaining to be performed by the MSBE that withdrew or was terminated at the time of the termination or withdrawal.

V. **Failure to Comply with CBI Policy to Add New Subcontractors.** If the Contractor fails to comply with the Modified Good Faith Efforts requirements (Part D, Section 5 of the CBI Policy) in adding new subcontractors to a Contract, or when the scope of work of a Contract changes so as to create a new MSBE subcontracting opportunity, the City may assess the lesser of: (a) $50,000 per incident; or (b) the dollar amount of the new or additional work.

VI. **False Statements and Misrepresentations.** If the Contractor makes a false statement or material misrepresentation or material misleading omission regarding any matter relevant to the CBI Policy (including but not limited to information relating to good faith efforts, MSBE utilization, MSBE certification or payments to MSBEs), the City may assess the lesser of: (a) $50,000 per incident; or (b) if the misrepresentation relates to payment, the dollar difference between what the Contractor represented and the truth.

VII. **Failure to Respond to Request for Information.** If the Contractor fails to provide any report, documentation, affidavit, certification or written submission required under the CBI Policy within the time period set forth therein, the City may assess $40 per day for each day that such report, documentation or written submission is overdue.

VIII. **Seeking Credit for Use of An Affiliate to Meet the Committed Subcontracting Goal.** If the City finds a violation of Part D, Section 3 of the CBI Policy due to a Contractor seeking credit for utilizing a MSBE that the City determines to be an Affiliate, the City may assess the lesser of: (a) $75,000 per incident or (b) the dollar amount the Contractor counted towards its Committed Subcontracting Goal for that MSBE.

8. **CBI FORMS:**
Bidders shall submit the following CBI forms within the timeframes indicated below:

<table>
<thead>
<tr>
<th>CBI Form</th>
<th>Submission Requirements</th>
</tr>
</thead>
</table>
| **CBI Form 1: Intent to Perform Contract with Own Workforce Affidavit**  
A Bidder that intends to perform 100% of the work on a Contract with its own workforce must submit an Affidavit (CBI Form 1) stating that the Bidder does not customarily subcontract elements of this type project, and normally performs and has the capability to perform and will perform all elements of work on this Contract with its own current workforces.  
If the Bidder is not licensed to perform each and every type of work included in the Contract, or if the City has cause to believe based on past practice or other grounds that the Bidder will not be performing all work under the Contract with its own workforce, then the City may reject the Bidder’s Bid for non-compliance with the CBI Policy. | If not meeting the established Subcontracting Goal, and intending to perform 100% of the work, the Bidder must submit this completed CBI Form 1 with its bid*.  
* In addition to submitting a completed CBI Form 1, the Bidder must also provide at Bid Opening sufficient supporting documentation for the City to determine that the Bidder does not customarily subcontract work on this type project. |
| **CBI Form 2: Solicitation Form.**  
Identifies all MSBEs the Bidder contacted and any MSBEs that contacted the Bidder.  
Documentation content includes: Scope of work, MSBE | If not meeting the established Subcontracting Goal, submitted as part of a Bidder’s Good Faith Efforts documentation, within three (3) Business Days after requested by the City. |
<table>
<thead>
<tr>
<th>Table Row Content</th>
</tr>
</thead>
<tbody>
<tr>
<td>contact, date and method of contact, response status, as well as other information.</td>
</tr>
<tr>
<td>Note: For each scope of work bid by a MSBE and NOT awarded to a MSBE, Bidder must complete CBI Form 2A documenting the reason(s) for rejecting the MSBE’s bid.</td>
</tr>
<tr>
<td>ALL supporting documentation, reflecting the solicitation methods and content, must be submitted at the same time as CBI Form 2.</td>
</tr>
<tr>
<td><strong>CBI Form 2A: Good Faith Negotiation Form.</strong></td>
</tr>
<tr>
<td>Bidders must submit a completed CBI Form 2A for each MSBE who bid the project and was ultimately not selected by the Bidder to participate on the Contract.</td>
</tr>
<tr>
<td>Must be submitted within three (3) Business Days after requested by the City.</td>
</tr>
<tr>
<td><strong>CBI Form 3: Subcontractor / Supplier Utilization Commitment.</strong></td>
</tr>
<tr>
<td>Identifies all MSBE, and non-MSBE subcontractors and suppliers to be utilized on the Contract and the dollar amounts committed to MSBEs and non-MSBEs.</td>
</tr>
<tr>
<td>Bidders must identify all subcontractors and suppliers known at the time the Bid is submitted.</td>
</tr>
<tr>
<td>DUE AT BID OPENING</td>
</tr>
<tr>
<td><strong>CBI Form 3A: Subcontractor / Supplier Utilization Commitment – ALTERNATES.</strong></td>
</tr>
<tr>
<td>Identifies additional MSBE commitments made after Bid Opening, when there are accepted alternates.</td>
</tr>
<tr>
<td>This form will only be accepted when the City selects alternates.</td>
</tr>
<tr>
<td>Must be submitted within three (3) Business Days after requested by the City.</td>
</tr>
<tr>
<td><strong>CBI Form 4: Letter of Intent.</strong></td>
</tr>
<tr>
<td>Bidders must submit a separate Letter of Intent executed for each MSBE listed on CBI Form 3 and CBI Form 3A (if applicable) that the Bidder commits to utilize on the Contract.</td>
</tr>
<tr>
<td>Must be submitted within three (3) Business Days after requested by the City.</td>
</tr>
<tr>
<td><strong>CBI Form 5: Good Faith Efforts (GFE) and Statement of GFE Compliance.</strong></td>
</tr>
<tr>
<td>Identifies the minimum GFE points required for this contract, the GFE Categories, and respective GFE Points value for each GFE Category.</td>
</tr>
<tr>
<td>Bidder must check each GFE Category for which it has performed the respective effort, as described in Part B Section 5.3 of the CBI Policy.</td>
</tr>
<tr>
<td>If not meeting the established Subcontracting Goal, this CBI Form 5 must be submitted as part of the Bidder’s Good Faith Efforts documentation, within three (3) Business Days after requested by the City.</td>
</tr>
</tbody>
</table>
CBI Form 6: Payment Affidavit – Subcontractor / Supplier Utilization.
Contractor shall provide with each pay request to the City a payment affidavit showing work that has been completed and approved for all subcontractors, suppliers, manufacturers, brokers, and/or members of a joint venture in connection with the contract.

Upon award of Contract, CBI Form 6 must be submitted to the City with each pay request for the duration of the Project.

For Final Payment period, check the box indicating “Final Payment.”

All CBI Forms and a full list of SBE and MBE vendors are available on-line at: www.charlottebusinessinclusion.com
CBI FORM 1: Intent to Perform Contract with Own Workforce

This CBI Form 1, along with all supporting documentation, must be submitted at Bid Opening if the Bidder intends to perform 100% of the work with its own current workforces.

Affidavit of _____________________________________________
(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the
__________________________________________________________Contract.
(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type project, and normally performs, and has the capability to perform, and will perform all elements of the work on this project with his/her own current work forces; and

The Bidder agrees to provide any additional information or documentation requested by the City of Charlotte in support of the above statement. If additional scopes of work are added after the Bidder has been awarded the Contract, then the Bidder agrees to make a Good Faith Effort to utilize certified Minority, Women, Small Business Enterprises (MWSBEs), as applicable, where possible.

The undersigned hereby certifies that he or she has read this certification and is authorized to bind the Bidder to the commitments herein contained.

Date: __________________ Name of Authorized Officer: ___________________________

Signature: __________________________________________

Title: ____________________________________________


State of __________________________ County of ________________________________

Subscribed and sworn to before me this __________________ day of __________ 20___

Notary Public ______________________________

My commission expires __________________________
CBI FORM 2: Solicitation Form

Copy this Form 2 as needed to document MSBE contacts.

NOTE: CONTACTS MUST BE VERIFIABLE

§Per Part B, Section 5.3.1 of the CBI Policy, to receive credit for this Good Faith Effort, the Bidder must make the required contacts no less than ten (10) Days before Bid Opening adhering to the Solicitation Method and Solicitation Content defined.

A Bidder must submit CBI Form 2 within the time specified in the City Solicitation Documents. If no time period is specified in the City Solicitation Documents, the Bidder must submit CBI Form 2 within three (3) Business Days after the City requests it.

For each scope of work bid by a MSBE and NOT awarded to a MSBE, Bidder must complete CBI Form 2A documenting the reasons for rejecting the MSBEs bid.

ALL supporting documentation, reflecting the Solicitation methods and content, must be submitted at the same time as CBI Form 2.

<table>
<thead>
<tr>
<th>Bidder Name:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Name:</td>
<td></td>
</tr>
<tr>
<td>Project Number:</td>
<td></td>
</tr>
<tr>
<td># of SBEs Contacted</td>
<td></td>
</tr>
<tr>
<td># of MBEs Contacted</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MSBE Firm:</th>
<th>Contact Person:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scope of Work:</td>
<td>NIGP Code:</td>
</tr>
<tr>
<td>Initial Contact:</td>
<td>Date: Method: □ Email □ Fax □ Courier</td>
</tr>
<tr>
<td>Follow-up:</td>
<td>Date: Method: □ Phone □ In-Person</td>
</tr>
<tr>
<td>Response:</td>
<td>□ No response □ Not bidding □ Is bidding $ □ Other (explain)</td>
</tr>
<tr>
<td>Selected?</td>
<td>□ YES □ NO (explain)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MSBE Firm:</th>
<th>Contact Person:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scope of Work:</td>
<td>NIGP Code:</td>
</tr>
<tr>
<td>Initial Contact:</td>
<td>Date: Method: □ Email □ Fax □ Courier</td>
</tr>
<tr>
<td>Follow-up:</td>
<td>Date: Method: □ Phone □ In-Person</td>
</tr>
<tr>
<td>Response:</td>
<td>□ No response □ Not bidding □ Is bidding $ □ Other (explain)</td>
</tr>
<tr>
<td>Selected?</td>
<td>□ YES □ NO (explain)</td>
</tr>
</tbody>
</table>
CBI FORM 2A: Good Faith Negotiation Form

This form must be completed for each MSBE who bid the project and was ultimately not selected by the Bidder to participate on the contract.

A Bidder must submit CBI Form 2A within the time specified in the City Solicitation Documents. If no time period is specified in the City Solicitation Documents, the Bidder must submit Form 2A within (3) Business Days after the City requests it.

§Per Part B, Section 4.3 of the CBI Policy, Bidders must provide Good Faith Negotiation documentation within the time period specified by the City. Failure to comply with this requirement shall constitute grounds for rejecting a Bid.

<table>
<thead>
<tr>
<th>Bidder Name:</th>
<th></th>
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<tbody>
<tr>
<td>Project Name:</td>
<td></td>
</tr>
<tr>
<td>Project Number:</td>
<td></td>
</tr>
<tr>
<td>Contact Person Name:</td>
<td></td>
</tr>
</tbody>
</table>

**MSBE INFORMATION**

<table>
<thead>
<tr>
<th>Firm Name</th>
<th>Scope of work for which a Bid was submitted</th>
<th>MSBE Bid Amount ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**RATIONALE FOR REJECTING MSBE SUBCONTRACTING BID:**

Was the MSBE’s bid higher than what was proposed by the subcontractor or supplier the Bidder decided to use; **Y**  **N**

OR was the MSBE’s bid higher than the Bidder’s cost of performing such work on its own?

<table>
<thead>
<tr>
<th>Who were the other Bidders?</th>
<th>What were the Bid Amounts?</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
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<tr>
<td>2.</td>
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<tr>
<td>3.</td>
<td></td>
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<tr>
<td>4.</td>
<td></td>
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<tr>
<td>5.</td>
<td></td>
</tr>
</tbody>
</table>

Is the Business Enterprise that will be performing in place of the Interested MSBE more qualified than the Interested MSBE, to the extent that such difference in qualification would materially impact the Bidder’s Bid?

**Y**  **N**

Explanation:

Is there a material deficiency with the Interested MSBE’s bid? (i.e. Bid submitted late; Bid contained inaccurate information)

**Y**  **N**

Explanation:

If the MSBE was **NOT** a “Qualified MSBE” (as defined in Part A of the CBI Policy), please state the reasons below:

Explanation:
CBI FORM 3: Subcontractor / Supplier Utilization Commitment (page 1 of 2)
This form **MUST** be submitted at the time of Bid Opening. **Copy this CBI Form 3 as needed.** Failure to properly complete and submit Form 3 with the Bid constitutes grounds for rejection of the Bid. Per Part B, Section 3.5 of the CBI Policy, the Subcontractor/Supplier Utilization Commitment (**CBI Form 3**), captures information regarding the MSBEs and other subcontractors and suppliers that the Bidder intends to use on the Contract **FOR ALL TIERS.**

<table>
<thead>
<tr>
<th>Bidder Name:</th>
<th></th>
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<tbody>
<tr>
<td>Project Name:</td>
<td></td>
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<tr>
<td>Project Number:</td>
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</tbody>
</table>

| Established SBE Goal: |  |
| Established MBE Goal: |  |

List below all **MSBEs (Non-Hauling Services)** that you intend to use on this contract. **NOTE:** You will only receive credit for SBEs that are currently certified with the City as of the Bid Opening Date. Furthermore, you will only receive credit for MBEs that are registered with the City as of Bid Opening Date and who have an ethnic designation of African American, Hispanic, or Native American.

<table>
<thead>
<tr>
<th>MSBE Vendor Name (Non-Hauling Services)</th>
<th>Mark X for each Certification</th>
<th>Description of work / materials</th>
<th>NIGP Code</th>
<th>Vendor #</th>
<th>Total Projected Utilization ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

List below all MSBEs that you intend to use for **hauling services** on this contract and the Total Projected Utilization ($) for all hauling services for the contract. If the project has both MBE and SBE subcontracting goals established and the Bidder utilizes a hauling vendor that is both a MBE and a SBE, the Bidder must designate the specific dollar amount to be committed to that hauling vendor. The Bidder will still indicate the total utilization for haulers that are only SBE certified.

<table>
<thead>
<tr>
<th>MSBE Vendor Name (Hauling Services)</th>
<th>Mark X for each Certification</th>
<th>Description of work / materials</th>
<th>NIGP Code</th>
<th>Vendor #</th>
<th>Utilization ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

|  |  |  |  |  | **Input Total SBE Hauling Utilization** |
| Total SBE Utilization |  |  |  |  |  |
| Total MBE Utilization |  |  |  |  |  |
| **Total Bid Amount** (including Contingency and excluding Allowance Amount) |  |  |  |  |  |

| Percent SBE Utilization* (Total SBE Utilization divided by Total Bid Amount) |  |  |  |  |  |
| Percent MBE Utilization* (Total MBE Utilization divided by Total Bid Amount) |  |  |  |  |  |

*THE MSBE Utilization percentage stated MUST be rounded to two (2) decimal places
List below all non-MSBEs subcontractors and suppliers that you intend to use on this contract:

<table>
<thead>
<tr>
<th>Vendor Name</th>
<th>Description of work / materials</th>
<th>NIGP Code</th>
<th>Vendor #</th>
<th>Projected Utilization (if known) ($)</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
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</tbody>
</table>

Letters of Intent submitted upon notice from the City

Per Part B, Section 3.6 of the CBI Policy, within three (3) Business Days after receiving a request from the City (or within such longer time as may be communicated by the City in writing), Bidders must submit a separate Letter of Intent (CBI Form 4) for each MSBE listed on CBI Form 3 and for any additional MSBEs for which the Bidder seeks credit under the last sentence of Part B, Section 3.5. Each Letter of Intent must be executed by both the MSBE and the Bidder. The City shall not count proposed MSBE utilization for which it has not received a Letter of Intent by this deadline. Per Part B, Section 3.3, a Regular Dealer as defined in the CBI Policy shall only count 60% of all expenditures towards the established Subcontracting Goal(s). In addition, a Hauler, Broker, or Packager shall only count fees or commissions charged by the established Subcontracting Goal(s). The Bidder is still obligated to pay the MSBE the full amount listed on the Contract with the MSBE regardless of what percentage is actually counted towards the established Subcontracting Goal(s).

Adding subcontractors or suppliers after submitting this form

Nothing in this certification shall be deemed to preclude you from entering into subcontracting arrangements after submission of this form. However, per Part D of the CBI Policy, you must comply with the following:

- You must maintain the level of MSBE participation proposed on this CBI Form 3 (and CBI Form 3A, if applicable) throughout the duration of the Contract, except as specifically allowed in Part D.
- If you need to terminate or replace a MSBE, you must comply with Part D, Section 5.
- If the scope of work on the Contract increases, or if you elect to subcontract any portion of work not identified on this form as being subcontracted, then you must comply with Part D, Section 6.
- A Letter of Intent (CBI Form 4) must also be submitted for each MSBE you add subsequent to contract award.

All Subcontractors and Suppliers must be registered with the City of Charlotte.

Pursuant to the City’s Vendor Registration Policy, each subcontractor or supplier (non-MSBEs and MSBEs) that you use on this contract must be registered in the City’s vendor database. You will need to provide the vendor number for each subcontractor or supplier used on this contract as a condition for receiving payment on this Contract.

Signature

Your signature below indicates that the undersigned firm certifies and agrees that:
(a) It has complied with all provisions of the CBI Policy; and,
(b) Failure to properly document such compliance in the manner and within the time periods established by the CBI Policy shall constitute grounds for rejection of your bid.

Signature: ___________________________ Name: ___________________________ Title: ___________________________ Date: __________
CBI FORM 3A: Subcontractor/Supplier Utilization Commitments – ALTERNATES

_Copy this CBI Form 3A as needed._ In the event Alternates are selected by the City, the established Subcontracting Goal(s) for this Contract will apply to the total contract amount, including contingency, the selected Alternates and excluding Allowances (“Total Contract Amount”). Bidders must submit CBI Form 3A identifying additional MSBE commitments (for all tiers) made after bid opening due to accepted alternates. This CBI Form 3A will only be accepted when the City selects alternates.

**In order to submit CBI Form 3A identifying additional MSBE commitments, bidder MUST have submitted CBI Form 3 at Bid Opening with 100% (or more) of the established Subcontracting Goal(s) met on the total bid amount for this Project.**

If the Bidder fails to meet the established MSBE Subcontracting Goal(s), calculated on the Total Contract Amount, at bid opening, then the Bidder must meet the Good Faith Efforts and Good Faith Negotiation requirements set forth in Part B Sections 4 and 5 of the CBI Policy. If the Bidder fails to meet both the established Subcontracting Goal(s), and the Good Faith Efforts and Good Faith Negotiation requirements, the Bid shall be rejected.

<table>
<thead>
<tr>
<th>Bidder Name:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Name:</td>
<td></td>
</tr>
<tr>
<td>Project Number:</td>
<td>Established SBE Goal:</td>
</tr>
<tr>
<td>Established MBE Goal:</td>
<td>Established</td>
</tr>
</tbody>
</table>

List below the additional **MSBE commitments** that you intend to use on this contract, committed post-Bid Opening, as a result of alternates selected by the City.

<table>
<thead>
<tr>
<th>MSBE Vendor Name</th>
<th>Description of work / materials[^1]</th>
<th>NIGP Code</th>
<th>Vendor #</th>
<th>Total Projected Utilization ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<td></td>
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<td></td>
</tr>
</tbody>
</table>

[^1]Scopes of work and NIGP codes listed on Form 3A cannot have been listed on CBI Form 3, unless the amended utilization is associated with an MSBE already listed on CBI Form 3.

Form 3A SBE Utilization $ 

Form 3A MBE Utilization $ 

Initial Form 3 SBE Utilization $ 

Initial Form 3 MBE Utilization $ 

Cumulative SBE Utilization (Form 3 & Form 3A) $ 

Cumulative MBE Utilization (Form 3 and Form 3A) $ 

Total Contract Amount (including Contingency and accepted Alternate(s), excluding Allowances) $ 

Percent SBE Utilization (Cumulative SBE Utilization divided by Total Contract Amount) % 

Percent MBE Utilization (Cumulative MBE Utilization divided by Total Contract Amount) %

**Signature**

Your signature below indicates that the undersigned firm certifies and agrees that:

(a) It has complied with all provisions of the CBI Policy; and,

(b) Failure to properly document such compliance in the manner and within the time periods established by the CBI Policy shall constitute grounds for rejection of your bid.

Signature: __________________________ Name: __________________________ Title: _______________ Date: __________
**CBI FORM 4: Letter of Intent**

Per Part B, Section 2.2 of the CBI Policy, within (3) Business Days after receiving a request from the City (or within such longer time as may be communicated by the City in writing), Primes must submit a separate Letter of Intent for each MSBE listed on CBI Form 3 and CBI Form 3A (if applicable).

<table>
<thead>
<tr>
<th>Project Name:</th>
<th>Project Number:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### To be completed by the Prime

<table>
<thead>
<tr>
<th>Name of Prime:</th>
<th>Vendor #:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Address:</th>
<th>Email:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contact Person:</th>
<th>Telephone:</th>
<th>Fax:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If the Prime has entered into a Quick Pay Agreement, in association with this Letter of Intent and as defined in the CBI Policy, please attach a copy of the executed Agreement with the undersigned MSBE.

Identify in complete detail the scope of work to be performed or item(s) to be supplied by the MSBE.

________________________________________________________________________

**NOTE:** If the MSBE will provide hauling services, the Prime will be required to contact and utilize each of the MSBE haulers listed on this form on a rotating basis throughout the life of the project.

**Cost of work to be performed by the MSBE:**

$ __________________

### To be completed by the MSBE

<table>
<thead>
<tr>
<th>Name of MSBE:</th>
<th>Vendor#:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Address:</th>
<th>Email:</th>
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<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contact Person:</th>
<th>Telephone:</th>
<th>Fax:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Upon execution of a Contract with the City for the above referenced project, the Prime certifies that it intends to utilize the MSBE listed above, and that the description, cost and percentage of work to be performed by the MSBE as described above is accurate. The MSBE Firm certifies that it has agreed to provide such work/supplies for the amount stated above.

<table>
<thead>
<tr>
<th>Prime:</th>
<th>Date:</th>
<th>Signature and Title</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>MSBE Firm:</th>
<th>Date:</th>
<th>Signature and Title</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
CBI FORM 5: Good Faith Effort (GFE) and Statement of GFE Compliance (Page 1 of 2)

Bidder Name: 

Project Name: 

Project Number: 

§Per Part B, Section 5 of the CBI Policy, if a Bidder has not fully met the established Subcontracting Goal(s) for this project, then it must document it has met the GFE requirements by completing this Form. GFE Points will be calculated, independently, for each Subcontracting Goal that is not met. For instance, if the Bidder fails to meet both the SBE Goal and the MBE Goal that was set with respect to African American, Native American, and Hispanic firms, the Bidder will have to earn the minimum GFE points for SBEs and also the minimum GFE Points for MBEs.

Detailed information of the City’s GFE requirements can be found in the CBI Policy, Part B, Section 5. The Bidder must submit CBI Form 5 within three (3) Business Days after the City requests it, unless specified otherwise in the City Solicitation Documents. Failure to do so constitutes grounds for rejection of the Bid. Below is a list of Good Faith Efforts as defined in Part B: Section 5.3. To the left of each item is the number of points assigned to that item. Please place an “X” in the first column for each item you are claiming credit. Failure to achieve the minimum number of Good Faith Efforts points stated in the box below constitutes grounds for rejection of your bid.

NOTE: All actions necessary to earn GFE Points must be undertaken prior to Bid Opening.

Minimum Number of GFE Points Required: 50

<table>
<thead>
<tr>
<th>GFE Points</th>
<th>Good Faith Effort (GFE)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>Section 5.3.1: Contacts. The Bidder must contact MSBEs in a manner reasonably calculated to meet the established Subcontracting Goal(s) for the Contract. Factors considered may include but are not limited to:</td>
</tr>
<tr>
<td></td>
<td>(a) The number of available MSBEs contacted;</td>
</tr>
<tr>
<td></td>
<td>(b) Whether the Bidder directed its contacts to MSBEs listed as performing scopes of work sufficient to meet the established Subcontracting Goal(s);</td>
</tr>
<tr>
<td></td>
<td>(c) Whether the contacts were made at least 10 Days before Bid Opening;</td>
</tr>
<tr>
<td></td>
<td>(d) How the contacts were made and whether they were documented in a verifiable way (and in compliance with any forms provided by the City);</td>
</tr>
<tr>
<td></td>
<td>(e) Whether the substance of the Bidder’s solicitation was reasonably sufficient to generate a response from MSBEs;</td>
</tr>
<tr>
<td></td>
<td>(f) Whether the Bidder promptly and adequately responded to inquiries received from MSBEs; and</td>
</tr>
<tr>
<td></td>
<td>(g) Whether the Bidder made follow up contacts to MSBEs that did not respond to the Bidder’s initial contact.</td>
</tr>
<tr>
<td>10</td>
<td>Section 5.3.2: Making Plans Available. To receive credit for this GFE, the Bidder must: (i) make “Project Documents” (as defined below) available for inspection by MSBEs at least 10 Days before Bid Opening; and (ii) notify the MSBEs contacted under GFE 5.3.1 of the way in which Project Documents will be made available. A Bidder may receive credit for GFE 5.3.2 only if it receives credit for GFE 5.3.1 (Contacts), and only if it responds promptly to any requests made for access to the Project Documents.</td>
</tr>
<tr>
<td>15</td>
<td>Section 5.3.3: Breaking Down Work. The Bidder must demonstrate to the City’s satisfaction that it broke down or combined elements of work into economically feasible units to facilitate MSBE participation. In awarding points the City will consider the number and dollar value of the scopes of work the Bidder listed for MSBE participation, whether those scopes would be sufficient to meet the established Subcontracting Goal(s) and how the Bidder notified MSBEs of its willingness to break down the work into such units. A Bidder may receive credit for this GFE only if it receives credit for GFE 5.3.1 (Contacts).</td>
</tr>
</tbody>
</table>
### CBI FORM 5: Good Faith Effort (GFE) and Statement of GFE Compliance (Page 2 of 2)

<table>
<thead>
<tr>
<th>Section</th>
<th>Points</th>
<th>Description</th>
</tr>
</thead>
</table>
| 5.3.4: Working With MSBE Assistance Organizations. | 10 | The Bidder must document that it worked with an MSBE Assistance Organization (as defined below), to provide assistance in recruiting MSBEs for the Contract for which Bids are sought.  
- A “MSBE Assistance Organization” is an organization identified by the City of Charlotte and listed in the City Solicitation Documents as providing assistance in the recruitment of MSBEs. |
| 5.3.5: Attendance at Pre-Bid. | 10 | To receive credit for this GFE, the Bidder must attend any pre-bid meetings scheduled by the City for the Contract in question. |
| 5.3.6: Bonding or Insurance Assistance on Construction Contract. | 20 | The Bidder must assist a MSBE in getting required bonding or insurance coverage for the Contract at issue or provide alternatives to bonding or insurance for MSBEs. To document satisfaction of this GFE, the Bidder must submit: (a) the name of the MSBE; (b) a description of the assistance the Bidder provided; (c) the date the Bidder provided the assistance; (d) the name of a contact person with the MSBE who can verify that the Bidder provided the assistance; and (e) any additional information requested by the City. No credit will be given for assistance provided to an Affiliate of the Bidder. In deciding whether to award points for this GFE, the City will consider how significant and meaningful the assistance was, how many MSBEs it was offered to, and what impact it likely had on the Bidder’s efforts to recruit MSBEs for the project. |
| 5.3.7: Negotiating in Good Faith with MSBEs. | 15 | The Bidder must: (a) demonstrate that it negotiated in good faith with interested MSBEs (which means showing at least some back and forth negotiation between the Bidder and MSBEs); (b) demonstrate that it did not reject any MSBEs as unqualified without sound reasons based on their capabilities; (c) document in writing the reasons for rejecting any MSBEs for lack of qualification. |
| 5.3.8: Financial Assistance. | 25 | The Bidder must provide one of the following types of assistance to an MSBE in connection with the Contract: (a) assistance in obtaining equipment, a loan, capital, lines of credit, (b) joint pay agreements or guaranties to secure loans, the purchase of supplies, or letters of credit, including waiving credit that is ordinarily required; or (c) assistance in obtaining the same unit pricing with the Bidder’s suppliers as the Bidder. To receive credit for this GFE, Bidders must document: (a) the name of the MSBE; (b) the description of the assistance the Bidder provided; (c) the date the Bidder provided the assistance; and (d) the name of a contact person with the MSBE who can verify that the Bidder provided the assistance. No credit will be given for assistance provided to an Affiliate of the Bidder. In deciding whether to award points for this GFE, the City will consider how significant and meaningful the assistance was, how many MSBEs it was offered to, and what impact it likely had on the Bidder’s efforts to recruit MSBEs for the project. |
| 5.3.9: Entering Into Joint Venture. | 20 | To receive credit for this GFE, the Bidder must demonstrate that it negotiated a Joint Venture or partnership arrangement with one or more MSBEs, as applicable, on the Contract. To receive credit for this GFE, Bidders must document: (a) the name of the MSBE; (b) a description of the Joint Venture or partnership; (c) evidence of the date the MSBE entered into the agreement; and (d) the name of a contact person with the MSBE who can verify the terms of the agreement. No credit will be given for a joint venture with an Affiliate of the Bidder. |
| 5.3.10: Quick Pay Agreements on the Construction Contract Up For Award. | 20 | For purposes of this Section, the term “Quick Pay Commitment” means a commitment to pay all MSBEs participating in the Construction Contract within 20 Days after the Contractor confirms that the MSBE has properly performed and the MSBE’s work has been properly completed. To receive credit for this GFE, Bidders must: (a) provide the City with a copy of a policy containing the above-referenced Quick Pay Commitment that the Bidder has adopted for the project and document that the Bidder informed each MSBE about the Quick Pay Commitment as part of the Bidder’s MSBEs contacts under Section 5.3.1; or (b) document that prior to Bid Opening the Bidder made a written Quick Pay Commitment to each MSBE that will participate in the Contract up for award. Including a statement in a Bid solicitation letter indicating that the Bidder will consider entering into quick pay agreements will not suffice. A Bidder may receive credit under subpart (a) of GFE 5.3.10 only if it receives credit for GFE 5.3.1 (Contacts) |

**Total Available GFE Points:** 155  
**Total GFE Points Claimed by the Bidder:**  
**Total GFE Points Earned (to be completed by City):**
CBI FORM 6: Payment Affidavit - Subcontractor / Supplier Utilization
To be submitted with each request for payment from the City of Charlotte showing work that has been paid for all subcontractors, suppliers, manufacturers, brokers, and / or members of a joint venture in connection with the contract. Copy this form as needed. The Prime is responsible for collecting and submitting CBI Form 6 from all subsequent lower tiers.

Project Name: ________________________________

Contractor Name: ________________________________

Payment / Invoice #: ________________________________

Contract Number: ________________________________

Invoice Amount: $ ________________________________

Payment Period: From ______ To ______

City Department: ________________________________

FINAL PAYMENT ☐ Check this box only when submitting Final Pay request.

Section 1: Payments to SUBCONTRACTORS (MSBEs and Non-MSBEs)
Complete the chart below for all subcontractors used on the Project/Contract regardless of dollar amount. All subcontractors must be registered in the City’s Vendor Management System.

<table>
<thead>
<tr>
<th>Subcontractor’s Name</th>
<th>Mark X for each Certification</th>
<th>Description of Work Performed</th>
<th>NIGP Code</th>
<th>Vendor #</th>
<th>Payments this Period</th>
<th>Cumulative Payments</th>
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Section 2: Payments to SUPPLIERS
All suppliers providing goods under City contracts must be listed on the Sales Tax Statement submitted with each pay request. The City may request on a case-by-case basis that the Contractor require certain suppliers to be registered in the City’s Vendor System and may withhold payment of any amounts due the Contractor in the event the Contractor fails to comply with such request.

The undersigned Company certifies the preceding chart is a true and accurate statement of all payments that have been made to subcontractors on this Project/Contract, and that all Suppliers providing goods under this contract have been listed in the Sales Tax Statements submitted to the City in connection with this Payment Affidavit. If no subcontractors or suppliers are listed on the preceding chart or Sales Tax Statements, the Company certifies that no subcontractors or suppliers were used in performing the Project/Contract for the payment period indicated. Failure to provide accurate and truthful information is a violation of the Charlotte Business INClusion Policy and may result in the sanctions prescribed therein.

This ________ day of ________________ 20____

Signature ________________________________
Print Name and Title ________________________________

To be completed by City for FINAL PAYMENT

SBE Goal: %
MBE Goal: %

SBE Goal Commitment: %
MBE Goal Commitment: %

SBE Goal Attainment: %
MBE Goal Attainment: %
VI. AIRPORT SECURITY REQUIREMENTS
A. SECURITY PROGRAM

A. The Airport has been secured to prevent unauthorized access into the Security Identification Display Area (SIDA). Contractor shall cooperate to the fullest extent with the Aviation Department to maintain the integrity of the SIDA.

B. Construction Security Requirements. In order to comply with the Aviation Department’s security requirements, the Contractor shall meet all training and operational requirements of Federal Air Regulation (FAR) Part 139 and Transportation Safety Regulation (TSR) 1542 as contained in the Code of Federal Regulations (CFR), and other rules, regulations and requirements as established by the Aviation Director. The Contractor shall keep informed as to current requirements, and shall remain current throughout the contract. Exact requirements may vary, but, in general, the requirements are as follows:

1. If a Contractor performs Work on the AOA, a Security Identification Display Area Badge must be obtained. The following steps must be followed:
   
   a. The Contractor requesting badges at the Airport shall submit to the Airport Security Office a Compliance Agreement and Authorized Signature Letter on company letterhead a signature letter, listing those personnel authorized to sign requests for identification badges along with a sample of each signature. The Contractor may not designate more than four signatories. The signature on the badge request form certifies that the employer accepts responsibility for all badge holders they sponsor to include subcontractors and suppliers.

   b. The badge application packet includes a list of disqualifying crimes. Each applicant must review this list of disqualifying crimes. In the ten (10) year period ending on the date of investigation or fingerprint check, if the individual was convicted (or found not guilty by reason of insanity) of any of these crimes, the applicant cannot be given unescorted access privileges.

   c. Prior to the issuance of a SIDA Badge, each eligible applicant’s fingerprints will be taken and transmitted electronically to the FBI for a criminal history records check. In addition, each person designated as an authorized signatory must be fingerprinted and have a criminal history records check conducted. Whenever fingerprinting is conducted for any one employee, another badged employee from the same company must be present as a witness. The Contractor shall submit a completed SIDA Badge Request form for each of their employees, subcontractor’s employees, and suppliers, to the Owner prior to fingerprinting of employees.

   d. The SIDA Badge package shall include the Authorization Letter and Notice of Upcoming Contract forms shall be submitted to the Owner as follows:

      Charlotte Douglas International Airport
      Attn: Planning and Development - Aviation Department
      Post Office Box 19066
      Charlotte, NC 28208

   f. Upon receipt of notification from the FBI that the applicant has not been convicted of any of the disqualifying crimes and has passed a Security Threat Assessment, a SIDA Badge will be issued, giving the applicant unescorted access privileges at Charlotte/Douglas International Airport.
2. The Contractor shall mark each of his vehicles and his/her subcontractor’s vehicles and pieces of equipment with a company name or logo on the sides of the vehicles and equipment. (For the purpose of this specification, a vehicle shall be defined as any device, including cars, trucks, buses or other conveyances, which is required to carry a state license tag. All other devices, which are primarily used in construction activities, will be classified as equipment). **No private vehicles are allowed on the AOA. All vehicles must be registered in a Company name and carry the necessary insurance as required herein.**

3. No person will be allowed to operate a vehicle in the active AOA unescorted without successfully completing the airport approved Driver Training Program. The Contractor will not be authorized driving privileges unless the work requires access into the active AOA and cannot be accomplished otherwise and then only with the approval of the Aviation Director.

4. The Contractor shall station a **badged** security guard at each access point into the SIDA shown on the plans at all times during which access is required by the Contractor. The security guard(s) shall be approved by the Aviation Director and shall have a company radio unit at the access point.

5. The Contractor shall allow only persons with the required identification badge issued by the Aviation Department passage into the SIDA through project access points. Should the Contractor wish to allow visitors, vendors, or delivery vehicles through project access points, he shall provide an escort for each person or vehicle. The Contractor will be subject to a fine of up to $25,000 for any unauthorized entry that occurs at an access point while it is under his/her control.

6. All vehicles must display and use a rotating amber-colored beacon while operating within the AOA.

7. Any of the Contractor’s employees, subcontractors, or suppliers who are within the SIDA must have an identification badge issued by the Aviation Department. In an effort to ensure this requirement is observed, the Contractor will be liable for an assessment of $100 for each and every occurrence of any of his employees, subcontractors, or suppliers within the SIDA without said badge. This assessment will be deducted from monies owed the Contractor under this contract by the Owner.

8. If for any reason an identification badge is lost or stolen and must be replaced, the Contractor will be charged a fee of $50, $100 and $150 for the first, second and third occurrence respectively for each replaced badge for any of his employees, subcontractors, or suppliers. Airport Operations must be notified immediately when a badge is lost or stolen. Also, if a badge is damaged and must be repaired or replaced, the Contractor must return the damaged badge in exchange for a new badge. There will be a charge of $10.00 for this exchange.

9. Upon completion of the project, all identification badges obtained by the Contractor’s employees, subcontractors, or suppliers must be returned to the Aviation Department. The Contractor will be assessed $100.00 for each badge not returned. This assessment will be deducted from monies owed the Contractor under this contract at the time of final payment.

10. In the event a Contractor’s badged employee sees another employee on the AOA with no visible badge and does not know the person (not part of his/her team or project member), **he/she must challenge the person** by asking the person to present his/her badge. If the unknown person is unable to present a badge, it is the responsibility of the badged person to report this to the Airport Operations staff. Airport Operations can be reached by calling 359-4012. If the badged person does not have access to some form of communication, then we ask that they report the information to any badged person in the vicinity who may have access to a telephone or radio. It
is everyone’s responsibility to ensure the Airport remains safe and secure at all times. This is accomplished by challenging any individual with no visible identification.
B. AIRPORT BADGING REQUIREMENTS

The Airport badging process requires submittal of the following five forms:

1. Compliance Agreement
2. Authorized Signature Letter
3. Criminal History Records Check (CHRC) / Security Threat Assessment (STA) Request form – Employee Form
4. CHRC/STA – Employer Form
5. Badge Request Form
6. Key Request Form

The current versions of these forms are available on the Airport’s website at operations.charlotteairport.com. Each of these forms must be typed or completed on a computer. These instructions provide an overview of the requirements for each form; applicants are strongly encouraged to visit the website for additional information on the badging process and the completion of these forms.

1. COMPLIANCE AGREEMENT: The Airport requires any organization requesting badges to complete and return to Airport Operations a Compliance Agreement stating that the organization understands and agrees to abide by all regulations governing unescorted access to the restricted areas of the Airport. These regulations are summarized on the form. This form must be completed (typed), signed by a legal representative of the Contractor, and returned.

2. AUTHORIZED SIGNATURE LETTER: The Authorized Signature Letter must be typed on company letterhead. Each person named as an authorized signature must place their signature besides their printed name. Each person listed on the letter will have the authority to request criminal history records (fingerprints), ID badges and access media for that organization. All employees designated as authorized signers must have a criminal history records check conducted prior to being allowed to sign for employees. This letter must be dated and signed by someone who can legally represent the organization.

3. CHRC / STA FORMS: These forms authorize the Airport to conduct a criminal history records check. It is the responsibility of the employer to make sure the employee completes and submits the CHRC/STA Employee form. Each employee must carefully review the list of disqualifying criminal offenses and respond accordingly. The employee must sign and date the completed form. The employer must fill out the CHRC/STA Employer form. For companies subject to TSR 1542, the identity of the applicant must be verified at the time the fingerprints are obtained, using two forms of identification; one of which is a photo ID. Both the originals and copies must be presented at the time of fingerprinting. Forms of valid identification are: U.S. Passport, Driver’s License, Social Security Card, State ID Card, Employment Authorization Card, I-94 Form, Non-Immigrant Visa, Birth Certificate, or Naturalization Certificate.

4. BADGE REQUEST FORM: This form authorizes the issuance of the airport identification badge. This form is completed when the employer is notified the criminal history records revealed NO RECORD for the employee. When the employee presents this form, properly filled out and signed by an authorized signature, the SIDA training will be conducted and identification badge will be issued.

5. Key Request Form: This form must be submitted if an employer requires key access to specific areas of the Airport. As stated on the form, only employees identified on the Authorized Signature Letter may request Airport keys.