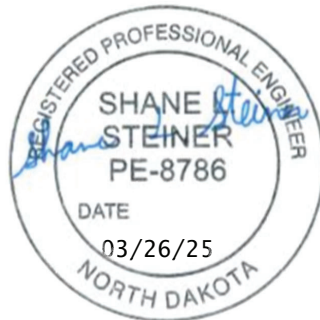


**PROJECT MANUAL
for
KENMARE MUNICIPAL AIRPORT
KENMARE, NORTH DAKOTA**

**AIP Project # 3-38-0029-022-2025
AIG Project # 3-38-0029-023-2025
FEDERAL AVIATION ADMINISTRATION**

PROCURE SNOW REMOVAL EQUIPMENT



THE ABOVE HEREBY CERTIFY THAT THESE PLANS AND SPECIFICATIONS
WERE PREPARED BY THEM OR UNDER THEIR DIRECT SUPERVISION
AND THEY ARE DULY REGISTERED PROFESSIONAL ENGINEER(S) IN
THE STATE OF NORTH DAKOTA



**Procure Snow Removal Equipment
Kenmare Municipal Airport
AIP Project # 3-38-0029-022-2025
AIG Project # 3-38-0029-023-2025**

Legal and Procedural

Advertisement for Bids	1 - 3
Instructions to Bidders	1 - 6
Bid Form	1 - 6
DBE Form A.....	1 - 3
DBE Form B.....	1 - 3
DBE Form C.....	1 - 5
DBE Utilization Statement	1 - 2
DBE Regular Dealer-Distributor Affirmation Form	1 - 1
DBE Suppliers Definitions	1 - 1
DBE Trucking Companies.....	1 - 1
Contractor Good Faith Efforts Documentation	1 - 8
Certification of Compliance with FAA Buy American Preference – Equipment / Building Projects	1 - 5
Agreement Between Buyer and Seller	1 - 5
Federal Contract Provisions.....	1 - 34
Performance Bond.....	1 - 4
Payment Bond	1 - 4
Construction Contract Notification	1 - 1
DBE Replacement Good Faith Efforts	1 - 2
Bid Protest Procedures.....	1 - 1
Prompt Payment and Timely Return of Retainage Complaints.....	1 - 1
Record of FAA Contractor Project Payments and DBE Commitments	1 - 3
Wage Determination	1 - 9
Final Review and Acceptance	1 - 1

General Conditions

P-700	Standard General Conditions for Procurement Contracts.....	1 - 19
P-800	Supplementary Conditions for Procurement Contracts	1 - 4

Technical Specifications

11000	One (1) New 2024 Articulated 4-Wheel Drive Loader with Attachments.....	1 - 10
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Notice

Please direct questions to Shane Steiner at KLJ at 701-355-8404 or Shane.Steiner@kljeng.com

Advertisement for Bids

Procure Snow Removal Equipment

Kenmare Municipal Airport

Kenmare, North Dakota

AIP Project # 3-38-0029-022-2025

AIG Project # 3-38-0029-023-2025

Sealed bids for the construction of airport improvements for Kenmare Municipal Airport, Kenmare, North Dakota will be received by the Kenmare Municipal Airport Authority, Kenmare, North Dakota until 3:00 PM CT on April 16, 2025. All bids will be publicly opened and read aloud at the KLJ office, 400 East Broadway Avenue, Suite 600, Bismarck ND 58501.

The bid documents are to be mailed or delivered to the KLJ, ATTN: Shane Steiner, PE, 400 East Broadway Avenue, Suite 600, Bismarck ND 58501 and shall be sealed and endorsed, "Airport Improvements, Kenmare Municipal Airport, AIP Project # 3-38-0029-022-2025 and AIG Project # 3-38-0029-023-2025".

The proposed work includes the following:

Procurement of Articulating 4-Wheel Drive Loader with Bucket and Hydraulic Blade Attachments

Plans and specifications are on file and may be seen at the office of Airport Manager, 520 Central Ave, Kenmare, North Dakota and at the office of KLJ, 400 East Broadway Avenue, Suite 600, Bismarck North Dakota.

Complete digital project bidding documents are available at www.kljeng.com "Projects for Bid" or www.questcdn.com. You may download the digital plan documents for \$22.00 by inputting Quest project # 9604721 on the website's Project Search page. Please contact QuestCDN.com at 952-233-1632 or info@questcdn.com for assistance in free membership registration, downloading and working with this digital project information. An option paper set of project documents is also available for a non-refundable price of \$72.00 per set KLJ office, 400 East Broadway Avenue, Suite 600, Bismarck ND 58501 for each set obtained. Contact KLJ at 701-355-8400 if you have any questions.

Each bid shall be accompanied by a separate envelope containing a Bid Bond in a sum equal to five percent (5%) of the maximum bid price, executed by the Bidder as principal and by a surety company authorized to do business in the State of North Dakota, payable to the Kenmare Municipal Airport Authority, conditioned that if the principal's bid be accepted and the contract awarded to him, he, within ten (10) days after Notice of Award has been executed, will execute and effect a contract in accordance with the terms of his bid and a contractor's bond as required by law and regulations and determinations of the governing board. The bid security of the two lowest bidders will be retained until the Notice of Award has been executed, but no longer than 90 days. The bid security is a guarantee that the bidder will enter into contract for work described in the Proposal.

The Contractor shall also enclose within the Bid Bond envelope a copy of the bidder's North Dakota Contractor's License or a copy of their latest renewal certificate issued by the Secretary of State as per North Dakota Century Code 43-07-07 and 43-07-12. Any bid not containing this document shall not be accepted and shall be returned to the Bidder.

The successful Bidder will be required to furnish a Contract Performance Bond and Payment Bond in the full amount of the Contract.

The Kenmare Municipal Airport Authority, Kenmare, North Dakota, reserves the right to hold all bids for a period of 90 days after the date fixed for the opening thereof to reject any and all bids and waive defects and to accept any bids should it be deemed for the public good and also reserves the right to reject the bid of any party who has been delinquent or unfaithful in the performance of any former contract to the Owner.

The successful Bidder will have to obtain a statement from the Office of the State Tax Commissioner showing that all taxes due and owing to the State of North Dakota have paid before the contract can be executed.

TITLE VI SOLICITATION NOTICE

The Kenmare Municipal Airport Authority, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, businesses, or disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.

DISADVANTAGED BUSINESS ENTERPRISE

The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR § 26.53.

As a condition of responsiveness, the Bidder or Offeror must submit the following information with its proposal on the forms provided herein:

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1);
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal
- 5) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; and
- 6) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

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

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.

TRADE RESTRICTION CERTIFICATION

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

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

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

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

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

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

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

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

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

FEDERAL CONTRACT PROVISIONS

A full list of Federal Provisions by which the Bidder must comply, are incorporated by reference and contained within the specifications. Federal Contract Provisions are also available at http://www.faa.gov/airports/aip/procurement/federal_contract_provisions/ and include the following:

1. Buy American Preferences – Title 49 USC § 50101; Executive Order 14005, Ensuring the Future is Made in All of America by All of America's Workers; Bipartisan Infrastructure Law (Pub. L. No. 117-58), Build America, Buy America (BABA)
2. Civil Rights – Title VI Assurances - 49 USC § 47123 and FAA Order 1400.11
3. Davis Bacon Requirements – 2 CFR Part 200, Appendix II(D); 29 CFR Part 5; 49 USC § 47112(b); 40 USC §§ 3141-3144, 3146, and 3147; *(Applicable to contracts exceeding \$2,000)*
4. Debarment and Suspension – 2 CFR Part 180 (Subpart B); 2 CFR Part 200, Appendix II(H); 2 CFR Part 1200; DOT Order 4200.5; Executive Orders 12549 and 12689; *(Applicable to contracts exceeding \$25,000)*
5. Lobbying Federal Employees – 31 USC § 1352 – Byrd Anti-Lobbying Amendment; 2 CFR Part 200, Appendix II(I); 49 CFR Part 20, Appendix A; *(Applicable to contracts exceeding \$100,000)*
6. Procurement of Recovered Materials – 2 CFR § 200.323; 2 CFR Part 200, Appendix II(J); 40 CFR Part 247; 42 USC § 6901, et seq (Resource Conservation and Recovery Act (RCRA)); *(Applicable to contracts exceeding \$10,000)*

A pre-bid meeting will not be held.

Dated this 26th day of March 2025.

/s/Derek Peterson, Chairman

Publication Dates: March 26, 2025
 April 2, 2025
 April 9, 2025

Derek Peterson, Chairman
Kenmare Municipal Airport Authority
Kenmare, North Dakota

INSTRUCTIONS TO BIDDERS

ARTICLE 1 - DEFINED TERMS

- 1.01 Terms used in these Instructions to Bidders will have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below which are applicable to both the singular and plural thereof:

For the purposes of this document, the party identified as “Buyer” is the “owner” of the purchased goods. The term “Buyer” is used to be consistent with the Uniform Commercial Code (UCC).

ARTICLE 2 - BIDS RECEIVED

- 2.01 Refer to Advertisement for information on receipt of Bids.

ARTICLE 3 - COPIES OF BIDDING DOCUMENTS

- 3.01 Complete sets of the Bidding Documents shall be used in preparing Bids; neither Buyer nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.
- 3.02 Buyer and Engineer, in making copies of Bidding Documents available on the above terms, do so only for the purpose of obtaining Bids for furnishing Goods and Special Services and do not confer a license or grant for any other use.
- 3.03 Refer to Advertisement on how to obtain Bidding Documents.

ARTICLE 4 - QUALIFICATIONS OF BIDDERS

- 4.01 To demonstrate Bidder’s qualifications to furnish Goods and Special Services, within five days of Buyer’s request, Bidder shall submit written evidence, such as financial data, previous experience, and such other data as may be called for below.
- A. A contact list to include the name of airport, address, phone number and contact name of at least five (5) United States airports that have taken delivery of similar equipment within the last three (3) years. Contact list shall be provided within five days of Buyer’s request.
 - B. The Buyer requires this specified piece of equipment to maintain snow removal operations at the airport. It will be central and critical element in the effort to accomplish the airport’s snow removal activities. Experience building machines of this nature is mandatory as is a track record of recent manufacture and in-service record for machines comparable and similar to that specified.
 - C. Include a copy of the equipment quote sheet with the Bid Proposal. The equipment quote sheet shall include equipment models, type, make, accessories, and features.
 - D. Failure to meet or exceed a minimum requirement must be fully documented on an attached page to the Bid Form. Failure to note exceptions to the bid requirements on the Bid Form and describe exceptions in detail may cause rejection of a bid. The Buyer shall solely determine if any exception to a bid requirement is acceptable, and this determination will be final.
 - E. In the interest of continued and reliable service, parts, and technical support, equipment suppliers shall have exhibited a consecutive history of financial stability and manufacture of similar snow removal equipment over a minimum of the past ten years. Documentation shall be provided within five days of Buyer’s request to verify such continuous business activity, such as location and contact lists of a minimum of 5 references.

ARTICLE 5 - EXAMINATION OF BIDDING DOCUMENTS AND POINT OF DESTINATION

5.01 Upon request, Buyer will provide Bidder access to the Point of Destination to conduct such investigations, examinations, tests, and studies as Bidder deems necessary for submission of a Bid.

5.02 It is the responsibility of each Bidder before submitting a Bid to:

- A. examine and carefully study the Bidding Documents, including any Addenda and the related data identified in the Bidding Documents;
- B. if specified, or if, in Bidder's judgment, any local condition may affect cost, progress or the furnishing of Goods and Special Services, visit the Point of Destination to become familiar with the local conditions;
- C. become familiar with and satisfy Bidder as to all federal, state, and local Laws and Regulations that may affect cost, progress, or the furnishing of Goods and Special Services;
- D. carefully study and correlate the information known to Bidder, and information and observations obtained from Bidder's visits, if any, to the Point of Destination, with the Bidding Documents;
- E. promptly give Buyer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by Buyer is acceptable to Bidder; and
- F. determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Goods and Special Services.

5.03 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 5, that without exception the Bid is premised upon furnishing Goods and Special Services required by the Bidding Documents, that Bidder has given Buyer written notice of all conflicts, errors, ambiguities and discrepancies that Bidder has discovered in the Bidding Documents and the written resolutions thereof by Buyer are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Goods and Special Services.

ARTICLE 6 - PRE-BID CONFERENCE (Not Used)

ARTICLE 7 - INTERPRETATIONS

7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to Buyer in writing (email is acceptable). Interpretations or clarifications considered necessary by the Buyer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by the Buyer as having received the Bidding Documents. Questions received less than ten days prior to the date for opening of Bids will not be answered. Only answers in the Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

7.02 Addenda may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by Buyer or Engineer.

7.03 Questions received less than five (5) business days prior to the date for opening bids may or may not be answered at the sole discretion of the Engineer. Only questions answered by formal addenda will be binding. Oral and other interpretations or clarifications will be without legal effect. No addenda shall be issued within 96 hours (4 days) of the bid opening.

ARTICLE 8 - BID SECURITY

8.01 Each bid shall be accompanied by Bid security made payable to Buyer, in an amount of five percent of Bidder's maximum Bid price and in the form of a certified or bank check and drawn on a State or National Bank or a Bid Bond in the amount of five percent issued by a surety meeting the requirements of Paragraph 4.01.B of the General Conditions.

8.02 The Bid security of the apparent Successful Bidder will be retained until such Bidder has executed the Agreement, furnished the required contract security and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the apparent Successful Bidder fails to execute and deliver the Agreement, and furnish the required contract security within 10 days after the Notice of Award, Buyer may annul the Notice of Award and the Bid Security of that Bidder will be forfeited. The Bid security of other Bidders whom Buyer believes to have a reasonable chance of receiving the award may be retained by Buyer until the earlier of seven days after the Effective date of the Agreement or 60 days after the Bid opening, whereupon Bid security furnished by such Bidders will be returned.

8.03 Bid security of other Bidders whom Buyer believes do not have a reasonable chance of receiving the award will be returned within seven days after the Bid opening.

ARTICLE 9 - CONTRACT TIMES

9.01 See applicable provisions in the Agreement.

ARTICLE 10 - LIQUIDATED DAMAGES

10.01 Provisions for liquidated damages, if any, are set forth in the Agreement.

ARTICLE 11 - "OR-EQUAL" ITEMS

11.01 The Contract, if awarded, will be on the basis of material and equipment specified or described in the Bidding Documents without consideration of possible "or-equal" items. Whenever it is specified or described in the Bidding Documents that an "or-equal" item of material or equipment may be furnished or used by Seller if acceptable to Buyer, application for such acceptance will not be considered by Buyer until after the Effective Date of the Agreement. The procedure for submittal of any such application by Seller and consideration by Buyer is set forth in the General Conditions and may be supplemented in the General Requirements.

ARTICLE 12 - PREPARATION OF BID

12.01 The Bid Form is included with the Bidding Documents.

12.02 All blanks on the Bid Form shall be completed by printing in ink or by typewriter and the Bid signed. A Bid price shall be indicated for each bid item listed therein, or the words "No Bid", "No Change," or "Not Applicable" entered.

12.03 A Bid by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence of authority to sign. The corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.

12.04 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature) accompanied by evidence of authority to sign. The official address of the partnership shall be shown below the signature.

12.05 A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state in which the firm was formed and the official address of the firm shall be shown

below the signature.

12.06 A Bid by an individual shall show the Bidder's name and official address.

12.07 A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid Form. The official address of the joint venture shall be shown below the signature.

12.08 All names must be typed or printed in ink below the signature.

12.09 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Bid Form.

12.10 The address and telephone number for communications regarding the Bid shall be shown.

12.11 The Bid shall contain evidence of Bidder's authority and qualification to do business in the state of the Point of Destination or covenant to obtain such qualification prior to award of the Contract.

ARTICLE 13 - BASIS OF BID; COMPARISON OF BIDS

13.01 Basis of Award

- A. The "Base Bid" is the sum stated in the Bid for which the Bidder offers to furnish the Goods and Special Services described in the Bidding Documents as the base, to which work shall be added for sums stated in Alternate Bids. An "Alternate Bid" (or Alternate) is an amount stated in the Bid to be added to the amount of the Base Bid if the corresponding change in the Goods and Special Services, as described in the Bidding Documents, is accepted.
- B. Bidder shall submit a Bid for the Base Bid and include a separate Alternate Bid for each alternate described in the Bidding Documents as set forth in the Bid Form.
- C. For determination of the apparent low Bid, Bids will be compared on the basis of the aggregate amount of the Base Bid, plus the Alternate Bids, either A or B, providing the most features of the Project within the funds determined by the Buyer to be available.
- D. Award in the best interest of the Buyer may be made to said Bidder on its Base Bid and any combination of its additive Alternate Bids for which Buyer determines funds will be available at the time of award, provided that the award on any such combination of Base Bid and additive Alternate Bids does not exceed the amount offered by any other Bidder for the same combination.
- E. The Owner shall award either Alternate A or Alternate B deemed in their best interest.
- F. Only one (1) contract shall be awarded.

ARTICLE 14 - SUBMITTAL OF BID

14.01 Each prospective Bidder is furnished one copy of the Bidding Documents.

14.02 A Bid shall be submitted no later than the date and time prescribed and at the place indicated in the Advertisement and shall be enclosed in an opaque sealed envelope plainly marked with the Contract title, the name and address of the Bidder and shall be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate envelope plainly marked on the outside with the notation "BID ENCLOSED". A mailed Bid shall be addressed to KLJ, Attn: Charlie Baker, 18 East Main Street, Suite 229, Rapid City, SD 57701.

ARTICLE 15 - MODIFICATION OR WITHDRAWAL OF BID

15.01 A Bid may be modified or withdrawn by a document executed in the manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids.

15.02 If, within 24 hours after Bids are opened, any Bidder files a signed written notice with Buyer and promptly thereafter demonstrates to the reasonable satisfaction of Buyer that there was a material and substantial mistake in the preparation of its Bid, it may withdraw its Bid, and its Bid security will be returned. Thereafter, if the Goods and Special Services are rebid, that Bidder will be disqualified from further bidding on the Goods and Special Services to be furnished under the Contract Documents.

ARTICLE 16 - OPENING OF BIDS

16.01 Bids will be opened at the time and place indicated in the Advertisement and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the bids will be made available to Bidders after the opening of Bids upon request.

ARTICLE 17 - BIDS TO REMAIN SUBJECT TO ACCEPTANCE

17.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Buyer may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

ARTICLE 18 - AWARD OF CONTRACT

18.01 Buyer reserves the right to reject any and all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Buyer further reserves the right to reject the Bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to be non-responsible. Buyer may also reject the Bid of any Bidder if Buyer believes that it would not be in the best interest of the Buyer to make an award to that Bidder. Buyer also reserves the right to waive all informalities not involving price, time or changes in the Goods and Special Services, and to negotiate contract terms with the Successful Bidder.

Buyer reserves the right to award a contract to the lowest responsible bidder for the Base Bid and either Alternate A or Alternate B.

18.02 More than one Bid for new and one Bid for a demo unit for the same Goods and Special Services from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Goods and Special Services shall be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.

18.03 In evaluating Bids, Buyer will consider whether or not the Bids comply with the prescribed requirements, and such alternatives, unit prices and other data, as may be requested in the Bid Form or may be requested from Bidders prior to a Notice of Award.

18.04 In evaluating Bids, Buyer will consider the qualifications of the Bidders.

18.05 Buyer may conduct such investigations as Buyer deems necessary to establish the responsibility, qualifications, and financial ability of Bidder's proposed subcontractors, suppliers, individuals, or entities to furnish parts of the Goods and Special Services in accordance with the Contract Documents.

18.06 If the Contract is to be awarded, Buyer will award the Contract to the Bidder whose Bid is in the best interest of Buyer.

ARTICLE 19 - CONTRACT SECURITY AND INSURANCE

19.01 Article 4 of the General Conditions sets forth Buyer's requirements as to performance and other bonds and insurance. When the Successful Bidder delivers the executed Agreement to Buyer, it must be accompanied by the required performance and other bonds.

ARTICLE 20 - SIGNING OF AGREEMENT

20.01 When Buyer gives a Notice of Award to Successful Bidder, it shall be accompanied by the required number of unsigned counterparts of the Agreement with the other Contract Documents which are to be identified in the Agreement and attached thereto. Within 15 days thereafter, Successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to Buyer. Within ten days thereafter, Buyer shall deliver one fully signed counterpart to Successful Bidder with a complete set of Drawings with appropriate identification.

ARTICLE 21 - SALES AND USE TAXES (Not Used)

ARTICLE 22 - RETAINAGE

22.01 Provisions concerning Seller's rights to deposit securities in lieu of retainage are set forth in the Agreement.

ARTICLE 23 - CONTRACT TO BE ASSIGNED (NOT USED)

ARTICLE 24 – FEDERAL CONTRACT PROVISIONS

24.01 A full list of Federal Provisions by which the Bidder must comply, are incorporated by reference and contained within the specifications. Federal Contract Provisions are also available at http://www.faa.gov/airports/aip/procurement/federal_contract_provisions/.

BID FORM

**Procure Snow Removal Equipment
Kenmare Municipal Airport, Kenmare, North Dakota
AIP Project # 3-38-0029-022-2025
AIG Project # 3-38-0029-023-2025**

**Bid Opening: April 16, 2025
3:00 PM CT
KLJ
400 East Broadway Avenue, Suite 600
Bismarck ND 58501**

ARTICLE 1 - BID RECIPIENT

1.01 This Bid is submitted to: Kenmare Municipal Airport Authority

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Buyer in the form included in the Bidding Documents to furnish the Goods and Special Services as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 - BIDDER'S ACKNOWLEDGMENTS

2.01 Bidder accepts all the terms and conditions of the Advertisement and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. The Bid will remain subject to acceptance for 90 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Buyer.

2.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of its failure to furnish the Goods and Special Services in accordance with the schedule set forth in the Agreement.

2.03 Bidder accepts the provisions of the Agreement as to the assignment of the Contract for furnishing Goods and Special Services.

2.04 All items requested in this bid proposal must be completed, signed, and dated in order for the bid proposal to be considered responsive. Refer to the Advertisement for Bids for additional information required on the bid envelope and to be submitted with the Bid.

2.05 It is understood that a bid security shall accompany this proposal by one of the following forms:

- a. Bid Bond as a bid guarantee of five percent (5%) of the total amount of the bid, shall be furnished by the bidder. Such bond shall be issued by a surety authorized to do business in the State of North Dakota and shall be payable to the Kenmare Municipal Airport Authority.

ARTICLE 3 - BIDDER'S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents, as set forth in the Agreement, that:

- A. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of all of which is hereby acknowledged.

Addendum No.

Addendum Date

- B. If specified, or if in Bidder's judgment, any local condition may affect cost, progress or the furnishing of Goods and Special Services, Bidder has visited the Point of Destination and become familiar with and is satisfied as to the local conditions that may affect cost, progress, or the furnishing of Goods and Special Services.
- C. Bidder is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress and the furnishing of Goods and Special Services.
- D. Bidder has carefully studied and correlated the information known to Bidder, and information and observations obtained from Bidder's visits, if any, to the Point of Destination with the Bidding Documents.
- E. Bidder has given Buyer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Buyer is acceptable to Bidder.
- F. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing the Goods and Special Services for which this Bid is submitted.
- G. Bidder further represents that this Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; Bidder has not solicited or induced any individual or entity to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Buyer.

3.02 DBE Goal:

The Disadvantaged Business Enterprise (DBE) goal for this project is **3.47 percent**. DBE participation percentage for bidding purposes will be based on total bid prices for all Schedules and Division.

The Bidder is encouraged to provide all subcontractors with a published date and time that subcontractor quotes and supporting documentation are due to the Bidder so that they can be reviewed and incorporated into the submitted bid proposal.

3.03 Buy American:

Note the Buy American Waiver List and the Buy American Conformance List are the same item. The FAA uses these terms interchangeably.

3.04 Federal Provisions:

A full list of Federal Provisions by which the Bidder must comply, are incorporated by reference and contained within the specifications. Federal Contract Provisions are also available at http://www.faa.gov/airports/aip/procurement/federal_contract_provisions/

3.05 Certification of Seller Regarding Tax Delinquency and Felony Convictions:

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

The applicant represents that it is () is not () a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

The applicant represents that it is () is not () a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

ARTICLE 4 - BASIS OF BID

4.01 Bidder will furnish the Goods and Special Services in accordance with the Contract Documents for the following price(s):

Bid Schedule

Bidders shall submit a bid on the Base Bid and all Alternates.

The project shall be awarded to the lowest Base Bid and any Alternates chosen by the Owner.

Alternates may be awarded or not awarded in the best interest of the Owner.

Base Bid Procure Articulating Loader with Quick Attach System and Loader Bucket						
Spec #	Unit Item	Description	Quantity	Unit	Unit Price	Total
11 000	1	Articulating Loader with Quick Attach System and Loader Bucket	1	L.S.	\$	\$
TOTAL BID– BASE BID						\$

Alternate A Procure Snow Blade (Hydraulic)						
Spec #	Unit Item	Description	Quantity	Unit	Unit Price	Total
11 000	1	Snow Blade/Pusher (Hydraulic)	1	L.S.	\$	\$
TOTAL BID– ALTERNATE A						\$

SUMMARY OF BID	
Total Base Bid	\$
Total Alternate A	\$
Total Base Bid + Alternate A	\$

4.02 The bidder hereby certifies (a) that this bid is genuine and is not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, corporation; (b) that he has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid; (c) that he has not solicited or induced any person, firm or corporation to refrain from bidding and (d) that he has not sought by collusion or otherwise to obtain for himself any advantage over any other bidder or over the Owner.

ARTICLE 5 - TIME OF COMPLETION

5.01 Bidder agrees that the furnishing of Goods and Special Services will conform to the schedule set forth in Article 5 of the Agreement.

ARTICLE 6 – BID FORM DOCUMENT SUBMITTAL

6.01 Documents required to be submitted with the bid package are as follows (check boxes when completed):

On outside of Bid Package Envelope:

- ☐ Airport Name and City
- ☐ Name and address of bidder
- ☐ BID ENCLOSED
- ☐ Airport Improvements Kenmare Municipal Airport,
AIP Project # 3-38-0029-022-2025 and AIG Project # 3-38-0029-023-2025
- ☐ Check or state addendum numbers received. If none, write “Addendums – None”

In bid package envelope complete and include (these items shall be in only paper format):

- ☐ Bid Bond for 5% of the bid amount
- ☐ Bid Proposal Article 3: State addendum numbers received. If none, write “None”.
- ☐ Bid Proposal Article 3.05: Certification of Seller Regarding Tax Delinquency and Felony Convictions
- ☐ Bid Proposal Article 4: Bid Schedule
- ☐ Bid Proposal Article 8: Signed Bid Proposal Submittal Information and Signature

In bid package envelope complete and include (these items can be included either in paper format or USB drive electronic PDF format):

- ☐ Instructions to Bidders 4.01.C – Equipment quote sheet
- ☐ DBE Form A - Disadvantaged Business Enterprise Participation
- ☐ DBE Form B - List of Businesses that Submitted Quotes
- ☐ Certificate of Buy American Compliance for Manufactured Products

Within five (5) calendar days after the bid opening, all bidders shall provide the following information to the Engineer:

- ☐ DBE Form C – Notification of Intent to Use
- ☐ DBE Utilization Statement
- ☐ Contractor Good Faith Efforts Documentation

If the apparent low bidder cannot meet 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for a Type 3 or Type 4 waiver under 49 USC § 50101(b), the apparent low bidder shall provide a formal waiver request and required documentation that supports the type of waiver being requested within fifteen (15) calendar days after the bid opening directly to the FAA. The apparent low bidder shall work with the Engineer on whom to submit the documentation to at the FAA and notify the Engineer when this documentation is submitted, but do not copy them on the actual submittal. The documentation is available on the FAA website at https://www.faa.gov/airports/aip/buy_american/ and may include the following:

1. Buy American Product Content Percentage Worksheet (Form 5100-136)
2. Buy American Final Assembly Questionnaire (Form 5100-137)

ARTICLE 7 - DEFINED TERMS

7.01 The terms used in this Bid have the meanings indicated in the General Conditions and the Supplementary Conditions. The significance of terms with initial capital letters is described in the General Conditions.

ARTICLE 8 - BID SUBMITTAL

8.01 This Bid submitted by:

If Bidder is:

An Individual

Name (typed or printed): _____

By: _____ (SEAL)
(Individual's signature)

Doing business as: _____

Business address: _____

Phone: _____

A Partnership

Partnership Name: _____ (SEAL)

By: _____
(Signature of general partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Business address: _____

Phone: _____

A Corporation

Corporation Name: _____ (SEAL)

State of Incorporation: _____

Type (General Business, Professional, Service, Limited Liability): _____

By: _____
(Signature -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____
(CORPORATE SEAL)

Attest _____
(Signature of Corporate Secretary)

Business address: _____

Phone: _____

Date of Qualification to do business is _____.

Joint Venture

Joint Venturer Name: _____ (SEAL)

By: _____

(Signature of joint venture partner -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Business address: _____

Phone: _____

Joint Venturer Name: _____ (SEAL)

By: _____

(Signature -- attach evidence of authority to sign)

Name (typed or printed): _____

Title: _____

Business address: _____

Phone: _____

Phone and Facsimile Number, and Address for receipt of official communications:

(Each joint venturer must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated above.)

DBE Form A
Disadvantaged Business Enterprise Participation

Submit a completed copy of this form with the bid.

Contractor	Phone
AIP No. AIP Project # 3-38-0029-022-2025 AIG Project # 3-38-0029-023-2025	Bid Opening Date

Note: For the life of the project, any changes in work listed here to be self-performed, to be performed by a DBE, or to be completed by a non-DBE subcontractor approved at the time of award must be approved in writing by the Owner prior to commencement of any work. No payment will be made without written approval.

PRINT ALL NUMBERS CLEARLY AND LEGIBLY.

List all DBE firms who quoted your firm on this project in Section 1, Section 2, and/or Section 3.

SECTION 1

List DBE firms to be used on the project.

1. List DBE firms to be used by the bidder toward the projects goal.
2. List the DBEs to be used by subcontractors toward the project goal. Include the subcontractor's Form A listing the DBE's to be used by the subcontractor.
3. List the bid item numbers to be performed by DBEs and the total dollar value of the contract. Note whether the DBE firm is to perform a partial item (supply, haul, place, etc.) and state the reason(s) the DBE is not being used for the entire item. State the name of the contractor who will perform the remaining portion.
4. DBE bidders: List the work to be performed with "own forces and equipment." Separately list any work to be subcontracted to DBEs and any materials to be purchased from DBEs.
5. DBE prime contractors list the work you will perform with your own forces, and any work subcontracted or materials purchased from other DBEs.
6. Additional information on the definitions is available on DBE Supplier Definitions document in the Project Manual.

The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.
--

DBE Firm	
List specific Bid Item Numbers or Products to be Supplied	Total Contract Dollar Value
<u>DBE Contractor:</u> Percent DBE will do with own equipment/forces = %	<u>DBE Suppliers:</u> If regular dealer/supplier, x 60% = If broker, 0% = If distributor, x 40% = If manufacturer, 100% =

SECTION 2

List DBE firms not used because the bidder will self-perform or procure specific bid item numbers.

DBE firms not used - bidder self-performing	Bid item numbers or products to be supplied by the bidder
1.	
2.	
3.	
4.	
5.	

SECTION 3

List DBE firms not used due to bid differential and indicate which firm will be performing the work instead.

DBE firms not used – bid differential	Firms to be used instead of DBE
1.	
2.	
3.	
4.	
5.	

DBE Form B
List of Businesses That Submitted Quotes

Submit a completed copy of this form with the bid.

Owner <div style="text-align: center;">Kenmare Municipal Airport</div>	
Project Name <div style="text-align: center;">Procure Snow Removal Equipment</div>	
Contractor	Phone
AIP No. <div style="text-align: center;">AIP Project # 3-38-0029-022-2025 AIG Project # 3-38-0029-023-2025</div>	Bid Opening Date

Prime Bidder Name of Business	Contact Person	Telephone Number
Mailing or Email Address		Type of Work
DBE <input type="checkbox"/> Yes <input type="checkbox"/> No	Will be used on the job <input type="checkbox"/> Yes <input type="checkbox"/> No	
NAICS Code(s) for work quoted (https://www.census.gov/naics/)		
Age of Bidder <input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	Race/Gender of Majority Owner <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-Minority Woman <input type="checkbox"/> Other	Annual Gross Receipts <input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million

List all firms that submitted quotes from all tiers of subcontracting.

Copies of all DBE and non-DBE quotes must be retained for 60 days after the bid opening date, or until the project is awarded, and be provided upon request of the Engineer.

Name of Business	Contact Person	Telephone Number
Mailing or Email Address		Type of Work
DBE <input type="checkbox"/> Yes <input type="checkbox"/> No	Will be used on the job <input type="checkbox"/> Yes <input type="checkbox"/> No	
NAICS Code(s) for work quoted (https://www.census.gov/naics/)		
Age of Bidder <input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	Race/Gender of Majority Owner <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-Minority Woman <input type="checkbox"/> Other	Annual Gross Receipts <input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million

Name of Business		Contact Person	Telephone Number
Mailing or Email Address		Type of Work	
DBE <input type="checkbox"/> Yes <input type="checkbox"/> No		Will be used on the job <input type="checkbox"/> Yes <input type="checkbox"/> No	
NAICS Code(s) for work quoted (https://www.census.gov/naics/)			
Age of Bidder <input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	Race/Gender of Majority Owner <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-Minority Woman <input type="checkbox"/> Other		Annual Gross Receipts <input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million

Name of Business		Contact Person	Telephone Number
Mailing or Email Address		Type of Work	
DBE <input type="checkbox"/> Yes <input type="checkbox"/> No		Will be used on the job <input type="checkbox"/> Yes <input type="checkbox"/> No	
NAICS Code(s) for work quoted (https://www.census.gov/naics/)			
Age of Bidder <input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	Race/Gender of Majority Owner <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-Minority Woman <input type="checkbox"/> Other		Annual Gross Receipts <input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million

Name of Business		Contact Person	Telephone Number
Mailing or Email Address		Type of Work	
DBE <input type="checkbox"/> Yes <input type="checkbox"/> No		Will be used on the job <input type="checkbox"/> Yes <input type="checkbox"/> No	
NAICS Code(s) for work quoted (https://www.census.gov/naics/)			
Age of Bidder <input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	Race/Gender of Majority Owner <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-Minority Woman <input type="checkbox"/> Other		Annual Gross Receipts <input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million

Name of Business		Contact Person	Telephone Number
Mailing or Email Address			Type of Work
DBE <input type="checkbox"/> Yes <input type="checkbox"/> No		Will be used on the job <input type="checkbox"/> Yes <input type="checkbox"/> No	
NAICS Code(s) for work quoted (https://www.census.gov/naics/)			
Age of Bidder <input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	Race/Gender of Majority Owner <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-Minority Woman <input type="checkbox"/> Other	Annual Gross Receipts <input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million	

Name of Business		Contact Person	Telephone Number
Mailing or Email Address			Type of Work
DBE <input type="checkbox"/> Yes <input type="checkbox"/> No		Will be used on the job <input type="checkbox"/> Yes <input type="checkbox"/> No	
NAICS Code(s) for work quoted (https://www.census.gov/naics/)			
Age of Bidder <input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	Race/Gender of Majority Owner <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-Minority Woman <input type="checkbox"/> Other	Annual Gross Receipts <input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million	

Name of Business		Contact Person	Telephone Number
Mailing or Email Address			Type of Work
DBE <input type="checkbox"/> Yes <input type="checkbox"/> No		Will be used on the job <input type="checkbox"/> Yes <input type="checkbox"/> No	
NAICS Code(s) for work quoted (https://www.census.gov/naics/)			
Age of Bidder <input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	Race/Gender of Majority Owner <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Asian-Pacific American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Native American <input type="checkbox"/> Non-Minority Woman <input type="checkbox"/> Other	Annual Gross Receipts <input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million	

Use additional pages, following the same format, if necessary.

DBE Form C
Notification of Intent to Use

All bidders shall submit to this completed form to KLJ within five (5) business days after the bid opening.

Email: aviation.admin@kljeng.com

Fax: 855-288-8055

1. **ALL** bidders shall submit an individual Form C for each DBE and non-DBE to be used on the project.
2. The Contractor and DBE or non-DBE shall both sign the form. Faxed, scanned, or photocopied signatures are acceptable. Form C applies to all tiers of subcontractors for DBE achievement credit to be given.
3. If Form C contains additional pages or attachments, both parties must sign each page or attachment.
4. Explain any difference between the information on Form A and Form C in the comments section below.
5. **This form is required for both DBE and Non-DBE subcontractors and suppliers.**

This form is not a contract and does not take the place of any contract. This form indicates that all DBEs listed on Form A will be used on the project.

AIP Number	AIP Project # 3-38-0029-022-2025 AIG Project # 3-38-0029-023-2025
Bid Opening Date	

Prime Contractor Name	
Prime Contractor Address	
Prime Contractor Phone	
Prime Contractor Email	
Prime Contractor Authorized Representative Name & Title	

Intended Subcontractor Name	
Intended Subcontractor Address	
Intended Subcontractor Phone	
Intended Subcontractor Email	
Intended DBE / Non-DBE Status	<input type="checkbox"/> DBE <input type="checkbox"/> Non-DBE
Intended Subcontractor Authorized Representative Name & Title	

Bid Item #	NAICS Code	Work Description (For material suppliers only, indicate whether the DBE is a manufacturer or a regular dealer as defined by §26.55)	(DBE) % of work to be done with own forces	Type of Work **	Approx. Quantity	Unit Costs	Amount
				<input type="checkbox"/> Contractor <input type="checkbox"/> Trucking **DBE SUPPLIERS <input type="checkbox"/> Manufacturer <input type="checkbox"/> Regular Dealer / Supplier <input type="checkbox"/> Distributor <input type="checkbox"/> Broker			
				<input type="checkbox"/> Contractor <input type="checkbox"/> Trucking **DBE SUPPLIERS <input type="checkbox"/> Manufacturer <input type="checkbox"/> Regular Dealer / Supplier <input type="checkbox"/> Distributor <input type="checkbox"/> Broker			
				<input type="checkbox"/> Contractor <input type="checkbox"/> Trucking **DBE SUPPLIERS <input type="checkbox"/> Manufacturer <input type="checkbox"/> Regular Dealer / Supplier <input type="checkbox"/> Distributor <input type="checkbox"/> Broker			

Bid Item #	NAICS Code	Work Description (For material suppliers only, indicate whether the DBE is a manufacturer or a regular dealer as defined by §26.55)	(DBE) % of work to be done with own forces	Type of Work **	Approx. Quantity	Unit Costs	Amount
				<input type="checkbox"/> Contractor <input type="checkbox"/> Trucking **DBE SUPPLIERS <input type="checkbox"/> Manufacturer <input type="checkbox"/> Regular Dealer / Supplier <input type="checkbox"/> Distributor <input type="checkbox"/> Broker			
				<input type="checkbox"/> Contractor <input type="checkbox"/> Trucking **DBE SUPPLIERS <input type="checkbox"/> Manufacturer <input type="checkbox"/> Regular Dealer / Supplier <input type="checkbox"/> Distributor <input type="checkbox"/> Broker			
						Total	

****For DBE Suppliers only, state how the DBE will perform using one of the 4 available check boxes for DBE SUPPLIERS. Additional information on the definitions is available on DBE Supplier Definitions document in the Project Manual.**

****For dealer/distributor/broker, OMB Control #2105-0586 – DBE Regular Dealer / Distributor Affirmation Form must be included. This form is included in the Project Manual.**

Are there any agreements not addressed in your quote? ☐ Yes ☐ No

If yes, explain:

--

For 1:1 DBE Trucking Participation

Non DBE Company Name	
Number of Trucks Provided	

Total Number of Trucks to Work on Project

DBE Owned / Operated Trucks		Non-DBE Match Trucks		Non-DBE <u>Non</u> -Match Trucks	
Number of Trucks	Total Dollar Amount	Number of Trucks	Total Dollar Amount	Number of Trucks	Total Dollar Amount

Any changes to this 1:1 DBE Trucking Commitment must be reported to the Engineer. (See DBE Trucking Companies document in the Project Manual.)

Total Number of Trucks		Total Dollar Amount	
------------------------	--	---------------------	--

Comments: Use the space below to explain any differences between the amounts, units, work descriptions, spec items, quantities and totals between those indicated on Form A as submitted with the bid and this Form C.

--

- ☐ Women Owned Business
- ☐ Men Owned Business

	Total DBE Award Amount by Ethnicity		
	Female	Male	Total
Black American			
Hispanic American			
Native American			
Asian-Pacific American			
Subcontinent Asian American			
Non-Minority			
Total			

The undersigned bidder/offeror is committed to utilizing the above-named DBE / Non-DBE firm for the work described above. The total expected dollar value of this work is \$ _____. The bidder/offeror understands that if it is awarded the contract/agreement resulting from this procurement, it must enter into a subcontract with the DBE / Non-DBE firm identified above that is representative of the type and amount of work listed. Bidder/offeror understands that upon submitting this form, it may not substitute or terminate the DBE / Non-DBE listed above without following the procedures of 49 CFR Part 26, §26.53 and the DBE Replacement Good Faith Efforts.

Prime Contractor / Subcontractor Signature	Title	Date
--	-------	------

The undersigned DBE / Non-DBE affirms that it is ready, willing, and able to perform the amount and type of work as described above. A firm designated as a DBE firm affirms that it is properly certified to be counted for DBE participation therefore.

Intended DBE / Non-DBE Signature	Title	Date
----------------------------------	-------	------

If the bidder/offeror does not receive award of the prime contract, any and all representations in this Notification of Intent to Use shall be null and void.

North American Industry Classification System (NAICS) code information can be found at <https://www.naics.com/search/>.

DBE Utilization Statement

All bidders shall submit to KLJ five (5) business days after bid opening.

Email: aviation.admin@kljeng.com

Fax: 855-288-8055

The undersigned bidder/offeror has satisfied the requirements of the bid specifications in the following manner. *(Mark the appropriate box.)*

- ☐ Bidder/offeror has met the DBE contract goal
The bidder/offeror is committed to a minimum of _____% DBE utilization on this contract.
- ☐ Bidder/offeror has not met the DBE contract goal
The bidder/offeror is committed to a minimum of _____% DBE utilization on this contract and has submitted documentation demonstrating good faith efforts (GFE).

The undersigned hereby further assures that the information included herein is true and correct and that the DBE firm or firms identified within the submitted Letter of Intent forms have agreed to perform a commercially useful function for the indicated work elements.

The undersigned further understand that no changes to this statement may be made without prior approval from the Owner and the Federal Aviation Administration.

Bidder's/Offerors Firm Legal Name

State Registration Number

Representative Name & Title

Representative Signature

Date

DBE UTILIZATION SUMMARY

	Contract Amount		DBE Amount	Contract %
DBE Prime Contractor	\$ _____	x 1.00 =	\$ _____	_____ %
DBE Subcontractor	\$ _____	x 1.00 =	\$ _____	_____ %
Trucking	\$ _____	x 1.00 =	\$ _____	_____ %
DBE Supplier	_____		_____	_____
Regular Dealer / Supplier	\$ _____	x 0.60 =	\$ _____	_____ %
Broker	\$ _____	x 0.00 =	\$ _____	_____ %
Distributor	\$ _____	x 0.40 =	\$ _____	_____ %
Manufacturer	\$ _____	x 1.00 =	\$ _____	_____ %
Total Amount DBE			\$ _____	_____ %
DBE Goal			\$ _____	_____ %

* If the total proposed DBE participation is less than the established DBE goal, Bidder must provide written documentation of the good faith efforts as required by 49 CFR Part 26. DBE participation percentage for bidding purposes will be based on total bid prices for all Schedules and Division, and all possible alternates that may be awarded.

**DBE Regular Dealer/Distributor
Affirmation Form**

Bidder Name:

U.S. Department of
Transportation

Contract Name/Number:

Sections 26.53(c)(1) of Title 49 Code of Federal Regulations requires recipients to make a preliminary counting determination for each DBE listed as a regular dealer or distributor to assess its eligibility for 60 or 40 percent credit, respectively, of the cost of materials and supplies based on its demonstrated capacity and intent to perform as a regular dealer or distributor, as defined in section 26.55(e)(2)(iv)(A),(B),(C), and (3) under the contract at issue. The regulation requires the recipient's preliminary determination to be made based on the DBE's written responses to relevant questions and its affirmation that its subsequent performance of a commercially useful function will be consistent with the preliminary counting of such participation. The U.S. Department of Transportation is providing this form as a tool for recipients, prime contractors, regular dealers, and distributors to use to carry out their respective responsibilities under this regulation. The form may be used by each DBE supplier whose participation is submitted by a bidder for regular dealer or distributor credit on a federally-assisted contract with a DBE participation goal. The form may also be used by prime contractors in connection with DBE regular dealer or distributor participation submitted after a contract has been awarded provided such participation is subject to the recipient's prior evaluation and approval. If this form is used, it should be accompanied by the bidder's commitment, contract, or purchase order showing the materials the DBE regular dealer or distributor is supplying. Use of this tool is not mandatory. If a recipient chooses a different method for complying with Section 26.53(c)(1), it must include that method in its DBE Program Plan.

DBE Name:

Total Subcontract/Purchase Order Amount:

Authorized DBE Representative (Name and Title):

NAICS Code(s) Related to the Items to be Sold/Leased:

1. Will **all** items sold or leased be provided from the on-hand inventory at your establishment? **YES** **NO**

(If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.** If "NO" Continue.)

- a) Are you selling bulk items (e.g., petroleum products, steel, concrete, concrete products, sand, gravel, asphalt, etc.) or items not typically stocked due to their unique characteristics (aka specialty items)? **YES** **NO** (If "YES," Go to Question 2. If "NO" Continue.)
- b) Will at least 51% of the items you are selling be provided from the inventory maintained at your establishment, and will the minor quantities of items delivered from and by other sources be of the general character as those provided from your inventory?

YES **NO*** (If "YES," you have indicated that your performance will satisfy the regular dealer requirements and may be counted at 60%. **STOP here. Read and sign the affirmation below.**

*If 1., 1.a), and 1. b) above are "NO," your performance on the whole will not satisfy the regular dealer requirements; therefore, only the value of items to be sold or leased from inventory can be counted at 60%. (Go to Question 3. to determine if the items delivered from and by other sources are eligible for Distributor credit.)

2. Will you deliver all bulk or specialty items using distribution equipment you own (or under a long-term lease) and operate?

YES **NO¹**

(If "YES," you have indicated that your performance will satisfy the requirements for a regular dealer of bulk items and may be counted at 60%. **STOP here. Read and sign the affirmation below.**)

¹ If "NO," your performance will not satisfy the requirements for a regular dealer of bulk items; the value of items to be sold or leased cannot be counted at 60%. (Go to Question 3.)

3. Will the written terms of your purchase order or bill of lading from a third party transfer responsibility, including risk for loss or damage, to your company at the point of origin (e.g. a manufacture's facility)? **YES²** **NO³**

- a) Will you be using sources **other than** the manufacturer (or other seller) to deliver or arrange delivery of the items sold or leased? **YES²** **NO³**

² If your responses to 3 and 3.a) are "YES," you have indicated that your performance will satisfy the requirements of a distributor; therefore, the value of items sold or leased **may** be counted at 40%.

³ If you responded "NO" to either 3 or 3.a), counting of your participation is limited to the reasonable cost of fees or commissions charged, including transportation charges for the delivery of materials or supplies; the cost of materials or supplies may not be counted.

I affirm that the information that I provided above is true and correct and that my company's subsequent performance of a commercially useful function will be consistent with the above responses. I further affirm that my company will independently negotiate price, order specified quantities, and pay for the items listed in the bidder's commitment. This includes my company's responsibility for the quality of such items in terms of necessary repairs, exchanges, or processing of any warranty claims for damaged or defective materials.

Printed Name and Signature of DBE Owner/Authorized Representative:

The bidder acknowledges its responsibility for verifying the information provided by the DBE named above and ensuring that the counting of the DBE's participation is accurate. Any shortfall caused by errors in counting are the responsibility of the bidder.

Printed Name and Signature of Bidder's Authorized Representative:

DBE Suppliers Definitions

Regular Dealer / Supplier (60%)

- Receives 60% DBE credit for the cost of the materials or supplies, including transportation costs.
- Owns (or leases) and operates a store, warehouse, or other establishment in which the contracted materials are routinely sold to the general public outside of a particular contract.
- Maintains sufficient on-hand quantities; at least 51% of the items under a purchase order must be provided from the DBE's inventory.
- Suppliers of "bulk items" (petroleum products, steel, concrete and concrete products, gravel, stone, or asphalt) are not required to maintain a store or warehouse if the firm owns and operates the equipment used to pick up and deliver the products.

Broker (0%)

- Materials or supplies purchased from a DBE that do not meet the requirements of a regular dealer/supplier or a distributor will not be counted as a percentage.
- Only the fees or commissions charged (including transportation charges for the delivery of materials or supplies) may be counted. No portion of the cost of the materials and supplies will be counted.

Distributor (40%)

- Receives 40% DBE credit for the cost of the materials or supplies, including transportation costs. Drop-shipping items is acceptable if the following regulatory requirements are met:
 - DBE engages in the regular sale or lease of the items specified by the contract.
 - DBE assumes complete responsibility and liability for the items once they depart the point of origin, evidenced by documentation transferring liability to the distributor.

Manufacturer (100%)

- Manufacturer credit is appropriate when the DBE maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications. Alterations or customization of a "stock" product would be eligible for manufacturer credit. DBE credit is awarded at 100% for this type of work. Delivery type is not relevant in this type of credit.
- When a DBE makes minor modifications to the materials, supplies, articles, or equipment, the DBE is not a manufacturer. Minor modifications are additional changes to a manufactured product that are small in scope and add minimal value to the final product.

DBE Trucking Companies

The Owner counts DBE trucking on a one-for-one basis. This means that the total number of DBE trucks or trucks operated by DBE employees (even if the truck is leased from a non-DBE firm) will be matched with the total number of non-DBE trucks and awarded credit for the total value of those transportation services.

Conditions that must be met to validate work:

1. The firm must own and operate at least one fully licensed, insured, and operational truck on the contract.
2. The firm may supplement its fleet by leasing trucks from a reputable dealer as long as there is a signed lease agreement, and the truck displays the name and identification number of the DBE firm.
3. The firm is responsible for management and supervision of the entire trucking operation.

The 1:1 Trucking Ratio is a powerful tool that trucking firms can take advantage of to maximize their DBE participation

Further obligations for participation to be counted:

1. A legitimate subcontract must be in place between the DBE and non-DBE trucking firms. DBEs must also have their trucks on the project at the same time as non-DBE trucks.
2. Non-DBE trucks must display signage identifying they are working with the DBE.
3. The DBE is required to report payments to the non-DBE trucking firm.
4. Additional reporting lines under the DBE on the contract may be necessary to report non-DBE non-match payments and/or brokerage fees for non-DBE non-match trucks if applicable.
5. Certified payroll requirements apply.
6. The DBE must document the non-DBE trucking firms intended for use on DBE Form C. They are also required to annotate the full contract value and total DBE participation on DBE Form C as well.

Remember, it is the responsibility of the DBE firm for management and supervision of the entire trucking operation. DBE firms should capitalize on the opportunity to incorporate the 1:1 Trucking Ratio into their operations but need to know the requirements to do so.

Example 1:

DBE Firm A owns one truck and subcontracts two additional trucks from DBE Firm B. Since all parties are DBE firms, 100% of the transportation services will be counted toward DBE participation.

Example 2:

DBE Firm A owns two trucks and subcontracts two additional trucks from non-DBE Firm B. Since the match is equal, 100% of the transportation services will be counted toward DBE participation.

Example 3:

DBE Firm A owns one truck and subcontracts three additional trucks from non-DBE Firm B. Given the 1:1 Trucking Ratio, only one of the B trucks will count toward the goal, meaning 50% of the transportation services will be counted toward DBE participation (two of four total trucks).

NOTE: No DBE participation will be given for the use of DBE trailers without DBE trucks and DBE employed drivers. A DBE trucking firm cannot count the materials they are hauling unless they are a legitimate DBE supplier or manufacturer of the materials.

Contractor Good Faith Efforts Documentation

All bidders shall submit to KLJ five (5) business days after bid opening.

Email: aviation.admin@kljeng.com

Fax: 855-288-8055

Submit this form and the required attachments to document the contractor's good faith efforts to meet the project goal. All supporting documentation and evidence of good faith efforts must be clearly labeled and submitted as specified in PART A through PART N.

PART A - PRIME CONTRACTOR INFORMATION

Prime Contractor			
Address	City	State	ZIP Code
Telephone Number	Email Address		
Contact Person	Title		

PART B - PROJECT DESCRIPTION

AIP Number
AIP Project # 3-38-0029-022-2025
AIG Project # 3-38-0029-023-2025

PART C - CONTRACTOR PARTICIPATION ACHIEVEMENT DATA

Project DBE Goal Percent 3.47%	Total DBE PARTICIPATION DOLLARS required to meet DBE GOAL (Total prime Bid dollar amount X DBE % Goal)
Contractor's DBE Participation Percent	\$

DBE participation percentage for bidding purposes will be based on total bid prices for all Schedules and Division, and all possible alternates that may be awarded.

PART D - PROJECT SUMMARY AMOUNTS

1. Total Prime Bid	\$
2. Total Dollars Committed to DBE Contractor – include all tiers (From Part E sub-total)	\$
3. Total Dollars Committed to DBE Trucking – include all tiers (From Part F sub-total)	\$
4. Total Supplier Dollars Committed to DBE Regular Dealer / Supplier – include all tiers (From Part G sub-total)	\$
5. Total Supplier Dollars Committed to DBE Regular Dealer / Supplier – include all tiers (From Part G sub-total X 60%) {Calculation for DBE Goal}	\$
6. Total Supplier Dollars Committed to DBE Broker – include all tiers (From Part H sub-total)	\$
7. Total Supplier Dollars Committed to DBE Broker – include all tiers (From Part H sub-total X 0%) {Calculation for DBE Goal} (see DBE Suppliers Definition page in Project Manual)	\$
8. Total Supplier Dollars Committed to DBE Distributor – include all tiers (From Part I sub-total)	\$
9. Total Supplier Dollars Committed to DBE Distributor – include all tiers (From Part I sub-total X 40%) {Calculation for DBE Goal}	\$
10. Total Supplier Dollars Committed to DBE Manufacturer – include all tiers (From Part J sub-total)	\$
11. Total Supplier Dollars Committed to DBE Manufacturer – include all tiers (From Part J sub-total X 100%) {Calculation for DBE Goal}	\$
12. Total Dollars Committed to Non-DBEs (From Part K sub-total)	\$
13. Work NOT Performed by Prime Contractor (Add lines 2, 3, 4, 6, 8, and 10)	\$
14. Work to be Performed by Prime (Subtract line 1 from line 13)	\$
15. Percent of Work Performed by Prime (Divide line 14 by line 1) {FAA General Provision 80-01}	%
16. Total DBE Participation (Add lines 2, 3, 5, 7, 9, and 11)	\$

PART E - DBE CONTRACTOR COMMITMENTS Attach additional sheet if necessary.

DBE Contractors with a Completed Form C (to be used on the project)	Bid Items Quoted	Committed Dollars
Sub-Total Dollars Committed		\$

PART F - DBE TRUCKING COMMITMENTS Attach additional sheet if necessary.

DBE Trucking Contractors with a Completed Form C (to be used on the project)	Bid Items Quoted	Committed Dollars
Sub-Total Dollars Committed		\$

PART G - DBE REGULAR DEALER / SUPPLIER COMMITMENTS Attach additional sheet if necessary.

DBE Regular Dealer / Suppliers with a Completed Form C (to be used on the project)	Bid Items Quoted	Committed Dollars
Sub-Total Dollars Committed		\$

PART H - DBE BROKER COMMITMENTS Attach additional sheet if necessary.

DBE Brokers with a Completed Form C (to be used on the project)	Bid Items Quoted	Committed Dollars
Sub-Total Dollars Committed		\$

PART I - DBE DISTRIBUTOR COMMITMENTS Attach additional sheet if necessary.

DBE Distributors with a Completed Form C (to be used on the project)	Bid Items Quoted	Committed Dollars
Sub-Total Dollars Committed		\$

PART J - DBE MANUFACTURER COMMITMENTS Attach additional sheet if necessary.

DBE Manufacturers with a Completed Form C (to be used on the project)	Bid Items Quoted	Committed Dollars
Sub-Total Dollars Committed		\$

PART K – NON-DBE COMMITMENTS Attach additional sheet if necessary.

Non-DBE Commitments with a Completed Form C (to be used on the project)	Bid Items Quoted	Committed Dollars
Sub-Total Dollars Committed		\$

PART L - DBEs QUOTED BUT NOT SELECTED Attach additional sheet if necessary.

DBE Contractors who quoted but were not selected	Bid Items Quoted	Dollars	Reason Not Selected

PART M - REQUIRED ATTACHMENTS - SUPPORTING DOCUMENTS

Submit complete documentation to support Good Faith Efforts.

PART N - CERTIFICATION

Prime Contractor Signature	Title	Date Submitted
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Good Faith Efforts Supporting Documents

1. Use a cover letter to describe, in detail, all relevant issues which your firm wants the Owner to consider in determining whether to award. Yes/No answers do not address Good Faith Efforts (GFE) in the appropriate detail required by the Owner to determine a bidder's GFE. If the letter does not detail a bidder's actions (as described below), the Owner may determine that the bidder has not made sufficient efforts toward meeting the project goal.
2. Explain the efforts your firm made in attempting to meet the project DBE goal prior to the bid opening.
 - a. Which lower tier subcontractor(s) and what types of work did your firm ask to obtain DBE participation as a lower tier subcontractor? Describe the outcome of these efforts.
 - b. Which DBE firms and types of work to meet the project goal did your firm identify using the DBE Directory located at:
 - <https://dotnd.diversitycompliance.com/>
 - c. Which other areas of the project plans did your firm review to determine whether DBE participation was available on the project?
3. Provide a copy of any email, fax, or advertisement used to solicit DBE participation prior to the bid opening. Explain how your firm identified additional work that could be subcontracted to a DBE firm.
4. Provide written Bid Differential - Apples to Apples Comparisons- like items must be compared to like items.
 - a. If a **non-DBE was selected over a DBE**, provide the quotes compared, a detailed comparison between the specific bid items quoted by the non-DBE and the DBE, the specific reasons for your selection, and a Form C with each firm selected.
 - b. If the **prime contractor intends to self-perform the work quoted by a DBE**, provide a detailed comparison between the prime's costs for the specific bid items quoted by the DBE along with an explanation of the method of valuation of the prime's costs.
 - c. Bid Differentials are ONLY between non-DBE and DBE firms.
 - d. No bid differential analysis is needed to compare DBE firms' quotes.
 - e. Another format may be used provided all information requested is included.

f. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

<u>BID DIFFERENTIAL ANALYSIS EXAMPLE</u>					DBE XYZ Contracting	Non-DBE ABC Construction	Prime General Construction		
Bid Item	Description	Units	Quantity	Unit Price	DBE Quoted Price	Non-DBE Quoted Price	Self-Performed Price	Percentage Difference	Dollar Difference
1	REMOVAL OF CONCRETE	SY	838						
2	SAW CONCRETE	LF	54						
3	COMMON EXCAVATION-TYPE A	CY	107,262						
4	TOPSOIL-BORROW AREA	CY	31,269						
5	TOPSOIL	CY	83,126						
TOTALS									

Example 1.

Simple comparison between DBE and non-DBE Striping on bid item 101 - Identify difference in amount and percentage.

1 Bid Differential			
Item #	101	Amount Difference	Percentage Difference
DBE Quote - Striping	45,000.00	\$1,000 higher	2.27%
Non-DBE Quote - Striping	44,000.00		
<p>Bid differential on pavement marking (item 101):</p> <p>DBE Quote for Item # 101 was \$1,000 greater or 2.27% higher than the Non-DBE Quote. ATTACH the non-DBE Quote and the DBE Quote used in bid differential</p>			

Example 2.

DBE tied quote is compared to a combination of two non-DBE quotes to compare like items 99-103 - Identify difference in amount and percentage.

2 Bid Differential							
Item #							
	99	100	101	102	103	Total	Tied or Not-Tied
DBE Quote	500.00	500.00	500.00	600.00	500.00	2,600.00	Tied Quote
Non-DBE Quote #1		400.00	600.00	300.00		1,300.00	Tied Quote
Non-DBE Quote #2	600.00				400.00	1,000.00	Untied Quote
<p>Bid differential on pavement marking (items 99-103):</p> <p>DBE Quote for Items 99-103 were compared to Non-DBE Quote #1 and Non-DBE Quote #2 on like items.</p> <p>DBE Quote was tied, Non-DBE Quote #1 was Tied, Non-DBE Quote #2 was untied. Total of DBE Quote was \$2,600; Total of Non-DBE Quotes was \$2,300. DBE Quote was \$300 and 11.54% higher than the combined Quotes</p> <p>ATTACH the non-DBE Quotes and the DBE Quote used in bid differential</p>							

Example 3. – No Bid Differential

DBE tied quote on bid items 99-103 cannot be compared to non-DBE tied quote.

The non-DBE quote did not include items 99 and 103. The prime selected the non-DBE quote on items 100-102. There is NO bid differential to submit in this case.

3 No Bid Differential - - Explain in Good Faith Efforts Documentation Not Comparing Like Items							
	Item #						
	99	100	101	102	103	Total	Tied or Not-Tied
DBE Quote	500.00	500.00	500.00	600.00	500.00	2,600.00	Tied Quote
Non-DBE Quote		400.00	600.00	300.00		1,300.00	Tied Quote
There is no Bid differential on pavement marking (items 99-103) because the DBE Quote was tied. Prime Contractor may call the DBE to discuss "Untying" the Quote. Identify who is performing the items quoted by DBEs if DBEs are not used so that all Bid Items Quoted by DBEs are addressed. DBE Quote for Items 99-103 cannot be compared to Non-DBE Quote on like items.							

Administrative Reconsideration

Within seven (7) days of being informed by the Owner that it is not responsible because it has not documented adequate good faith efforts, a bidder/offeror may request administrative reconsideration. Bidders/offerors should make this request in writing to:

Adam Dillin
Airport Planner
PO Box 5020
Bismarck, ND 58502
701-328-9657
adillin@nd.gov

The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether the goal was met or the bidder/offeror made adequate good faith efforts to do. The bidder/offeror will be sent a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

FAA Matchmaker System

The FAA has a DBE Matchmaker System that is available on-line and at no charge to assist contractors with posting DBE opportunities and finding qualified DBE's who can perform the work. Contractors and DBE contractors are encouraged to utilize this system and provide documentation of its use as part of your Good Faith Efforts. The system is available on-line at [FAA Matchmaker System \(https://faa.dbesystem.com\)](https://faa.dbesystem.com).

Certification of Compliance with FAA Buy American Preference – Equipment / Building Projects

Project	Procure Snow Removal Equipment
Airport Name	Kenmare Municipal Airport
AIP Number	AIP Project # 3-38-0029-022-2025 AIG Project # 3-38-0029-023-2025

Title 49 USC § 50101

Executive Order 14005, Ensuring the Future is Made in All of America by All of America's Workers

Bipartisan Infrastructure Law (Pub. L. No. 117-58), Build America, Buy America (BABA)

The Buy American Preference incorporates statutory requirements and policies outlined in the in 49 USC § 50101, Executive Order 14005, and BABA.

Section 50101 of 49 USC requires that all steel and manufactured goods used on AIP projects be produced in the United States. This section also gives the FAA the ability to issue a waiver to a Sponsor to use non-domestic material on an AIP funded project subject to meeting certain conditions. A Sponsor may request that the FAA issue a waiver from the Buy American Preference requirements if the FAA finds that:

- 1) Applying the provision is not in the public interest.
- 2) The steel or manufactured goods are not available in sufficient quantity or quality in the United States.
- 3) The cost of components and subcomponents produced in the United States is more than 60 percent of the total components of a facility or equipment, and final assembly has taken place in the United States. Items that have an FAA standard specification item number (such as specific airport lighting equipment) are considered the equipment.
- 4) Applying this provision would increase the cost of the overall project by more than 25 percent.

Executive Order 14005 advances the Administration's priority to use terms and conditions of Federal financial assistance awards to maximize the use of goods, products, and materials produced in, and services offered in, the United States. The Order directs, to the extent appropriate and consistent with applicable law, agencies shall partner with the Hollings Manufacturing Extension Partnership (MEP) to conduct supplier scouting in order to identify American companies that are able to produce goods, products, and materials in the United States that meet Federal procurement needs, prior to consideration of using non-domestic products.

The Bipartisan Infrastructure Law, Build America, Buy America (BABA) Act strengthens Made in America Laws and bolsters America's industrial base, protects national security, and supports high-paying jobs. Under BABA, iron, steel and certain construction materials are required to be 100% produced in the United States.

Under the Bipartisan Infrastructure Law (Pub. L. No. 117-58) BABA three waivers are available for iron and steel, manufactured products, and construction materials when a Federal agency finds that –

- 1) Applying the domestic content procurement preference would be inconsistent with the public interest (a "public interest waiver");
- 2) Types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality (a "nonavailability waiver"); or
- 3) The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent (an "unreasonable cost waiver").

BABA defines construction materials, items that are or consists primarily of non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables), glass

(including optic glass), lumber or drywall.

Items that consist of two or more of the aforementioned materials that have been combined together through a manufacturing process, and items that include at least one of the listed materials combined with a material that is not listed through a manufacturing process, should be treated as manufactured products, rather than as construction materials. For example, a plastic framed sliding window should be treated as a manufactured product while plate glass should be treated as a construction material.

The Buy America Preference requirements flow down from the Sponsor to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are also in compliance.

Note: The Buy American Preference does not apply to temporary equipment a contractor uses as a tool of its trade and which does not remain as part of the project.

For additional information on Buy American Preference Requirements, including implementation of the Buy American Build American (BABA) Act, see the following webpage:
https://www.faa.gov/airports/aip/buy_american.

Required Documentation

FAA Buy American Waiver Requests. All requests for a FAA Buy American Preference Waiver shall include, at minimum, a completed Content Percentage Worksheet and Final Assembly Questionnaire. Additional information may be requested from the applicant by the FAA. Airport Sponsors, consultants, construction contractors, or equipment manufacturers are responsible for completing and submitting waiver requests. The FAA is unable to make a determination on waiver requests with incomplete information. Sponsors must confirm with the bidder or offeror to assess the adequacy of the waiver request and associated information prior to forwarding a waiver request to the FAA for action. All FAA waivers forms are available from the FAA Buy American Requirements webpage.

Proprietary Confidentiality. Exemption 4 of the Freedom of Information Act protects "trade secrets and commercial or financial information obtained from a person that is privileged or confidential. Proprietary manufacturing and design information submitted to the Federal Aviation Administration for the purposes of receiving a Buy American Waiver shall not be disclosed outside the FAA. The FAA will provide a written notification to the Airport Sponsor, manufacturer(s), contractor(s) or supplier(s) when a waiver determination is complete.

Timing of Waiver Requests. The Sponsor must submit a Type 2, Type 3, or Type 4 waiver request prior to executing the contract. The FAA will generally not consider waiver requests after execution of the contract except where extraordinary and extenuating circumstances exist.

The Buy American Notice of Determination (NOD) Process. The FAA Reauthorization Act of 2018 requires that all approved waivers must be posted to the FAA's website and remain posted for public comment for 10 days, before becoming effective. All FAA waivers must complete the NOD process. Sponsors are encouraged to wait until approved waivers become effective before executing AIP projects.

Buy American Conformance Lists. The FAA Office of Airports maintains listings of projects and products that have received a waiver from the Buy American Preference requirements for project specific and nationwide use. Each of these conformance lists is available online at www.faa.gov/airports/aip/buy_american/. Products listed on the FAA Nationwide Buy American Conformance list do not require additional submittal of domestic content information. Nationwide waivers expire five years from the date issued, unless revoked earlier by the FAA.

Facility Waiver Requests. For construction of a facility, the Sponsor may submit the waiver request after bid opening, but prior to contract execution. Examples of facility construction include terminal buildings, terminal renovation, and snow removal equipment buildings.

FAA BUY AMERICAN PREFERENCE

The Contractor certifies that its bid/offer is in compliance with 49 USC § 50101, BABA and other related Made in America Laws,¹ U.S. statutes, guidance, and FAA policies, which provide that Federal funds may not be obligated unless all iron, steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

The bidder or offeror must complete and submit the certification of compliance with FAA's Buy American Preference, BABA and Made in America laws included herein with their bid or offer. The Airport Sponsor/Owner will reject as nonresponsive any bid or offer that does not include a completed certification of compliance with FAA's Buy American Preference and BABA.

The bidder or offeror certifies that all constructions materials, defined to mean an article, material, or supply other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall used in the project are manufactured in the U.S.

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101, and other Made in America Laws, U.S. statutes, guidance, and FAA policies by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter "X".

☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101, BABA and other related U.S. statutes, guidance, and policies of the FAA by:

- a) Only installing steel and manufactured products produced in the United States;
- b) Only installing construction materials defined as: an article, material, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
- c) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
- d) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- a) To provide to the Airport Sponsor or FAA evidence that documents the source and origin of the steel and manufactured product.
- b) To faithfully comply with providing U.S. domestic product.
- c) To furnish U.S. domestic product for any waiver request that the FAA rejects.

¹ Per Executive Order 14005 "Made in America Laws" means all statutes, regulations, rules, and Executive Orders relating to federal financial assistance awards or federal procurement, including those that refer to "Buy America" or "Buy American," that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, and manufactured products offered in the United States.

- d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

☐ The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for a Type 3 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

- a) To submit to the Airport Sponsor or FAA within 15 calendar days of being selected as the responsive bidder, a formal waiver request and required documentation that supports the type of waiver being requested.
- b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.
- c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
- d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 2 Waiver (Nonavailability) - The iron, steel, manufactured goods or construction materials are not available in sufficient quantity or quality in the United States. The required documentation for the Nonavailability waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire;
- b) Record of thorough market research, consideration where appropriate of qualifying alternate items, products, or materials including;
- c) A description of the market research activities and methods used to identify domestically manufactured items capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of sources.

Type 3 Waiver – The cost of the item components and subcomponents produced in the United States is more than 60 percent of the cost of all components and subcomponents of the “item”. The required documentation for a Type 3 waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire including;
- b) Listing of all product components and subcomponents that are not comprised of 100 percent U.S. domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108 (products of unknown origin must be considered as non-domestic products in their entirety).
- c) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- d) Percentage of non-domestic component and subcomponent cost as compared to total “item” component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

Type 4 Waiver (Unreasonable Costs) - Applying this provision for iron, steel, manufactured goods or construction materials, would increase the cost of the overall project by more than 25 percent. The required documentation for this waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire from
- b) At minimum two comparable equal bidders and/or offerors;
- c) Receipt or record that demonstrates that supplier scouting called for in Executive Order 14005, indicates that no domestic source exists for the project and/or component;
- d) Completed waiver applications for each comparable bid and/or offer.

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date

Signature

Company Name

Title

AGREEMENT BETWEEN BUYER AND SELLER

THIS AGREEMENT is between Kenmare Municipal Airport Authority ("Buyer") and _____ ("Seller"). Buyer and Seller, in consideration of the mutual covenants set forth herein, agree as follows:

ARTICLE 1 - GOODS AND SPECIAL SERVICES

1.01 Seller shall furnish the Goods and Special Services as specified or indicated in the Contract Documents.

ARTICLE 2 - THE PROJECT

2.01 The Project for which the Goods and Special Services to be provided under the Contract Documents may be the whole or only a part is generally described as follows: Procure Snow Removal Equipment.

ARTICLE 3 - ENGINEER

3.01 The Contract Documents for the Goods and Special Services have been prepared by KLJ Engineering LLC who is hereinafter called Engineer and who is to assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the furnishing of Goods and Special Services.

ARTICLE 4 - POINT OF DESTINATION

4.01 The place where the Goods are to be delivered is defined in the General Conditions as the Point of Destination and is designated as: Kenmare Municipal Airport, Kenmare, North Dakota.

ARTICLE 5 - CONTRACT TIMES

5.01 *Time of the Essence*

- A. All time limits for Milestones, if any, the delivery of Goods and the furnishing of Special Services as stated in the Contract Documents are of the essence of the Contract.

5.02 *Days for Submittal of Shop Drawings*

- A. All Shop Drawings and Samples required by the Contract Documents will be submitted to Buyer for Owner's review and approval within 14 days after the date when the Contract Times commence to run as provided in Paragraph 2.03 of the General Conditions.

5.03 *Date for Delivery of Goods*

- A. The Goods are to be delivered to the Point of Destination and ready for Buyer's receipt of delivery within 300 calendar days of the issuance of the Notice to Proceed.

5.04 *Days for Furnishing Special Services*

- A. The furnishing of Special Services to Buyer will commence within fourteen (14) days after Buyer's written notice to Seller following Buyer's receipt of delivery of the Goods, and shall be completed within two (2) days thereafter. Such notice will be given no later than one (1) day after Buyer's receipt of delivery.

5.05 Liquidated Damages

- A. Buyer and Seller recognize that time is of the essence of this Agreement and that Buyer will suffer financial loss if the Goods are not delivered at the Point of Destination and ready for receipt of delivery by Buyer within the times specified in Paragraph 5.03 above, plus any extensions thereof allowed in accordance with Article 7 of the General Conditions. The parties also recognize that the timely performance of services by others involved in the Project are materially dependent upon Seller's specific compliance with the requirements of Paragraph 5.03. Further, they recognize the delays, expense and difficulties involved in proving the actual loss suffered by Buyer if complete acceptable Goods are not delivered on time. Accordingly, instead of requiring such proof, Buyer and Seller agree that as liquidated damages for delay (but not as a penalty) Seller shall pay Buyer five hundred (\$500.00) for each calendar day that expires after the time specified in Paragraph 5.03 for delivery of acceptable Goods.

ARTICLE 6 - CONTRACT PRICE

6.01 Buyer shall pay Seller for furnishing the Goods and Special Services in accordance with the Contract Documents in current funds as follows:

- A. A Lump Sum of \$_____.

6.02 Seller, however, acknowledges that the Buyer is wholly dependent upon Federal Funding through the Federal Aviation Administration (FAA) to obtain adequate financing for the cost of said Project and therefore, the Seller agrees as follows:

- A. That no payment shall be made until FAA approval of funding is finalized to the Buyer and the Seller is notified thereof.
- B. That any rejection or refusal by the FAA to provide all or any part of said funding to the Buyer shall cause this Agreement to become null and void at the sole discretion of the Buyer should alternate financing not be deemed reasonable or practicable.

ARTICLE 7 - PAYMENT PROCEDURES

7.01 *Submittal and Processing of Payments.*

- A. Seller shall submit Applications for Payment in accordance with Article 10 of the General Conditions. Applications for Payment will be processed by Buyer as provided in the General Conditions.

7.02 *Progress Payments – Not Used.*

7.03 *Final Payment*

- A. Upon receipt of the final Application for Payment accompanied by Buyer's recommendation of payment in accordance with Paragraph 10.06 of the General Conditions, Buyer shall pay the remainder of the Contract Price.

ARTICLE 8 - INTEREST

8.01 All monies not paid when due as provided in Article 10 of the General Conditions shall bear interest at the maximum rate allowed by law at the place of the Buyer.

ARTICLE 9 - SELLER'S REPRESENTATIONS

9.01 In order to induce Buyer to enter into this Agreement, Seller makes the following representations:

- A. Seller has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

- B. If specified or if, in Seller's judgment, any local condition may affect cost, progress or the furnishing of the Goods and Special Services, Seller has visited the Point of Destination and become familiar with and is satisfied as to the local conditions that may affect cost, progress or the furnishing of the Goods and Special Services.
- C. Seller is familiar with and is satisfied as to all local federal, state and local Laws and Regulations that may affect cost, progress and the furnishing of the Goods and Special Services.
- D. Seller has carefully studied and correlated the information known to Seller, and information and observations obtained from Seller's visits, if any, to the Point of Destination, with the Contract Documents.
- E. Seller has given Buyer written notice of all conflicts, errors, ambiguities, or discrepancies that Seller has discovered in the Contract Documents, and the written resolution thereof by Buyer is acceptable to Seller.
- F. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Goods and Special Services.

ARTICLE 10 - CONTRACT DOCUMENTS

10.01 *Contents*

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages 1 to 5, inclusive);
 - 2. Performance Bond (pages __ to __, inclusive);
 - 3. Other bonds
 - a. _____ (pages __ to __, inclusive);
 - b. _____ (pages __ to __, inclusive);
 - c. _____ (pages __ to __, inclusive);
 - 4. General Conditions (pages 1 to 19, inclusive);
 - 5. Supplementary Conditions (pages 1 to 4, inclusive);
 - 6. Specifications as listed in table of contents of the Project Manual;
 - 7. Addenda (Numbers __ to __, inclusive);
 - 8. Exhibits to this Agreement (enumerated as follows):
 - a. Seller's Bid (pages __ to __, inclusive);
 - b. Documentation submitted by Seller prior to Notice of Award (pages __ to __, inclusive);
 - c. _____;

9. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:

- a. Notice to Proceed (pages ___ to ___, inclusive);
- b. Written Amendment(s);
- c. Change Order(s);
- d. Field Order(s);
- e. Buyer's Written Interpretation(s).

B. The documents listed in paragraph 10.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 10.

D. The Contract Documents may only be amended or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 11 - MISCELLANEOUS

11.01 *Defined Terms*

A. Terms used in this Agreement will have the meanings indicated in the General Conditions and the Supplementary Conditions.

11.02 *Assignment*

A. No other assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound. Specifically, but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law). Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

11.03 *Successors and Assigns*

A. Buyer and Seller each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

11.04 *Severability*

A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Buyer and Seller. The Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, Buyer and Seller have signed this Agreement in duplicate. One counterpart each has been delivered to Buyer and Seller. All portions of the Contract Documents have been signed or identified by Buyer and Seller or on their behalf.

This Agreement will be effective on _____.

Buyer: Kenmare Municipal Airport Authority

Seller: _____

By: _____

By: _____

Attest: _____

Attest: _____

Address for giving notice:

Address for giving notice:

(If Buyer is a corporation, attach evidence of authority to sign. If Buyer is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Buyer-Seller Agreement.)

Agent for service of process:

(If Seller is a corporation or a partnership, attach evidence of authority to sign.)

Designated Representative:

Designated Representative:

Name: _____

Name: _____

Title: _____

Title: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

Federal Contract Provisions

Required Contract Provisions for Airport Improvement Program and for Obligated Sponsors

- *Require the contractor (including all subcontractors) to insert these contract provisions in each lower tier contract (e.g., subcontract or sub-agreement).*
- *Require the contractor (including all subcontractors) to incorporate the requirements of these contract provisions by reference for work done under any purchase orders, rental agreements, and other agreements for supplies or services.*
- *Require that the prime contractor be responsible for compliance with these contract provisions by any subcontractor, lower-tier subcontractor, or service provider.*

A1 ACCESS TO RECORDS AND REPORTS

2 CFR § 200.334

2 CFR § 200.337

FAA Order 5100.38

ACCESS TO RECORDS AND REPORTS

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

A2 AFFIRMATIVE ACTION REQUIREMENT

41 CFR Part 60-4

Executive Order 11246

Applicable to contracts exceeding \$10,000.

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables

Goals for minority participation for each trade: 4.4%

Goals for female participation in each trade: 6.9%

These goals are applicable to all of the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a) and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address, and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.
4. As used in this notice and in the contract resulting from this solicitation, the "covered area" is North Dakota, Ward County, and Kenmare.

A3 BREACH OF CONTRACT TERMS

2 CFR Part 200, Appendix II(A)

Applicable to contracts exceeding \$250,000.

BREACH OF CONTRACT TERMS

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

Owner will provide Contractor written notice that describes the nature of the breach and corrective actions the Contractor must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the Contractor must correct the breach. Owner may proceed with termination of the contract if the Contractor fails to correct the breach by the deadline indicated in the Owner's notice.

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

A4 BUY AMERICAN PREFERENCE

Title 49 USC § 50101

Executive Order 14005, Ensuring the Future is Made in All of America by All of America's Workers
Bipartisan Infrastructure Law (Pub. L. No. 117-58), Build America, Buy America (BABA)

FAA BUY AMERICAN PREFERENCE

The Contractor certifies that its bid/offer is in compliance with 49 USC § 50101, BABA and other related Made in America Laws,¹ U.S. statutes, guidance, and FAA policies, which provide that Federal funds may not be obligated unless all iron, steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

The bidder or offeror must complete and submit the certification of compliance with FAA's Buy American Preference, BABA and Made in America laws included herein with their bid or offer. The Airport Sponsor/Owner will reject as nonresponsive any bid or offer that does not include a completed certification of compliance with FAA's Buy American Preference and BABA.

¹ Per Executive Order 14005 "Made in America Laws" means all statutes, regulations, rules, and Executive Orders relating to federal financial assistance awards or federal procurement, including those that refer to "Buy America" or "Buy American," that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, and manufactured products offered in the United States.

The bidder or offeror certifies that all construction materials, defined to mean an article, material, or supply other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall used in the project are manufactured in the U.S.

Certificate of Compliance with FAA Buy American Preference – Construction Projects

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with its proposal. The bidder or offeror must indicate how it intends to comply with 49 USC § 50101, BABA and other related Made in America Laws, U.S. statutes, guidance, and FAA policies, by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e., not both) by inserting a checkmark (✓) or the letter "X".

- ☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101, BABA and other related U.S. statutes, guidance, and policies of the FAA by:
- a) Only installing iron, steel and manufactured products produced in the United States;
 - b) Only installing construction materials defined as: an article, material, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
 - c) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
 - d) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- a) To provide to the Airport Sponsor or the FAA evidence that documents the source and origin of the iron, steel, and/or manufactured product.
- b) To faithfully comply with providing U.S. domestic products.
- c) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- d) Certify that all construction materials used in the project are manufactured in the U.S.

- ☐ The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 USC § 50101(a) but may qualify for a Type 3 or Type 4 waiver under 49 USC §

50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

- a) To submit to the Airport Sponsor or FAA within 15 calendar days of being selected as the responsive bidder, a formal waiver request and required documentation that supports the type of waiver being requested.
- b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.
- c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
- d) To furnish U.S. domestic product for any waiver request that the FAA rejects.
- e) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 2 Waiver (Nonavailability) - The iron, steel, manufactured goods or construction materials or manufactured goods are not available in sufficient quantity or quality in the United States. The required documentation for the Nonavailability waiver is

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire
- b) Record of thorough market research, consideration where appropriate of qualifying alternate items, products, or materials including;
- c) A description of the market research activities and methods used to identify domestically manufactured items capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of sources.

Type 3 Waiver – The cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components and subcomponents of the “facility/project.” The required documentation for a Type 3 waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire including;
- b) Listing of all manufactured products that are not comprised of 100 percent U.S. domestic content (excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety).
- c) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- d) Percentage of non-domestic component and subcomponent cost as compared to total “facility” component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

Type 4 Waiver (Unreasonable Costs) – Applying this provision for iron, steel, manufactured goods or construction materials would increase the cost of the overall project by more than 25 percent. The required documentation for this waiver is:

- a) A completed Content Percentage Worksheet and Final Assembly Questionnaire from

- b) At minimum two comparable equal bids and/or offers;
- c) Receipt or record that demonstrates that supplier scouting called for in Executive Order 14005, indicates that no domestic source exists for the project and/or component;
- d) Completed waiver applications for each comparable bid and/or offer.

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

Date	Signature
Company Name	Title

A5 CIVIL RIGHTS - GENERAL

49 USC § 47123

GENERAL CIVIL RIGHTS PROVISIONS

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

A6 CIVIL RIGHTS – TITLE VI ASSURANCE

49 USC § 47123

FAA Order 1400.11

COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS:

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

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including

limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES

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

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, *et seq.*) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, *et seq.*).

A7 CLEAN AIR AND WATER POLLUTION CONTROL

2 CFR Part 200, Appendix II(G)

42 USC § 7401, *et seq.*

33 USC § 1251, *et seq.*

Applicable to contracts exceeding \$150,000.

CLEAN AIR AND WATER POLLUTION CONTROL

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC §§ 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

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

A8 CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

2 CFR Part 200, Appendix II(E)

2 CFR § 5.5(b)

40 USC § 3702

40 USC § 3704

Applicable to contracts exceeding \$100,000.

CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

1. Overtime Requirements.

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

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

In the event of any violation of the clause set forth in paragraph (1) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.

3. Withholding for Unpaid Wages and Liquidated Damages.

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

4. Subcontractors.

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

A9 COPELAND “ANTI-KICKBACK” ACT

2 CFR Part 200, Appendix II(D)

29 CFR Parts 3 and 5

Applicable to contracts exceeding \$2,000.

COPELAND “ANTI-KICKBACK” ACT

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

A10 DAVIS-BACON REQUIREMENTS

2 CFR Part 200, Appendix II(D)

29 CFR Part 5

49 USC § 47112(b)

40 USC §§ 3141-3144, 3146, and 3147

Applicable to contracts exceeding \$2,000.

DAVIS-BACON REQUIREMENTS

1. Minimum Wages.

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

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

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination;

(2) The classification is utilized in the area by the construction industry; and

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

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

contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

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

2. Withholding.

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

3. Payrolls and Basic Records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics

working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

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

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

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

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

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR § 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing

work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

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

5. Compliance with Copeland Act Requirements.

The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

6. Subcontracts.

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

7. Contract Termination: Debarment.

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR § 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes Concerning Labor Standards.

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

10. Certification of Eligibility.

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

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

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC § 1001.

A11 DEBARMENT AND SUSPENSION

2 CFR Part 180 (Subpart B)

2 CFR Part 200, Appendix II(H)

2 CFR Part 1200

DOT Order 4200.5

Executive Orders 12549 and 12689

Applicable to contracts exceeding \$25,000.

CERTIFICATION OF OFFEROR / BIDDER REGARDING DEBARMENT

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT

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

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

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

A12 DISADVANTAGED BUSINESS ENTERPRISE

49 CFR Part 26

DISADVANTAGED BUSINESS ENTERPRISES

Information Submitted as a matter of bidder responsiveness:

The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR §26.53.

As a condition of bid responsiveness, the Bidder or Offeror must submit the following information with its proposal on the forms provided herein:

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1)
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal; and

- 5) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26.

The requirements of 49 CFR part 26 apply to this contract. It is the policy of the Kenmare Municipal Airport Authority to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

Contract Assurance (49 CFR § 26.13)

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

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the Contractor from future bidding as non-responsible.

Prompt Payment (49 CFR § 26.29)

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

Termination of DBE Subcontracts (49 CFR § 26.53(f))

The prime contractor must not terminate a DBE subcontractor listed in response to the Advertisement for Bids (or an approved substitute DBE firm) without prior written consent of Kenmare Municipal Airport Authority. This includes, but is not limited to, instances in which the prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The prime contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains written consent Kenmare Municipal Airport Authority. Unless Kenmare Municipal Airport Authority consent is provided, the prime contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

Kenmare Municipal Airport Authority may provide such written consent only if Kenmare Municipal Airport Authority agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the circumstances listed in 49 CFR §26.53.

Before transmitting to Kenmare Municipal Airport Authority its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to Kenmare Municipal Airport Authority, of its intent to request to terminate and/or substitute, and the reason for the request.

The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise Kenmare Municipal Airport Authority and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why Kenmare Municipal Airport Authority should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), Kenmare Municipal Airport Authority may provide a response period shorter than five days.

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

A13 DISTRACTED DRIVING

Executive Order 13513

DOT Order 3902.10

Applicable to contracts exceeding \$10,000.

TEXTING WHEN DRIVING

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

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$10,000 that involve driving a motor vehicle in performance of work activities associated with the project.

A14 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

2 CFR § 200, Appendix II(K)

2 CFR § 200.216

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)].

A15 EQUAL EMPLOYEMENT OPPORTUNITY (EEO)

2 CFR Part 200, Appendix II(C)

41 CFR § 60-1.4

41 CFR § 60-4.3

Executive Order 11246

Applicable to contracts exceeding \$10,000.

EQUAL OPPORTUNITY CLAUSE

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

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

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

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions

discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

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

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

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

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

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

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS

1. As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

- b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
- d. "Minority" includes:
 - (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
 - (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (4) American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

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

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

Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

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

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

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

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

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

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

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

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

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

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

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

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

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

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

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

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

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

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

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

8. Contractors are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the Contractor is a member and participant may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

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

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

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing

subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR part 60-4.8.

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

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

A16 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

29 USC § 201, et seq

2 CFR § 200.430

FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

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

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.

A17 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

31 USC § 1352 – Byrd Anti-Lobbying Amendment

2 CFR Part 200, Appendix II(I)

49 CFR Part 20, Appendix A

Applicable to contracts exceeding \$100,000.

CERTIFICATION REGARDING LOBBYING

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

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

A18 PROHIBITION of SEGREGATED FACILITIES

2 CFR Part 200, Appendix II(C)

41 CFR Part 60-1

Applicable to contracts exceeding \$10,000.

PROHIBITION OF SEGREGATED FACILITIES

(a) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Employment Opportunity clause in this contract.

(b) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

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

A19 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

29 CFR Part 1910

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. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). The employer 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.

A20 PROCUREMENT OF RECOVERED MATERIALS

2 CFR § 200.323

2 CFR Part 200, Appendix II(J)

40 CFR Part 247

42 USC § 6901, et seq (Resource Conservation and Recovery Act (RCRA))

Applicable to contracts exceeding \$10,000.

PROCUREMENT OF RECOVERED MATERIALS

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

- 1) The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or
- 2) The contractor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products.

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is:

- a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
- b) Fails to meet reasonable contract performance requirements; or
- c) Is only available at an unreasonable price.

A21 TAX DELINQUENCY AND FELONY CONVICTIONS

Section 8113 of the Consolidated Appropriations Act, 2022 (Public Law 117-103) and similar provisions in subsequent appropriations acts.

DOT Order 4200.6 – Appropriations Act Requirements for Procurement and Non-Procurement Regarding Tax Delinquency and Felony Convictions

CERTIFICATION OF OFFERER/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

Certifications

- 1) The applicant represents that it is () is not () a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) The applicant represents that it is () is not () a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

Note

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the Sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

Term Definitions

Felony conviction: Felony conviction means a conviction within the preceding twenty four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 USC § 3559.

Tax Delinquency: A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

A22 TERMINATION OF CONTRACT

2 CFR Part 200, Appendix II(B)

FAA Advisory Circular 150/5370-10, Section 80-09

Applicable to contracts exceeding \$10,000.

TERMINATION FOR CONVENIENCE (CONSTRUCTION & EQUIPMENT CONTRACTS)

The Owner may terminate this contract in whole or in part at any time by providing written notice to the Contractor. Such action may be without cause and without prejudice to any other right or remedy of Owner. Upon receipt of a written notice of termination, except as explicitly directed by the Owner, the Contractor shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:

1. Contractor must immediately discontinue work as specified in the written notice.
2. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
3. Discontinue orders for materials and services except as directed by the written notice.
4. Deliver to the Owner all fabricated and partially fabricated parts, completed and partially completed work, supplies, equipment and materials acquired prior to termination of the work, and as directed in the written notice.
5. Complete performance of the work not terminated by the notice.

6. Take action as directed by the Owner to protect and preserve property and work related to this contract that Owner will take possession.

Owner agrees to pay Contractor for:

1. Completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
2. Documented expenses sustained prior to the effective date of termination in performing work and furnishing labor, materials, or equipment as required by the contract documents in connection with uncompleted work;
3. Reasonable and substantiated claims, costs, and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
4. Reasonable and substantiated expenses to the Contractor directly attributable to Owner's termination action.

Owner will not pay Contractor for loss of anticipated profits or revenue or other economic loss arising out of or resulting from the Owner's termination action.

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

TERMINATION FOR DEFAULT (CONSTRUCTION)

Section 80-09 of FAA Advisory Circular 150/5370-10 establishes standard language for conditions, rights, and remedies associated with Owner termination of this contract for cause due to default of the Contractor.

The Owner may, by written notice of default to the Contractor, terminate all or part of this Contract for cause if the Contractor:

1. Fails to begin the Work under the Contract within the time specified in the Notice- to-Proceed;
2. Fails to make adequate progress as to endanger performance of this Contract in accordance with its terms;
3. Fails to make delivery of the equipment within the time specified in the Contract, including any Owner approved extensions;
4. Fails to comply with material provisions of the Contract;
5. Submits certifications made under the Contract and as part of their proposal that include false or fraudulent statements; or
6. Becomes insolvent or declares bankruptcy.

If one or more of the stated events occur, the Owner will give notice in writing to the Contractor and Surety of its intent to terminate the contract for cause. At the Owner's discretion, the notice may allow the Contractor and Surety an opportunity to cure the breach or default.

If within [10] days of the receipt of notice, the Contractor or Surety fails to remedy the breach or default to the satisfaction of the Owner, the Owner has authority to acquire equipment by other procurement action. The Contractor will be liable to the Owner for any excess costs the Owner incurs for acquiring such similar equipment.

Payment for completed equipment delivered to and accepted by the Owner shall be at the Contract price. The Owner may withhold from amounts otherwise due the Contractor for such completed equipment, such sum as the Owner determines to be necessary to protect the Owner against loss because of Contractor default.

Owner will not terminate the Contractor's right to proceed with the work under this clause if the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such acceptable causes include: acts of God, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, and severe weather events that substantially exceed normal conditions for the location.

If, after termination of the Contractor's right to proceed, the Owner determines that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the Owner issued the termination for the convenience the Owner.

The rights and remedies of the Owner in this clause are in addition to any other rights and remedies provided by law or under this contract.

A23 TRADE RESTRICTION CERTIFICATION

49 USC § 50104

49 CFR Part 30

TRADE RESTRICTION CERTIFICATION

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

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

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

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

immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

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

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

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

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

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

A24 VETERAN'S PREFERENCE

49 USC § 47112(c)

VETERAN'S PREFERENCE

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

A25 DOMESTIC PREFERENCES FOR PROCUREMENTS

2 CFR § 200.322

2 CFR Part 200, Appendix II(L)

CERTIFICATION REGARDING DOMESTIC PREFERENCES FOR PROCUREMENTS

The Bidder or Offeror certifies by signing and submitting this bid or proposal that, to the greatest extent practicable, the Bidder or Offeror has provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR § 200.322.

PERFORMANCE BOND

Contractor Name: Address <i>(principal place of business)</i> :	Surety Name: Address <i>(principal place of business)</i> :
Owner Name: Mailing address <i>(principal place of business)</i> :	Contract Description <i>(name and location)</i> : Contract Price: Effective Date of Contract:
Bond Bond Amount: Date of Bond: <i>(Date of Bond cannot be earlier than Effective Date of Contract)</i> Modifications to this Bond form: <input type="checkbox"/> None <input type="checkbox"/> See Paragraph 16	
Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Performance Bond, do each cause this Performance Bond to be duly executed by an authorized officer, agent, or representative.	
Contractor as Principal	Surety
<i>(Full formal name of Contractor)</i>	<i>(Full formal name of Surety) (corporate seal)</i>
By: _____ <div style="text-align: center;"><i>(Signature)</i></div>	By: _____ <div style="text-align: center;"><i>(Signature)(Attach Power of Attorney)</i></div>
Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>	Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>
Title: _____	Title: _____
Attest: _____ <div style="text-align: center;"><i>(Signature)</i></div>	Attest: _____ <div style="text-align: center;"><i>(Signature)</i></div>
Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>	Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>
Title: _____	Title: _____
<i>Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.</i>	

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Paragraph 3.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond will arise after:
 - 3.1. The Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice may indicate whether the Owner is requesting a conference among the Owner, Contractor, and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Paragraph 3.1 will be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor, and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement does not waive the Owner's right, if any, subsequently to declare a Contractor Default;
 - 3.2. The Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
 - 3.3. The Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.
4. Failure on the part of the Owner to comply with the notice requirement in Paragraph 3.1 does not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.
5. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 5.1. Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;
 - 5.2. Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;
 - 5.3. Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owners concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or
 - 5.4. Waive its right to perform and complete, arrange for completion, or obtain a new contractor, and with reasonable promptness under the circumstances:

- 5.4.1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
 - 5.4.2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.
- 6. If the Surety does not proceed as provided in Paragraph 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Paragraph 5.4, and the Owner refuses the payment, or the Surety has denied liability, in whole or in part, without further notice, the Owner shall be entitled to enforce any remedy available to the Owner.
- 7. If the Surety elects to act under Paragraph 5.1, 5.2, or 5.3, then the responsibilities of the Surety to the Owner will not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety will not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication for:
 - 7.1. the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 7.2. additional legal, design professional, and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 5; and
 - 7.3. liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
- 8. If the Surety elects to act under Paragraph 5.1, 5.3, or 5.4, the Surety's liability is limited to the amount of this Bond.
- 9. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price will not be reduced or set off on account of any such unrelated obligations. No right of action will accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors, and assigns.
- 10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
- 11. Any proceeding, legal or equitable, under this Bond must be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and must be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum periods of limitations available to sureties as a defense in the jurisdiction of the suit will be applicable.
- 12. Notice to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears.
- 13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted therefrom and provisions conforming to such

statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.

14. Definitions

- 14.1. *Balance of the Contract Price*—The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made including allowance for the Contractor for any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
 - 14.2. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.
 - 14.3. *Contractor Default*—Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.
 - 14.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
 - 14.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.
15. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.
16. Modifications to this Bond are as follows:

PAYMENT BOND

Contractor Name: Address <i>(principal place of business)</i> :	Surety Name: Address <i>(principal place of business)</i> :
Owner Name: Mailing address <i>(principal place of business)</i> :	Contract Description <i>(name and location)</i> : Contract Price: Effective Date of Contract:
Bond Bond Amount: Date of Bond: <i>(Date of Bond cannot be earlier than Effective Date of Contract)</i> Modifications to this Bond form: <input type="checkbox"/> None <input type="checkbox"/> See Paragraph 18	
Surety and Contractor, intending to be legally bound hereby, subject to the terms set forth in this Payment Bond, do each cause this Payment Bond to be duly executed by an authorized officer, agent, or representative.	
Contractor as Principal	Surety
<i>(Full formal name of Contractor)</i>	<i>(Full formal name of Surety) (corporate seal)</i>
By: _____ <div style="text-align: center;"><i>(Signature)</i></div>	By: _____ <div style="text-align: center;"><i>(Signature)(Attach Power of Attorney)</i></div>
Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>	Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>
Title: _____	Title: _____
Attest: _____ <div style="text-align: center;"><i>(Signature)</i></div>	Attest: _____ <div style="text-align: center;"><i>(Signature)</i></div>
Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>	Name: _____ <div style="text-align: center;"><i>(Printed or typed)</i></div>
Title: _____	Title: _____
<i>Notes: (1) Provide supplemental execution by any additional parties, such as joint venturers. (2) Any singular reference to Contractor, Surety, Owner, or other party is considered plural where applicable.</i>	

1. The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to the Owner to pay for labor, materials, and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
2. If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies, and holds harmless the Owner from claims, demands, liens, or suits by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
3. If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond will arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 13) of claims, demands, liens, or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials, or equipment furnished for use in the performance of the Construction Contract, and tendered defense of such claims, demands, liens, or suits to the Contractor and the Surety.
4. When the Owner has satisfied the conditions in Paragraph 3, the Surety shall promptly and at the Surety's expense defend, indemnify, and hold harmless the Owner against a duly tendered claim, demand, lien, or suit.
5. The Surety's obligations to a Claimant under this Bond will arise after the following:
 - 5.1. Claimants who do not have a direct contract with the Contractor
 - 5.1.1. have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - 5.1.2. have sent a Claim to the Surety (at the address described in Paragraph 13).
 - 5.2. Claimants who are employed by or have a direct contract with the Contractor have sent a Claim to the Surety (at the address described in Paragraph 13).
6. If a notice of non-payment required by Paragraph 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Paragraph 5.1.1.
7. When a Claimant has satisfied the conditions of Paragraph 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
 - 7.1. Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
 - 7.2. Pay or arrange for payment of any undisputed amounts.
 - 7.3. The Surety's failure to discharge its obligations under Paragraph 7.1 or 7.2 will not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Paragraph 7.1 or 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

8. The Surety's total obligation will not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Paragraph 7.3, and the amount of this Bond will be credited for any payments made in good faith by the Surety.
9. Amounts owed by the Owner to the Contractor under the Construction Contract will be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfying obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.
10. The Surety shall not be liable to the Owner, Claimants, or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to or give notice on behalf of Claimants, or otherwise have any obligations to Claimants under this Bond.
11. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders, and other obligations.
12. No suit or action will be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Paragraph 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit will be applicable.
13. Notice and Claims to the Surety, the Owner, or the Contractor must be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, will be sufficient compliance as of the date received.
14. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement will be deemed deleted here from and provisions conforming to such statutory or other legal requirement will be deemed incorporated herein. When so furnished, the intent is that this Bond will be construed as a statutory bond and not as a common law bond.
15. Upon requests by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.
16. Definitions
 - 16.1. *Claim*—A written statement by the Claimant including at a minimum:
 - 16.1.1. The name of the Claimant;
 - 16.1.2. The name of the person for whom the labor was done, or materials or equipment furnished;
 - 16.1.3. A copy of the agreement or purchase order pursuant to which labor, materials, or equipment was furnished for use in the performance of the Construction Contract;
 - 16.1.4. A brief description of the labor, materials, or equipment furnished;

- 16.1.5. The date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
 - 16.1.6. The total amount earned by the Claimant for labor, materials, or equipment furnished as of the date of the Claim;
 - 16.1.7. The total amount of previous payments received by the Claimant; and
 - 16.1.8. The total amount due and unpaid to the Claimant for labor, materials, or equipment furnished as of the date of the Claim.
- 16.2. *Claimant*—An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials, or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond is to include without limitation in the terms of "labor, materials, or equipment" that part of the water, gas, power, light, heat, oil, gasoline, telephone service, or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials, or equipment were furnished.
- 16.3. *Construction Contract*—The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.
- 16.4. *Owner Default*—Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
- 16.5. *Contract Documents*—All the documents that comprise the agreement between the Owner and Contractor.
17. If this Bond is issued for an agreement between a contractor and subcontractor, the term Contractor in this Bond will be deemed to be Subcontractor and the term Owner will be deemed to be Contractor.
18. Modifications to this Bond are as follows:

Construction Contract Notification

Prime Contractors and Subcontractors are required to give written notice to the Office of Federal Contract Compliance Programs (OFCCP) within 10 working days of award of a construction contract or subcontract in excess of \$10,000 (see 41 CFR 60-4.2(d)3).

Notification of Construction Contract Award Portal (NCAP) – The NCAP allows contractors, federal agency contracting officers, and applicants for federal assistance involving a construction contract a secure electronic means to submit construction contract award notifications. The NCAP is OFCCP's preferred method for receiving construction contract award notifications. The NCAP can be found on OFCCP's website at <https://www.dol.gov/agencies/ofccp/ncap>.

Users who prefer not to use the portal maintain the option to send their notifications via mail, email, and facsimile to the OFCCP Regional office in which the work will be performed.

Contractor Name	
Address	
City, State, Zip	
Phone #	
Email Address	
Employer Identification #	
Dollar Amount of Contract	
Estimated Contract Start Date	
Estimated Contract Completion Date	
Prime Contract Number	AIP Project # 3-38-0029-022-2025 AIG Project # 3-38-0029-023-2025
Geographical Area – State	North Dakota
Geographical Area – County	Ward
Geographical Area – City (if applicable)	Kenmare

Submit to:

Southwest and Rocky Mountain Region
U.S. Department of Labor for OFCCP
525 South Griffin Street, Room 840
Dallas, TX 75202-5092
Email: OFCCP-SW-ConstructionAward@dol.gov

KLJ
Attn: Aviation-Shane Steiner, PE
400 East Broadway Avenue, Suite 600
Bismarck ND 58501
Email: aviation.admin@kljeng.com

DBE Replacement Good Faith Efforts

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

Such written consent will be provided only if the Owner agrees, for reasons stated in the concurrence document, that the Contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

1. The listed DBE subcontractor fails or refuses to execute a written contract;
2. The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the Contractor;
3. The listed DBE subcontractor fails or refuses to meet the Contractor's reasonable, non-discriminatory bond requirements;
4. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
5. The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
6. The Owner determined that the listed DBE subcontractor is not a responsible contractor;
7. The listed DBE subcontractor voluntarily withdraws from the project and provides the Owner written notice of its withdrawal;
8. The listed DBE is ineligible to receive DBE credit for the type of work required;
9. A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
10. Other documented good cause that the Owner has determined compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the Contractor seeks to terminate a DBE it relied upon to obtain the contract so that the Contractor can self-perform the work for which the DBE contractor was engaged or so that the Contractor can substitute another DBE or non-DBE contractor after contract award.

Before transmitting to the Owner, a request to terminate and/or substitute a DBE subcontractor, the Contractor must give notice in writing to the DBE subcontractor, with a copy to the Owner, of its intent to request to terminate and/or substitute the DBE, and the reason(s) for the request.

The Contractor must give the DBE five days to respond to the Contractor's notice and advise the Owner and the Contractor of the reasons, if any, why the DBE objects to the proposed termination of its subcontract and why the Contractor's action should not be approved. If required in a particular case, as a matter of public necessity (*e.g.*, safety), a response period shorter than five days may be provided.

The Contractor shall utilize the specific DBEs listed in the contractor's bid or solicitation response to perform the work and supply the materials for which each is listed unless the Contractor obtains prior written consent of the Owner as provided in 49 CFR Part 26, §26.53(f). Unless such consent is provided, the Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

The Owner will require the Contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal that was established for the procurement. The good faith efforts shall be documented by the Contractor. If the Owner requests documentation from the Contractor under this provision, the Contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days if necessary at the request of the Contractor. The Owner shall provide a written determination to the Contractor stating whether or not good faith efforts have been demonstrated.

If the Contractor fails or refuses to comply in the time specified, the contracting office/representative of the Owner may issue an order stopping all or part of payment/work until satisfactory action has been taken. If the Contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

The Owner requires that the Contractor not terminate a DBE or any portion of its work listed in response to § 26.53(b)(2) (or an approved substitute DBE firm per §26.53(g)) without our prior written consent, unless the Owner causes the termination or reduction. A termination includes any reduction or underrun in work listed for a DBE not caused by a material change to the prime contract by the recipient. This requirement applies to instances that include but are not limited to when a prime contractor seeks to perform work originally designed for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

When a DBE subcontractor or a portion of its work is terminated by the prime contractor as provided in § 26.53(f), or if work committed to a DBE is reduced due to overestimations made prior to award, the prime contractor must use good faith efforts to include additional DBE participation to the extent needed to meet the contract goal. The good faith efforts shall be documented by the Contractor. If the Owner requests documentation under this provision, the Contractor shall submit the documentation within seven (7) days, which may be extended for an additional seven (7) days, if necessary, at the request of the Contractor. The Owner shall provide a written determination to the Contractor stating whether or not good faith efforts have been demonstrated.

Bid Protest Procedures

1. Any bidder may protest the award of a contract. The protest must be submitted in writing to the Kenmare Municipal Airport Authority responsible for the contract or solicitation within five calendar days after the bids are read.
2. If a contract has been awarded, the Engineer shall give notice of such protest within 24 hours to the awarded contractor. In the case of a pending award, a stay of award may be requested. A stay may be granted unless a written determination is made that the award of the contract without delay is necessary to protect the interests of the Owner.
3. The protest must contain the following:
 - Name, address, phone number and email of the protestor.
 - A concise statement of all the material facts alleged and of all the rules, regulations, statutes, and legal provisions entitling the protestor relief.
 - A statement indicating the relief to which the protestor deems they are entitled.
 - All other information as the protestor deems to be material to the issue.
4. If the protest cannot be resolved by mutual agreement within seven calendar days after receipt, the Kenmare Municipal Airport Authority shall within 24 hours, send by certified mail the final decision and the basis for the decision to the protestor.
5. Any bidder who is aggrieved in connection with the award of a contract may appeal the decision. Venue and jurisdiction for any appeals of the final decision are in the North Dakota District Court for Ward County. Such protests and appeals regarding the request for bids and bid proposals are governed by and must be construed with North Dakota Law.
6. Failure to follow the bid protest procedures constitutes a waiver of protest and resulting claims.

Prompt Payment and Timely Return of Retainage Complaints

Prompt Payment Complaints

Complaints by subcontractors regarding the prompt payment requirements are handled according to the following procedure.

1. If affected subcontractor is not comfortable contacting prime directly regarding payment or unable to resolve payment discrepancies with prime, subcontractor should contact DBELO to initiate complaint.
2. If filing a prompt payment complaint with the DBELO does not result in timely and meaningful action by the Owner to resolve prompt payment disputes, affected subcontractor may contact the responsible FAA contact.
3. Pursuant to Sec. 157 of the FAA Reauthorization Act of 2018, all complaints related to prompt payment will be reported in a format acceptable to the FAA, including the nature and origin of the complaint and its resolution.

Prompt Payment Dispute Resolution

The Owner or Engineer will take the following steps to resolve disputes as to whether work has been satisfactorily completed for the purpose of 49 CFR Section 26.29.

1. The subcontractor shall attempt to resolve the discrepancy with the prime contractor.
2. If the subcontractor is unable to resolve the discrepancy with the prime contractor, the subcontractor shall present and attempt to resolve the discrepancy with the Engineer.
3. If the subcontractor is unable to resolve the discrepancy after meeting with the prime contractor and the Engineer, the subcontractor shall present its complaint to the DBELO. In addition to the complaint, subcontractor shall provide documentation stating their efforts to resolve the discrepancy with the prime contractor and Engineer.
4. If the subcontractor is unable to resolve the discrepancy through the DBELO the subcontractor shall contact the Airport Authority.

Enforcement Actions for Noncompliance of Participants

The Owner will provide appropriate means to enforce the requirements of §26.29. These means include:

The Owner has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

1. Breach of contract action, pursuant to the terms of the contract.
2. Breach of contract action, pursuant to North Dakota Century Code 44-04-18.4.

In addition, the Federal Government has available several enforcement mechanisms that it may apply to firms participating in the DBE program, including, but not limited to, the following:

1. Suspension or debarment proceedings pursuant to 49 CFR Part 26
2. Enforcement action pursuant to 49 CFR Part 31
3. Prosecution pursuant to 18 USC 1001.

The Owner will actively implement the enforcement actions detailed above.

Record of FAA Contractor Project Payments and DBE Commitments

Instructions:

- Complete and submit 7 days following periods ending March 31st, June 30th, September 30th, and December 31st and at the end of the project.
- Attach additional sheets as necessary.
- Prime contractors and subcontractors are required to submit a quarterly record of project payments. If no payments have been made, indicate “none” on the form.
- **This form is required for both DBE and Non-DBE subcontractors and suppliers.**
- Prime contractor is responsible for reporting all payments to all tiers of subcontracting to count toward the DBE achievement.
- If additional DBE participation is realized during the course of the project, “not intended” should be entered into the “Contract Amount”.
- North American Industry Classification System (NAICS) code information can be found at <https://www.naics.com/search/>.

Airport Name	Kenmare Municipal Airport
AIP #	AIP Project # 3-38-0029-022-2025 AIG Project # 3-38-0029-023-2025
Project Description	Procure Snow Removal Equipment
Bid Opening Date	
Reporting Period	
Overall DBE Goal	3.47%
Race Conscious Goal	
Race Neutral Goal	

Prime Contractor Name	
Prime Contractor Address	
Prime Contractor Telephone	
Contract Amount	

Subcontractor / Supplier Name	
Subcontractor / Supplier Address	
Subcontractor / Supplier Telephone	
Subcontractor / Supplier Amount	
DBE	<input type="checkbox"/> Yes <input type="checkbox"/> No
Final Payment	<input type="checkbox"/> Yes <input type="checkbox"/> No

Bid Item Number	Item Description	NAICS Code (https://www.naics.com/search/)	Amount Indicated on DBE Form C	Amount Paid this Quarterly Report (A)	Total Previous Amount Paid (B)	Total Amount Paid to Date (A + B)	Remaining Amount to be Paid

Total							

	Total DBE Award Amount by Ethnicity			Total Number of DBE Contractors by Ethnicity		
	Female	Male	Total	Female	Male	Total
Black American						
Hispanic American						
Native American						
Asian-Pacific American						
Subcontinent Asian American						
Non-Minority						
Total						

The undersigned prime contractor / subcontractor listed above hereby certifies that payments have been made to the DBE and non-DBE firm listed above in the amounts shown for work performed and/or materials furnished under the respective contract(s).

Prime Contractor Signature

Date

"General Decision Number: ND20250006 01/03/2025

Superseded General Decision Number: ND20240006

State: North Dakota

Construction Type: Highway

Counties: North Dakota Statewide.

HIGHWAY CONSTRUCTION PROJECTS

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022: 	❓ Executive Order 14026 generally applies to the contract. ❓ The contractor must pay all covered workers at least \$17.75 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2025.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022: 	❓ Executive Order 13658 generally applies to the contract. ❓ The contractor must pay all covered workers at least \$13.30 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours performing on that contract in 2025.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the

Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/03/2025

ELEC0714-018 12/01/2024

ADAMS, BILLINGS, BOTTINEAU, BOWMAN, BURKE, DIVIDE, DUNN, EMMONS, GOLDEN VALLEY, GRANT, HETTINGER, MCHENRY, MCKENZIE, MCLEAN, MERCER, MOUNTRIAL, OLIVER, PIERCE, RENVILLE, ROLLETTE, SHERIDAN, SOIUX, SLOPE, WARD, & WILLIAMS COUNTIES:

	Rates	Fringes
ELECTRICIAN		
CABLE SPICER.....	\$ 53.48	8.80+29.5%
ELECTRICIAN.....	\$ 53.48	8.80+29.5%

ELEC0714-019 12/01/2024		

	Rates	Fringes
LINE CONSTRUCTION		
CABLE SPICER.....	\$ 53.48	8.80+29.5%
GROUNDMAN.....	\$ 30.26	8.80+19.5%
LINE EQUIPMENT OPERATOR.....	\$ 45.41	8.80+29.5%
LINEMAN.....	\$ 53.48	8.80+29.5%

ELEC0714-020 12/01/2024		

BURLIEGH, MORTON, STARK:

	Rates	Fringes
ELECTRICIAN		
CABLE SPICER.....	\$ 53.48	29.5%+8.8
ELECTRICIAN.....	\$ 53.48	8.80+29.5%

ELEC1426-002 12/01/2024		

BARNES, BENSON, CAVALIER, DICKY, EDDY, FOSTER, GRAND FORKS,

GRIGGS, KIDDER, LA MOURE, LOGAN, MCINTOSH, NELSON, PEMBINA,
RAMSEY, RANSOM, RICHLAND, SARGENT, STEELE, STUTSMAN, TOWNER,
TRAILL, WALSH, AND WELLS COUNTIES

	Rates	Fringes
ELECTRICIAN		
CABLE SPLICER.....	\$ 53.48	29.5%+8.80
ELECTRICIAN.....	\$ 53.48	29.5%+8.80

ENGI0049-021 10/01/2024		

	Rates	Fringes
POWER EQUIPMENT OPERATOR		
GROUP 1.....	\$ 35.05	21.90
GROUP 2.....	\$ 33.65	21.90
GROUP 3.....	\$ 33.40	21.90
GROUP 4.....	\$ 33.25	21.90
GROUP 5.....	\$ 32.40	21.90
GROUP 6.....	\$ 31.60	21.90

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: All Cranes 60 tons and over, Cranes doing piling, sheeting, dragline/clam work, Derrick(Guy & Stiff), Gentry Crane Operator, Helicopter Operator, Mole Operator or Tunnel Mucking Machine, Power Shovel 3-1/2 CY. and over and Traveling Tower Crane.

GROUP 2: All Cranes 59 tons and under, Backhoe Operator 3 CY. and over, Creter Crane, Dredge Operator 12' and Over, Equipment Dispatcher, Equipment Foreman, Finish Dozer, Finish Motor Grader, Front End Loader Operator 8 CY. and over, Master Mechanic (When supervising 5 or more Mechanics), Mon-o-rail Hoist Operator, Power Shovel up to and including 3-1/2 CY. and Tugboat.

GROUP 3: Lazer-Screed Operator, Asphalt Paving Machine Operator, Asphalt Plant Operator, Automated Grade Trimmer, Backhoe Operator 1 CY. up to and including 2-1/2 CY., Boom Truck Hydraulic (8 Tons & over), Cableway Operator, Concrete Batch Plant Operator(electronic or manual), Concrete Mixer Paving Machine Operator, Concrete Paver-Bridge Decks, Concrete Pump, Concrete Spreader Operator & Belt Placer, Crushing Plant Operator, Dozer Operator, Dredge Operator or Engineer 11'' and under, Drill Rigs, Heavy Duty Rotary or Chum or Cable Drill, Front End Loader (3-1/2 CY. up to and including 7-1/2 CY.), Gravel Washing &

Screening Plant Operator, Locomotive, all types, Mechanic or Welder (heavy duty), Motor Grade Operator, Pavement Breaker (Non-Hydro Hammer type, Pipeline Wrapping, Cleaning & Bending Machine Operator, Power Actuated Auger and Horizontal Boring Machine Operator 6' and over, Refrigeration Plant Engineer, Roto Milling Machine (Surface Planer) 43' & over, Scraper Operator, Slip Form Concrete Paving Operator, Tandem Pushed Quad 9 or similar, Tractor with Boom Attachment, Trenching Machine- 100 HP. and over.

GROUP 4: Articulated/Off Road Hauler, Asphalt Dump Person (Controls the Spread of Asphalt), Asphalt Paving Screed Operator, Backhoe - up to and including 1/2 CY., Boring Machine locator, Console Board Operator, Curb Machine Operator, Distributor Operator (Bituminous), Forklift Operator, Front End Loader- 1-1/2 CY. up to and including 3 Cubic Yards (Machine Standard Mfg. Rating), Fuel/Lube Truck Operator, Grade Person (Responsible for Establishing and Determining Grade through Instrumentation), Gravel Screening Plant Operator (not Crushing or Washing), Greaser, Hydro-VAC and Hydro Excavator Self-Propelled, Longitudinal Float and Spray Operator, Micro surfacer Machine, Motor Grade Operator-Hual Roads, Paving Breaker-Hydro Hammer Type, Pugmill Operator, Push Tractor, Roller, Steel & Rubber on Hot Mix Asphalt Paving, Rotomill Machine (Surface Planer), up to and including 42'', Rumble Strip Machine, Sand and Chip Spreader, Self-propelled Sheepsfoot Packer with or without Blade attachment, Self-propelled Traveling Soil Stabilizer, Sheepsfoot Packer with Dozer attachment- 100 HP and over, Shouldering Machine, Slip Form, Curb & Gutter Operator, Slurry Seal Machine, Tamping Machine Operator, Tie Tamper and Ballast Machine, Trenching Machine Operator- 46 HP up to and including 99 HP, Truck Mechanic, Well Points, Tub Grinder.

GROUP 5: Boom Truck- A- Frame or Hydraulic 2 tons up to and including 7 tons, Broom-Self propelled, Concrete Saw (Power Operated), Cure Bridge Operator, Front End Loader Operator, less than 1-1/2 CY., Mobile Cement Mixer-Non-Truck, Power Actuated Auger & Horizontal Boring Machine Operator up to and including 5'', Roller, on other than Hot Mix Asphalt Paving, Oilers, Vibrating Packer Operator (Pad Type) Self-propelled, Water Spraying Equipment-Self Propelled, Skidsteer Operator with Attachments.

GROUP 6: Brakeman or Switchman, Dredge or Tugboat Deckhand, Drill Truck Gravel/Testing Operator, Form Trench Digger (Power), Gunite Operator Gunall, Paint Machine Striping Operator, Pick-up Sweeper, 1CY. & over Hopper Capacity, Scissor Jack-Self Propelled Platform Lift, Straw Mulcher,

Blower and Straw Press, Stump Chipper Operator, Tillage Equipment Operator, Tractor Pulling Compaction or Aerating Equipment and No Till Drills, Trenching Machine Operator- up to and including 45 HP., Assistant/Apprentice Operator.

TEAM0638-004 10/01/2024

	Rates	Fringes
TRUCK DRIVER		
Euclid over 20 yds.....	\$ 34.83	17.99
Single Axle Trucks.....	\$ 32.88	17.99
Tandem Tri Axle Semi, Low Boy and Off Road Heavy Duty End Dumps 20 yds & under.....	\$ 33.31	17.99
Tandem Tri/ Axle Truck.....	\$ 33.00	17.99

SUND2023-001 10/16/2020

	Rates	Fringes
CARPENTER.....	\$ 35.85	7.60
CEMENT MASON/CONCRETE FINISHER...	\$ 35.85	7.60
ELECTRICIAN		
Cass County.....	\$ 35.35	16.32
LABORER		
GROUP 1.....	\$ 27.65	3.15
GROUP 2.....	\$ 27.90	3.15
GROUP 3.....	\$ 28.05	3.15
GROUP 4.....	\$ 28.80	3.15

LABORERS CLASSIFICATIONS

GROUP 1: General Construction Laborers: Sack Shaker (cement and mineral filler): Pipe Handler: Drill Runner Tender: Salamander Heater and Blower Tender, Light truck, Pickup Driver, Flaggers and Pilot Car Drivers.

GROUP 2: Semi Skilled Laborer: Bulk Cement Handler: Conduit Layer, Telephone or Electrical: Form Setter (pavement): Gas Electric or pneumatic tool operator: Chipping Hammer, Grinders and Paving Brakers (tamper-drit) Concrete Vibrator Operator: Chain Saw Operator: Concrete Saw Operator: Concrete Curing Man (not water): Bituminous worker (Shoveler, Dumper, Raker and Floated): Kettleman

(bituminous or lead): Concrete Bucket Signlman: Power Buggy
Operator: Brick and Mason Tender: Multiplate Pipelayer:
Culvert Pipe Layers: Carpenters Tenders.

GROUP 3: Caisson Worker: Bottom Man (sanitary sewer, storm
sewer water and gas liners): Concrete Mixer Operator (one
bag capacity): Mortar Mixer.

GROUP 4: Pipe Layers (sanitary sewer, storm sewer, water and
gas lines): Drill runner (includes Wagon Churn or Air
Track) Powderman, Gunitite and Sandblast, Nozzleman,
Reinforcing Steel Setters/Tiers, Concrete Finishers
Tender.

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

=====
Note: Executive Order (EO) 13706, Establishing Paid Sick Leave
for Federal Contractors applies to all contracts subject to the
Davis-Bacon Act for which the contract is awarded (and any
solicitation was issued) on or after January 1, 2017. If this
contract is covered by the EO, the contractor must provide
employees with 1 hour of paid sick leave for every 30 hours
they work, up to 56 hours of paid sick leave each year.
Employees must be permitted to use paid sick leave for their
own illness, injury or other health-related needs, including
preventive care; to assist a family member (or person who is
like family to the employee) who is ill, injured, or has other
health-related needs, including preventive care; or for reasons
resulting from, or to assist a family member (or person who is
like family to the employee) who is a victim of, domestic
violence, sexual assault, or stalking. Additional information
on contractor requirements and worker protections under the EO
is available at
<https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within
the scope of the classifications listed may be added after
award only as provided in the labor standards contract clauses
(29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classifications
and wage rates that have been found to be prevailing for the

type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

Union Rate Identifiers

A four-letter identifier beginning with characters other than "SU", "UAVG", "SA", or "SC" denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The "SU" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted

average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

- a) a survey underlying a wage determination
- b) an existing published wage determination
- c) an initial WHD letter setting forth a position on a wage determination matter
- d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys

Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2) If an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210.

=====

END OF GENERAL DECISION"

Final Review and Acceptance

Seller	
Address	
Project	Procure Snow Removal Equipment
Buyer	Kenmare Municipal Airport

On this Date, _____, a final review of the project as constructed was made.

The Seller hereby certifies that the construction has been performed in accordance with the plans and specifications, approved Change Orders, and terms of the contract. The Seller further certifies that there are no unpaid bills of material or labor disputes in connection with this contract, and that the amount of \$_____ shown on the final estimate, is the total amount due for all work completed.

The undersigned Buyer does hereby agree that all construction and engineering work on the project is complete and does satisfy all terms of appropriate construction or engineering agreements.

Buyer and Seller do hereby acknowledge that the one-year warranty period will begin on _____.

KLJ

(ENGINEER)

By: _____

Date: _____

(SELLER)

By: _____

Date: _____

Kenmare Municipal Airport

(BUYER)

By: _____

Date: _____

STANDARD GENERAL CONDITIONS FOR PROCUREMENT CONTRACTS

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly By



PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
a practice division of the
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AMERICAN COUNCIL OF ENGINEERING COMPANIES

AMERICAN SOCIETY OF CIVIL ENGINEERS

This document has been approved and endorsed by

The Associated General Contractors of America



and the

Construction Specifications Institute



These Standard General Conditions For Procurement Contracts have been prepared for use with the Suggested Instructions to Bidders For Procurement Contracts (EJCDC No. P-200 2000 Edition), the Suggested Form of Agreement Between Buyer and Seller For Procurement Contracts (EJCDC No. P-520, 2000 Edition), and the Guide to Preparation of Supplementary Conditions For Procurement Contracts (EJCDC No. P-800, 2000 Edition). Their provisions are interrelated and a change in one may necessitate a change in the others. Additional information concerning the use of the EJCDC Procurement Documents may be found in the Commentary on Procurement Documents (EJCDC No. P-001).

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National Society of Professional Engineers
1420 King Street, Alexandria, VA 22314

American Council of Engineering Companies
1015 - 15th Street N.W., Washington, D.C. 20005

American Society of Civil Engineers
1801 Alexander Bell Drive, Reston, VA 20191-4344

NOTE:

EJCDC publications may be ordered from any of the three sponsoring organizations above and from CSI headquarters at 99 Canal Center Plaza, Suite 300, Alexandria, VA 22314.

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 – DEFINITIONS AND TERMINOLOGY	00700-5
1.01 <i>Defined Terms</i>	00700-5
1.02 <i>Terminology</i>	00700-6
ARTICLE 2 - PRELIMINARY MATTERS	00700-7
2.01 <i>Delivery of Bonds</i>	00700-7
2.02 <i>Copies of Documents</i>	00700-7
2.03 <i>Commencement of Contract Times; Notice to Proceed</i>	00700-7
2.04 <i>Designated Representatives</i>	00700-7
2.05 <i>Before Starting Fabrication/Assembly of Goods</i>	00700-7
2.06 <i>Progress Schedule</i>	00700-7
2.07 <i>Preliminary Conference</i>	00700-7
ARTICLE 3 - CONTRACT DOCUMENTS: INTENT AND AMENDING	00700-7
3.01 <i>Intent</i>	00700-7
3.02 <i>Laws and Regulations, Standards, Specifications and Codes</i>	00700-8
3.03 <i>Reporting and Resolving Discrepancies</i>	00700-8
3.04 <i>Amending and Clarifying Contract Documents</i>	00700-8
ARTICLE 4 - BONDS AND INSURANCE	00700-8
4.01 <i>Bonds</i>	00700-8
4.02 <i>Insurance</i>	00700-8
ARTICLE 5 - SELLER'S RESPONSIBILITIES	00700-9
5.01 <i>Supervision and Superintendence</i>	00700-9
5.02 <i>Labor, Materials and Equipment</i>	00700-9
5.03 <i>Compliance with Laws and Regulations, Standards, Specifications and Codes</i>	00700-9
5.04 <i>Or Equals</i>	00700-9
5.05 <i>Taxes</i>	00700-9
5.06 <i>Shop Drawings and Samples</i>	00700-9
5.07 <i>Continuing Performance</i>	00700-10
5.08 <i>Seller's Warranties and Guarantees</i>	00700-10
5.09 <i>Indemnification</i>	00700-11
ARTICLE 6 - SHIPPING AND DELIVERY	00700-11
6.01 <i>Shipping</i>	00700-11
6.02 <i>Delivery</i>	00700-11
6.03 <i>Risk of Loss</i>	00700-11
ARTICLE 7 - CHANGES: SCHEDULE AND DELAY	00700-12
7.01 <i>Changes in the Goods and Special Services</i>	00700-12
7.02 <i>Changes in Laws and Regulations</i>	00700-12
7.03 <i>Changing Contract Price or Contract Times</i>	00700-12
ARTICLE 8 - BUYER'S RIGHTS	00700-12
8.01 <i>Inspections and Testing</i>	00700-12
8.02 <i>Non-Conforming Goods or Special Services</i>	00700-13

8.03	<i>Correction Period</i>	00700-14
ARTICLE 9 - ROLE OF ENGINEER		00700-14
9.01	<i>Duties and Responsibilities</i>	00700-14
9.02	<i>Clarifications and Interpretations</i>	00700-14
9.03	<i>Authorized Variations</i>	00700-14
9.04	<i>Rejecting Non-Conforming Goods and Special Services</i>	00700-14
9.05	<i>Decisions on Requirements of Contract Documents</i>	00700-14
9.06	<i>Claims and Disputes</i>	00700-14
ARTICLE 10 - PAYMENT		00700-15
10.01	<i>Applications for Progress Payments</i>	00700-15
10.02	<i>Review of Applications for Progress Payments</i>	00700-15
10.03	<i>Amount and Timing of Progress Payments</i>	00700-15
10.04	<i>Suspension of or Reduction in Payment</i>	00700-16
10.05	<i>Final Application for Payment</i>	00700-16
10.06	<i>Final Payment</i>	00700-16
10.07	<i>Waiver of Claims</i>	00700-16
ARTICLE 11 - CANCELLATION, SUSPENSION, AND TERMINATION		00700-16
11.01	<i>Cancellation</i>	00700-16
11.02	<i>Suspension of Performance by Buyer</i>	00700-16
11.03	<i>Suspension of Performance by Seller</i>	00700-17
11.04	<i>Breach and Termination</i>	00700-17
ARTICLE 12 - LICENSES AND FEES		00700-17
12.01	<i>Intellectual Property and License Fees</i>	00700-17
12.02	<i>Seller's Infringement</i>	00700-17
12.03	<i>Buyer's Infringement</i>	00700-18
12.04	<i>Reuse of Documents</i>	00700-18
ARTICLE 13 - DISPUTE RESOLUTION		00700-18
13.01	<i>Dispute Resolution Method</i>	00700-18
ARTICLE 14 - MISCELLANEOUS		00700-18
14.01	<i>Giving Notice</i>	00700-18
14.02	<i>Controlling Law</i>	00700-18
14.03	<i>Computation of Time</i>	00700-19
14.04	<i>Cumulative Remedies</i>	00700-19
14.05	<i>Survival of Obligations</i>	00700-19

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Whenever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to the singular or plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.

1. *Addenda*--Those written or graphic instruments issued prior to the opening of Bids in accordance with the Bidding Requirements which clarify or change the Bidding Requirements or the proposed Contract Documents.

2. *Agreement*--The written instrument signed by both Buyer and Seller covering the Goods and Special Services and which lists the Contract Documents in existence on the Effective Date of the Agreement.

3. *Application for Payment*--The form acceptable to Buyer which is used by Seller in requesting progress and final payments and which is accompanied by such supporting documentation as is required by the Contract Documents.

4. *Bid*--An offer or proposal submitted on the prescribed form setting forth the prices for the Goods and Special Services to be provided.

5. *Bidder*--A person who submits a Bid directly to Buyer.

6. *Bidding Documents*--The Bidding Requirements and the proposed Contract Documents (including all Addenda).

7. *Bidding Requirements*--The Advertisement or Invitation to Bid, Instructions to Bidders, Form of Bid security, if any, and Bid Form with any supplements.

8. *Buyer*--The person or public entity purchasing the Goods and Special Services.

9. *Change Order*--A document recommended by Engineer which is signed by Seller and Buyer and authorizes an addition, deletion, or revision to the Contract Documents or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

10. *Claim*--A written demand or assertion by Buyer or Seller seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract.

11. *Contract*--The entire and integrated written agreement between Buyer and Seller concerning the Goods and Special Services. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*--Those items listed in the Agreement. Only printed or hard copies of the items listed in the Agreement are Contract Documents. Files in electronic media format of text, data, graphics, and the like are not Contract Documents, and may not be relied on by Seller. Approved Shop Drawings and other Seller's submittals are not Contract Documents.

13. *Contract Price*--The moneys payable by Buyer to Seller for furnishing the Goods and Special Services in accordance with the Contract Documents as stated in the Agreement.

14. *Contract Times*--The times stated in the Agreement by which the Goods must be delivered and Special Services must be furnished.

15. *Drawings*--That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, intent, and character of the Goods and Special Services to be furnished by Seller.

16. *Effective Date of the Agreement*--The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

17. *Engineer*--The person designated as such in the Agreement.

18. *Field Order*--A written order issued by Engineer which requires minor changes in the Goods or Special Services but which does not involve a change in the Contract Price or Contract Times.

19. *General Requirements*--Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

20. *Goods*--The tangible and movable personal property that is described in the Contract Documents, regardless of whether the property is to be later attached to realty.

21. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

22. *Milestone*--A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to the Contract Times.

23. *Notice of Award*--The written notice by Buyer to the apparent Successful Bidder stating that upon timely compliance by the apparent Successful Bidder with the conditions precedent listed therein, Buyer will sign and deliver the Agreement.

24. *Notice to Proceed*-- A written notice given by Buyer to Seller fixing the date on which the Contract Times commence to run and on which Seller shall start to perform under the Contract.

25. *Point of Destination* --The specific address of the location where delivery of the Goods shall be made as stated in the Agreement.

26. *Project*--The total undertaking of which the Goods and Special Services to be provided under the Contract are a part.

27. *Project Manual*--The bound documentary information prepared for bidding and furnishing the Goods and Special Services. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.

28. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Goods and which establish the standards by which such portion of the Goods or Special Services will be judged.

29. *Seller*--The person furnishing the Goods and Special Services.

30. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Seller and submitted by Seller to illustrate some portion of the Goods or Special Services.

31. *Special Services*--Services associated with the Goods to be furnished by Seller as required by the Contract Documents.

32. *Specifications*--That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards and workmanship as applied to the furnishing of the Goods and Special Services, and certain administrative details applicable thereto.

33. *Successful Bidder*--The lowest responsible Bidder submitting a responsive Bid, to whom Buyer makes an award.

34. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements these General Conditions.

35. *Written Amendment*--A written statement modifying the Contract Documents, signed by Buyer and Seller on or after the Effective Date of the Agreement and normally dealing with the administrative aspects of the Contract Documents.

1.02 Terminology

A. *Intent of Certain Terms or Adjectives*

1. The Contract Documents include the terms "as allowed," "as approved," "as ordered," "as directed" or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Goods or Special Services. It is intended that such exercise of professional judgment, action or determination will be solely to evaluate, in general, the Goods or Special Services for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to Engineer any duty or authority to supervise or direct the furnishing of Goods or Special Services or any duty or authority to undertake responsibility contrary to any other provision of the Contract Documents.

2. Unless stated otherwise in the Contract Documents, words or phrases which have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

3. The word “non-conforming” when modifying the words “Goods” or “Special Services”, refers to Goods or Special Services that fail to conform to the Contract Documents.

4. The word “receipt” when referring to the Goods, shall mean the physical taking and possession by the Buyer under the conditions specified in Paragraph 8.01.B.3.

B. Day

1. The word “day” shall constitute a calendar day of 24 hours measured from midnight to the next midnight.

ARTICLE 2 - PRELIMINARY MATTERS

2.01 Delivery of Bonds

A. When Seller delivers the executed Agreements to Buyer, Seller also shall deliver such bonds as Seller may be required to furnish.

2.02 Copies of Documents

A. Buyer shall furnish Seller up to five copies of the Contract Documents. Additional copies will be furnished upon request at the cost of reproduction.

2.03 Commencement of Contract Times; Notice to Proceed

A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

2.04 Designated Representatives

A. Buyer and Seller shall each designate its representative at the time the Agreement is signed. Each representative shall have full authority to act on behalf of and make binding decisions in any matter arising out of or relating to the Contract.

2.05 Before Starting Fabrication/Assembly of Goods

A. *Seller’s Review of Contract Documents:* Before commencing performance of the Contract, Seller shall carefully study and compare the Contract Documents and

check and verify pertinent requirements therein and, if specified, all applicable field measurements. Seller shall promptly report in writing to Buyer and Engineer any conflict, error, ambiguity or discrepancy which Seller may discover and shall obtain a written interpretation or clarification from Engineer before proceeding with any work affected thereby.

2.06 Progress Schedule

A. Within 15 days after the Contract Times start to run, Seller shall submit to Buyer and Engineer an acceptable progress schedule of activities, including at a minimum, Shop Drawing and Sample submittals, tests, and deliveries as required by the Contract Documents. No progress payment will be made to Seller until an acceptable schedule is submitted to Buyer and Engineer.

B. The progress schedule will be acceptable to Buyer and Engineer if it provides an orderly progression of the submittals, tests, and deliveries to completion within the specified Milestones and the Contract Times. Such acceptance will not impose on Buyer or Engineer responsibility for the progress schedule, for sequencing, scheduling, or progress of the work nor interfere with or relieve Seller from Seller’s full responsibility therefor. Such acceptance shall not be deemed to acknowledge the reasonableness and attainability of the schedule.

2.07 Preliminary Conference

A. Within 20 days after the Contract Times start to run, a conference attended by Seller, Buyer, Engineer and others as appropriate will be held to establish a working understanding among the parties as to the Goods and Special Services and to discuss the schedule referred to in Paragraph 2.06.A., procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT AND AMENDING

3.01 Intent

A. The Contract Documents are complementary; what is called for by one is as binding as if called for by all.

B. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided, whether or not specifically called for, at no additional cost to Buyer.

C. Clarifications and interpretations of, or notifications of minor variations and deviations in, the Contract Documents, will be issued by Engineer as provided in Article 9.

3.02 Laws and Regulations, Standards, Specifications and Codes

A. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws and Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws and Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

B. No provision of any such standard, specification, manual or code, or any instruction of a supplier shall be effective to change the duties or responsibilities of Buyer or Engineer, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents, nor shall any such provision or instruction be effective to assign to Buyer or Engineer, or any of their consultants, agents, or employees any duty or authority to supervise or direct the performance of Seller's obligations or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 Reporting and Resolving Discrepancies

A. *Reporting Discrepancies:* If, during the performance of the Contract, Seller discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Contract or of any standard, specification, manual or code, or of any instruction of any supplier, Seller shall promptly report it to Buyer in writing for Engineer's review. Seller shall not proceed with the furnishing of the Goods or Special Services affected thereby until an amendment to or clarification of the Contract Documents has been issued. Seller shall not be liable to Buyer or Engineer for failure to report any such conflict, error, ambiguity, or discrepancy unless Seller knew or reasonably should have known thereof.

B. *Resolving Discrepancies:* Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

1. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or

2. the provisions of any Laws or Regulations applicable to the furnishing of the Goods and Special Services (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 Amending and Clarifying Contract Documents

A. The Contract Documents may be amended to provide for additions, deletions, and revisions to the Goods or Special Services or to modify the terms and conditions thereof by a Written Amendment or a Change Order.

B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Goods or Special Services not affecting Contract Price or Contract Times may be authorized, by one or more of the following ways: 1) a Field Order; 2) Engineer's approval of a Shop Drawing pursuant to Paragraph 5.06.D.2; or 3) Engineer's written interpretation or clarification.

ARTICLE 4 - BONDS AND INSURANCE

4.01 Bonds

A. Seller shall furnish performance and payment bonds, each in an amount at least equal to the Contract Price, to Buyer. The bonds shall be delivered in accordance with Paragraph 2.01 and shall remain in effect at least one year after the date final payment is due, except as provided otherwise by Laws or Regulations.

B. The bonds shall be issued in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations and shall be executed by a surety named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

C. If the surety on a bond is declared bankrupt or becomes insolvent or its right to do business is terminated in the state where the Project is located or it ceases to meet the requirements of Paragraph 4.01.B, Seller shall provide another bond and surety which comply with those requirements within 20 days, at Seller's expense.

4.02 Insurance

A. Seller shall provide insurance of the types and coverages and in the amounts stipulated in the Supplementary Conditions.

ARTICLE 5 - SELLER'S RESPONSIBILITIES

5.01 Supervision and Superintendence

A. Seller shall be solely responsible for the means, methods, techniques, sequences, and procedures used in performing its obligations. Seller shall be responsible to see that the completed Goods and Special Services conform to the Contract Documents.

5.02 Labor, Materials and Equipment

A. Seller shall provide competent, qualified and trained personnel in all aspects of its performance of the Contract.

B. All equipment, products and material incorporated into the Goods shall be as specified, or if not specified, shall be new, of good quality and protected, assembled, used, connected, applied, cleaned and conditioned in accordance with the original manufacturer's instructions, except as otherwise may be provided in the Contract Documents.

5.03 Compliance with Laws and Regulations, Standards, Specifications and Codes

A. Seller shall comply with all Laws and Regulations applicable to the furnishing of the Goods and Special Services.

5.04 Or Equals

A. Whenever an item of material or equipment to be incorporated into the Goods is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier or manufacturer, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item is permitted, other items of material or equipment or material or equipment of other suppliers or manufacturers may be submitted to Buyer for Engineer's review.

1. If in Engineer's sole discretion, such an item of material or equipment proposed by Seller is functionally equal to that named and sufficiently similar so that no change in related work will be required, it may be considered by Engineer as an "or-equal" item.

2. For the purposes of this paragraph, a proposed item of material or equipment may be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment, Engineer determines that: 1) it is at least equal in quality, durability, appearance, strength, and design characteristics; and 2) it will reliably perform at least equally well the function imposed by the design concept of the completed Project as a functioning whole; and

b. Seller certifies that: 1) there is no increase in any cost including capital, installation or operating to Buyer; and 2) the proposed item will conform substantially, even with deviations, to the detailed requirements of the item named in the Contract Documents.

B. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraph 5.04.A. Engineer will be the sole judge of acceptability. No "or-equal" will be ordered, manufactured or utilized until Engineer's review is complete, which will be evidenced by an approved Shop Drawing. Engineer will advise Buyer and Seller in writing of any negative determination. Notwithstanding Engineer's approval of an "or-equal" item, Seller shall remain obligated to comply with the requirements of the Contract Documents.

C. *Special Guarantee:* Buyer may require Seller to furnish at Seller's expense a special performance guarantee or other surety with respect to any such proposed "or-equal."

D. *Data:* Seller shall provide all data in support of any such proposed "or-equal" at Seller's expense.

5.05 Taxes

A. Seller shall be responsible for all taxes and duties arising out of the sale of the Goods and the furnishing of Special Services. All taxes are included in the Contract Price.

5.06 Shop Drawings and Samples

A. Seller shall submit Shop Drawings and Samples to Buyer for Engineer's review and approval in accordance with the schedule required in Paragraph 2.06.A. All submittals will be identified as required and furnished in the number of copies specified in the Contract Documents. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified perfor

mance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Seller proposes to provide.

B. Where a Shop Drawing or Sample is required by the Contract Documents, any related work performed prior to Engineer's approval of the pertinent submittal will be at the sole expense and responsibility of Seller.

C. *Submittal Procedures*

1. Before submitting each Shop Drawing or Sample, Seller shall have determined and verified:

a. all field measurements (if required), quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto; and

b. that all materials are suitable with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the furnishing of Goods and Special Services.

2. Seller shall also have reviewed and coordinated each Shop Drawing or Sample with the Contract Documents.

3. Each submittal shall include a written certification from Seller that Seller has reviewed the subject submittal and confirmed that it is in compliance with the requirements of the Contract Documents. Both Buyer and Engineer shall be entitled to rely on such certification from Seller.

4. With each submittal, Seller shall give Buyer and Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both in a written communication separate from the submittal and by specific notation on each Shop Drawing or Sample.

D. *Engineer's Review*

1. Engineer will provide timely review of Shop Drawings and Samples.

2. Engineer's approval of Shop Drawings or Samples will be subject to the standard of Paragraph 1.02.A.1. Engineer's approval will not relieve Seller from responsibility for any variation from the requirements of the Contract Documents unless Seller has in writing called Engineer's attention to each such variation at the time of each submittal as required by Paragraph 5.06.C.1. and Engineer has given written approval of each such

variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample approval.

E. *Resubmittal Procedures*

1. Seller shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit as required new Samples for review and approval. Seller shall direct specific attention in writing to any revisions other than the corrections called for by Engineer on previous submittals.

5.07 *Continuing Performance*

A. Seller shall adhere to the progress schedule established in accordance with Paragraph 2.06.A., and the Goods shall be delivered and the Special Services furnished within the Contract Times specified in the Agreement.

B. Seller shall carry on the work and adhere to the progress schedule during all disputes or disagreements with Buyer. No work shall be delayed or postponed pending resolution of any disputes or disagreements.

5.08 *Seller's Warranties and Guarantees*

A. Seller warrants and guarantees to Buyer that the title to the Goods conveyed shall be proper, its transfer rightful, and free from any security interest, lien, or other encumbrance.

B. Seller warrants and guarantees to Buyer that all Goods and Special Services will conform with the Contract Documents, including any Samples approved by Engineer, and the Goods will be of merchantable quality. Engineer shall be entitled to rely on representation of Seller's warranty and guarantee.

C. Seller's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, improper modification or improper maintenance or operation by persons other than Seller, or

2. normal wear and tear under normal usage.

D. Seller's obligation to furnish the Goods and Special Services in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Goods or Special Services that are non-conforming, or a release of Seller's obligation to furnish the Goods and Special Services in accordance with the Contract Documents:

1. observations by Buyer or Engineer;
2. recommendation by Engineer or payment by Buyer of any progress or final payment;
3. use of the Goods by Buyer;
4. any acceptance by Buyer (subject to the provisions of Paragraph 8.02.D.1) or any failure to do so;
5. the issuance of a notice of acceptance by Buyer pursuant to the provisions of Article 8;
6. any inspection, test or approval by others; or
7. any correction of non-conforming Goods or Special Services by Buyer.

E. Buyer shall within a reasonable time notify Seller of any breach of Seller's warranties or guarantees. If Buyer receives notice of a suit or claim as a result of such breach, Buyer also may give Seller notice in writing to defend such suit or claim. If Seller fails to defend such suit or claim, Seller will be bound in any subsequent suit or claim against Seller by Buyer by any factual determination in the prior suit.

5.09 Indemnification

A. To the fullest extent permitted by Laws and Regulations, Seller shall indemnify and hold harmless Buyer, Engineer, and their officers, directors, shareholders, partners, employees, agents, consultants, contractors and subcontractors from any and all claims, costs, losses, and demands or judgments for damages for claims (including but not limited to fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) caused by, arising out of or relating to a negligent act or omission or the breach of any obligation under this Contract by Seller, or its officers, directors, shareholders, partners, employees, agents, consultants, contractors or subcontractors, or anyone for whom Seller is responsible, provided that any such claim, cost, loss, or damage;

1. is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Goods or Special Services themselves), including the loss of use resulting therefrom; and
2. is caused in whole or in part by any negligent act or omission of Seller or any individual or entity directly or indirectly employed to furnish any of the Goods or Special Services or anyone for whose acts Seller may be liable, regardless of whether or not caused in part by any negligence or omission of an individual or entity

indemnified hereunder or whether liability is imposed upon such indemnified party by Laws and Regulations regardless of the negligence of any such individual or entity.

B. The indemnification obligations of Seller under paragraph 5.09.A shall not extend to the liability of Engineer and Engineer's consultants or to the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them arising out of:

1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

ARTICLE 6 - SHIPPING AND DELIVERY

6.01 Shipping

A. Seller shall select the carrier and bear all costs of packaging, transportation, insurance, special handling and any other costs associated with shipment and delivery.

6.02 Delivery

A. Seller shall deliver the Goods F.O.B. the Point of Destination in accordance with the Contract Times set forth in the Agreement, or other date agreed to by Buyer and Seller.

B. Seller shall provide written notice to Buyer at least 15 days before shipment of the manner of shipment and the anticipated delivery date. The notice shall also include any instructions concerning special equipment or services required at the Point of Destination to unload and care for the Goods. Seller shall also require the carrier to give Buyer at least 24 hours notice by telephone prior to the anticipated hour of delivery.

C. Buyer will be responsible and bear all costs for unloading the Goods from carrier.

D. Buyer will assure that adequate facilities are available to receive delivery of the Goods during the Contract Times set forth in the Agreement, or another date agreed by Buyer and Seller.

E. No partial deliveries shall be allowed, unless permitted or required by the Contract Documents or agreed to in writing by Buyer.

6.03 Risk of Loss

A. Risk of loss and insurable interests transfer from Seller to Buyer upon Buyer's receipt of the Goods.

B. Notwithstanding the provisions of Paragraph 6.03.A, if Buyer rejects the Goods as non-conforming, the risk of loss on such Goods shall remain with Seller until Seller corrects the non-conformity or Buyer accepts the Goods.

ARTICLE 7 - CHANGES: SCHEDULE AND DELAY

7.01 Changes in the Goods and Special Services

A. Buyer may at any time, without notice to any surety, make changes in the Contract Documents within the general scope of the Contract.

B. If any such change or action by Buyer affects the Contract Price or Contract Times, Seller shall notify Buyer within 15 days after the occurrence of the event giving rise thereto, and written supporting data will be submitted to Buyer within 45 days after such occurrence. If Seller fails to do so, Seller waives any Claim for such adjustment.

C. Seller shall not suspend performance while Buyer and Seller are in the process of making such changes and any related adjustments.

7.02 Changes in Laws and Regulations

A. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of furnishing the Goods and Special Services shall be the subject of an adjustment in Contract Price or Contract Times. If Buyer and Seller are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 9.06.A.

7.03 Changing Contract Price or Contract Times

A. The Contract Price or Contract Times may only be changed by:

1. a Change Order;
2. a Written Amendment; or
3. a written unilateral order of Buyer, in which case Seller shall be entitled to an equitable adjustment in Contract Price or Contract Times for any reasonable and necessary costs or delays incurred by Seller to accommodate such a change.

B. If Seller is prevented from delivering the Goods or performing the Special Services within the Contract Times for any unforeseen reason beyond its control and not attributable to its actions or inactions, then Seller shall be entitled to an adjustment of the Contract Times to the extent attributable to such reason. Such reasons include fire, floods, epidemics, abnormal weather conditions, acts of God, acts of war, directions by government authority, and other like matters. If such an event occurs and delays Seller's performance, Seller shall notify Buyer in writing within 15 days of the beginning of the event causing the delay, stating the reason therefor.

C. Contract Times will not be modified for delays within the control of Seller, including labor strife, transportation shortages or delays at Seller's facilities. Delays attributable to and within the control of Seller's subcontractors or suppliers shall be deemed to be delays within the control of Seller.

D. If Seller is prevented from delivering the Goods or furnishing the Special Services within the Contract Times due to the actions or inactions of Buyer, Seller shall be entitled to any reasonable and necessary additional costs arising out of such delay to the extent directly attributable to Buyer.

E. Neither Buyer nor Seller shall be entitled to any damages arising from delays which are beyond the control of both Buyer and Seller, including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God, acts of war, direction by government authority, and other like matters.

ARTICLE 8 - BUYER'S RIGHTS

8.01 Inspections and Testing

A. General

1. Buyer shall have the right to perform, or cause to be performed, reasonable inspections and require reasonable tests of the Goods at Seller's facility, and at the Point of Destination. Seller shall allow Buyer a reasonable time to perform such inspections or tests.

2. Seller shall bear all expenses, except for travel, lodging and subsistence expenses of Buyer's representatives, for inspections and tests at Seller's facility, but Buyer shall be entitled to reimbursement from Seller of travel, lodging and subsistence expenses of Buyer's representatives if the Goods are non-conforming.

3. Buyer shall bear all expenses, except for travel, lodging and subsistence expenses of Seller's representatives, for inspections and tests at the Point of

Destination, but Buyer shall be entitled to reimbursement from Seller for Buyer's expenses for reinspection or retesting if, on the basis of an initial inspection or testing, the Goods are determined to be non-conforming.

4. Seller shall provide Buyer 30 days written notice of the readiness of the Goods for all inspections, tests, or approvals which the Contract Documents specify are to be observed by Buyer prior to shipment.

5. Buyer will give Seller timely notice of all specified tests, inspections and approvals of the Goods which are to be conducted at the Point of Destination.

6. If, on the basis of any inspections or testing, the Goods appear to be conforming, Buyer will give Seller prompt notice thereof. If on the basis of said inspections or testing, the Goods appear to be non-conforming, Buyer will give Seller prompt notice thereof and will advise Seller of the remedy Buyer elects under the provisions of Paragraph 8.02.

7. Neither payments made by Buyer to Seller prior to any tests or inspections, nor any tests or inspections shall constitute acceptance of non-conforming Goods, or prejudice Buyer's rights under the Contract.

B. Inspection on Delivery

1. Buyer or Engineer will inspect the Goods upon delivery solely for purposes of identifying the Goods and general verification of quantities and observation of apparent condition in order to provide a basis for a progress payment. Such inspection will not be construed as final or as receipt of any Goods and Special Services that, as a result of subsequent inspections and tests, are determined to be non-conforming.

2. Within ten days of such inspection, Buyer shall provide Seller with written notice of Buyer's determination regarding conformity of the Goods. In the event Buyer does not provide such notice, it will be presumed that the Goods appear to be conforming.

3. If, on the basis of the inspection specified in Paragraph 8.01.B.1, the Goods appear to be conforming, Buyer's notice thereof to Seller will acknowledge receipt of the Goods.

C. Final Inspection

1. After all of the Goods have been incorporated into the Project, tested in accordance with such testing requirements as are specified, and are functioning as intended, Buyer or Engineer will make a final inspection.

2. If, on the basis of the final inspection, the Goods are conforming, Buyer's notice thereof will constitute Buyer's acceptance of the Goods.

3. If, on the basis of the final inspection, the Goods are non-conforming, Buyer will identify the non-conformity in writing.

8.02 Non-Conforming Goods or Special Services

A. If, on the basis of inspections and testing prior to delivery, the Goods appear to be non-conforming, or if at any time after Buyer has acknowledged receipt of delivery and before the expiration of the correction period described in Paragraph 8.03, Buyer determines that the Goods are non-conforming, Seller shall promptly, without cost to Buyer and in response to written instructions from Buyer, either correct such non-conforming Goods, or, if rejected by Buyer, remove and replace the non-conforming Goods with conforming Goods, including all work required for reinstallation.

B. Buyer's Rejection of Non-Conforming Goods

1. If Buyer elects to reject the Goods in whole or in part, Buyer's notice to Seller will describe in sufficient detail the non-conforming aspect of the Goods. If Goods have been delivered to Buyer, Seller shall promptly, and within the Contract Times, remove and replace the rejected Goods.

2. Seller shall bear all costs, losses and damages attributable to the removal and replacement of the non-conforming Goods as provided in Paragraph 8.02.E.

3. Upon rejection of the Goods, Buyer retains a security interest in the Goods or to the extent of any payments made and expenses incurred in their testing and inspection.

C. Remedying Non-Conforming Goods or Special Services

1. If Buyer elects to permit the Seller to modify the Goods to remove the non-conformance, Seller shall promptly provide a schedule for such modifications and shall make the Goods conforming within a reasonable time.

2. If Buyer notifies Seller in writing that any of the Special Services are non-conforming, Seller shall promptly provide conforming services acceptable to Buyer. If Seller fails to do so, Buyer may delete the Special Services and reduce the Contract Price a commensurate amount.

D. Buyer's Acceptance of Non-Conforming Goods

1. Instead of requiring correction or removal and replacement of non-conforming Goods discovered either before or after final payment, Buyer may accept the non-conforming Goods. Seller shall bear all costs, losses, and damages attributable to Buyer's evaluation of and determination to accept such non-conforming Goods as provided in Paragraph 8.02.E.

E. Seller shall pay all claims, costs, losses, and damages, including but not limited to all fees and charges for re-inspection, retesting and for any engineers, architects, attorneys and other professionals, and all court or arbitration or other dispute resolution costs arising out of or relating to the non-conforming Goods or Special Services, including the correction or removal and replacement of the non-conforming Goods and the replacement of property of Buyer and others destroyed by the correction or removal and replacement of the non-conforming Goods, or the obtaining of conforming Special Services from others.

8.03 Correction Period

A. Seller's responsibility for correcting all non-conformities in the Goods will extend for a period of one year after the earlier of the date on which Buyer has placed the Goods in continuous service or the date of final payment, or for such longer period of time as may be prescribed by Laws or Regulations or by the terms of any specific provisions of the Contract Documents.

ARTICLE 9 - ROLE OF ENGINEER

9.01 Duties and Responsibilities

A. The duties and responsibilities and the limitations of authority of Engineer are set forth in the Contract Documents.

9.02 Clarifications and Interpretations

A. Engineer will issue with reasonable promptness such written clarifications or interpretations of the Contract Documents as Engineer may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. Such written clarifications and interpretations will be binding on Buyer and Seller. If either Buyer or Seller believes that a written clarification or interpretation justifies an adjustment in the Contract Price or Contract Times, either may make a Claim therefor.

9.03 Authorized Variations

A. Engineer may authorize minor deviations or variations in the Contract Documents by: 1) issuance of approved Shop Drawings when such change or deviation was duly noted by Seller as required in Paragraph 5.06.C.4, or 2) a Field Order.

9.04 Rejecting Non-Conforming Goods and Special Services

A. Engineer will have the authority to disapprove or reject Goods or Special Services which Engineer believes to be non-conforming.

9.05 Decisions on Requirements of Contract Documents

A. Engineer will be the initial interpreter of the Contract Documents and judge of the acceptability of the Goods and Special Services. Claims, disputes and other matters relating to the acceptability of the Goods and Special Services or the interpretation of the requirements of the Contract Documents pertaining to Seller's performance will be referred initially to Engineer in writing with a request for a formal decision in accordance with this paragraph.

B. When functioning as interpreter and judge under this Paragraph 9.05, Engineer will not show partiality to Buyer or Seller and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by Engineer pursuant to this Paragraph 9.05 with respect to any such Claim, dispute, or other matter (except any which have been waived by the making or acceptance of final payment as provided in Paragraph 10.07) will be a condition precedent to any exercise by Buyer or Seller of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such Claim, dispute, or other matter.

9.06 Claims and Disputes

A. *Notice:* Written notice of each Claim, dispute or other matter relating to the acceptability of the Goods and Special Services or the interpretation of the requirements of the Contract Documents pertaining to Seller's performance shall be delivered by the claimant to Engineer and the other party to the Agreement within 15 days after the occurrence of the event giving rise thereto, and written supporting data will be submitted to Engineer and the other party within 45 days after such occurrence unless Engineer allows an additional period of time to ascertain more accurate data.

B. *Engineer's Decision:* Engineer will render a decision in writing within 30 days after receipt of the last submittal

of the claimant or the last submittal of the opposing party, if any. Engineer's written decision on such Claim, or dispute, or other matter will be final and binding upon Buyer and Seller unless:

1. an appeal from Engineer's decision is made within the time limits and in accordance with the dispute resolution procedures set forth in Article 13; or

2. if no such dispute resolution procedures have been set forth, a written notice of intention to appeal is delivered by Buyer or Seller to the other and to Engineer within 30 days after the date of such decision, and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction within 60 days after the date of such decision (unless otherwise agreed to in writing by Buyer and Seller), to exercise such rights or remedies as the appealing party may have with respect to such Claim, dispute, or other matter in accordance with applicable Laws and Regulations.

C. If Engineer does not render a formal decision in writing within the time stated in Paragraph 9.06.B., a decision denying the Claim in its entirety shall be deemed to have been issued 31 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any.

ARTICLE 10 - PAYMENT

10.01 Applications for Progress Payments

A. Seller shall submit to Buyer for Engineer's review Applications for Payment filled out and signed by Seller and accompanied by such supporting documentation as is required by the Contract Documents and also as Buyer or Engineer may reasonably require. The timing and amounts of progress payments shall be as stipulated in the Agreement.

1. The first application for Payment will be submitted after review and approval by Engineer of all Shop Drawings and of all Samples required by the Contract Documents.

2. The second Application for Payment will be submitted after receipt of the Goods has been acknowledged in accordance with Paragraph 8.01.B and will be accompanied by a bill of sale, invoice or other documentation satisfactory to Buyer warranting that Buyer has rightfully received good title to the Goods from Seller and that the Goods are free and clear of all liens. Such documentation will include releases and waivers from all parties with viable lien rights. In the case of multiple deliveries of Goods, additional Applications for Payment accompanied by the required documentation

will be submitted as Buyer acknowledges receipt of additional items of the Goods.

10.02 Review of Applications for Progress Payments

A. Engineer will, within ten days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Buyer, or return the Application to Seller indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Seller may make the necessary corrections and resubmit the Application.

1. Engineer's recommendation of payment requested in the first Application for Payment will constitute a representation by Engineer, based on Engineer's review of the Application for Payment and the accompanying data, that the Shop Drawings and Samples have been reviewed and approved as required by the Contract Documents and Seller is entitled to payment of the amount recommended.

2. Engineer's recommendation of payment requested in the Application for Payment submitted upon Buyer's acknowledgment of receipt of the Goods will constitute a representation by Engineer, based on Engineer's review of the Application for Payment and the accompanying data Seller is entitled to payment of the amount recommended. Such recommendation will not constitute a representation that Engineer has made a final inspection of the Goods, that the Goods are free from non-conformities, acceptable or in conformance with the Contract Documents, that Engineer has made any investigation as to Buyer's title to the Goods, that exhaustive or continuous inspections have been made to check the quality or the quantity of the Goods beyond the responsibilities specifically assigned to Engineer in the Contract Documents or that there may not be other matters or issues between the parties that might entitle Seller to additional payments by Buyer or Buyer to withhold payment to Seller.

3. Engineer may refuse to recommend that all or any part of a progress payment be made, or Engineer may nullify all or any part of any payment previously recommended if, in Engineer's opinion, such recommendation would be incorrect or if on the basis of subsequently discovered evidence or subsequent inspections or tests Engineer considers such refusal or nullification necessary to protect Buyer from loss because the Contract Price has been reduced, Goods are found to be non-conforming, or Seller has failed to furnish acceptable Special Services.

10.03 Amount and Timing of Progress Payments

A. Subject to Paragraph 10.02.A., the amounts of the progress payments will be as provided in the Agreement. Buyer shall within 30 days after receipt of each Application for Payment with Engineer's recommendation pay Seller the amount recommended; but, in the case of the Application for Payment upon Buyer's acknowledgment of receipt of the Goods, said 30-day period may be extended for so long as is necessary (but in no event more than 60 days) for Buyer to examine the bill of sale and other documentation submitted therewith. Buyer shall notify Seller promptly of any deficiency in the documentation and shall not unreasonably withhold payment.

10.04 Suspension of or Reduction in Payment

A. Buyer may suspend or reduce the amount of progress payments, even though recommended for payment by Engineer, under the following circumstances:

1. Buyer has reasonable grounds to conclude that Seller will not furnish the Goods or the Special Services in accordance with the Contract Documents,
2. Buyer has requested in writing assurances from Seller that the Goods or Special Services will be delivered or furnished in accordance with the Contract Documents, and Seller has failed to provide adequate assurances within ten days of Buyer's written request.

B. If Buyer refuses to make payment of the full amount recommended by Engineer, Buyer will provide Seller and Engineer immediate written notice stating the reason for such action and promptly pay Seller any amount remaining after deduction of the amount withheld. Buyer shall promptly pay Seller the amount withheld when Seller corrects the reason for such action to Buyer's satisfaction.

10.05 Final Application for Payment

A. After Seller has corrected all non-conformities to the satisfaction of Buyer and Engineer, furnished all Special Services, and delivered all documents required by the Contract Documents, Engineer will issue to Buyer and Seller a notice of acceptability. Seller may then make application for final payment following the procedure for progress payments. The final Application for Payment will be accompanied by all documentation called for in the Contract Documents, a list of all unsettled claims and such other data and information as Buyer or Engineer may reasonably require.

10.06 Final Payment

A. If, on the basis of the review of the final Application for Payment and accompanying documentation, Engineer is satisfied that the Goods and Special Services have been

furnished in accordance with the Contract Documents, and that Seller's other obligations under the Contract Documents have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, recommend in writing final payment subject to the provisions of Paragraph 10.07 and present the Application to Buyer. Otherwise, Engineer will return the Application to Seller, indicating the reasons for refusing to recommend final payment, in which case Seller shall make the necessary corrections and resubmit the Application. If the Application and accompanying documentation are appropriate as to form and substance, Buyer shall, within 30 days after receipt thereof, pay Seller the amount recommended by Engineer.

10.07 Waiver of Claims

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by Buyer against Seller, except Claims arising from unsettled liens and Claims, from non-conformities in the Goods or Special Services appearing after final payment, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Seller's continuing obligations under the Contract Documents; and
2. a waiver of all Claims by Seller against Buyer other than those previously made in accordance with the requirements herein and expressly noted in writing by Seller as still unsettled in its final Application for Payment.

ARTICLE 11 - CANCELLATION, SUSPENSION, AND TERMINATION

11.01 Cancellation

A. Buyer has the right to cancel the Contract, without cause, at any time prior to delivery of the Goods by written notice. Cancellation pursuant to the terms of this paragraph shall not constitute a breach of contract by Buyer. Upon cancellation:

1. Buyer shall pay Seller for Goods, specially manufactured for the Project, plus any documented reasonable direct and indirect costs incurred by Seller in producing such Goods not recovered by payment for the reasonable value of the Goods.
2. For Goods which are not specially manufactured for the Project, Seller shall be entitled to a restocking charge of 10 percent of the unpaid Contract Price of such Goods.

11.02 Suspension of Performance by Buyer

A. Buyer has the right to suspend performance of the Contract, without cause, by written notice. Upon suspension under this paragraph, Seller shall be entitled to an increase in the Contract Times and Contract Price caused by the suspension, provided that performance would not have been suspended or delayed for causes attributable to Seller.

11.03 Suspension of Performance by Seller

A. Subject to the provisions of Paragraph 5.07.B, Seller may suspend the furnishing of the Goods and Special Services only under the following circumstance:

1. Seller has reasonable grounds to conclude that Buyer will not perform its future payment obligations under the Contract. ("Reasonable grounds" shall not include a pending dispute or disagreement with Buyer) and,
2. Seller has requested in writing assurances from Buyer that future payments will be made in accordance with the Contract, and Buyer has failed to provide such assurances within ten days of Seller's written request.

11.04 Breach and Termination

A. Buyer's Breach

1. Buyer shall be deemed in breach of the Contract if it fails to comply with any material provision of the Contract Documents, including but not limited to:

- a. wrongful rejection or revocation of Buyer's acceptance of the Goods,
- b. failure to make payments in accordance with the Contract Documents, or
- c. wrongful repudiation of the Contract.

2. Seller shall have the right to terminate the Contract for cause by declaring a breach should Buyer fail to comply with any material provisions of the Contract. Upon termination, Seller shall be entitled to all remedies provided by Laws and Regulations.

- a. In the event Seller believes Buyer is in breach of its obligations under the Contract, Seller shall provide Buyer with reasonably prompt written notice setting forth in sufficient detail the reasons for declaring that it believes a breach has occurred. Buyer shall have seven days from receipt of the written notice declaring the breach (or such longer period of

time as Seller may grant in writing) within which to cure the alleged breach.

B. Seller's Breach

1. Seller shall be deemed in breach of the Contract if it fails to comply with any material provision of the Contract Documents, including, but not limited to:

- a. failure to deliver the Goods or perform the Special Services in accordance with the Contract Documents,
- b. wrongful repudiation of the Contract, or
- c. delivery or furnishing of non-conforming Goods or Special Services.

2. Buyer may terminate Seller's right to perform the Contract for cause by declaring a breach should Seller fail to comply with any material provision of the Contract Documents. Upon termination, Buyer shall be entitled to all remedies provided by Laws and Regulations.

- a. In the event Buyer believes Seller is in breach of its obligations under the Contract, and except as provided in Paragraph 11.04.B.2.b, Buyer shall provide Seller with reasonably prompt written notice setting forth in sufficient detail the reasons for declaring that it believes a breach has occurred. Seller shall have seven days from receipt of the written notice declaring the breach (or such longer period of time as Buyer may grant in writing) within which to cure the alleged breach.

- b. If and to the extent that Seller has provided a performance bond under the provisions of Paragraph 4.01, the notice and cure procedures of that bond, if any, shall supersede the notice and cure procedures of Paragraph 11.04.B.2.a.

ARTICLE 12 - LICENSES AND FEES

12.01 Intellectual Property and License Fees

A. Unless specifically stated elsewhere in the Contract Documents, Seller is not transferring any intellectual property rights, patent rights, or licenses for the Goods delivered. However, in the event the Seller is manufacturing to Buyer's design, Buyer retains all intellectual property rights in such design.

B. Seller shall pay all license fees and royalties and assume all costs incident to the use or the furnishing of the Goods, unless specified otherwise by the Contract Documents.

12.02 Seller's Infringement

A. Subject to Paragraph 12.01.A, Seller shall indemnify and hold harmless Buyer, Engineer and their officers, directors, partners, employees, agents, consultants, contractors, and subcontractors from and against all claims, costs, losses, damages, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement or alleged infringement of any United States or foreign patent or copyright by any of the Goods delivered hereunder.

B. In the event of suit or threat of suit for intellectual property infringement, Buyer will notify Seller within a reasonable time of receiving notice thereof.

C. Upon written demand from Buyer, Seller shall be given the opportunity to defend the claim or suit, including negotiating a settlement. Seller shall have control over such claim or suit, provided that Seller agrees to bear all expenses and to satisfy any adverse judgment thereof.

1. If Seller fails to defend such suit or claim after written demand by Buyer, Seller will be bound in any subsequent suit or claim against Seller by Buyer by any factual determination in the prior suit or claim.

2. If Buyer fails to provide Seller the opportunity to defend such suit or claim after written demand by Seller, Buyer shall be barred from any remedy against Seller for such suit or claim.

D. If a determination is made that Seller has infringed upon intellectual property rights of another, Seller may obtain the necessary licenses for Buyer's benefit, or replace the Goods and provide related design and construction as necessary to avoid the infringement at Seller's own expense.

12.03 Buyer's Infringement

A. Buyer shall indemnify and hold harmless Seller, and its officers, directors, partners, employees, agents, consultants, contractors, and subcontractors from and against all claims, costs, losses, damages, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement or alleged infringement of any United States or foreign patent or copyright caused by Seller's compliance with Buyer's design of the Goods or Buyer's use of the Goods in combination with other materials or equipment in any

process (unless intent of such use was known to Seller and Seller had reason to know such infringement would result).

B. In the event of suit or threat of suit for intellectual property infringement, Seller must within a reasonable time after receiving notice thereof notify Buyer.

C. Upon written demand from Seller, Buyer shall be given the opportunity to defend the claim or suit, including negotiating a settlement. Buyer shall have control over such claim or suit, provided that Buyer agrees to bear all expenses and to satisfy any adverse judgment thereof.

1. If Buyer fails to defend such suit or claim after written demand by Seller, Buyer will be bound in any subsequent suit or claim against Buyer by Seller by any factual determination in the prior suit or claim.

2. If Seller fails to provide Buyer the opportunity to defend such suit or claim after written demand by Buyer, Seller shall be barred from any remedy against Buyer for such suit or claim.

12.04 Reuse of Documents

A. Neither Seller nor any other person furnishing any of the Goods or Special Services under a direct or indirect contract with Seller shall: (1) acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media versions; or (2) reuse any of such Drawings, Specifications, other documents, or copies thereof on any other project without written consent of Buyer and Engineer and specific written verification or adaptation by Engineer. This prohibition will survive termination or completion of the Contract. Nothing herein shall preclude Seller from retaining copies of the Contract Documents for record purposes.

ARTICLE 13 - DISPUTE RESOLUTION

13.01 Dispute Resolution Method

A. Disputes between Buyer and Seller will be resolved as set forth in the Supplementary Conditions. If no method and procedure has been set forth, and subject to the provisions of Paragraphs 9.05 and 9.06, Buyer and Seller may exercise such rights or remedies as they have under Controlling Law.

ARTICLE 14 - MISCELLANEOUS

14.01 Giving Notice

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

14.02 Controlling Law

A. This Contract is to be governed by the law of the state in which the Point of Destination is located.

14.03 Computation of Time

A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day shall be omitted from the computation.

14.04 Cumulative Remedies

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

14.05 Survival of Obligations

A. All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion and acceptance of the Goods or Special Services and termination or completion of the Agreement.

SUPPLEMENTARY CONDITIONS FOR PROCUREMENT CONTRACTS

These Supplementary Conditions amend or supplement the Standard General Conditions for Procurement Contracts, EJCDC P-700 (2000 Edition). All provisions which are not so amended or supplemented remain in full force and effect. The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof. The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix "SC" added thereto.

SC-2.02 Copies of Documents

Delete Paragraph 2.02.A in its entirety and insert the following in its place:

- A. Buyer shall furnish to Seller up to one (1) copy of the Contract Documents. Additional copies will be furnished upon request at the cost of reproduction.

SC-2.07 Initial Acceptance of Schedules

Add the following language to Paragraph 2.07.A

Said conference, if deemed necessary by the Buyer, will be held at the place and on the date and time established by the Buyer.

SC-4.02 Insurance

Add Paragraph 4.02.B, 4.02.C and 4.02D

- B. Without limiting any of the other obligations or liabilities of the Seller, Seller shall secure and maintain appropriate insurance that will protect the Seller, the vicarious acts of suppliers, the Buyer and their agents and employees from claims for bodily injury, or property damage which may arise from operations under this Agreement. Insurance shall be purchased for an insurance company (or companies) authorized to write insurance in the project jurisdiction, with minimum "A.M. Best Rating" of A-, VI. Seller shall not commence work under this Agreement until such insurance has been obtained and certificates of insurance, with binders, or certified copies of the insurance policy shall have been filed with the Buyer.
- C. All insurance coverage shall remain in effect throughout the life of the Agreement, except that the Seller shall maintain the Commercial General Liability Policy including product and completed operations coverage for a period of at least one year following the substantial completion date to cover any property damage resulting from the occurrences during the agreement period or which may occur or become visible/know within the one-year warranty period.
- D. The limits of liability for the insurance required shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

1. Workers' Compensation and related coverages:
 - a. State: Statutory
 - b. Applicable Federal (e.g., Longshoreman's): Statutory
 - c. Employer's Liability: \$2,000,000

2. Seller's General Liability which shall include completed operations and product liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Seller:
 - a. General Aggregate \$2,000,000
 - b. Products - Completed Operations Aggregate \$2,000,000
 - c. Personal and Advertising Injury \$1,000,000
 - d. Each Occurrence (Bodily Injury and Property Damage) \$1,000,000

3. Automobile Liability:
 - a. Bodily Injury:

Each person	\$1,000,000
Each Accident	\$1,000,000
 - b. Property Damage:

Each Accident	\$1,000,00
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4. The Contractual Liability shall provide coverage for not less than the following amounts:
 - a. Bodily Injury:

Each person	\$1,000,000
Each Accident	\$1,000,000
 - b. Property Damage:

Each Accident	\$1,000,000
Annual Aggregate	\$1,000,000

5. The policy shall list as additional insured's as KLJ Engineering LLC and the Kenmare Municipal Airport Authority.

SC-5.06 Shop Drawings and Samples

Add the following new paragraphs immediately after Paragraph 5.06.E:

- F. Seller shall furnish required submittals with sufficient information and accuracy in order to obtain required approval of an item with no more than three submittals. Buyer will record Buyer's time for reviewing subsequent submittals of Shop Drawings,

samples, or other items requiring approval and Seller shall reimburse Buyer for such time.

- G. In the event that Seller requests a change of a previously approved item, Seller shall reimburse Buyer for its review time unless the need for such change is beyond the control of Seller.

SC-6.02 Delivery

Delete Paragraph 6.02.C in its entirety and insert the following in its place:

- C. Seller will be responsible and bear all costs for unloading the Goods from carrier.

SC-8.03 Correction Period

Delete Paragraph 8.03.A in its entirety and insert the following in its place:

- C. Seller's responsibility for correcting all non-conformities in the Goods shall be as described in Specification 11000 Section 4.D.

SC-13.01 Dispute Resolution Method

Delete Paragraph 13.01 in its entirety and replace with the following:

- A. Either Buyer or Seller may request mediation of any Claim submitted to Engineer for a decision under Paragraph 9.06 before such decision becomes final and binding. The mediation rules will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request of the mediation shall be submitted in writing to the American Arbitration Association and to the other party of the Contract. Timely submission of the request shall stay the effect of Paragraph 9.06.C.
- B. Buyer and Seller shall participate in the mediation process in good faith. The process shall be concluded with 60 days of filing the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.
- C. If the Claim is not resolved by mediation, Engineer's action under Paragraph 9.06 or a denial pursuant to Paragraph 9.06 shall become final and binding 30 days after termination of the mediation unless, within that time period, Buyer or Seller:
 - 1. elects in writing to demand arbitration of the Claim, pursuant to Paragraph SC-13.02; or
 - 2. agrees with the other party to submit the Claim to another dispute resolution process.

Add the following new paragraph immediately after Paragraph 13.01.

SC-13.02 Arbitration

- A. All Claims or counterclaims, disputes, or other matters in question between Buyer and Seller arising out of or relating to the Contract Documents or the breach thereof (except for Claims which have been waived by the making or acceptance of final payment as provided by Paragraph 10.07) including but not limited to those not resolved under the provisions of Paragraphs SC-13.01A and 13.01.B will be decided by arbitration in accordance with the rules of American Arbitration Association, subject to the conditions and limitations of this Paragraph SC-13.02. This agreement to arbitrate and any other agreement or consent to arbitrate entered into will be specifically enforceable under the prevailing law of any court having jurisdiction.
- B. The demand for arbitration will be filed in writing with the other party to the Contract and with the selected arbitrator or arbitration provider, and a copy will be sent to Engineer for information. The demand for arbitration will be made within the 30 day period specified in Paragraph SC-13.01.C, and in all other cases within a reasonable time after the Claim or counterclaim, dispute, or other matter in question has arisen, and in no event shall any such demand be made after the date when institution of legal or equitable proceedings based on such Claim or other dispute or matter in question would be barred by the applicable statute of limitations.
- C. No arbitration arising out of or relating to the Contract Documents shall include by consolidation, joinder, or in any other manner any other individual or entity (including Engineer, and Engineer's consultants and the officers, directors, partners, agents, employees or consultants of any of them) who is not a party to this Contract unless:
 - 1. the inclusion of such other individual or entity is necessary if complete relief is to be afforded among those who are already parties to the arbitration; and
 - 2. such other individual or entity is substantially involved in a question of law or fact which is common to those who are already parties to the arbitration and which will arise in such proceedings.
- D. The award rendered by the arbitrator(s) shall be consistent with the agreement of the parties, in writing, and include: (i) a concise breakdown of the award; (ii) a written explanation of the award specifically citing the Contract Document provisions deemed applicable and relied on in making the award.
- E. The award will be final. Judgment may be entered upon it in any court having jurisdiction thereof, and it will not be subject to modification or appeal, subject to provisions of the Controlling Law relating to vacating or modifying an arbitral award.
- F. The fees and expenses of the arbitrators and any arbitration service shall be shared equally by Buyer and Seller.

SECTION 11000

ONE (1) NEW ARTICULATED 4-WHEEL DRIVE LOADER WITH ATTACHMENTS

1. GENERAL

A. SUMMARY:

These specifications cover furnishing and delivery of one (1) NEW, and of the manufacturer's latest current model and design (no prototypes), diesel powered, four-wheel-drive, articulated loader, and attachments.

The minimum Operating Weight of the loader shall be 30,000 lbs.

The unit shall include all standard equipment and accessories as advertised in manufacturer's specification sheet of model offered, unless otherwise specified herein.

Throughout this specification, all described features and other requirements are the minimum levels acceptable to the Buyer. Any minimum requirement may be exceeded by a Bidder if it will enhance the quality and functional value of the equipment. Failure to meet or exceed a minimum requirement must be fully documented on an attached page to the equipment quote sheet. Failure to note exceptions to the bid requirements on the equipment quote sheet and describe exceptions in detail may cause rejection of a bid. The Buyer shall solely determine if any exception to a bid requirement is acceptable and this determination will be final. Any reference to specific brands may also include an approved equal. Pre-approval is required a minimum of 10-days prior to the bid opening and will be issued by addendum.

All parts and components of this unit shall be new and of the size, material, and strength to sustain the maximum load limits and severe operating conditions encountered in snow removal operations, while resulting in minimum wear and failure. All materials, parts, and components used shall be heavy duty and manufactured and/or treated to resist rust, corrosion, and wear.

These specifications require the doing of all things necessary or proper for, or incidental to, the furnishing of said unit. All items of design and equipment not listed in these specifications, but involved in carrying out their intent, are required to be furnished by the Seller, the same as if these items were specifically mentioned and described in these specifications.

B. REFERENCES:

49 CFR Part 18.36, Uniform Administrative Requirements for Grant and Cooperative Agreement to State and Local Government.

Federal Aviation Administration Advisory Circular 150/5220-20A, Airport Snow and Ice Control Equipment.

The Buy American Preference under 49 U.S.C. § 50101, Executive Order 14005, Ensuring the Future is Made in All of America by All of America's Workers, and Bipartisan Infrastructure Law (Pub. L. No. 117-58), Build America, Buy America (BABA) require that all steel and manufactured goods used in Airport Improvement Program (AIP) funded projects be produced in the United States. The FAA has the authority to waive these Buy American Preferences if certain market or product conditions exist.

C. SUBMITTALS:

1. Product and Performance Data: The Seller shall submit PDF shop drawings within 10 days from the issuance of the Notice to Proceed to the Engineer.
2. O&M Manuals: The Seller shall submit within 14 calendar days after delivery two (2) complete hard copies

and one (1) complete electronic set of O&M manuals to include:

- a. Operation instructions
 - b. Maintenance and complete parts list
 - c. Service requirements and service part numbers
 - d. Service instructions
 - e. Internet access to chassis parts books
 - f. Copies of electrical schematic.
3. O&M Manuals shall be provided for all attachments.
 4. Warranty: Unless otherwise stated, all equipment shall be new and current model and shall carry full factory warranties. Seller warrants all goods delivered to be free from defects in labor, material, and manufacture and to be in compliance with the specifications.

D. STARTUP AND TRAINING

1. The Seller must be an established authorized dealer of the units bid and employ factory trained service technicians. Shipping cost is the responsibility of the Seller (FOB the Buyer). A qualified factory representative must fully install, start-up, and test the unit prior to training the Buyers staff.
2. Training shall be performed by factory trained, authorized, and certified technicians. The training shall be performed at the Buyer's site and shall be 4 hours for operators training and an additional 4 hours for mechanics training (mechanics shall attend the operating training first). The purpose of the training is to review safe and effective procedures for use and maintenance of the machine, review and test all systems, and assure the full foundation of the machine.
3. Training shall include as a minimum the following:
 - a. Operating procedures per operating manual
 - b. Break-in procedures
 - c. Equipment limitations
 - d. Operator maintenance
 - e. Safety
 - f. Cold weather operations
 - g. Jump starting
 - h. Welding on equipment
 - i. Instruments and controls
 - j. Equipment Operation
 - k. Attachment Operation
4. Delivery information contained in Section 4 – C.

E. QUALITY ASSURANCE

1. In the interest of continued and reliable service, parts, and technical support, equipment suppliers shall have exhibited a consecutive history of financial stability and manufacture of similar equipment. No experimental or untried equipment, unit/model, or component may be proposed or utilized in the final unit quoted.

2. The unit must be fully assembled and tested for full functionality prior to delivery by the manufacturer's qualified representative. If any component of the unit is found to be incomplete, missing, or NOT fully functional then the unit will not be delivered.
3. Proof of tests by an operational and component check list with the date performed and signature of tester(s) is required with the delivery of the unit.

2. PRODUCTS

A. CHASSIS SPECIFICATIONS

1. GENERAL

The chassis shall be designed to permit easy and safe mounting and dismounting of the unit for operators and service personnel. Right side steps to be included. All sheet metal, cowlings, steps, and fenders shall be free of sharp edges and protrusions and include ample supports and bracing to prevent distortion and cracking. All steps or walkways shall be raised lug or expanded metal type construction. Grab bars shall be installed as required for safe mounting and dismounting by personnel following OSHA Standards of 3-point contact during all mount and dismount activities from either side of the unit. This shall include a round grab handle at each door location.

- a. Articulated 4-wheel drive loader shall be Manufacturers Standard Current Year Production Model. **NO PROTOTYPES WILL BE CONSIDERED.**
- b. Articulated 4-wheel drive loader shall be equipment with all standard equipment and features as listed in the Manufacturer's Equipment listing. All items not specified shall conform to the Manufacturer's specifications and include the Manufacturer's standard warranty.
- c. Counterweight to support the below attachments shall be built in.
- d. Unit to be provided with hitch with locking pin, articulation locking bar, and loader boom service locking bar.
- e. Unit shall have reinforced articulation joints with double tapered roller bearings.
- f. Overall height of unit (including strobe lights) shall not exceed 13'-0".
- g. The Manufacturer shall provide any specialized tools required for the proper maintenance of the unit and attachments. Manufacturer shall provide a listing of these specialized tool(s) that are to be provided and its intended use.

2. ENGINE

Shall be turbocharged diesel, 6.6 liter, 164 hp (min) displacement and shall be compliant with the most current federal regulations and have an EPA emission rating of Final Tier 4 / EU Stage V.

Fuel system shall be high-pressure compatible with B2-0 diesel. Engine shall have no less than 10-micron rated primary fuel filter with water separator.

Under-hood engine air clear shall be dry type and shall have an under-hood pre-screened air intake.

Access to engine shall be from both sides with side opening, full access service doors. Daily check points shall be accessible from the ground level.

The electrical system shall be 24 volt with 90 amp alternator (min).

Unit shall have automatic glow plugs based on intercooler air temp below 46 degrees Fahrenheit.

Unit shall include a Cold Start Package which shall include; an engine coolant block heater, a grid heater, transmission oil pump heater, charge pump heater, and an electrical cable for 230V / 110V socket. Should the manufacturer not have these listed Cold Start Package items, an alternate of a coolant heater, a glow plug, low viscosity oil in the transmission, and artic hydraulic oil is acceptable.

Unit shall have vandal protection with lockable engine enclosure, right counterweight storage, and filler access for radiator/fuel/DEF/hydraulic/transmission.

Unit shall have engine compartment light.

A complete list of all OEM replaceable filters shall be provided at or before delivery of the unit. One replacement filter of each type shall be provided with the unit.

3. COOLING SYSTEM

The cooling system shall consist of a heavy-duty radiator; with permanent type anti-freeze, affording protection to at least minus -30 degrees Fahrenheit minimum.

Air intake shall be pre-screened for each cooling component.

Unit shall have a coolant recover tank.

Unit shall have a fan-guard.

Fluid levels should be easily check by sight gauges or overflow tank.

4. FUEL SYSTEM

The units shall come with production standard diesel fuel system with no less than 50-gallon capacity and a production standard DEF system.

5. TRANSMISSION

Transmission shall be the Manufacturer's Standard Transmission for the unit being bid, variable speed, capable of 20 MPH, clutch shall be heavy duty. The Transmission shall include a low range (granny gear) for use with various attachments.

6. AXLES

This loader shall be a standard four-wheel drive production model.

The final drives shall be heavy-duty midboard mounted planetary.

The service brake shall be hydraulically actuated, outboard, final drive carrier mounted, forced oil cooled, self-adjusting retractors, and multi-disk. Single-disk acceptable with justification of comparable performance to multi-disk (attached to equipment quote sheet).

The parking brake shall be automatic spring applied, hydraulically released, driveline mounted, oil cooled, multi-disk and sealed from water, mud, and dust contamination.

Rear axles shall not have less than 24-degree total oscillation, stop to stop.

The front axle shall be hydraulically actuated, disc clutch style, locking differential.

The unit shall have a standard hydraulic locking front with conventional rear or dual locking front and rear.

7. HYDRAULIC SYSTEM

The hydraulic system shall be pressure-compensating load-sensing. Hydraulic tank shall have a capacity of no less than 20 gallons.

Hydraulic pump output for the bucket / attachment system shall be at least minimum required for loader bucket, power broom, power snowplow (blade), snow blower (hydraulically driven / self-powered), and quick attachments.

Controls for hydraulically operated attachments shall be with a joystick with a third and/or fourth function.

Hydraulics shall automatically adjust to operating conditions and provide only the flow required by the implement for the loader bucket, power broom, power snowplow (blade), snow blower (hydraulically driven / self-powered), and quick attachments.

All required hydraulic lines, outlets and quick couplers shall be provided to the front of the tractor for functionality of the front mounted loader bucket, power broom, power snowplow (blade), snow blower (hydraulically driven / self-powered), and quick attachments.

All auxiliary flow functions shall have the ability to be adjustable and continuous.

Hydraulic pump shall be variable-displacement, axial-piston pump, closed center pressure-compensating system.

Unit shall have at least two programmable multi-function buttons.

8. WHEELS AND TIRES

This unit shall be equipped with the Manufacturers Standard proper sized wheels and non-studded winter/snow tires for the GVW rating of the unit being bid. One spare non-studded winter/snow tire and wheel assembly shall be provided with the unit. The wheel assembly shall be painted to match the other wheel assemblies on the vehicle.

9. ELECTRICAL

Unit shall have two batteries, 24 volt, 950 CCA.

All electrical wiring shall be either harness, cable, split loomed, or shrink wrapped, and shall be watertight and weatherproof. All junction boxes shall be watertight and weatherproof. Wiring shall be secured by means of clips and/or hangers.

All electrical wiring shall be color-coded; wire numbered, matching schematics and terminal strip; and labeled what it is used for.

Unit to include two (2) Whelan Model L31 LED synchronized strobe lights, or approved equals, which shall be mounted on top of the cab, visible from all directions. To include "On/Off" switch. All lenses shall be amber.

Unit to include cab dome light.

Unit to include variable intensity instrument lighting, display to be easily read during full day light and night time operation. Instrumentation shall be centered and grouped to provide precise and clear information quickly.

Unit to include work lights: two (2) rear work lights and minimum of two (2) front work lights (LED).

Unit shall have a solid-state electrical power distribution system.

Unit electrical system to be protected by a sufficient circuit breaker.

Unit shall have a keyless starting system or a keyed starting system with optional security code.

Unit to be equipped with minimum four (4) front, two (2) rearing driving lights with guards, turn signals and flashers, stop and tail lights (all LED).

Unit shall come with at least two (2) 12v power ports provided in the cab.

Unit shall be equipped with display for engine coolant temperature, transmission oil temperature, hydraulic oil temperature, and engine oil pressure.

Unit shall have a readout for engine RPM, odometer, transmission gear/direction indicator, speedometer, hour meter, fuel level, average fuel level, and DEF level.

Unit shall have operator warning lights for check engine, engine oil pressure, engine air restriction, battery voltage, transmission filter restriction, brake pressure, hydraulic oil filter, transmission fault, and hydraulic oil temperature.

Unit to have easily accessible remote start battery terminals.

All lighting to be LED.

All gauges to read in US units and shall be lighted.

10. CAB

Enclosed Roll Over Protection System (EROPS).

The cab shall be OEM, fully enclosed, steel, insulated, sound suppressed, pressurized, "ROPS" level 1 cab with safety glass front windshield and safety or tempered glass on sides or rear windows. To be adequately sealed as to not allow unreasonable cold air or dust into cab.

The cab of this unit shall be provided as follows:

1. Cab shall be the Manufacturer's Premium Cab in Manufacturer's Standard interior colors.
2. This unit shall have panorama left-hand and right-hand door for clear side visibility.
3. This unit shall have a panorama windshield.
4. Front sun visor.
5. High output, automatic controlled fresh air type heater/defroster/air conditioner.
6. There shall be a heated rear window defroster provided to aid in visibility.
7. Air Conditioning: To be OEM.
8. Front and rear window wipers and washers. Wiper motors to be highest capacity available from OEM. To include OEM intermittent feature on front minimum.
9. There shall be OEM fenders installed over the front and rear tires.
10. Access to the engine components shall be accomplished without the need for tools.
11. Lockable doors, keys to be provided in duplicate.
12. Horn: electric or air operated.
13. Mirrors: To include an interior mounted convex rear-view mirror and outside cab mounted wide angle electrically adjustable, telescopic, and heated mirrors both sides of the unit.
14. Self-canceling turn signals with hazard switch.
15. The operator air suspension seat shall be a six (6) way adjustable, cloth, leather or vinyl covered suspension type, and 3-point type safety belts.
16. There shall be a coat hook provided in the cab.
17. There shall be a storage bin provided in the cab.

18. There shall be two cup holders conveniently located in the cab within easy reach of the operator.
19. The interior of cab shall be fully insulated. The floor of the cab shall be insulated with thermal-acoustical sound barrier floor mat.
20. A 10-pound ABC rated fire extinguisher shall be mounted in the cab, mounted as to not interfere with access in or out of the vehicle as well as any equipment operations.
21. Steering shall be with a steering wheel, with a tilt and telescoping steering column.
22. Unit shall come with at least two (2) 12v power ports provided in the cab.
23. Joystick control for loader bucket, forks, snowpusher, power snowplow (blade), power broom, snow blower (self-powered), and quick attachments.
24. Premium AM/FM/Weather Band radio with Bluetooth, Aux and USB Ports.
25. Three-point contact at all times to the front and rear of the loader and around the roof-line.

11. PAINTING AND MARKING

The paint shall be OEM yellow paint or similar color.

The quality of the finished paint and markings shall be free of "fisheye", "orange peel", chips, runs, air bubbles, creases, or other imperfections that detract from the equipment's corrosion resistance and appearance.

A Slow Moving Vehicle (SMV) emblem shall be attached to the rear of the vehicle.

B. ATTACHMENTS

1. LOADER BUCKET

- a. To be OEM or approved equal loader bucket. Bucket to be minimum 2.5 cubic yard capacity.
- b. To include replaceable and reversible bolt-on cutting edges. Manufacture to provide one (1) additional spare complete set of cutting edges to include mounting, nuts, bolts, and washers with the loader bucket.
- c. Bucket shall be painted in a similar color scheme to match the loader.
- d. Loader bucket to include an OEM or approved equal quick attachment system compatible to the loader. Pre-approval is required a minimum of 10-days prior to the bid opening.
- e. No bid item is included for this item and the cost for this item shall be included in the price for the loader.

2. SNOW BLADE/PUSHER (HYDRAULICALLY DRIVEN)

- a. To be hydraulically powered heavy duty, snow blade/pusher and all required accessories, components, hydraulics, and controls shall be provided for a complete and operational unit.
- b. Pre-approved Manufacturers include:
 1. SnowWolf (ApexPlowXT)
 2. Virnig
 3. Atelier JR (JROD-Z)
 4. Or approved equal. Pre-approval is required a minimum of 10-days prior to the bid

opening.

- c. Ten (10') foot cut width, minimum.
- d. Two (2) adjustable bat wings capable of 180-degree rotation
- e. To include replaceable and adjustable hardened skid shoes.
- f. Manufacturer to provide one (1) additional spare complete set of cutting edges and skid shoes to include mounting nuts, bolts, and washers with the blower.
- g. Shall be painted in a similar color scheme to match the loader.
- h. To include OEM or approved equal quick attachment system compatible to the loader.

C. COMMUNICATIONS RADIOS:

Radio Equipment shall be provided and installed by the Seller. However, the location of the installed radio and microphones shall be approved by the Buyer. Only one radio is required for the vehicle. The following alternatives for the single radio equipment are pre-approved:

- 1. ICOM IC-A120 transceiver for communication with the air traffic. This radio should be equipped with a noise-canceling microphone.
- 2. Flightline VHF Airband Mobile Radio for communication with the air traffic. This radio should be equipped with a noise-canceling microphone.
- 3. Or approved equal. Pre-approval is required a minimum of 10-days prior to the bid opening.

All installations shall be adequate for the radio and transceiver to suppress interference and permit positive, understandable, voice radio communications under all operating conditions.

All radio equipment must be furnished, installed and operational, complete with all accessories, including antenna and microphones necessary for operation and mounting in the unit. All radio equipment shall turn off with the ignition switch.

No bid item is included for this item and the cost for this item shall be included in the price for the loader.

3. QUALITY/SAFETY STANDARDS

Each bid must include the vehicle (chassis) manufacturer's certification that the vehicle (chassis) meets or exceeds the following requirements based on documented test results. Documented test results shall be provided upon request.

FMVSS 571-103	Windshield defrosting and defogging systems, in accordance with J1944, J198
FMVSS 571-207	Seating systems
FMVSS 571-210	Seat belt assembly
40 CFR CH.1	Pass by noise levels (in accordance with SAE J366)
FMCSR 393.94	Vehicle interior noise levels
FMVSS 571-101	Controls and displays
FMVSS 571-108	Lamps, reflective devices and associated equipment
FMVSS 571-120	Tire selection and rims for motor vehicles other than passenger cars.
FMVSS 571-206	Door locks and door retention components
FMVSS 271-209	Seat belt assemblies
FMCSR 205	Glazing for windows
FMCSR 302	Flammability of interior materials

SAE J1040	Performance Criteria for Rollover Protection
ISO 3471	Rollover Protective Structures
SAE J386	Operator Restraint System- Off Road Work Machines

4. EXECUTION

A. VERIFICATION

Seller shall carefully study and compare the Contract Documents and check and verify pertinent requirements therein.

B. ASSEMBLY

Seller shall assemble goods in conformance with the Contract Documents and industry standards.

C. DELIVERY

Seller shall deliver Goods to the place specified in the Contract Documents. All equipment and attachments are to be delivered fully complete, assembled, and ready for operation. Including all hoses, couplings, fluids, lubricants, and initial fuel.

F.O.B. shall be Kenmare Municipal Airport, Kenmare, North Dakota.

D. WARRANTY

A submission of a bid in response to this invitation shall constitute the bidder's warranty of the units offered including all parts and labor for a period matching the manufacturer's standard warranty from the date of delivery of the equipment (minimum of one-year). If any part of this equipment fails by reason of defective design, workmanship, or materials during the warranty period, the bidder shall promptly replace or repair the part or defect without cost to the Buyer. Tires, batteries, electric lamps, plow cutting edges, and other devices subject to normal deterioration shall not be included in this warranty.

5. EQUIPMENT TRADE-IN:

Not Used

6. BASIS OF PAYMENT:

Payment for the completely assembled and tested articulated 4-wheel drive loader and attachments as described in these specifications along with attachments specified herein, shall be made at the lump sum contract unit price. The price shall be full compensation for furnishing all materials, freight, preparation, painting, assembling, testing, and delivery of the loader package with all spare parts, tools, and manuals as described herein, and for all labor, equipment, tools, and incidentals necessary to complete the item.

Payment shall be made under:

Item 11000 – 5.1-1	Articulating Loader with Quick Attach System and Loader Bucket – per Lump Sum
Item 11000 – 5.1-2	Snow Blade/Pusher (Hydraulic) – per Lump Sum

END OF SECTION 11000