

# Council Business Meeting

December 20, 2022

<b>Agenda Item</b>	Construction Contract with LTM dba, Knife River Materials for the Ashland Airport Taxiway Reconstruction and Rehabilitation Project (2020-18) and Professional Services Contract with Century West Engineering for Construction Administration	
<b>From</b>	Scott Fleury, PE Chance Metcalf, PMP	Public Works Director Senior Project Manager
<b>Contact</b>	<a href="mailto:scott.fleury@ashland.or.us">scott.fleury@ashland.or.us</a> <a href="mailto:chance.metcalf@ashland.or.us">chance.metcalf@ashland.or.us</a>	541.552.2412 541.552.2448

## **SUMMARY**

Before the Council, acting as the Local Contract Review Board, is a request to approve a Personal Services Contract with Century West Engineering for Construction Administration Services in the amount of \$348,577.64 and a Public Works Construction Contract with LTM dba, Knife River Materials in the amount of \$2,604,807.75. Both contracts support the Ashland Municipal Airport Taxiway Reconstruction and Rehabilitation Project.

## **POLICIES, PLANS & GOALS SUPPORTED**

City Council Goals and Objectives

- Strengthen the Ashland Municipal Airport as an enterprise.

Value Services

- Emergency Preparedness

Department Goals:

- Maintain existing infrastructure to meet regulatory requirements and minimize life-cycle costs
- Deliver timely life cycle capital improvement projects
- Maintain and improve infrastructure that enhances the economic vitality of the community
- Evaluate all city infrastructure regarding planning management and financial resources

## **PREVIOUS COUNCIL ACTION**

The City Council approved the 2021-2023 Biennium Budget at the June 1, 2021 Business Meeting, which included the phase 2 construction of the Parallel Taxiway Reconstruction and Rehabilitation Project ([Minutes](#)).

The City Council accepted an initial Federal Aviation Administration (FAA) Airport Improvement Grant (AIP) for the design and of the Taxiway Rehabilitation project at the April 6, 2021, Business Meeting ([Staff Report](#)).

The City Council approved a Personal Services Contract with Century West Engineering for Phase 1 Design of the Ashland Municipal Airport Taxiway Rehabilitation Project at the May 4, 2021, Business Meeting ([Staff Report](#)).

The City Council accepted a second FAA AIP Grant and an Oregon Department of Aviation (ODA) Critical Oregon Airport Relief (COAR) grants at the May 23, 2022, Special Business Meeting. The grants provide the

primary fiscal support for the construction of the Ashland Municipal Airport Taxiway Reconstruction and Rehabilitation Project. ([Staff Report](#)).

**BACKGROUND AND ADDITIONAL INFORMATION**

After Century West Engineering completed the phase 1 design for the project, staff applied for the FAA AIP grant and the COAR grant. The City was awarded a second FAA AIP grant of \$2,664,796.63 and a COAR grant award not to exceed \$150,000 for the construction phase of the project. The COAR grant provides up to a maximum of \$150,000 to be used towards the 10% local match requirement for FAA funded projects.

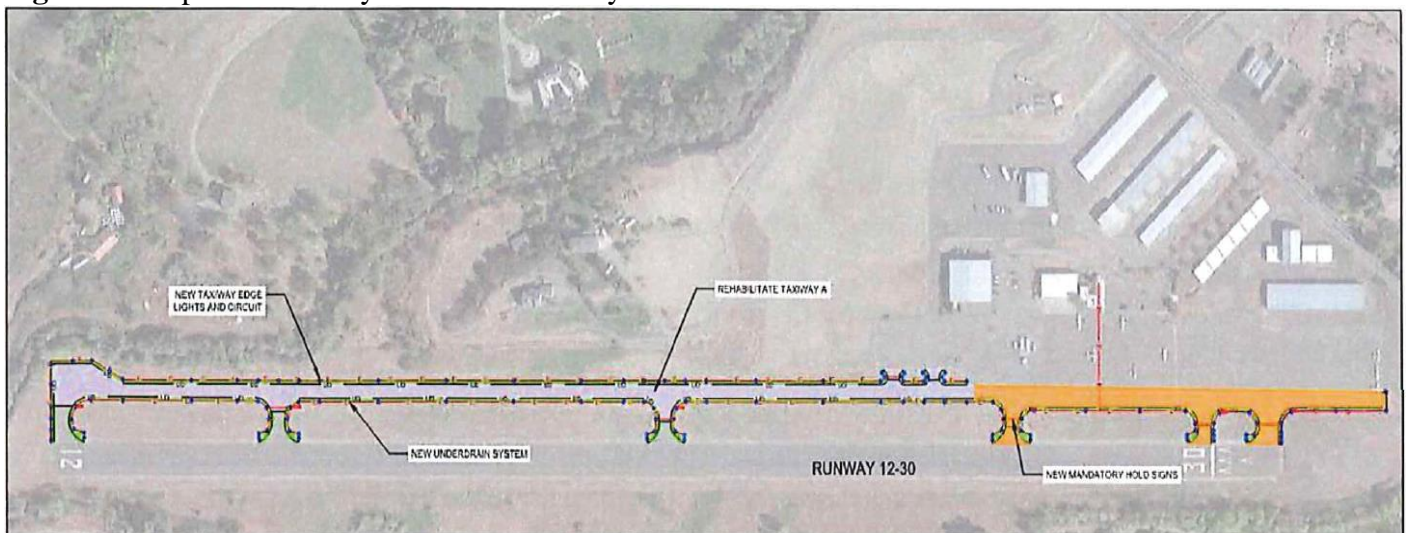
The City of Ashland released the Invitation to Bid (ITB) documents for a public improvement contract with the City of Ashland to supply all labor, equipment, and materials necessary to construct the Ashland Municipal Airport – Taxiway Reconstruction and Rehabilitation Project No. 2020-18. The ITB was posted on the Oregon Buys Network on March 1, 2022, and documents were also on file at the City in the Community Development Building at 51 Winburn Way. Bids were received and opened on March 29, 2022. Three bids were received from Knife River Materials, Central Pipeline and JRT Construction, all three were deemed responsive. Knife River Materials provided the lowest responsive bid.

ASHLAND MUNICIPAL AIRPORT - TAXIWAY RECONSTRUCTION AND REHABILITATION PROJECT (2020-18)		
Knife River Materials	JRT Construction	Central Pipeline
\$2,604,807.75	\$2,737,493.50	\$2,893,548.87

**Project Description:**

The airports parallel taxiway is shown in the 2016 ODA Pavement Maintenance report as satisfactory to poor. Work elements for the project are general mill and overlay of the taxiway, new subsurface drainage, new taxiway edge lights and new mandatory lighted hold position signs. The construction project is primarily grant funded from the second FAA AIP grant requiring 10% match through the Airport Fund. A percentage of the 10% required match is funded through the COAR grant leaving what is remaining coming from the airport fund revenues generated through hangar leases, hangar rentals and tie down fees. (see Fiscal Impacts below).

**Figure 1:** Proposed Taxiway Rehabilitation Layout



## **FISCAL IMPACTS**

The 2021-23 Biennium Airport Budget includes requested appropriations to support this project. The phase 2 Construction fee was estimated to be \$2,960,886.

This project has received two grants to support the construction. The construction FAA AIP grant received an amount of \$2,664,796.63 towards total project cost. In addition to that the City received the COAR grant from ODA at a max value of \$150,000 to go towards the required match funds. Leaving the remaining \$140,000 to be covered by airport revenues.

## **STAFF RECOMMENDATION**

Staff recommends approval of a Personal Services contract with Century West Engineering and a Public Works Improvement contract with LTM dba, Knife River Materials for the construction of the Airport Taxiway Reconstruction and Rehabilitation Project.

## **ACTIONS, OPTIONS & POTENTIAL MOTIONS**

- a) I move to approve a Public Works Improvement contract with LTM dba, Knife River Materials for the Airport Taxiway Reconstruction and Rehabilitation Project for a contract amount not to exceed \$2,604,807.75.; and
- b) I move to approve a Professional Services contract with Century West Engineering for the Airport Taxiway Reconstruction and Rehabilitation Project for a contract amount not to exceed \$348,577.64.

## **REFERENCES & ATTACHMENTS**

Attachment #1: Century West Personal Services Contract

Attachment #2: Knife River Construction Contract

## PERSONAL SERVICES AGREEMENT (GREATER THAN \$35,000.00)

<p style="text-align: center;"><b>CITY OF ASHLAND</b> 20 East Main Street Ashland, Oregon 97520 Telephone: 541-488-5587 Fax: 541-552-6006</p>	<p>CONSULTANT: Century West Engineering Corporation</p> <p>CONSULTANT'S CONTACT: <a href="mailto:wrogers@centurywest.com">wrogers@centurywest.com</a>, <a href="mailto:theadley@centurywest.com">theadley@centurywest.com</a></p> <p>ADDRESS: 1020 SW Emkay Drive, Suite 100 Bend, Oregon 97702</p> <p>TELEPHONE: 541-322-8962</p>
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This Personal Services Agreement (hereinafter "Agreement") is entered into by and between the City of Ashland, an Oregon municipal corporation (hereinafter the "City" or "Owner"), and Century West Engineering Corporation, a domestic business corporation ("hereinafter "Consultant" or "Contractor"), for Construction Services for Phase Two Ashland Airport Taxiway Reconstruction and Rehabilitation Project.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein, the City and Consultant hereby agree as follows:

- 1. Effective Date and Duration:** This Agreement shall become effective on the date of execution on behalf of the City, as set forth below (the "Effective Date"), and unless sooner terminated as specifically provided herein, shall terminate upon the City's affirmative acceptance of Consultant's Work as complete and Consultant's acceptance of the City's final payment therefore, but not later than October 31, 2023.
- 2. Scope of Work:** Consultant will provide all engineering design and bidding services necessary for Phase Two Ashland Airport Taxiway Reconstruction and Rehabilitation Project as more fully set forth in the Consultant's eleven (11) page Scope of Work dated March 18, 2022, which is attached hereto as "Exhibit A" and incorporated herein by this reference. Consultant's services are collectively referred to in this Agreement as the "Work."
- 3. Compensation:** The City shall pay Consultant the hourly rates and other fees and expenses as set forth in its Project Task spreadsheet attached hereto as "Exhibit B" and incorporated herein, up to the sum of **\$348,577.64 (three hundred forty-eight thousand, five hundred and seventy-seven U.S. dollars and sixty-four cents)** as full compensation for Consultant's performance of all Work under this Agreement. In no event shall Consultant's total of all compensation and reimbursement under this Agreement exceed the sum **\$348,577.64 (three hundred forty-eight thousand, five hundred and seventy-seven U.S. dollars and sixty-four cents)** without the express, written approval from the City official whose signature appears below, or such official's successor in office. Payments shall be made within thirty (30) days of the date of receipt by the City of Consultant's invoice. Should this Agreement be terminated

prior to completion of all Work, payments will be made for any phase of the Work completed and accepted as of the date of termination.

4. **Supporting Documents/Conflicting Provisions:** This Agreement and its exhibits or other supporting documents shall be construed to be mutually complementary and supplementary wherever possible. In the event of a conflict between this Agreement and its exhibits which cannot be so resolved, the provisions of “Exhibit D, Contract Provisions for Obligated Sponsors and Airport Improvement Program Projects,” shall control. In the event of conflict between the provisions of this Agreement and the provisions in any exhibit other than “Exhibit D,” the provisions of this Agreement shall control.
5. **All Costs Borne by Consultant:** Consultant shall, at its own risk, perform the Work described above and, unless otherwise specified in this Agreement, furnish all labor, equipment, and materials required for the proper performance of such Work.
6. **Qualified Work:** Consultant has represented, and by entering into this Agreement now represents, that all personnel assigned to the Work to be performed under this Agreement are fully qualified to perform the services to which they will be assigned in a skilled manner and, if required to be registered, licensed, or bonded by the State of Oregon, are so registered, licensed, or bonded.
7. **Ownership of Work/Documents:** All Work, work product, or other documents produced in furtherance of this Agreement belong to the City, and any copyright, patent, trademark proprietary or any other protected intellectual property right shall vest in and is hereby assigned to the City.
8. **Statutory Requirements:** The following laws of the State of Oregon are hereby incorporated by reference into this Agreement: ORS 279B.220, 279B.230 and 279B.235.
9. **Living Wage Requirements:** If the amount of this Agreement is \$24,050.68 or more, Consultant is required to comply with Chapter 3.12 of the Ashland Municipal Code by paying a living wage, as defined in that chapter, to all employees performing Work under this Agreement and to any Subcontractor who performs 50% or more of the Work under this Agreement. Consultant is also required to post the notice attached hereto as “Exhibit C” predominantly in areas where it will be seen by all employees.
10. **Indemnification:** Consultant hereby agrees to defend, indemnify, save, and hold City, its officers, employees, and agents harmless from any and all losses, claims, actions, costs, expenses, judgments, or other damages resulting from injury to any person (including injury resulting in death), or damage (including loss or destruction) to property, of whatsoever nature arising out of or incident to the negligent performance of this Agreement by Consultant (including but not limited to, Consultant's employees, agents, and others designated by Consultant to perform Work or services attendant to this Agreement). However, Consultant shall not be held responsible for any losses, expenses, claims, costs, judgments, or other damages, caused solely by the gross negligence of City.
11. **Termination:**
  - a. Mutual Consent. This Agreement may be terminated at any time by the mutual consent of both parties.
  - b. City's Convenience. This Agreement may be terminated by City at any time upon not

- less than thirty (30) days' prior written notice delivered by certified mail or in person.
- c. For Cause. City may terminate or modify this Agreement, in whole or in part, effective upon delivery of written notice to Consultant, or at such later date as may be established by City under any of the following conditions:
- i. If City funding from federal, state, county or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services;
  - ii. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement or are no longer eligible for the funding proposed for payments authorized by this Agreement; or
  - iii. If any license or certificate required by law or regulation to be held by Consultant to provide the services required by this Agreement is for any reason denied, revoked, suspended, or not renewed.
- d. For Default or Breach.
- i. Either City or Consultant may terminate this Agreement in the event of a breach of the Agreement by the other. Prior to such termination the party seeking termination shall give to the other party written notice of the breach and its intent to terminate. If the party committing the breach has not entirely cured the breach within fifteen (15) days of the date of the notice, or within such other period as the party giving the notice may authorize in writing, then the Agreement may be terminated at any time thereafter by a written notice of termination by the party giving notice.
  - ii. Time is of the essence for Consultant's performance of each and every obligation and duty under this Agreement. City, by written notice to Consultant of default or breach, may at any time terminate the whole or any part of this Agreement if Consultant fails to provide the Work called for by this Agreement within the time specified herein or within any extension thereof.
  - iii. The rights and remedies of City provided in this subsection (d) are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.
- e. Obligation/Liability of Parties. Termination or modification of this Agreement pursuant to subsections a, b, or c above shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination or modification. However, upon receiving a notice of termination (regardless whether such notice is given pursuant to Subsection a, b, c, or d of this section, Consultant shall immediately cease all activities under this Agreement, unless expressly directed otherwise by City in the notice of termination. Further, upon termination, Consultant shall deliver to City all documents, information, works-in-progress and other property that are or would be deliverables had the Agreement been completed. City shall pay Consultant for Work performed prior to the termination date if such Work was performed in accordance with this Agreement.

**12. Independent Contractor Status:** Consultant is an independent contractor and not an employee of the City for any purpose. Consultant shall have the complete responsibility for the

performance of this Agreement. Consultant shall provide workers' compensation coverage as required in ORS Chapter 656 for all persons employed to perform Work pursuant to this Agreement. Consultant is a subject employer that will comply with ORS 656.017.

13. **Assignment:** Consultant shall not assign this Agreement or subcontract any portion of the Work without the written consent of City. Any attempted assignment or subcontract without written consent of City shall be void. Consultant shall be fully responsible for the acts or omissions of any assigns or subcontractors and of all persons employed by them, and the approval by City of any assignment or subcontract of the Work shall not create any contractual relation between the assignee or subcontractor and City.
14. **Default.** The Consultant shall be in default of this Agreement if Consultant: commits any material breach or default of any covenant, warranty, certification, or obligation under the Agreement; institutes an action for relief in bankruptcy or has instituted against it an action for insolvency; makes a general assignment for the benefit of creditors; or ceases doing business on a regular basis of the type identified in its obligations under the Agreement; or attempts to assign rights in, or delegate duties under, this Agreement.
15. **Insurance.** Consultant shall, at its own expense, maintain the following insurance:
  - a. Worker's Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers
  - b. Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$2,000,000 (two million dollars) per occurrence. This is to cover any damages caused by error, omission or negligent acts related to the Work to be provided under this Agreement.
  - c. General Liability insurance with a combined single limit, or the equivalent, of not less than \$2,000,000 (two million dollars) per occurrence for Bodily Injury, Death, and Property Damage.
  - d. Automobile Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 (one million dollars) for each accident for Bodily Injury and Property Damage, including coverage for owned, hired or non-owned vehicles, as applicable.
  - e. Notice of cancellation or change. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without thirty (30) days' prior written notice from the Consultant or its insurer(s) to the City.
  - f. Additional Insured/Endorsements. Consultant shall name the City of Ashland, Oregon, and its elected officials, officers and employees as Additional Insureds on any insurance policies, excluding Professional Liability and Workers' Compensation, required herein, but only with respect to Consultant's services to be provided as set forth in this Agreement. The consultant's insurance is primary and non-contributory. As evidence of the insurance coverages required by this Agreement, the Consultant shall furnish acceptable endorsements and insurance certificates to the City prior to commencing any of the Work under this Agreement. The endorsement will specify all of the parties who are Additional Insureds. Insuring companies or entities are subject to the City's acceptance. If requested, complete copies of insurance policies shall be provided to the City. The Consultant shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

**16. Nondiscrimination:** Consultant agrees that no person shall, on the grounds of race, color, religion, creed, sex, marital status, familial status or domestic partnership, national origin, age, mental or physical disability, sexual orientation, gender identity or source of income, suffer discrimination in the performance of any Work under this Agreement when employed by Consultant. Consultant agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. Further, Consultant agrees not to discriminate against a disadvantaged business enterprise, minority-owned business, woman-owned business, a business that a service-disabled veteran owns or an emerging small business enterprise certified under ORS 200.055, in awarding subcontracts as required by ORS 279A.110.

**17. Consultant's Compliance With Tax Laws:**

17.1 Consultant represents and warrants to the City that:

17.1.1 Consultant shall, throughout the term of this Agreement, including any extensions hereof, comply with:

- (i) All tax laws of the State of Oregon, including but not limited to ORS 305.620 and ORS Chapters 316, 317, and 318;
- (ii) Any tax provisions imposed by a political subdivision of the State of Oregon applicable to Consultant; and
- (iii) Any rules, regulations, charter provisions, or ordinances that implement or enforce any of the foregoing tax laws or provisions.

17.1.2 Consultant, for a period of no fewer than six (6) calendar years preceding the Effective Date of this Agreement, has faithfully complied with:

- (i) All tax laws of the State of Oregon, including but not limited to ORS 305.620 and ORS Chapters 316, 317, and 318;
- (ii) Any tax provisions imposed by a political subdivision of the State of Oregon applicable to Consultant; and
- (iii) Any rules, regulations, charter provisions, or ordinances that implement or enforce any of the foregoing tax laws or provisions.

**18. Federal Aviation Administration (FAA) Requirements.** The provisions required by the FAA for Airport Improvement Program Projects are set forth in "Exhibit D, Contract Provisions for Obligated Sponsors and Airport Improvement Program Projects" which is attached hereto and fully incorporated herein by this reference.

**19. Notice.** Whenever notice is required or permitted to be given under this Agreement, such notice shall be given in writing to the other party by personal delivery, by sending via a reputable commercial overnight courier, by mailing using registered or certified United States mail, return receipt requested, postage prepaid, or by electronically confirmed at the address or facsimile number set forth below:

**If to the City:**

City of Ashland – Public Works Department  
Attn: Contract Administrator  
20 East Main Street  
Ashland, Oregon 97520



**With a copy to:**

City of Ashland – Legal Department  
20 E. Main Street  
Ashland, Oregon 97520  
Phone: (541) 488-5350

**If to Consultant:**

Century West Engineering Corporation  
1020 SW Emkay Drive, Suite 100  
Bend, Oregon 97702

20. **Governing Law.** This Agreement shall be governed by the laws of the State of Oregon without regard to conflict of laws principles. Exclusive venue for litigation of any action arising under this Agreement shall be in the Circuit Court of the State of Oregon for Jackson County unless exclusive jurisdiction is in federal court, in which case exclusive venue shall be in the federal district court for the district of Oregon. Each party expressly waives any and all rights to maintain an action under this Agreement in any other venue, and expressly consents that, upon motion of the other party, any case may be dismissed or its venue transferred, as appropriate, so as to effectuate this choice of venue.
21. **Amendments.** This Agreement may be amended only by written instrument executed by both parties with the same formalities as this Agreement.
22. **Nonappropriations Clause.** Funds Available and Authorized: City has sufficient funds currently available and authorized for expenditure to finance the costs of this Agreement within the City's fiscal year budget. Consultant understands and agrees that City's payment of amounts under this Agreement attributable to Work performed after the last day of the current fiscal year is contingent on City appropriations, or other expenditure authority sufficient to allow City in the exercise of its reasonable administrative discretion, to continue to make payments under this Agreement. In the event City has insufficient appropriations, limitations or other expenditure authority, City may terminate this Agreement without penalty or liability to City, effective upon the delivery of written notice to Consultant, with no further liability to Consultant.
23. THIS AGREEMENT AND THE ATTACHED EXHIBITS CONSTITUTE THE ENTIRE UNDERSTANDING AND AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. CONSULTANT, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT HE/SHE HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

24. **Certification.** Consultant agrees to and shall sign the certification attached hereto as "Exhibit E" and incorporated herein by this reference.

**IN WITNESS WHEREOF** the parties have caused this Agreement to be signed in their respective names by their duly authorized representatives as of the dates set forth below.

**CITY OF ASHLAND:**

**CENTURY WEST ENGINEERING CORPORATION (CONSULTANT):**

By: \_\_\_\_\_  
Joseph L. Lessard, City Manager

\_\_\_\_\_  
Date

By:  \_\_\_\_\_  
Signature

JOSEPH ROSHAK  
\_\_\_\_\_  
Printed Name

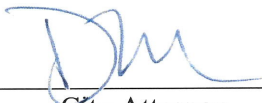
PRESIDENT  
\_\_\_\_\_  
Title

11/15/2022  
\_\_\_\_\_  
Date

Purchase Order No. \_\_\_\_\_

**(W-9 is to be submitted with this signed Agreement)**

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
City Attorney

11-13-2022  
\_\_\_\_\_  
Date

## Scope of Work

### **Ashland Municipal Airport – City of Ashland Taxiway A Reconstruction: Phase II – Construction Management**

**Rev 0 – 8 March 2022**

**Rev 1 – 18 March 2022 (FINAL)**

#### **GENERAL PROJECT DESCRIPTION, BACKGROUND, & PURPOSE/NEED**

The Ashland Municipal Airport/Sumner Parker Field (Owner/Sponsor) is owned and operated by the City of Ashland and is located approximately 3 miles east of Ashland, Oregon. The City of Ashland has contracted with Century West Engineering (Consultant/Engineer) for Construction Management and Project Closeout services related to the Taxiway A Reconstruction and Rehabilitation Project. See attached **Exhibit 1** for a project overview.

The scope of the project is to provide engineering construction management services for the Ashland Municipal Airport's proposed pavement reconstruction and rehabilitation of Taxiway A and portions of its connector taxiways and run-up area, including new underdrains, taxiway edge lights, lighted signs, electrical room modifications, and grading for reconstructed pavements.

The project design is complete, and bids will open March 29, 2022. Design and bidding services are included as a part of a separate agreement and not included in this agreement.

#### **Project Construction Scope**

The scope of work for this project includes the following. Note that electrical improvements are dependent on bid outcome:

1. Shift and reconstruct Taxiway A centerline approximately 12' west to create a consistent, full-length, 150' width between Runway and Taxiway A centerlines to meet design standards for ADG 1 aircraft. Reconstruction of Taxiway A extending from Taxiway A3 to Taxiway A6 (approximately 2,750 ft by 25 ft), including reconstruction of Northwest Apron Taxilane 1, partial reconstruction of Taxiway A5 and A6, and the run-up apron;
  - a. Demolish, overexcavate, cement-treat subgrade, and replace approximately 11,000 SY of pavement section;
2. Taxiway rehabilitation extending from Taxiway A3 southeast along Taxiway A to taxiway end (approximately 1,850 ft by 35 ft) including Taxiways A1, A2, and A3;
  - a. Crack and/or surface seal approximately 5,100 SY of existing pavement;

3. New underdrains;
4. Associated drainage improvements;
5. Associated shoulder grading, topsoil, seeding and restoration.
6. New airfield signage and pavement marking associated with the taxiway and its connectors;
7. New taxiway edge lighting, including new conduit/wire and electrical building improvements;
8. Replace the Constant Current Regulator (CCR);
9. Replace the Radio Control Equipment;
10. Constructed electrical room modifications as needed for the CCR and radio control equipment replacement and associate NEC code updates; and
11. Upgrade/modify existing power and control.

The FAA has determined that all work under this project can be considered FAA-eligible. No Sponsor Force Account work will not be considered for this project, and any concurrent work conducted by the Airport or its contractors will be let through a separate agreement, distinct from the AIP-funded contract work.

### **Project Construction Phasing**

Construction is anticipated for Summer/Fall 2022 and will be constructed in three phases. Phase 1 (Work Area 1) construction is anticipated to begin on/around August 1, 2022 and be complete by October 29, 2022. Phase 2 (Work Area 2) and Phase 3 (Work Area 3) will be performed within the Phase 1 contract time constraints.

Phase 1, Phase 2, and Phase 3 work may be performed concurrently during runway closure. Phase 1 does not require a Runway closure while Phase 2 and Phase 3 work requires a Runway closure.

#### **Phase 1 (Work Area 1):**

- Phase 1 (Work Area 1) does not require a closure of Runway 12-30.
- The northern-75% of Taxiway A and connector Taxiways A4, A5, and A6 outside the Runway OFA will be closed continuously for 90 consecutive calendar days for reconstruction.
- The southern-25% of Taxiway A, and connector Taxiways A1, A2 and A3 will remain open to air traffic during this phase.
- Runway 12-30, NAVAIDs, and electrical equipment shall remain open and functional for the duration of work in Work Area 1 except when Phase 2 and Phase 3 work occurs and the Runway 12 PAPI will be out of service for 20 consecutive calendar days.

**Phase 2 (Work Area 2):**

- Phase 2 (Work Area 2) requires a closure of Runway 12-30 and shall be performed concurrently with Phase 1 and Phase 3.
- Taxiway A4, A5, and A6 will be closed continuously for 20 consecutive calendar days for partial reconstruction.
- Runway 12-30, NAVAIDs, and electrical equipment will be closed or out of service for 20 consecutive calendar days while work is performed on Taxiways within the Runway OFZ.

**Phase 3 (Work Area 3):**

- Phase 3 (Work Area 3) requires a closure of Runway 12-30 and shall be performed concurrently with Phase 1 and Phase 2.
- The southern-25% of Taxiway A, and connector Taxiways A1, A2 and A3 will be closed continuously for 20 consecutive calendar days for rehabilitation.
- Runway 12-30, NAVAIDs, and electrical equipment will be closed or out of service for 20 consecutive calendar days while work is performed on Taxiways within the Runway OFZ.

**Total contract time: 90 calendar days.**

**Project Construction Cost Estimate**

- Base Bid Project Cost Estimate is \$2.6 Million, anticipated to be fully eligible for AIP grant funding, with Sponsor match. Depending on bid results and funding availability, total project cost could reach approximately \$3.5 million.

The following tasks, assumptions, exclusions, and schedule are proposed for completion of this construction management project scope.

### **TASK 1 – ADMINISTRATION AND COORDINATION**

1. Finalize work scope, fee estimate, and negotiate contract with the OWNER.
2. Provide a detailed scope of work and exhibit—without costs—to OWNER for obtaining an independent fee estimate (IFE) by a third-party consultant.
3. Provide OWNER with Record of Negotiations documentation template. OWNER will prepare and submit Record of Negotiations documentation for FAA review.
4. Carry out project administration including, but not limited to monitoring project schedule, coordination of project with the OWNER, monitoring and reporting technical and budget issues to the OWNER, preparation of monthly consultant invoices for submittal to the OWNER. Assume 4 hours PM per month, with administrative support, over a 12-month period to include formulation, construction administration, and project closeout.
5. Coordinate project team and sub-consultants.
6. Permit Application and Administration for City of Ashland Planning and FEMA Permit Approval. This permit package is required to demonstrate the project limits are outside of the nearby floodway. Preparation of this package requires the analysis of the FEMA flood graphs and preparation of floodway plan and profile, which are then compiled with the FEMA flood graphs and project design grading. This effort is a required step to achieve permit approval for construction.
  - A. Subconsultant task includes research, confirmation of code compliance, site evaluation, calculations, coordination, communications, meetings, plan review, reports, technical memos, and applications, as required to determine flood elevations, boundaries, and floodways to fulfill permit obligations.
7. Provide a project schedule to the OWNER and FAA. Up to 3 revisions are anticipated.
8. Assist the OWNER in the administration and reporting for annual FAA reports and/or other funding programs and development of overall program costs. Annual FAA reports are anticipated to be required for up

to two fiscal years (FY22 and FY23).

9. Prepare and submit up to 5 FAA Quarterly Performance Reports via email to the FAA Project Manager. (FY22: Q3, Q4; FY23: Q1, Q2, Q3)
10. Prepare Strategic Event Notification forms for submittal to FAA. It is anticipated up to 2 Strategic Event Forms will be submitted notifying the FAA of the upcoming Runway closure work expected in Summer/Fall 2022.
11. Attend up to 4 meetings at the Airport during the duration of the contract to provide Airport personnel and management with project updates. The Senior Project Manager will attend the meetings. These may be concurrent with regularly scheduled Airport Commission meetings.

### Task 1 Summary

Anticipated Schedule: April 2022 - June 2023 (Pending Grant Close Out)

#### Deliverables:

- Scope and Fee (PDF)
- IFE Spreadsheet (Excel)
- CoA/FEMA Floodway Permit (PDF)
- Project Schedule (PDF)
- Quarterly Performance Reports (PDF)
- Strategic Event Forms (PDF)

#### Exclusions

- No Predesign Conference call will be held. A Predesign Conference Call was held for the design project on February 17, 2021, and was determined sufficient for the overall project per FAA PM on 12/9/21.

### **TASK 2 - CONSTRUCTION MANAGEMENT**

1. Assist the City of Ashland as needed for the development of the final contract with the Contractor. The OWNER is assumed to conduct this work, with only minor clarifications for the process if needed.
2. Organize, conduct, and attend a Pre-Construction Conference. The Project Manager and Resident Engineer will attend the meeting. Prepare an agenda and meeting notes for the meeting.

3. Attend technical project phasing meeting with Airport staff and tenants to review the runway closure impacts. The Senior Project Manager and Project Manager will attend the meeting at the Airport.
4. Prepare and submit weekly inspection reports to the FAA and the OWNER. 14 weekly reports are anticipated.
5. Provide on-site observation during the project construction period. On-site activities include observing and reviewing Contractor work for conformance with the contract documents, making field measurements, preparation of inspection reports, photographic documentation, addressing field questions, monitoring construction progress, conducting wage rate interviews, and field verification of construction quantities for pay requests.

Activities related to this task are expected to occur over a 90 Calendar Day period. Century West will assign a staff member (Resident Engineer / Resident Project Representative) to the site during construction. Full-time, on-site inspection is assumed to include up to 60 hours per week, plus time for up to 14 round trips from a regional Century West office. 94 days are estimated for lodging and meals during construction, as well as rental of a site-suitable vehicle for a duration of 3 months.

In addition to the Resident Project Representative present for the entire project, a Project Engineer will be on site for the duration of asphalt paving activity. It is assumed for this task that the second full-time, on-site inspector will require up to 16 hour per working day for up to 7 days, including 2 round trips from a regional Century West office, lodging, meals, and rental vehicle for the duration of paving activity.

The actual amount of time for on-site observation is dependent on the Contractor's work plan and schedule. The OWNER and Engineer agree to adjust this level of effort, if necessary, due to a Contractor schedule that requires more observation than the assumed allowances.

6. Provide off-site Engineering support to resolve and coordinate technical issues beyond the capability of what can be prepared or addressed in the field. Activities related to this task are expected to occur over a 13-week period, with an allowance of 10 hours per week assumed for this effort.
7. Provide Project Manager coordination of the Resident Engineer, off-site engineering support staff, and subconsultants. The Project Manager's effort is assumed to be performed off-site and include 10 hours per week over a 13-week period.



8. Conduct weekly construction coordination meetings with the Contractor and the OWNER (up to 13 anticipated). The Senior Project Manager and Resident Engineer will attend the meetings. The Resident Engineer's time for this task is included in Task 2.5 and not accounted for in this task. Prepare an agenda and meeting minutes for each meeting.
9. Review Contractor-provided submittals and shop drawings.
10. Geotechnical review of subgrade
  - a) Geotechnical Engineer will perform one (1) site visit during subgrade excavation to assess subgrade conditions, with a focus on the north end of the taxiway. Unusual pavement distress in this location warrants verification of subgrade consistency with geotechnical evaluation performed during design.
  - b) Geotechnical Engineer will provide one memo to summarize site evaluation, analysis, and recommendations to address subgrade conditions as warranted.
11. Electrical construction management services (R&W Engineering, Inc.)
  - a) Answer technical questions about electrical items during the construction phase of the project.
  - b) Assist in the preparation of up to (2) change orders dealing with electrical items during construction as necessary.
  - c) Provide up to (5) request for information (RFI) responses.
  - d) Review electrical submittals for the project and provide comments as necessary.
  - e) Make up to (2) site visits, including final inspection, during the construction phase of the project to observe construction of electrical items and their installation.
  - f) Prepare site reports and/or preliminary punch lists based on site visits and observations.
  - g) Prepare final punch list based on observations from final site visit.
  - h) Assist with record drawing review and preparation based on contractor red-line markups.

12. Coordinate required closures and Notice(s) to Airmen ("NOTAM's") with the OWNER, users, and tenants.
13. Prepare and confirm monthly construction payment estimates and submit those estimates to the OWNER. 4 monthly pay requests are anticipated, including a final pay estimate following punch list completion.
14. Conduct Quality Assurance (Q/A) Asphalt Testing. Provide testing personnel and equipment necessary to perform quality assurance testing, including:
  - Asphalt paving testing to FAA (P-403 specifications) requirements.
  - Asphalt testing is based up to two mobilizations for Phase 1-3 work and estimated asphalt tonnage is approximately 2,000 tons.
  - These assumptions form the basis for materials testing on the project. Actual effort may vary depending on how the construction work is phased and executed. Additional testing, if required, will be conducted as extra work under an amendment of this scope if necessary.
15. Conduct and document wage rate interview as needed, for the prime and all subconsultants.
16. Conduct an inspection at substantial completion with the OWNER, and Contractor. The Project Manager and Resident Engineer will attend.
17. Prepare punch list as necessary and submit to Contractor.
18. Conduct a final inspection once all punch list items are complete. 1 site visit by the Project Manager and Resident Engineer is allocated.
19. Coordinate the update of Form 5010. Include updated Pavement Classification Number (PCN) to be published.

### Task 2 Summary

Anticipated Schedule: April 2022 – June 2023

### **TASK 3 – DBE PROGRAM AND GOAL UPDATE**

1. Revise DBE Program and Goal for FY24-FY26. Subtasks include the following:
  - a) Prepare Draft DBE Goal calculation for FY24-FY26, incorporating current CIP projects anticipated at the Airport. Prepare DBE Plan/Program documents and coordinate submittal to FAA Civil Rights. One (1) hard copy will be mailed to the Sponsor for viewing during the 30-day public review period. The Consultant will provide a Notice of Availability to be posted on the Sponsor’s website during the Public Review period and in the Newspaper of Record. The Sponsor will pay the cost for advertising the Notice of Availability in the Newspaper of Record.
  - b) Engineer will coordinate with minority, women’s and general Contractor groups, and community organizations who can share information on the availability of DBEs in the area, per Department of Transportation DBE Program – 49 CFR Part 26. Century West will coordinate with the Business Oregon (<http://www.oregon4biz.com/How-We-Can-Help/COBID/DBE/>) directory to identify potential interested DBE general Contractor groups in the area. A conference call will be held with a representative from Business Oregon, if available, and interested parties, Engineer, and the Sponsor to discuss the DBE goal calculation and process and request feedback. Comments received will be incorporated into the Final DBE Plan.
  - c) Prepare Final Draft DBE Plan for FAA review. It is anticipated up to two revisions to the Final Draft will be required incorporating FAA comments.

#### *Task 3 Summary*

Anticipated Schedule: June 2022 – June 2023.

#### Deliverables:

- Draft DBE Plan and Goal (PDF)
- Notice of Availability (Word)
- Conference Call and Comment Sheet (PDF)
- Final Draft DBE Plan and Goal (PDF)

## **TASK 4 – PROJECT CLOSEOUT SERVICES**

1. Prepare update markups for Form 5010 information and submit to FAA.
2. Prepare a final Construction Report in accordance ANM-620-05, Standard Handout for Final Reports available at:

[https://www.faa.gov/airports/northwest\\_mountain/engineering/construction\\_resources/media/standard-handout-for-final-reports.zip](https://www.faa.gov/airports/northwest_mountain/engineering/construction_resources/media/standard-handout-for-final-reports.zip)

Prepare project closeout documentation, including the draft final Request for Reimbursement, draft final SF271 and SF425, and Final Report (in accordance with 620-05: Standard Handout for Final Reports) with appendices.

3. Assist the OWNER with the A-133 annual audit including finding appropriate project files and answering questions, as required.
4. Provide record drawings (56 sheets) and as constructed information to OWNER in hardcopy (11"x17") and electronic format (AutoCAD and PDF). FAA will receive PDF copy.
5. Update the Airport Layout Plan Sheets with "as-constructed" information. Anticipated ALP sheet updates include the following:
  - Sheet 1 – Cover Sheet
  - Sheet 2 – Airport Data Sheet
  - Sheet 3 – Airport Layout Plan
  - Sheet 4 – Terminal Area Plan
  - Sheet 10 – Runway 12 RPZ and Inner Approach Plan/Profile
  - Sheet 11 – Runway 30 RPZ and Inner Approach Plan/Profile
  - Sheet 12 – On-Airport Land Use Plan
  - Sheet 14 – Exhibit "A" Airport Property Plan

Up to 2 revisions are anticipated. For this scope, it is assumed only electronic (PDF) copies of the updated ALP sheets will be sent to the FAA PM. OWNER will receive a full-size hard copy of the complete ALP sheet set, including updated sheets, if requested. Task includes preparation of the required summary memo to accompany the updated ALP sheets. Task includes coordination required to coordinate signature for hard copies.

6. Complete the Annual Uniform DBE Report and submit via online FAA Civil Rights portal. Up to 2 submittals are anticipated for FY22 and FY23.



### Task 4 Summary

#### Deliverables:

- Final Construction Report (PDF)
- Record Drawings (PDF and CAD)
- ALP Update for 8 Sheets, described above (PDF, 1xPaper Copy)
- Annual Uniform DBE Report (FY22 and FY23)

Anticipated Schedule: April 2022 – June 2023

**Exhibit B**

PROJECT TITLE:		ASHLAND MUNICIPAL AIRPORT - TWY RECONSTRUCTION AND REHAB: PHASE II - CM												
CLIENT:		CITY OF ASHLAND												
SCOPE OF WORK DATE:		2022-03-18 FINAL												
PROJECT TASK		PRINCIPAL ENGR	SENIOR PROJ MGR	SENIOR PROJ ENGR	RESIDENT PROJ ENGR	STAFF ENGR	SENIOR CADD TECH	EIT	PROJ. COORD	TOTAL HRS	PROJECT COST			
<b>PHASE II - CM AND PROJECT CLOSEOUT SERVICES</b>														
											<b>Task Total</b>	<b>Expenses</b>		
<b>Task 1 - Administration and Coordination</b>											<b>\$32,392.00</b>	<b>Meal Days</b>	<b>Hotel Night</b>	<b>Roundtrip</b>
1	Formulate Project and Prepare Scope of Work	2	8							10	\$2,352.00			
2	Prepare IFE Materials		4							4	\$896.00			
3	Assemble Record of Negotiations		2	4						6	\$1,048.00			
4	Carry out Project Administration		40						24	64	\$11,480.00			
5	Coordinate Team and Subs		8							8	\$1,792.00			
6	No-Rise Analysis Submittal Package		4	24						28	\$4,496.00			
7	Create and Maintain Project Schedule		4							4	\$896.00			
8	Assist with Annual FAA Reporting			8						8	\$1,200.00			
9	Submit Quarterly Performance Reports		2	8						10	\$1,648.00			
10	Submit Strategic Event Forms			4						4	\$600.00			
11	Attend Project Management Meetings		16	16						32	\$5,984.00			
<b>Task 2 - Construction Management</b>											<b>\$223,644.00</b>			
1	Assist with Contract Development	2	6							8	\$1,904.00			
2	Organize and Conduct Pre-Construction Conference		10	16						26	\$4,640.00	1		1
3	Attend Project Technical Phasing Meeting		10	10						20	\$3,740.00	1		1
4	Prepare and Submit Weekly Inspection Reports			16						16	\$2,400.00			
5	Provide On-Site Observation			80	900					980	\$147,000.00	94	90	17
6	Provide Office Support - RFIs and Change Orders		2	12		20		16		50	\$6,768.00			
7	Provide PM Support of RPR and Site Staff		24							24	\$5,376.00			
8	Conduct Weekly Meetings		70	70						140	\$26,180.00	13		13
9	Review Submittals		2	12				24		38	\$5,128.00			
10	Geotechnical Support (Subconsultant Services Below)									0				
11	Electrical CM (Subconsultant Services Below)									0				
12	Coordinate NOTAMS			6						6	\$900.00			
13	Prepare Monthly Contractor Pay Estimates		2	24		16				42	\$6,128.00			
14	Provide QA Testing (inc. Sub. Services Below)									0				
15	Conduct Wage Rate Interviews					4				4	\$600.00			
16	Conduct Substantial Completion Inspection		10	10	10					30	\$5,240.00	1		1
17	Prepare and Distribute Punch List			2	6					8	\$1,200.00			
18	Conduct Final Inspection		10	10	10					30	\$5,240.00	1		1
19	Update PCN for Publication			8						8	\$1,200.00			
<b>Task 3 - DBE Program and Goal Update</b>											<b>\$3,940.00</b>			
1	Revise DBE Program and Goal for FY24-FY26									0	\$0.00			
a	Prepare Draft Goal			2		16				18	\$2,380.00			
b	Conduct DBE Conference					4				4	\$520.00			
c	Prepare and Submit Final Goal and Plan					8				8	\$1,040.00			
<b>Task 4 - Project Closeout Services</b>											<b>\$24,044.00</b>			
1	Prepare Updated Form 5010			4						4	\$600.00			
2	Prepare Final Construction Report		2	8		32				42	\$5,808.00			
3	Assist with A-133 Annual Audit			4						4	\$600.00			
4	Provide Record Drawings (56 Sheets)		2	6				48	12	68	\$9,412.00			
5	Update ALP Sheets (8 Sheets)		2	4				12	36	54	\$7,024.00			
6	Complete and Submit Annual Uniform DBE Report			4						4	\$600.00			
	<b>Labor Subtotal</b>	<b>4</b>	<b>240</b>	<b>372</b>	<b>930</b>	<b>96</b>	<b>60</b>	<b>88</b>	<b>24</b>	<b>1814</b>	<b>\$284,020.00</b>	<b>111</b>	<b>90</b>	<b>34</b>
<b>EXPENSES:</b>														
<b>Travel:</b>														
		<b>Cost</b>	<b>Meal</b>	<b>Ground</b>	<b>Air</b>	<b>Hotel</b>	<b>R.T.</b>	<b>Markup</b>						
		<b>Per Unit</b>	<b>Days</b>	<b>Trips</b>	<b>Trips</b>	<b>Nights</b>	<b>Miles</b>	<b>Markup</b>						
	Lodging	\$96.00				90		1.0			\$8,640.00			
	Mileage (2022 Federal Rate)	\$0.585		34			376	1.0			\$7,478.64			
	Flight	\$0.00			0			1.0			\$0.00			
	Meals	\$59.00	111					1.0			\$6,549.00			
<b>Misc. expenses:</b>														
	PHOTO COPIES										\$250.00			
	TELECOMMUNICATIONS										\$500.00			
	POSTAGE										\$250.00			
	PRINTING & PLOTTING										\$500.00			
<b>Sub-Consultants:</b>														
	1. Geotechnical Engineering Subconsultant					\$6,270.00	1.0				\$6,270.00			
	2. Electrical Engineering Subconsultant					\$12,370.00	1.0				\$12,370.00			
	3. QA testing Subconsultant					\$20,000.00	1.0				\$20,000.00			
	3. Floodway Permit Subconsultant					\$1,750.00	1.0				\$1,750.00			
<b>Subtotal - Expenses</b>											<b>\$24,167.64</b>			
<b>Subtotal - Subconsultants</b>											<b>\$40,390.00</b>			
<b>Total - PHASE II - CM AND PROJECT CLOSEOUT SERVICES</b>											<b>\$348,577.64</b>			

# City of Ashland LIVING

# WAGE

ALL employers described below must comply with City of Ashland laws regulating payment of a living wage.



**\$17.02** per hour, effective June 30, 2022.

The Living Wage is adjusted annually every June 30 by the Consumer Price Index.

## Employees must be paid a living wage:

- For all hours worked under a service contract between their employer and the City of Ashland if the contract exceeds **\$24,050.68** or more.
- For all hours worked in a month, if the employee spends 50% or more of the employee's time in that month working on a project or

portion of the business of their employer, if the employer has ten or more employees, and has received financial assistance for the project or business from the City of Ashland over **\$24,050.68**;

- If their employer is the City of Ashland, including the Parks and Recreation Department.
- In calculating the living wage, employers may add the value

of health care, retirement, 401K, and IRS eligible cafeteria plans (including childcare) benefits to the employee's amount of wages.

- **Note:** For temporary and part-time employees, the Living Wage does **not** apply to the first 1040 hours worked in any calendar year. For more details, please see Ashland Municipal Code Section 3.12.020.

## For additional information:

Call the Ashland City Manager's office at 541-488-6002 or write to the City Manager, City Hall, 20 East Main Street, Ashland, OR 97520, or visit the City's website at [www.ashland.or.us](http://www.ashland.or.us).

**Notice to Employers:** This notice must be posted in areas where it can be seen by all employees.



**FAA  
Airports**

## **Contract Provisions for Obligated Sponsors and Airport Improvement Program Projects**

This document has been edited to incorporate only those contract provisions determined necessary for the City of Ashland, OR, Airport Engineering Services Agreement.

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# **CONTRACT PROVISIONS**

## **A1 ACCESS TO RECORDS AND REPORTS**

### **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 BREACH OF CONTRACT TERMS**

### **BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this contract on the part of the Consultant 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 Consultant written notice that describes the nature of the breach and corrective actions the Consultant must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Consultant until such time the Consultant corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the Consultant must correct the breach. Owner may proceed with termination of the contract if the Consultant 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.

## **A3 CIVIL RIGHTS - GENERAL**

### **GENERAL CIVIL RIGHTS PROVISIONS**

The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

## A4 CIVIL RIGHTS – TITLE VI ASSURANCE

### Title VI Solicitation Notice:

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

### 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, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the 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;
- 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 § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) 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, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must

take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

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

## **A5 CLEAN AIR AND WATER POLLUTION CONTROL**

### **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 § 740-7671q) 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 exceeds \$150,000.

## **A6 CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

### **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 \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) 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.

## **A7 DEBARMENT AND SUSPENSION**

### **CERTIFICATION OF OFFERER/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 verify each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>.
2. Collecting a certification statement similar to the Certification of Offerer /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.

## **A8 DISADVANTAGED BUSINESS ENTERPRISE**

### **DISADVANTAGED BUSINESS ENTERPRISES**

#### **Contract Assurance (§ 26.13) –**

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR

#### **Contract Provisions for Obligated Sponsors and Airport Improvement Program Projects**

part 26 in the award and administration of Department of Transportation-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 Owner 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 (§26.29)** – The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 60 days from the receipt of each payment the prime contractor receives from the City of Ashland. The prime contractor agrees further to return retainage payments to each subcontractor within 60 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 City of Ashland. This clause applies to both DBE and non-DBE subcontractors.

## **A9 DISTRACTED DRIVING**

### **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 \$3,500 that involve driving a motor vehicle in performance of work activities associated with the project.

## **A10 ENERGY CONSERVATION REQUIREMENTS**

### **ENERGY CONSERVATION REQUIREMENTS**

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

## **A11 EQUAL EMPLOYEMENT OPPORTUNITY (EEO)**

### **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, 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 identify, 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 considerations for employment without regard to race, color, religion, sex, or national origin.

(3) 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 advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) 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.

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

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said 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 or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for

noncompliance: *Provided, however*, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency 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 shall 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 area 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 non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the Contractor during the training period and the Contractor shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall 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 therefore 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 female 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 workforce.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

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

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

n. Ensure that all facilities and company activities are non-segregated 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 groups 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, if the 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, 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 number, 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).

## **A12 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

### **SOLICITATION CLAUSE**

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

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

## **A13 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES**

### **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.

## **A14 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

### **CONTRACT CLAUSE**

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.

## **A15 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 ( ✓ ) 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 twentyfour (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 U.S.C. § 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.

## **A16 TERMINATION OF CONTRACT**

### **TERMINATION FOR CONVENIENCE (PROFESSIONAL SERVICES)**

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

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

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

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

### **TERMINATION FOR DEFAULT (PROFESSIONAL SERVICES)**

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

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

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

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

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

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

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

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

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

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

## **A17 TRADE RESTRICTION CERTIFICATION**

### **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 Section 1001.



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

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

- 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.

## **A18 VETERAN'S PREFERENCE**

### **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.

**EXHIBIT E**

**CERTIFICATIONS/REPRESENTATIONS:** Consultant, by and through its authorized representative, under penalty of perjury, certifies that (a) the number shown on the attached W-9 form is its correct taxpayer ID (or is waiting for the number to be issued to it and (b) Consultant is not subject to backup withholding because: (i) it is exempt from backup withholding, or (ii) it has not been notified by the Internal Revenue Service (IRS) that it is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified it that it is no longer subject to backup withholding. Consultant further represents and warrants to City that: (a) it has the power and authority to enter into this Agreement and perform the Work, (b) the Agreement, when executed and delivered, shall be a valid and binding obligation of Consultant enforceable in accordance with its terms, (c) the work under the Agreement shall be performed in accordance with the highest professional standards, and (d) Consultant is qualified, professionally competent, and duly licensed (if applicable) to perform the Work. Consultant also certifies under penalty of perjury that its business is not in violation of any Oregon tax laws, it is an independent contractor as defined in the Agreement, it is authorized to do business in the State of Oregon, and Consultant has checked four or more of the following criteria that apply to its business.

- (1) Consultant carries out the work or services at a location separate from a private residence or is in a specific portion of a private residence, set aside as the location of the business.
- (2) Commercial advertising or business cards or a trade association membership are purchased for the business.
- (3) Telephone listing is used for the business separate from the personal residence listing.
- (4) Labor or services are performed only pursuant to written contracts.
- (5) Labor or services are performed for two or more different persons within a period of one year.
- (6) Consultant assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission (professional liability) insurance or liability insurance relating to the Work or services to be provided.

  
\_\_\_\_\_  
Consultant's signature

11/15/2022  
\_\_\_\_\_  
Date

**REQUEST FOR PROPOSALS  
QUALIFICATIONS BASED SELECTION**

**Professional Engineering Services  
for  
Project No. 2020-18,  
Aviation Engineering Services at Ashland Municipal Airport**

**PROJECT NO: No. 2020-18,  
PROJECT TYPE: Professional Engineering Services  
PROPOSALS DUE: February 2, 2021, not later than 2:00 PM PST  
SUBMIT PROPOSALS TO: City of Ashland Public Works Department -  
Engineering, at 51 Winburn Way, Ashland  
OR 97520;  
or by mail to:  
20 East Main Street, Ashland, OR 97520  
CITY PROJECT MANAGER: Chance Metcalf, Project Manager  
PROJECT DURATION: 60 Months**



**CITY OF  
ASHLAND**

**PUBLIC WORKS ENGINEERING  
20 E. MAIN STREET  
ASHLAND OR 97520  
541-488-5587**

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## ADVERTISEMENT

### REQUEST FOR PROPOSALS QUALIFICATIONS BASED SELECTION for PROFESSIONAL ENGINEERING SERVICES

The City of Ashland (City) is seeking written Proposals for professional engineering services for Project **No. 2020-18, Aviation Engineering Services at Ashland Municipal Airport**. This project is for the execution of aviation-related professional engineering, and consulting services in accordance with the Department of Transportation, Federal Aviation Administration Advisory Circular 150/5100-14E for airport development projects at the Ashland Municipal Airport.

#### AIP - Parallel Taxiway Rehabilitation

- Provide all required preliminary engineering services including:
  - Environmental services for project development
  - Development of construction plans
  - Development of cost estimates
  - Development of specifications and contract documents
- Provide all required construction engineering services including:
  - Contract administration
  - Construction inspections
  - Preparation of required reports, reviews and certifications
  - Preparation of final report and project closeout

#### Future Engineering Services and Projects (Separate from AIP Projects)

- Airport infrastructure construction and maintenance projects
- Construction projects required to meet FAA safety requirements
- FAA grant administration assistance
- Preparation of reports, reviews, plans and other documents required by FAA
- Other aviation-related engineering services

Written Proposals must be physically received by **February 2, 2021, not later than 2:00 PM PST** (main lobby clock), in the City of Ashland Public Works Engineering Office located at 51 Winburn Way, Ashland OR 97520, or by mail at 20 East Main Street, Ashland, OR 97520. Proposers mailing Proposals should allow normal delivery time to ensure the timely receipt of their Proposals. Any Proposal received after the date and time set for receipt of Proposals will not be considered and will be returned to the proposer unopened. For further information, contact the City's Project Manager, Chance Metcalf, Project Manager at 541-488-5587 or by email at [chance.metcalf@ashland.or.us](mailto:chance.metcalf@ashland.or.us). Consultant selection is anticipated to result in the issuance of a contract for professional engineering services in a form substantially similar to the one provided in this RFP.

Solicitation documents may be downloaded from the Oregon Procurement Information Network (ORPIN). Any addenda relating to this RFP that may be issued will be available from ORPIN, and potential proposers are cautioned to continuously monitor the ORPIN site for updates and addenda.

All Proposals shall be submitted as set forth in Section 7 - Instructions to Proposers. The City is not responsible for Proposals submitted in any manner, format, or to any delivery point other than as

required by this RFP. Proposals shall be limited to six (6) pages and must include the services of a professional engineer registered in Oregon.

Consultant selection will be based upon weighed criteria as set forth in this RFP. Such criteria shall include, but not be limited to the following: similar project experiences, general experience, staffing availability, schedule, and response time.

The City of Ashland reserves the right to cancel this procurement or reject any and all Proposals in accordance with ORS 279B.100.

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Scott A. Fleury, PE, Public Works Director

First date of solicitation: January 5, 2021  
RFP for Project No. 2020-18

**CITY OF ASHLAND  
PUBLIC WORKS DEPARTMENT  
REQUEST FOR PROPOSALS – QUALIFICATIONS BASED SELECTION**

PROJECT NO. No. 2020-18,  
Aviation Engineering Services at Ashland Municipal Airport

**SECTION 1 - PROJECT OVERVIEW**

**1.1 Objectives**

The City of Ashland (City) is seeking Proposals from professional engineering consultants for Project No. **No. 2020-18, Aviation Engineering Services at Ashland Municipal Airport**. The purpose of this project is for execution of aviation-related professional engineering and consulting services in accordance with the Department of Transportation, Federal Aviation Administration Advisory Circular 150/5100-14E for airport development projects at the Ashland Municipal Airport.

Project No. 2020-18 will include, but is not specifically limited to, the following tasks and phases:

AIP - Parallel Taxiway Rehabilitation

- Provide all required preliminary engineering services including:
  - Environmental services for project development
  - Development of construction plans
  - Development of cost estimates
  - Development of specifications and contract documents
- Provide all required construction engineering services including:
  - Contract administration
  - Construction inspections
  - Preparation of required reports, reviews and certifications
  - Preparation of final report and project closeout

Future Engineering Services and Projects (Separate from AIP Projects)

- Airport infrastructure construction and maintenance projects
- Construction projects required to meet FAA safety requirements
- FAA grant administration assistance
- Preparation of reports, reviews, plans and other documents required by FAA
- Other aviation-related engineering services

**1.2 Background Information**

The City of Ashland owns and operates the Ashland Municipal Airport-S04 (AMA) located northwest of Dead Indian Memorial Road in Southern Oregon. The airport occupies 94 acres of land located within the City limits of Ashland. The airport is listed as a General Aviation Airport under the National Plan of Integrated Airport System with a FAA reference code of B-1 (small aircraft). The single runway, listed as Runway 12/30, is a 75-foot-wide, 3,600-foot-long asphalt runway.

Nearly all capital projects at AMA have been funded through grants from the FAA or the Oregon Department of Aviation (ODA).

ALP – Parallel Taxiway Rehabilitation Project involves engineering, permitting, environmental review, construction and construction administration of a general mill and overlay of the taxiway, new subsurface drainage, new taxiway edge lights, and a new lighted mandatory hold position sign. The Parallel taxiway is currently shown in the 2016 ODA pavement maintenance report as satisfactory to poor ranging from 71-80. This project will be funded through an AIP grant.



### 1.3 Reference Documents

The Airport Master Plan completed in January of 2020 which includes the current five-year list of projects previously stated in this solicitation is available as well as the 2019 Pavement Evaluation/Maintenance Management Program for the Ashland Municipal Airport.

SECTION 2 - SCHEDULE

The schedule of events listed below represents City’s estimated schedule for this project. This schedule is SUBECT TO CHANGE and will be adjusted as required.

	EVENT	DAILY COUNT (CALENDAR DAYS)	DATE
1.	Request for Proposal Released	0	1/5/2021
2.	Last Date for Request for changes/Protest for specifications/Questions	10 days prior to Proposal Closing	1/23/2021
3.	Last Date for City to Post Addenda	3 days prior to Proposal Closing	1/30/2021
4.	Closing Date (last day to submit Proposals)	~30 days after Proposal Release	2/2/2021
5.	Responses Evaluated	~15 days after Closing Date	2/17/2021
6.	Interviews Held (if necessary)	~25 days after Closing Date	2/27/2021
7.	Intent to Award Announced	~30 days after Closing Date	3/4/2021
8.	Contract Negotiations	~40 days after Closing Date	3/14/2021
9.	Expected Project Completion (all phases)	60 months after Contract Award	4/1/2026

SECTION 3 - SCOPE OF SERVICES

3.1 General Requirements

- **Personnel, Materials, & Equipment:** The Consultant shall provide qualified and competent personnel and shall furnish all supplies, equipment, tools and incidentals required to accomplish the work. All materials and supplies shall be of good quality and suitable for the assigned work.
- **Safety Equipment:** The Consultant shall provide and use all safety equipment including, and not limited to hard hats, safety vests and clothing required by State, Federal regulations and Department policies and procedures.
- **Professional Responsibilities:** The Consultant shall perform the work using the standards of care, skill and diligence normally provided by a professional in the performance of such services in respect to similar work and shall comply will all applicable codes and standards.
- **Project Management:** The Consultant and the City staff will meet as required during project duration. The objectives of the meeting will include reviewing the scope, budget, schedule and deliverables. The Consultant will organize and manage the consultant project team and coordinate with city project manager and City staff. F
- **Monthly Invoices and Progress Reports:** The Consultant shall prepare monthly invoices and progress reports including the following:
  - Work Completed during the month by work task as a percentage of completion.
  - Needs for Additional Information, Reviews, or Changes to the Scope of Work.
  - Scope, Schedule, and Budget Issues and Changes.

3.2 Specific Requirements

The City of Ashland (City) is seeking professional consultant services for Project **No. 2020-18, Aviation Engineering Services at Ashland Municipal Airport**. This project involves the execution of aviation-related

professional engineering and consulting services in accordance with the Department of Transportation, Federal Aviation Administration Advisory Circular 150/5100-14E for airport development projects at the Ashland Municipal Airport. This proposal will also establish the qualifications of consultant(s) for the development of future aviation-related engineering services projects at Ashland Municipal Airport to be undertaken within five (5) years from the submittal date of this RFP.

Proposers must demonstrate experience and knowledge of Federal Aviation Administration (FAA) regulations, policies, and procedures and must have experience in design and development of similar aviation-related projects.

## **CONSULTANT DUTIES**

### ALP – Parallel Taxiway Rehabilitation

Professional services to be provided by the consultant will include civil engineering services required to accomplish the following items:

#### PHASE 1 - PRELIMINARY DESIGN

The preliminary design phase is intended to identify and evaluate alternatives to assure cost effective and practical solutions for the work items identified. The consultant will complete its evaluation of alternatives through contacts with local authorities and review of the pre-application, field investigations, and a practical design approach. The design will take advantage of local knowledge and experience and utilize expertise from recent construction projects to design a cost-effective project and ensure competitive construction bids. State project elements should follow FAA protocols for prioritization including Safety, standards, minimization of cost and impact to airport operations in this order. Activities include:

- a. Coordinate with airport Fixed Base Operator (FBO) to minimize impacts in day-to-day operations of the airport.
- b. Prepare a preliminary estimate of probable construction costs and schematic design for each element of the project.
- c. Provide all pavement and subsurface investigation and analysis and other nondestructive testing and analysis required for the design.
- d. Coordinate with the airport's project manager for required survey information.
- e. Prepare an overall construction phasing plan in order to maximize project constructability and minimize interference with airport operations following FAA Prioritization protocols.
- f. Determine aircraft usage through coordination with FBO and information furnished by the City. Design the pavements to meet the anticipated aircraft traffic.

#### PHASE 2 - ENGINEERING PHASE ACTIVITIES

- a. Evaluate local conditions.
    1. Evaluate local material suppliers, sources, and capabilities.
    2. Evaluate drainage alternatives.
  - b. Review and evaluate project layout.
    1. Verify master plan dimensions and data.
    2. Review findings and recommendations with City staff.
-

- c. Complete necessary topography and site surveying, including establishment of project control points.
- d. Complete preliminary plan and profile design for the taxiway mill and overlay including drainage, edge lights and hold position light.
- e. Provide recommendations for construction phasing to City for their review.
- f. Complete estimates of probable construction costs for the recommended alternatives.
- g. Provide three sets of review documents.
- h. Complete the preliminary design report including:
  - 1. Topographical survey.
  - 2. Preliminary plans.
  - 3. Pavement section design and analysis.
  - 4. Drainage design analysis.
  - 5. Estimates of probable construction costs.
  - 6. Final summary and recommendations.
  - 7. Phasing and scheduling recommendations.
- i. Solicit comments on the engineering design from City staff, FBO and the FAA.

### PHASE 3 - FINAL DESIGN

In the final design phase, the consultant will provide well-defined construction requirements, with selected bid alternatives as appropriate to provide a basis for competitive construction bids. Construction schedules will be closely coordinated to assure the best possible weather conditions and the least possible interference with airport operations. Consultant will also assist City with the advertisement, notification of local airport users, and generally complete the final construction contract documents for the project. The following outline describes in greater detail the tasks and products:

- a. Incorporate preliminary design comments and respond as necessary to requests for additional information.
  - b. Provide final design drawings, specifications, and final estimate of probable construction costs and schedule for the project.
  - c. Provide Engineering Report.
  - d. Develop specifications using Advisory Circular 150/5370-10, *Standards for Specifying Construction of Airports*, as amended, and utilize standard provisions supplied by the sponsor.
  - e. Develop a safety plan in accordance with AC 150/5370-2, *Operational Safety on Airports During Construction*.
  - f. Design all improvements in accordance with FAA standards and guidelines and in accordance with the Airport Certification Manual.
  - g. Coordinate the design of the project with existing and ultimate grades established at adjacent areas.
  - h. Provide for all required design of utilities and services within the area defined in the preliminary design.
  - i. Complete final quantity calculations.
  - j. Solicit sponsor and FAA review and approval.
  - k. Provide fifteen (15) sets of contract documents.
  - l. Assist City with advertising and interpretation of project requirements.
  - m. Assist City with preparation of the FAA application.
  - n. Provide technical assistance and recommendations to the City during construction.
-

The consultant will advise the sponsor as to options available for reducing construction costs to stay within the budget, if it appears that likely consultant bid prices will exceed this budget.

- o. The design schedule to meet FAA requirements places the bid opening date in April 2022. All consultant activities must be designed to meet that schedule.

#### PHASE 4 - CONSTRUCTION SERVICES

During the construction phase of the project, the consultant will assist the City to monitor and document progress for quality and cost. Review contractor payment requests, complete necessary quality control testing, establish necessary survey control, continually inform the City on project progress and problems, conduct the final project inspection, and complete the associated certification.

- a. Assist with pre-bid conference. Issue addenda's, prepare an abstract of bids, and make recommendations for award.
- b. Assist in award notification to successful bidder and notify and return bid bonds to the unsuccessful bidders.
- c. Solicit and review bonds, insurance certificates, construction schedules, etc.
- d. Conduct preconstruction conference.
- e. Complete construction staking and provide horizontal and vertical control.
- f. Provide resident project representative to monitor and document construction progress, confirm conformance with schedules, plans and specifications, measure and document construction pay quantities, document significant conversations or situations, document input or visits by local authorities, etc.
- g. Prepare change orders and supplemental agreement, if required.
- h. Provide review of all submittal and shop drawings during construction.
- i. Prepare and submit inspection reports.
- j. Prepare and confirm monthly payment request.
- k. Conduct necessary quality control testing.
- l. Conduct and document periodic wage rate interviews.
- m. Conduct a final project inspection with airport personnel, the FAA, and the consultant.
- n. Prepare as-constructed drawings and the final project from information furnished by the consultant.

#### SECTION 4 - EVALUATION CRITERIA

Written Proposals will be evaluated and scored, and a contract may be awarded based upon the proposer's qualifications and experience as described below:

##### **4.1 Project Approach (20 Points Possible)**

Provide a description of your firm's approach to completing similar airport/aviation projects. Include a summary of prior partnerships with FAA. Include a summary of your quality control program.

##### **4.2 Project Experience (20 Points Possible)**

- a. Describe how your firm is organized and how its resources will be utilized to complete the work.
  - b. Provide a summary of relevant FAA and Airport work experience.
  - c. Provide a concise description of at least three (3) projects in the last ten (10) years, involving similar work to those listed in the scope of work.
-

- d. Indicate which members of the proposed project team, if any, who worked on the example projects, and their involvement. These team members should be included in the Key Persons list submitted in 4.3(b) below.
- e. Submit references for three of the projects described above. Include the Owners name, organization name, contact name, contact email and phone.

**4.3 Project Team Experience (30 Points Possible)**

- a. Provide a description of the proposed organizational structure to be used for the project.
- b. Provide a list of the key staff proposed for this project (“Key Person(s)”). Be specific on the individuals that will play primary roles in development of the required engineering and their experience working with the FAA and Airport improvement projects. Provide a concise summary of each key person(s)’s role, and a description of their relevant experience for this project.
- c. Submit resumes that support each Key Person’s relevant experience. *No more than five resumes should be submitted as Appendix A, and will not count against page limit.*
- d. Indicate which individual will manage the project and be the primary contact. Indicate the specific experience this individual has managing Airport improvement projects.
- e. State the estimated proportion of each Key Person’s time that will be spent on City’s project vs. total time spent on all Key Person’s projects during the term of contract.

**4.4 Proposer’s Demonstrated Ability to Successfully Complete Similar Projects on Time and Within Budget (30 Points Possible)**

For each of the three (3) projects listed in response to 4.2(c), provide a discussion of whether the project was completed on time and on budget or needed to be revised. Briefly explain the reason for any revisions, and what attempts were made to bring the project back on schedule and within budget.

**4.5 Termination for Default (Pass or Fail)**

Proposers shall indicate if they have had a contract terminated for default in the last five (5) years. Termination for default is defined as notice to stop performance that was delivered to the Proposer due to the Proposer’s non-performance or poor performance and the issue of performance was either (a) not litigated due to inaction on the part of the Proposer, or (b) litigated and determined that the Proposer was in default.

NOTE: If a Proposer has had a contract terminated for default in this period, then the Proposer shall submit full details including the other party’s name, address and phone number. City of Ashland will evaluate the facts and may, at its sole discretion, reject the Proposal on the grounds of past performance.

**4.6 Scoring**

	<b>CATEGORY</b>	<b>POSSIBLE POINTS</b>	<b>POINTS SCORING</b>
1.	Project Approach	20	
2.	Project Experience	20	
3.	Project Team Experience	30	
4.	Demonstrated Ability to Successfully Complete Projects on Time and Within Budget	30	
6.	Termination for Default	<u>P/F</u>	
	Total	100	

## SECTION 5 - EVALUATION PROCESS AND CONSULTANT SELECTION

Proposals will be reviewed and evaluated by an evaluation committee consisting of at least three (3) City employees. The total number of points possible for written Proposals is 100, and an additional 100 points may be scored through the interview process.

### 5.1 Review and Acknowledgment of Defective Proposals

Due to limited resources, City generally will not completely review or analyze Proposals that on their faces fail to comply with the minimum mandatory requirements of this RFP nor will City generally investigate the references or qualifications of such proposals. Therefore, City will not acknowledge whether or not an unsuccessful Proposal was complete, responsive, responsible, sufficient, or lawful in any respect. This is a public solicitation, the processes and procedures which are established and required by Oregon law and City-adopted rules. Proposers are advised to strictly follow the process, procedures, and requirements as set forth in this RFP and not anticipate or rely on any opportunity to negotiate, beyond such limitations that are identified herein.

### 5.2 Right of Rejection

Proposers must comply with all terms of this RFP and all applicable federal, state, and local laws, administrative rules, and regulations. The City may reject any Proposal that does not comply with all of the material and substantial terms, conditions, and performance requirements of this RFP.

Proposers may not qualify the Proposal nor restrict the rights of the City. If a Proposer does so, the City may determine the Proposal to be a non-responsive counteroffer, and the Proposal may be rejected.

Minor informalities that may be waived include those that:

- do not affect responsiveness,
- are merely a matter of form or format,
- do not change the relative standing or otherwise prejudice other offers,
- are trivial, negligible, or immaterial in nature,
- do not reflect a material change in the work, or,
- do not constitute a substantial reservation against a requirement or provision.

City reserves the right to refrain from making an award if the City determines that to be in its best interest.

**A Proposal from a debarred or suspended Proposer shall be rejected.**

### 5.3 References

The City reserves the right to investigate any and all references and the past performance information provided in the Proposal with respect to the proposer's successful performance of similar projects, compliance with specifications and contractual obligations, completion or delivery of a project on a schedule, and lawful payment of employees and workers.

The City reserves the right to check any and all sources for information on a proposer's past performance, including sources other than the references provided in the proposer's Proposal. The City may consider information available from any source, including government bodies and regulatory authorities.

---

#### 5.4 Responsibility

The City reserves the right to investigate and evaluate, at any time prior to award and execution of the contract, the apparent successful Proposer's responsibility for performing the contract. Submission of a signed Proposal shall constitute approval for City to obtain any information City deems necessary to conduct evaluation. City reserves the right to request additional information or documentation from the successful Proposer prior to award of contract. Such information may include, but is not limited to, current and recent balance sheets, income statements, cash flow statements, or a performance bond from an acceptable surety. Failure to provide this information will result in rescission of City's Intent to Award.

City may postpone the award of contract after announcement of the apparent successful Proposer in order to complete its investigation and evaluation. Failure of the apparent successful Proposer to demonstrate responsibility shall render the Proposer non-responsible and shall constitute grounds for rejection of the proposal.

#### 5.5 Clarification of Response

City reserves the right to request clarification of any item in any Proposal, or to request additional information necessary to properly evaluate a particular Proposal. All request for clarification and responses shall be in writing.

During the evaluation of Proposals, Proposers must respond to any request for clarification from the Evaluation Committee within 72 hours of request (Monday through Friday). Inability of the Evaluation Committee to reach a Proposer for clarification and/or failure of a Proposer to respond within the time stated may result in rejection of the Proposer's Proposal.

#### 5.6 Interviews

The outcome of the Proposal evaluations *may* result in placement on an interview (short-listed) with time and date of the interview. Should City elect to hold interviews, the total additional points possible for the interview will be **100**.

City may invite up to three (3) of the highest-ranked firms (or at a natural break in scoring) to interview. The firm's Key Persons, as identified by City shall be prepared to attend the interview within five (5) business days of notification by City, and shall be prepared to answer questions provided with the Interview Invite letter, and questions that will be provided at the time of the interview, and discuss the Firm's proposed project approach.

#### 5.7 Finalist Selection

The firm with the highest total score as a result of written Proposal scoring and interview scoring, if conducted, will be considered the Finalist, and all other firms will be ranked according to next highest score, etc.

#### 5.8 Ties among Proposers

If City determines after the ranking of potential firms, that two or more of them are equally qualified to be the Finalist, City may select a candidate through any process that the City believes will result in the best value for taking into account the scope, complexity and nature of the Work. The process shall instill public confidence through ethical and fair dealing, honesty and good faith on the part of City and Proposers and shall protect the integrity of the public contracting process.

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## 5.9 Notice of Intent to Award

After the completion of the evaluation and ranking, the City will issue a written Notice of Intent to Award, naming the Finalist, and send a copy of the Notice to all Proposers.

## 5.10 Contract Negotiation

City will begin negotiating a formal Scope of Work for the project and, subsequently, a fee structure the fees for the project, along with expanded scope of work detail, with the highest ranked Proposer. Negotiations will specifically be focused on obtaining written agreement on:

- a) Contractor's performance obligations and schedule; and any expansion of the Scope of Work.
- b) Contractor's fees, payment methodology, and a maximum amount payable to Contractor for the Work required under the Contract that is fair and reasonable to City determined solely by City, taking into account the value, scope, complexity and nature of work.
- c) Any other provisions City believes to be in the City's best interest to negotiate.
- d) Initial negotiations will be based upon Phase 1 of the project.

City shall, either orally or in writing, formally terminate negotiations with the highest ranked Proposer if City and Proposer are unable for any reason to reach agreement on a Contract within a reasonable amount of time. City may thereafter negotiate with the second ranked Proposer, and if necessary, with the third ranked Proposer, and so on, until negotiations result in a Contract. If negotiations with any Proposer do not result in a Contract within a reasonable amount of time, as determined solely by City, City may end the particular formal solicitation. Nothing in the rule precludes City from proceeding with a new formal solicitation for the same Work described in the RFP that failed to result in a Contract.

## 5.11 Protest Procedures

City shall provide to all Proposers a copy of the selection notice that City sent to the highest ranked Proposer. A Qualified Proposer who claims to have been adversely affected or aggrieved by the selection of the highest ranked Proposer may submit a written protest of the selection to the City. A Proposer submitting a protest must claim that the protesting Proposer is the highest ranked Proposer because the Proposals of all higher ranked Proposers failed to meet the requirements of the RFP or because the higher ranked Proposers otherwise are not qualified to perform the Architectural, Engineering, or Land Surveying Services, or Related Services described in the RFP.

Eligible Proposers protesting award shall follow the procedures described herein. Protests that do not follow these procedures shall not be considered. This protest procedure constitutes the sole administrative remedy available to Proposers.

- a) Protests must be received within seven (7) days after issuance of the notice of intent to award the Contract. City will not consider late protests.
  - b) All protests must be in writing, signed by the protesting party or an authorized Agent. The protest must specify the grounds for the protest to be considered by the City
  - c) Protests based on procedural matters will not be considered.
  - d) The City's Public Works Director will review the protest and will fax and mail the protesting party a written response within three (3) business days of receipt of the written protest to the fax number and address provided in the proposal. Any written response may be comprised of a determination
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of the protest, a notice to the protesting party of the need for additional time in which to evaluate the matter, or other notice to the protesting party.

- e) If the Public Works Director's determination (response) is adverse to the protester, any further appeal of the Public Works Director's determination by the party must be submitted in writing to the City Administrator within three (3) business days of issuance of the Public Works Director's determination (response).
- f) The City Administrator will review any appeal of the Public Works Director's determination and shall fax and mail, in accordance with the fax number and address provided in the proposal, the protesting party a written response within three (3) business days of receipt of written appeal.
- g) If the determination of the City Administrator is adverse to the protesting party's interest, the protesting party may only appeal to the City Council by filing a written notice of appeal to the Council with the City Administrator within two (2) business days of issuance of the City Administrator's written determination.
- h) The Council, in considering the protest, shall review the documentation presented to the Public Works Director and the City Administrator on the next regularly scheduled Council Meeting, but in no event shall they be required to review in less than ten (10) business days, and thereafter, base their decision on such material. The Council review will be limited to the evaluation of compliance with City's policies and procedures, requirements of the RFP and the equal and fair application of City's contracting rules. The City Council's determination shall be City's final decision.

An adversely affected or aggrieved proposer must exhaust all avenues of administrative remedies before seeking judicial review of City's Consultant selection or Notice of Intent to Award.

## 5.12 Resulting Contract

Upon reaching final agreement with regard to fees and a final scope of work with an awarded Proposer, the City will issue a Personal Services Agreement ("PSA"), in substantially the form as found in the Appendix of this RFP. The PSA will include the City's Standard Terms and Conditions, FAA Contract Provisions any other required terms and conditions, the final Scope of Work, and fees.

## SECTION 6 - CONTRACT

### 6.1 Contract Form

The consultant selected by the City will be expected to enter into a written contract in substantially the same form as attached to this RFP. The Proposal should indicate acceptance of the City's contract provisions. Suggested reasonable alternatives that do not substantially impair City's rights under the contract may be submitted as outlined under Section 5.11. Unconditional refusal to accept contract provisions will result in Proposal rejection.

#### Contract Duration – 60 Months

Contract Payment – Contingent upon City's need, consultant's performance and availability of approved funding, City reserves the right to amend the contract (within the scope of the project described in this RFP) for additional tasks, project phases and compensation as necessary to complete a particular project. Proposers are

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advised that the award and potential dollar amount of the contract under this RFP will be contingent upon approval by the Ashland City Council acting as the Contract Review Board.

Payment will be made for completion of, or acceptable monthly progress on, tasks and deliverables in conformance with contract requirements and applicable standards. The method of compensation will be determined by the City and may be based upon any one or combination of the following methods:

- Cost plus fixed-fee, up to a maximum NTE amount
- Fixed price for all services. Fixed price per deliverable. Fixed price per milestone
- Time and materials, up to a maximum NTE amount (City preferred method)
- Price per unit

Ashland Living Wage Requirements – Consultant is required to comply with Chapter 3.12 of the Ashland Municipal Code by paying at least the living wage as established by the City of Ashland on June 30, 2018 (\$15.74 per hour):

- For all hours worked under a service contract between their employer and the City if the contract exceeds \$22,002.43 or more.
- For all hours worked in a month if the employee spends 50% or more of the employee's time in that month working on a project or portion of business of their employer, if the employer has ten or more employees and has received financial assistance for the project or business from the City in excess of \$22,002.43.
- Contractor is also required to post the notice included in the appendix predominantly in areas where it will be seen by all employees.
- In calculating the living wage for full time employees, employers may add the value of health care, retirement, 401K and IRS eligible cafeteria plans, and other benefits to the employee's wages. The City of Ashland Living Wage Statement is appended to the sample contract included in the appendix.

## 6.2 Business License Required

The selected consultant must have or acquire a current City of Ashland business license prior to conducting any work under the contract.

## 6.3 Insurance Requirements

Contractor shall at its own expense provide the following insurance:

- a. Worker's Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers.
  - b. Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$2,000,000 per occurrence. This is to cover damages caused by any error, omission, or negligent act related to the professional services to be provided under the contract.
  - c. General Liability insurance with a combined single limit, or the equivalent, of not less than \$2,000,000 per occurrence for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under the contract.
  - d. Automobile Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 per occurrence for each accident for bodily injury and property damage, including coverage for owned, hired or non-owned vehicles, as applicable.
  - e. Notice of Cancellation or Change. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30 days' written notice from the contractor or its insurer(s) to the City.
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Additional Insured/Certificates of Insurance. Contractor shall name The City of Ashland, Oregon, and its elected officials, officers and employees as additional insurers on any insurance policies required herein but only with respect to contractor's services to be provided under this contract. As evidence of the insurance coverage required by this contract, the contractor shall furnish acceptable insurance certificates prior to commencing work under this contract. The certificate will specify all of the parties who are additional insureds. The consultant's insurance is primary and non-contributory. Insuring companies or entities are subject to the City's acceptance. If requested, complete copies of insurance policies; trust agreements, etc. shall be provided to the City. The contractor shall be financially responsible for all pertinent deductibles, self-insured retention and/or self-insurance.

#### 6.4 Laws and Regulations

The proposer is assumed to be familiar with all Federal, State, County or City laws or regulations, which in any manner affect those engaged or employed in the work or the materials or equipment used or which in any way affect the conduct of the work, and no pleas of misunderstanding will be considered on account of ignorance thereof. If the proposer shall discover any provision in these specifications or project information, plans or contract documents which is contrary to or inconsistent with any law or regulations, they shall report it to the City of Ashland in writing.

All work performed by the contractor shall be in compliance with all Federal, State, County and local laws, regulations and ordinances. Unless otherwise specified, the contractor shall be responsible for applying for applicable permits and licenses.

### SECTION 7 - INSTRUCTIONS TO PROPOSERS

#### 7.1 General

All proposals and any resulting contracts are subject to the requirements of the Oregon Public Contracting Code and Chapter 2.50 of the Ashland Municipal Code.

#### 7.2 Information of Record

This Request for Proposal (RFP) will be distributed through the Oregon Procurement Information Network (ORPIN). All updates, addendum, and related communications will be published through ORPIN. All prospective proposers are advised to continuously monitor the website for information regarding this proposal. It is the sole responsibility of the proposer to check the website on a timely basis for critical information regarding the proposal.

#### 7.3 Proposal Preparation and Format

- Proposals shall be typewritten in 12-point font minimum.
  - Except for proposer attachments, proposal form, cover letter and resumes, the Proposal shall contain no more than six (6) pages.
  - Proposal narrative must follow along with scoring criteria sections
  - No oral, telegraphic, telephone or facsimile Proposals shall be accepted.
  - The electronic submission of a Proposal will not be permitted.
  - To be considered, all Proposals must be received by the City prior to the date and time set for closing.
  - A total of six (6) original (wet signatures), complete Proposals shall be submitted to the City prior to the date and time set for closing.
  - One (1) digital copy of the complete Proposal shall be submitted on a CD or thumb drive.
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#### 7.4 Signature on Proposal

Proposals shall be signed in ink by an authorized representative of the Proposer. Signature on a Proposal certifies that the Proposal is made without connection with any person, firm or corporation making a proposal for the same goods and/or services and is in all respects fair and made without collusion or fraud. Signature on a Proposal also certifies that the proposer has read, fully understands and agrees with all solicitation requirements, terms and conditions. No consideration will be given to any claim resulting from proposing without fully comprehending all requirements of this Request for Proposals.

#### 7.5 Preparation Costs

The City may cancel a solicitation, whether informal or formal, or reject all Proposals, without liability incurred by City at any time after issuing an RFP, if City believes it is in City's best interest to do so. Consultants responding to RFPs are responsible for all costs they may incur in connection with submitting Proposals and responses to RFPs including, but not limited to, preparation, submittal, travel expenses, interviews, and presentations of any Proposal.

#### 7.6 Conformance to Solicitation Requirements

Proposals shall conform to the requirements of this Request for Proposals. All necessary attachments (Independent Contractor Certification, etc.) shall be submitted with the Proposal and in the required format. Failure to comply with all requirements may result in Proposal rejection.

#### 7.7 Definitions

For the purpose of this RFP:

**"Agency"** or **"City"** means City of Ashland.

**"AMA"** means Ashland Municipal Airport

**"Business days"** means calendar days, excluding Saturdays, Sundays and all City recognized holidays.

**"Calendar days"** or **"days"** means any day appearing on the calendar, whether a weekday, weekend day, national holiday, State holiday or other day.

**"Council"** means City of Ashland Council

**"Department"** means the City of Ashland Engineering Department.

**"FAA"** means Federal Aviation Administration.

**"FBO"** means Fixed Base Operator.

**"Manager"** means the City of Ashland Project Manager.

**"ODA"** means Oregon Department of Aviation.

**"Proposers"**- All firms submitting proposals are referred to as Proposers in this document; after negotiations, an awarded Proposer will be designated as "Consultant".

**"Qualification Based Selection"** or **"QBS"** (for the purposes of this RFP) means evaluations and scoring of proposals based on qualifications, experiences and project approach, without considering cost.

**"RFP"** means Request for Proposal.

**"Scope of Work"** means the general character and range of services and supplies needed to complete the work's purpose and objectives, and an overview of the performance outcomes expected by Agency.

**"Services"** means the services to be performed under the Contract by the Consultant.

**"Statement of Work"** means the specific provision in the final contract which sets forth and defines in detail (within the identified Scope of Work) the agreed-upon objectives, expectations, performance standards, services, deliverables, schedule for delivery and other obligations.

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## 7.8 Questions and Clarifications

All inquiries, whether relating to the RFP process, administration, deadline or award, or to the intent or technical aspects of the services, must be submitted in writing to the City's Project Manager listed in the advertisement for this RFP, at 20 East Main Street, Ashland, Oregon 97520. All questions must be received not later than ten (10) calendar days prior to the date and time set for closing.

Answers to questions received by City, which are deemed by City to be substantive, will be issued as official addenda to this RFP to ensure that all proposers base their proposals on the same information. When appropriate, as determined by City in its sole discretions, revisions, substitution or clarification of the RFP or attached terms and conditions, an official addendum to this RFP will be issued. Proposer shall indicate receipt of all issued addenda by indicating the number of addendums received on the Proposal Form.

Any addendum or addenda issued by the City which may include changes, corrections, additions, interpretations or information, and issued seventy-two (72) hours or more before the scheduled closing time for submission of bids, Saturday, Sunday and legal holidays not included, shall be binding upon the proposer. The City may elect to email addendum to registered proposers but will do so as a courtesy only. All official addendums will be issued through ORPIN and it shall be the proposer's sole responsibility to acquire any and all addendum pertaining to RFP. The proposer is strongly cautioned to monitor this site on a continual basis.

## 7.9 Protest of Requirements

Proposers may submit a written protest of any provision, specification or contract term contained in this RFP and may request a change to any provision, specification or contract term contained in this RFP, not later than ten (10) calendar days prior to the advertised proposal closing date.

A proposer's written protest must meet the following requirements:

- A detailed statement of the legal and factual grounds for the protest.
- The reason for the protest or request for change.
- A statement of the form of relief requested or any proposed changes to the specifications or contract document.

All protests shall be mailed or otherwise delivered to the City marked as follows:

PROPOSAL PROTEST  
Proposal No. **No. 2020-18**,  
City of Ashland Public Works Dept.  
ATTN: Chance Metcalf, Project Manager  
20 East Main St  
Ashland, OR 97520

City Response: The City may reject without consideration a proposer's protest after the deadline established for submitting protest. The City shall provide notice to the applicable proposer if it entirely rejects a protest. If the City agrees with the proposer's protest, in whole or in part, the City shall either issue an addendum reflecting its determination or cancel the solicitation.

Extension of Closing: If the City receives a written protest from a proposer in accordance with this rule, the City may extend closing if the City determines an extension necessary to consider the protest and to issue addenda, if any, to the solicitation of document.

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Judicial review of the City's decision relating to a specification protest shall be in accordance with ORS. 279B.405.

#### 7.10 Protest of Contract Award

Every Proposer who submits a proposal shall be notified of its selection status. Any Proposer who claims to have been adversely affected or aggrieved by the selection of another or any Proposer who contends that the provisions of this RFP or any aspect of the procurement process has promoted favoritism in the award of the contract or has substantially diminished competition, must file a written protest to this RFP within seven (7) calendar days after the date of the notice of intent to award. Failure to file a protest will be deemed a waiver of any claim by an offeror that the procurement process violates any provision of ORS Chapters 279A, 279B, or 279C, the City of Ashland Municipal Code, or the City's procedures for screening and selection of persons to perform personal services.

#### 7.11 Proposal Modification

Modifications or erasures made before proposal submission shall be initialed in ink by the person signing the proposal. Proposals, once submitted, may be modified in writing before the time and date set for proposal closing. Any modification shall be prepared on company letterhead, shall be signed by an authorized representative, and shall state that the new document supersedes or modifies prior proposal submissions and any other prior proposal modifications. Proposal modifications shall be submitted in a sealed envelope clearly marked "Proposal Modification," identifying the RFP number and closing date and time. Proposers may not modify proposals after proposal closing date and time.

#### 7.12 Proposal Withdrawals

Proposals may be withdrawn in writing on company letterhead signed by an authorized representative and received by the Engineering Services Manager prior to the date and time set for closing. Proposals may be withdrawn in person before closing time upon presentation of appropriate identification.

#### 7.13 Proprietary Information

The City is subject to the Oregon Public Records Laws (ORS 192.311 to 192.478), which require the City to disclose all records generated or received in the transaction of City business, except as expressly exempted. The City will not disclose records submitted by a Proposer that are exempt from disclosure under the Oregon Public Records Law, subject to the following procedures and limitations.

The entire Proposal cannot be marked confidential.

All pages containing the records exempt from disclosure shall be marked "confidential" and segregated in the following manner:

- It shall be clearly marked in bulk and on each page of the confidential document.
  - It shall be kept separate from the other Proposal documents in a separate envelope or package
  - Where the specification conflicts with other formatting and response instruction specifications, this specification shall prevail.
  - Where such conflict occurs, the Proposer is instructed to respond with the following: "Refer to confidential information enclosed."
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- This statement shall be inserted in the place where the requested information was to have been placed.

Proposers who desire that additional information be treated as confidential must mark those pages as “confidential.” Proposers shall also cite the specific statutory basis for the exemption and give the reasons why the public interest would be served by the confidentiality. Should a Proposal be submitted as described in this section, no portion of it will be held confidential unless that portion is segregated as described in the criteria above.

Notwithstanding the above procedures, the City reserves the right to disclose information that the City determines, in its sole discretion, is not exempt from disclosure or that the City is directed to disclose by the City’s Attorney, the District Attorney, or a court of competent jurisdiction.

#### 7.14 Terms and Conditions

Unless an official addendum has modified or reserved the right to negotiate any terms contained in the contract or exhibits thereto, the City will not negotiate any term or condition after the protest deadline, except the statement of work, pricing, and calendar with the selected proposer. By submitting a Proposal, the selected proposer agrees to be bound by the terms and conditions as set forth in this RFP and as such terms and conditions may have been modified or reserved by the City for negotiation. Any Proposal that is received conditioned upon City’s acceptance of any other terms and conditions or rights to negotiate will be rejected.

#### 7.15 Proposal Opening

Unless otherwise provided by law, Proposals received in response to this RFP shall be opened at the date and time set for closing at the Engineering Services Building at 51 Winburn Way, Ashland, Oregon 97520. Proposers who attend the Proposal opening shall be informed only of the names of the Proposers submitting Proposals. No other information shall be available, and no copies of the Proposals shall be made. Award decisions will NOT be made at that time.

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**PUBLIC IMPROVEMENT CONTRACT**

**FOR**

**ASHLAND MUNICIPAL AIRPORT/SUMNER PARKER FIELD  
TAXIWAY RECONSTRUCTION AND REHABILITATION PROJECT**

**PROJECT NO. 2020-18  
AIP # 3-41-0002-016-2022**

This Public Improvement Contract (hereinafter "Contract") is entered into by and between the CITY OF ASHLAND, an Oregon municipal corporation (hereinafter "City"), and LTM, Inc dba Knife River Materials (hereinafter "Contractor").

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties mutually covenant and agree as follows:

**1. PROJECT MANAGER:**

The City's Project Manager for this Contract is:

**Chance Metcalf, Engineering Project Manager, City of Ashland Public Works Engineering Department.**

**2. WORK:**

**2.1.** The Work under this Contract is for the **ASHLAND MUNICIPAL AIRPORT/SUMNER PARKER FIELD TAXIWAY RECONSTRUCTION AND REHABILITATION PROJECT; Project No. 2020-18 AIP # 3-41-0002-016-2022** as more fully described in the Contract Documents listed in Section 5 of EXHIBIT A, STANDARD TERMS AND CONDITIONS FOR PUBLIC IMPROVEMENT CONTRACTS. Contractor shall complete all Work as specified in the Contract Documents. The Work is generally described as follows:

- 2.1.1. Shift and reconstruct Taxiway A centerline approximately 12' west to create a consistent, full-length, 150' offset between Runway 12-30 and Taxiway A centerlines. Reconstruction of Taxiway A extending from Taxiway A3 to Taxiway A6 (approximately 2,750 ft by 25 ft), including reconstruction of Northwest Apron Taxiway 1 and 2, partial reconstruction of Taxiway A5 and A6, and the run-up apron;
- 2.1.1.1. Demolish, overexcavate, and replace approximately 10,000 SY of pavement section.

- 2.1.2. Taxiway rehabilitation extending from Taxiway A3 southeast along Taxiway A to taxiway end (approximately 1,850 ft by 35 ft) including Taxiways A1, A2, and A3;
  - 2.1.2.1. Crack seal and/or surface seal approximately 4,800 SY of existing pavement.
- 2.1.3. New taxiway edge lighting, including new conduit/wire and electrical building improvements;
- 2.1.4. New underdrains;
- 2.1.5. Associated drainage improvements;
- 2.1.6. New airfield signage and pavement marking associated with the taxiway and its connectors;
- 2.1.7. Replace the Constant Current Regulator (CCR);
- 2.1.8. Replace the Radio Control Equipment;
- 2.1.9. Constructed electrical room modifications as needed for the CCR and radio control equipment replacement and associate NEC code updates;
- 2.1.10. Upgrade/modify existing power and control, as required; and
- 2.1.11. Associated shoulder grading, topsoil, seeding and restoration.

The Statement of Work, including the delivery schedule for the Work, is contained in the Contract Documents.

**2.2. Contractor** shall, at its own risk and expense, perform the Work described in the Contract Documents and furnish all permits, labor, tools, machinery, materials, transportation, equipment and services of all kinds required for, necessary for, or reasonable incidental to, performance of the Work, that is, the construction of the ASHLAND MUNICIPAL AIRPORT/SUMNER PARKER FIELD TAXIWAY RECONSTRUCTION AND REHABILITATION PROJECT; Project No. 2020-18 AIP# 3-41-0002-016-2022. Contractor shall secure all municipal, County, State, or Federal Permits or licenses including payment of permit fees, license fees, and royalties necessary for or incidental to the performance of the Work. The risk of loss for such Work shall not shift to the City until written acceptance of the Work by the City.

### **3. EFFECTIVE DATE AND DURATION:**

This Contract is effective as of the date of execution by the City (the “Effective Date”). All Work under this Contract shall, unless otherwise terminated or extended, be completed on or before 90 calendar days following Contractor’s receipt of the written Notice to Proceed.

### **4. CONSIDERATION**

- 4.1.** City agrees to pay Contractor, at the times and in the manner provided in the Contract Documents, the sum of \$2,604,807.75 for performing the Work required by this Contract, including allowable expenses. This sum cannot be modified except by Change Order approved in writing by the City. Any progress payments to Contractor shall be made only in accordance with the schedule and the requirements as set forth in the Standard Terms and Conditions.
- 4.2.** City certifies that sufficient funds have been appropriated to make payments required by this Contract during the current fiscal year. Contractor understands and agrees that City’s payment of amounts under this Contract attributable to Work performed after the last day of the current fiscal year is contingent upon City appropriations, or other expenditure authority

sufficient to allow City in the exercise of its reasonable discretion, to continue to make payments under this Contract. In the event City has insufficient appropriations, limitations or other expenditure authority, City may terminate this Contract without penalty or liability to City, effective upon the delivery of written notice to Contractor, with no further liability to Contractor.

## **5. CONTRACTOR'S REPRESENTATIONS**

In order to induce City to enter into this Contract, Contractor makes the following representations: Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.

- 5.2.** Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- 5.3.** Contractor is familiar with and is satisfied as to all laws and regulations that may affect cost, progress, and performance of the Work.
- 5.4.** Contractor has carefully studied all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- 5.5.** Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.
- 5.6.** Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- 5.7.** Contractor is aware of the general nature of work to be performed by City and others at the Site that relates to the Work as indicated in the Contract Documents.
- 5.8.** Contractor has given City written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by City is acceptable to Contractor.
- 5.9.** The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

## 6. Governing Law

The provisions of this Contract shall be construed in accordance with the laws of the State of Oregon. Any action or suits involving any question arising under this contract must be brought in the appropriate court in Jackson County, Oregon. If the claim must be brought in a federal forum, then it shall be brought and conducted in the United States District Court for the District of Oregon. Contractor, by the signature herein of its authorized representative, hereby consents to the *in personam* jurisdiction of said courts. In no event shall this section be construed as a waiver of the City of any form of defense or immunity.

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**CONTRACTOR DATA, CERTIFICATION, AND SIGNATURE**

Business Name (please print): \_\_\_\_\_

Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Address \_\_\_\_\_

*Do Not Write Federal and State Tax ID Numbers on this Agreement: One copy of W-9 is to be submitted with the signed contract to be kept on file in the City of Ashland Finance Department.*

Ashland Business License # \_\_\_\_\_ Construction Contractors Board # \_\_\_\_\_

Citizenship: Nonresident alien \_\_\_\_\_ Yes \_\_\_\_\_ No

Business Designation (check one): \_\_\_\_\_ Individual \_\_\_\_\_ Sole Proprietorship \_\_\_\_\_  
Partnership \_\_\_\_\_ Corporation \_\_\_\_\_ Government/Nonprofit

The above information must be provided prior to contract approval. Payment information will be reported to the Internal Revenue Service (IRS) under the name and taxpayer I.D. number provided above. (See IRS 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records could subject you to 31 percent backup withholding.

I, the undersigned, understand that the Standard Terms and Conditions For Public Improvement Contracts (**Exhibit A**) together with **Exhibits B through T** together with all other Contract Documents as described in Standard Terms and Conditions Section 5 below, and the separately bound FAA Advisory Circulars (latest editions and changes) and Oregon 2021 Standard Specifications for Construction, as amended by the City of Ashland’s most recent Addenda to the 2021 Standard Specifications are an integral part of this contract and agree to perform the work described in the Contract Documents, including **Exhibit A**, in accordance with the terms and conditions of this contract. I further understand the City is prohibited from entering into a contract when the contractor has neglected or refused to file any return, pay any tax, or properly contest a tax, pursuant to ORS 305.385; I hereby certify, under penalty of perjury and false swearing, that I/my business am/is not in violation of any Oregon tax laws; I further certify that the certification and representations in Standard Term and Condition # 16 [CCB Registration Requirements] are true and correct, and further I certify that I am an independent contractor as defined in ORS 670.600.

**CONTRACTOR:**

\_\_\_\_\_  
Signature/Title

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Date

*NOTICE TO CONTRACTOR: This contract does not bind the City of Ashland unless and until it has been executed by the Public Contracting Officer or designee.*

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**CITY OF ASHLAND SIGNATURE**

**CITY:**

\_\_\_\_\_  
City Manager, City of Ashland

\_\_\_\_\_  
Date

**ATTACHMENTS:** Certificate of Representation  
Standard Terms & Conditions  
Bid Schedule  
Insurance Requirements

Approved as to Form

  
Douglas M. McGeary  
Acting City Attorney

**CERTIFICATE OF REPRESENTATION**

Contractor, under penalty of perjury, certifies that:

- (a) The number shown on this form is its correct taxpayer ID (or is waiting for the number to be issued to it; and
- (b) Contractor is not subject to backup withholding because
  - (i) it is exempt from backup withholding or
  - (ii) it has not been notified by the Internal Revenue Service (IRS) that it is subject to backup withholding as a result of a failure to report all interest or dividends, or
  - (iii) the IRS has notified it that it is no longer subject to backup withholding. Contractor further represents and warrants to City that
    - (a) it has the power and authority to enter into and perform the work,
    - (b) the Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms, and
- (c) The work under the Contract shall be performed in accordance with the highest professional standards, and
- (d) Contractor is qualified, professionally competent and duly licensed to perform the work. Contractor also certifies under penalty of perjury that its business is not in violation of any Oregon tax laws, and it is a corporation authorized to act on behalf of the entity designated above and authorized to do business in Oregon or is an independent contractor as defined in the contract documents, and has checked four or more of the following criteria:
  - \_\_\_\_\_ (1) I carry out the labor or services at a location separate from my residence or is in a specific portion of my residence, set aside as the location of the business.
  - \_\_\_\_\_ (2) Commercial advertising or business cards or a trade association membership are purchased for the business.
  - \_\_\_\_\_ (3) Telephone listing is used for the business separate from the personal residence listing.
  - \_\_\_\_\_ (4) Labor or services are performed only pursuant to written contracts.
  - \_\_\_\_\_ (5) Labor or services are performed for two or more different persons within a period of one year.
  - \_\_\_\_\_ (6) I assume financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be provided.

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date



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# STANDARD TERMS AND CONDITIONS FOR PUBLIC IMPROVEMENT CONTRACTS (EXHIBIT A)

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## **1. Contractor is Independent Contractor**

- a. Contractor shall perform the work required by this Contract as an independent contractor.
- b. The Contractor represents and warrants that Contractor (i) is not currently an employee of the federal government or the State of Oregon, and (ii) meets the specific independent contractor standards of ORS 670.600, as certified on the Independent Contractor Certification Statement attached as **Exhibit D**.
- c. Contractor will be responsible for any federal or state taxes applicable to any compensation or payment paid to Contractor under this contract.
- d. Contractor is not eligible for any federal Social Security, unemployment insurance, state Public Employees' Retirement System, or workers' compensation benefits from compensation or payments to Contractor under this contract.

## **2. Subcontracts and Assignment**

Contractor shall not subcontract any of the work required by this contract, or assign, sell, dispose of, or transfer any of its interest in this contract, nor delegate duties under the contract, either in whole or in part, without the prior written consent of the City. Such consent if provided shall not relieve the Contractor of any of the obligations under the contract. Any assignee or transferee shall be considered the agent of the contractor and be bound to abide by all provisions of the contract. If the City consents in writing to an assignment, sale, disposal or transfer of the Contractor's rights or delegation of Contractor's duties, the Contractor and its Surety, if any, shall remain liable to the City for complete performance of the Contract as if no such assignment, sale, disposal, transfer or delegation had occurred unless the City otherwise agrees in writing. [OAR 137-049-0200(2)]

Use of Subcontractors, material suppliers or equipment suppliers shall in no way release Contractor from any obligations of contract with City. Contractor will provide in all subcontract agreements that the Subcontractor, material supplier and equipment supplier will be bound by the terms and conditions of this Contract to the extent that they relate to the Subcontractor's work, material or equipment. All Subcontracts are assignable to the City at City's option, in the event this agreement is terminated for default of Contractor.

Contractor covenants and agrees to bind any and all subcontractors for performance of work under this Contract in the same manner Contractor is bound to City. Contractor further agrees that if subcontractors are employed in the performance of this contract, the Contractor and its subcontractors are subject to the requirements and sanction of ORS Chapter 656, Workers' Compensation.

## **3. No Third-Party Beneficiaries**

City and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives or provides any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

#### 4. **Successors in Interest**

The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and approved assigns, if any.

#### 5. **Contract Documents**

The Contract Documents, which comprise the entire Contract between the City and Contractor, include all sections or parts of the bid package however denominated, including all documents and plans attached or referenced therein, the Notice to Contractors - Invitation to Bid, Offer, First-Tier Subcontractors Disclosure Form, Surety Bond, Public Improvement Contract, Contract Standard Terms and Conditions and Exhibits thereto, Performance Bond, Payment Bond, Special Provisions, Plans entitled “**ASHLAND MUNICIPAL AIRPORT/SUMNER PARKER FIELD TAXIWAY RECONSTRUCTION AND REHABILITATION PROJECT, No. 2020-18, AIP# 3-41-0002-016-2022**”, Construction Drawings, Standard Drawings, and Contract Addendums, all attached hereto, and incorporated herein by this reference, together with the *Prevailing Wage (BOLI and Davis Bacon) AND any other separately bound reference*, FAA Advisory Circulars (latest editions and changes), Oregon 2021 Standard Specifications for Construction, and City of Ashland Addenda, incorporated herein by this reference. All exhibits, schedules and lists attached to the Contract Documents, or delivered pursuant to the Contract Documents, shall be deemed a part of the Contract Documents and incorporated herein, where applicable, as if fully set forth herein.

#### 6. **Contractor’s Representations**

By executing this contract, the Contractor hereby certifies that the representations made by the Contractor in the Contract Documents, including specifically the Offer, are true and correct and are incorporated herein by this reference. Contractor further certifies that Contractor has given the City written notice of conflicts, errors, ambiguities, or discrepancies that it has discovered in the Contract Documents, and the written resolution thereof by the City is acceptable to the Contractor, and the Contract Documents are generally sufficient to indicate and convey understanding of terms and conditions for performing and furnishing the project work.

#### 7. **Drug Testing [ORS 279C.505(2)]**

- a. Contractor shall certify to the City that it has a drug-testing program in place for all its employees that includes, at a minimum, the following:
  - i. A written employee drug-testing policy,
  - ii. Required drug testing for all new Subject Employees or alternatively, required testing of all Subject Employees every 12 months on a random selection basis, and
  - iii. Required testing of a Subject Employee when the Contractor has reasonable cause to believe the Subject Employee is under the influence of drugs.
- b. A drug-testing program that meets the above requirements will be deemed a “Qualifying Employee Drug-testing Program.” For the purposes of this section, an employee is a “Subject Employee” only if that employee will be working on the Public Improvement project job site.
- c. By executing and returning this contract the Contractor certifies, represents and warrants to the City that a Qualifying Employee Drug-testing Program is in place at the time of execution, will continue

in full force and effect for the duration of this contract, and that Contractor will comply with the provisions of subsection (d) below. Further, the City's performance obligation (which includes, without limitation, the City's obligation to make payment) is contingent on Contractor's compliance with this representation and warranty.

- d. Contractor will require each subcontractor providing labor for the project to:
  - i. Demonstrate to the Contractor that it has a Qualifying Employee Drug-testing Program for the subcontractor's Subject Employees, and represent and warrant to the Contractor that the Qualifying Employee Drug-testing Program is in place at the time of subcontract execution and will continue in full force and effect for the duration of the subcontract; or
  - ii. Require that the subcontractor's Subject Employees participate in the Contractor's Qualifying Employee Drug-testing Program for the duration of the subcontract.

## **8. Notice to Proceed**

Written Notice to Proceed will be given by the City after the Contract has been executed and the Performance Bond, Payment Bond, and all required insurance documents approved. Notice To Proceed shall not be unreasonably delayed and shall generally occur within thirty (30) days of the contract date. Reasonable delay may be occasioned by the need to obtain necessary permits or easements or utility relocation. The Contractor shall commence the project work within ten (10) days of the date of the written Notice To Proceed. Contractor is not to commence work under the Contract prior to such written notice.

Due to the timing and availability of project funding, City of Ashland Zoning/Land Use Permits for work within a FEMA Floodway, weather, field conditions or operational circumstances, Notice to Proceed (NTP) for various segments of the contract work may be issued beginning in May/June 2023, and will be issued by the Owner at the Owner's convenience. Dates listed below for the various segments of work are approximate only, and the Owner reserves the right to issue NTP at any time that project funding, weather, field conditions, or operational circumstances allow. No adjustments will be made to the pricing established in this proposal regardless of when Notice to Proceed is issued. No work shall begin prior to issuance of Notice to Proceed by the Owner.

Notice to Proceed for work segments shall be as follows:

1. NTP for construction items related to all phases of construction is anticipated on or about May/June 2023, at the convenience of the Owner.
2. NTP for the final application of painted pavement markings is anticipated after expiration of the asphalt concrete/slurry seal curing period. The time allowed for this work is 1 calendar day. NTP will be issued at the convenience of the Owner.

## **9. Suspension of the Work**

The City, and its authorized representatives, may suspend portions or all of the project work due to causes including, but not limited to:

- a. Failure of the Contractor to correct unsafe conditions;
- b. Failure of the Contractor to carry out any provision of the Contract;
- c. Failure of the Contractor to carry out orders;
- d. Conditions, in the opinion of the City, which are unsuitable for performing the project work;

- e. Allowance of time required to investigate differing site conditions;
- f. Any reason considered to be in the public interest.

The contract time will not be extended, nor will the Contractor be entitled to any additional compensation if the work is suspended pursuant to subsections (a), (b) or (c). If the project work is suspended pursuant to subsection (f), the Contractor is entitled to a reasonable extension of the contract time and reasonable compensation for all verified costs resulting from the suspension plus a reasonable allowance for overhead with respect to such costs. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination. The foregoing provision concerning compensation in the event of a suspension of Work of this contract shall not apply if such suspension occurs as a result of the Contractor's violation of any Federal, State, or Local statutes, ordinances, rules or regulations, or as a result of any violation by the Contractor of the terms of this contract, including a determination by the City that the Contractor has not progressed satisfactorily with the Work in accordance with specifications.

## **10. Early Termination**

- a. The City and the Contractor, by mutual written agreement, may terminate this Contract at any time.
- b. The City, on 30 days written notice to the Contractor, may terminate this Contract for any reason deemed appropriate in its sole discretion.
- c. The City may terminate this contract, in whole or in part, at any time for any reason considered by the City, in the exercise of its sole discretion, to be in the public interest. The City will provide the Contractor, and the Contractor's surety, seven (7) days prior written notice of a termination for public convenience.
- d. Either the City or the Contractor may terminate this Contract in the event of a breach of the Contract by the other. Prior to such termination, however, the party seeking the termination shall give to the other party written notice of the breach and of the party's intent to terminate. If the Party has not entirely cured the breach within 15 days of the notice, then the party giving the notice may terminate the Contract at any time thereafter by giving a written notice of termination.

## **11. Payment on Early Termination**

- a. If this contract is terminated under 10(a),(b), or (c), the City shall pay the Contractor for work performed in accordance with the Contract prior to the termination date.
- b. If this contract is terminated under 10(d), by the Contractor due to a breach by the City, then the City shall pay the Contractor as provided in subsection (a) of this section.
- c. If this contract is terminated under 10(d), by the City due to a breach by the Contractor, then the City shall pay the Contractor as provided in subsection (a) of this section, subject to set off of excess costs, as provided for in section 12, Remedies.

## **12. Remedies**

In the event of termination under 10(d), by the City due to a breach by the Contractor, then the City may complete the work either itself, by agreement with another contractor, or by a combination thereof. In the event the cost of completing the work exceeds the remaining unpaid balance of the total compensation provided under this contract, then the Contractor shall pay to the City the amount of the reasonable excess. After notice of termination under paragraph 10(c), the Contractor and the Contractor's surety shall provide the City with immediate and peaceful possession of the Project site and

premises, and materials located on and off the Project site and premises for which the Contractor received progress payment. In no circumstances shall Contractor be entitled to lost profits due to termination.

The remedies provided to the City under section 10 through 12 for a breach by the Contractor shall not be exclusive. The City also shall be entitled to any other equitable and legal remedies that are available.

In the event of breach of this Contract by the City, then the Contractor's remedy shall be limited to termination of the Contract and receipt of payment as provided in section 11(b).

### **13. Access to Records**

Contractor shall maintain, and the City and its authorized representatives shall have access to all books, documents, papers and records of Contractor which relate to this contract for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment. Copies of applicable records shall be made available upon request. Payment for cost of copies is reimbursable by the City.

### **14. Ownership of Work**

All work products of the Contractor that result from this contract, including but not limited to background data, documentation and staff work that is preliminary to final reports, are the property of City. Draft documents and preliminary work submitted to the City for review and comment shall not be considered as owned, used or retained by the City until the final document is submitted.

The City shall own all proprietary rights, including but not limited to copyrights, trade secrets, patents and all other intellectual or other property rights in and to such work products. Pre-existing trade secrets of the Contractor shall be noted as such and shall not be considered as a work product of this contract. All such work products shall be considered "works made for hire" under the provisions of the United States Copyright Act and all other equivalent laws.

Use of any work product of the Contractor by the City for any purpose other than the use intended by this contract is at the risk of the City. Use of any work product by Contractor is prohibited without the written consent of the City. All documents or other materials submitted to City by Contractor shall become the sole and exclusive property of City. Such materials are subject to Oregon Public Records laws.

### **15. Compliance with Applicable Law**

Contractor certifies and shall comply and require all Subcontractors to comply with all federal, state, and local laws and ordinances, including specifically City of Ashland and State of Oregon Public contracting laws and rules applicable to the work under this Contract, including without limitation ORS Chapter 279A, ORS Chapter 279B, ORS Chapter 279C, ORS 279C.500 through 279C.670, and specifically ORS 279A.120(3), ORS 279C.515, ORS 279C.520, ORS 279C.530, ORS 279C.830 and ORS 279C.580 as set forth on **Exhibit B, attached hereto and made a part hereof by this reference**. In addition, the provisions of ORS 279C.360, ORS 279C.365(4), and ORS 279C.370 (Bid Documents and Disclosure); ORS 279A.010(p), 279A.120, 279C.375, and 279C.380(4), (Award of Contract and Bond); ORS 279A.110 (Prohibition on Discrimination in Subcontracting); ORS 279C.585 (Substitution first-tier Subcontractor); ORS 279C.650 to 279C.670 (Termination); ORS 279C.520, ORS 279C.540, 279C.545 (Hours); ORS 279C.800 to 279C.870 (Oregon Prevailing Wage Law), if applicable; ORS

279C.550 to 279C.565 (Retainage); ORS 279C.4570 (Payments); and ORS 279C.600 to 279C.625 (Bonds) ORS 279A.125 (Recyclable Products) are all incorporated into this contract by this reference as though set forth in full. Without limiting the foregoing, Contractor expressly agrees to comply with: (i) any requirements of the DAVIS BACON ACT (40 U.S.C. 3142 and applicable Davis- Bacon Related Acts; (ii) Title VI of the Civil Rights Act of 1964; (iii) Section V of the Rehabilitation Act of 1973; (iv) the Americans with Disabilities Act of 1990, (v) ORS 659A.142, (vi) all regulations and administrative rules established pursuant to those laws; and (vii) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. In addition, Contractor expressly agrees to comply with all federal and state tax laws. A condition or clause required by law to be in this contract shall be considered included and incorporated into the Contract and made a part hereof by these references.

## **16. Registration with Construction Contractor's Board**

The Contractor, hereby certifies that the Contractor is licensed with the Construction Contractors Board or licensed by the State Landscape Contractor's Board in accordance with ORS 701.035 to 701.055 and, further, that all subcontractors performing work as described in ORS 701.005(2) (i.e., construction work) will be licensed with the Construction Contractors Board or licensed by the State Landscape Contractor's Board in accordance with ORS 701.035 to 701.055 before the subcontractors commence work under the contract.

## **17. Prevailing Wages/ BOLI Fee**

- a. Contractor shall certify in the Contract and it shall be a condition of the bond, as provided in ORS 279C.800 through 279C.870, that in performing this Contract, Contractor will pay and cause to be paid not less than the prevailing rate of wages as of the date of the Public Notice, per hour, per day, and per week for and to each and every worker who may be employed in and about the performance of the Contract. In accordance with ORS 279C.838, each worker in each trade or occupation employed in the performance of the Contract either by Contractor, subcontractor or other person doing or contracting to do or contracting for the whole or any part of the work on the Contract shall be paid not less than the applicable state or federal prevailing rate of wage, whichever is higher. Copies of the current BOLI prevailing wage schedule and federal wage rate schedule, if applicable, can be found at the following website: [https://www.oregon.gov/boli/WHD/PWR/Pages/pwr\\_state.aspx](https://www.oregon.gov/boli/WHD/PWR/Pages/pwr_state.aspx). When both federal and state prevailing wages are required to be included in the contract specifications, the City shall also include in the specifications information showing which prevailing rate of wage is higher for workers in each trade or occupation in each locality, as determined by the Commissioner of the Bureau of Labor and Industries under ORS 279C.815 (2)(c).
- b. Contractor shall be bound by and shall fully comply with ORS 279C.800 to 279C.870, Oregon's Prevailing Wage Law. CONTRACTOR AGREES TO BE BOUND BY AND WILL COMPLY WITH PROVISIONS OF ORS 279C.840. Pursuant to ORS 279C.830(1), the existing prevailing rate of wage that may be paid to workers in each trade or occupation required, in the form of a BOLI document, is included in the contract and bid documents and made a part hereof by this reference. For public works for which the contract price is \$50,000 or more, all workers shall be paid not less than such specified minimum hourly rate of wage. [ORS 279C.830(1)]
- c. The City of Ashland shall pay the fee to the Commissioner of the Bureau of Labor and Industries pursuant to the administrative rule of the commissioner and as provided in ORS 279C.825(1). The fee shall be paid on or before the first progress payment or 60 days from the date work first begins on the Contract, or as otherwise provided by administrative rule, whichever is the earliest date. The

fee is payable to the Bureau of Labor and Industries Wage and Hour Division Prevailing Wage Unit 800 N.E. Oregon Street #32 Portland Oregon 97232.

- d. Contractor and some subcontractors shall also file with the Construction Contractors Board a public works bond with a corporate surety authorized to do business in this state in the amount of \$30,000 as required by ORS 279C.836 and shall cause all subcontractors to do the same prior to starting work on the project. [ORS 279C.830(2)] The bond must provide that the contractor or subcontractor will pay claims ordered by the Bureau of Labor and Industries to workers performing labor upon public works projects. The bond must be a continuing obligation, and the surety's liability for the aggregate of claims that may be payable from the bond may not exceed the penal sum of the bond. The bond must remain in effect continuously until depleted by claims paid under this section, unless the surety sooner cancels the bond. Contractor shall verify that subcontractors have complied with this requirement prior to permitting the subcontractor to start work on the project.
- e. If the Contract is for a public work and the Contract price is \$50,000 or more, Contractor shall supply and file, and require every Subcontractor to supply and file, with the City and with the Wage and Hour Division, Bureau of Labor and Industries (BOLI), 800 NE Oregon #32, Portland, Oregon 97232 a certified statement in writing that conforms to the requirements of ORS 279C.845.

**18. Hours of Labor /Overtime limitation [ORS 279C.520] [ORS 279C.540] [ORS 279C.545]**

Pursuant to ORS 279C.520, no person may be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency or when the public policy absolutely requires it, and in such cases, except in cases of contracts for personal services, the employee shall be paid at least time and a half pay:

- (a)
  - (1) For all overtime in excess of eight hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or
  - (2) For all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
- (b) For all work performed on Saturday and on any legal holiday specified in ORS 279C.540.
- (c) Collective bargaining and negotiated labor agreements may provide exceptions to the requirements of this section and from ORS 279C.520 and ORS 279C.540.
- (d) When labor is employed by the City through another as a contractor, any worker employed by the contractor shall be foreclosed from the right to collect for any overtime provided in ORS 279C.540 unless a claim for payment is filed with the contractor within 90 days from the completion of the contract, providing the contractor has:
  - (1) Caused a circular clearly printed in boldfaced 12-point type font and containing a copy of this section to be posted in a prominent place alongside the door of the timekeeper's office or in a similar place that is readily available and freely visible to workers employed on the work.
  - (2) Maintained the circular continuously posted from the inception to the completion of the contract on which workers are or have been employed.
- (e) At or before the commencement of work, the Contractor shall give notice in writing to employees or by posting, of the number of hours and days per week the employees may be required to work. [279C.520(2)(5)]



**19. Medical Care and Workers Compensation [ORS 279C.530]**

- (1) Pursuant to ORS 279C.530(1), Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the contractor agrees to pay for the services and all moneys and sums that the contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.
- (2) Pursuant to ORS 279C.530(2), All employers, including Contractor, that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers Compensation coverage unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors complies with these requirements.

**20. Retainage**

The withholding of retainage by a contractor or subcontractor on public improvement contracts shall be in accordance with ORS 701.420 and Section 90-06. [ORS 279C.555] “Retainage” means the difference between the amount earned by a contractor on a public improvement contract and the amount paid on the contract by the City. [ORS 279C.550] Moneys retained by a contracting agency under ORS 279C.570(7) shall be: (a) retained in a fund by the City and paid to the contractor in accordance with ORS 279C.570 and Section 90-06.

If the contracting agency incurs additional costs as a result of the exercise of the options in ORS 279C.560(1) or (5), the City may recover such costs from the contractor by reduction of the final payment. As work on the contract progresses, the contracting agency shall, upon demand, inform the contractor of all accrued costs. Bonds and securities deposited or acquired in lieu of retainage, as permitted above, shall be of a character approved by the City Attorney and City Finance Director, including but not limited to:

- a. Bills, certificates, notes or bonds of the United States.
- b. Other obligations of the United States or its agencies.
- c. Obligations of any corporation wholly owned by the federal government.
- d. Indebtedness of the Federal National Mortgage Association.
- e. General obligation Bond of the State of Oregon or a political subdivision thereof.

Unless the City finds that accepting a bond or instrument poses an extraordinary risk that is not typically associated with such bond or instrument, the contractor may deposit a surety bond for all or any portion of the amount of funds retained, or to be retained, by the City in a form acceptable to the City. The bond and any proceeds there from shall be made subject to all claims and liens and in the same manner and priority as set forth for retainage under ORS 279C.550 to 279C.570 and 279C.600 to 279C.625. The City shall reduce the retainage in an amount equal to the value of the bond and pay the amount of the reduction to the contractor in accordance with ORS 279C.570. Whenever a City accepts a surety bond from a contractor in lieu of retainage, the contractor shall accept like bonds from any subcontractor or supplier from which the contractor has retainage. The contractor shall then reduce the retainage in an amount equal to the value of the bond and pay the amount of the reduction to the subcontractor or supplier. [279C.560]

## 21. Progress Payments

- a. Payment for all work under the Contract will be made promptly by the City at the price or prices bid, and those prices shall include full compensation for all approved incidental work.
- b. Contractor shall make progress estimates of work performed in any calendar month and submit to the City for approval, before the fifth of the following month, or as mutually agreed between the Contractor and City. These estimates shall include value of labor performed and materials incorporated in the work since commencing work under the Contract. Such estimates need not be made by strict measurements and may be approximate only and shall be based upon the whole amount of money that will become due according to terms of the Contract when Project has been completed. The City may include in payments eighty five percent (85%) of the cost to Contractor of materials or equipment not yet incorporated in the Work but delivered and suitably stored at the site, or at some other location agreed upon in writing. Such a payment shall be conditioned upon submission by the Contractor of bills of sale or such other documentation satisfactory to the City Attorney to establish the City's title to such materials or equipment or otherwise protect the City's interest including applicable insurance and transportation to the site, and a statement from Contractor explaining why it is necessary to procure said equipment and/or materials. When such payments are made, the Contractor warrants and guarantees that the title to all materials and equipment covered by a progress payment, whether incorporated in the project or not, will pass to the City upon receipt of such payment by the Contractor, free and clear of all liens, claims, security interests or encumbrances. Notwithstanding the above, when the progress estimate indicates that the progress payment would be less than one thousand dollars (\$1,000), no progress payment will be made for that estimate period, unless approved by the City.
- c. If the Contract price is determined, in whole or in part, on a Lump Sum basis, Contractor shall prepare an itemized cost breakdown relating thereto and have the City approve same before commencing work; progress estimates based on said itemized cost breakdown may be the basis for progress payments. Upon direction by the City, Contractor shall provide for revision of the costs breakdown to reflect the true costs of the work as it progresses.
- d. If the Contract price is determined wholly on a unit basis, City may use unit prices bid in making progress estimates on the work. In case said unit prices do not, in the opinion of the City, truly represent actual relative costs of different parts of work, a percentage of the Unit Price may be used in making progress estimate adjustments.
- e. If the City receives written notice of any unsettled claims for damage or other costs due to Contractor's operations including, without limitation, claims from any City Department or other governmental agency, an amount equal to the claim may be withheld from the progress payments, final payments or retainage until such claim has been resolved to the satisfaction of City.
- f. Progress payments will be made by City on a monthly basis within thirty (30) days from sign off by the Contractor of the progress payment or fifteen (15) days after the payment is approved by City of work performed, whichever is the earlier date. Failure to pay progress payments within the timeframe set forth above will result in the imposition of interest as required by ORS 279C.570(2)(3). Defective or improper invoices will be addressed as set forth in ORS 279C.570(4)(5)(6).
- g. Payment will be issued by City for the amount of the approved estimate, less five percent (5%) retainage. Except as provided in paragraph 20 above and the applicable ORS Sections noted herein, such amount of retainage shall be withheld and retained by City until it is included in and paid to Contractor as part of the final payment of the Contract amount. Upon Substantial Completion of the work under the Contract which shall be understood to be not less than ninety-seven and one-half percent (97.5%) of the work, the City may, at its discretion, reduce the retained amount equivalent

to not less than one hundred percent (100%) of the contract value or estimated value or estimated cost, whichever is greater, of the work remaining to be done. [279C.570(7)]

- h. The City may decline to approve an application for payment and may withhold such approval if, in the City's opinion, and in good faith, the work has not progressed to the point indicated by the Contractor's submittal. The City may also decline to approve an application for payment or may reduce said payment or, because of subsequently discovered evidence or subsequent inspections, City may nullify the whole or any part of any payment previously made to such extent as may be necessary in their opinion to protect the City from loss because of: (1) defective work not remedied, (2) third party claims filed or failure of the Contractor to make payments properly to Subcontractors for labor, materials or equipment, unless Surety consents to such payment, (3) reasonable doubt that the work can be completed for the unpaid balance of the Contract sum, (4) damage to another contractor's work, (5) reasonable indication that the work will not be completed within the Contract time, (6) unsatisfactory prosecution of the work by the Contractor, (7) claims against the Contractor by the City, (8) failure to submit a construction schedule or failure to keep said construction schedule updated, or (9) exceeding work limits. When any or all of the criteria set forth above have been remedied satisfactorily to the City, payment shall be made for amounts withheld because of them. Withholding of progress payments or partial payments under the criteria set forth above shall not entitle the Contractor to interest on such withheld payments or partial payments, except as provided in ORS 279C.570(9).
- i. If Contractor fails to complete the Project within the time limit fixed in the Contract or any extension, no further estimate may be accepted, or progress or other payments allowed until the Project is completed, unless approved otherwise by City. Progress estimates are for the sole purpose of determining progress payments and are not to be relied on for any other purpose. A progress payment is not considered acceptance or approval of any work or materials or waiver of any defects therein. [ORS 279.570(2)].

## 22. Final Estimate and Final Payment

- a. **SUBSTANTIAL COMPLETION.** Contractor shall notify the City in writing when all or a portion of the work is considered substantially complete. If it appears to the City that the work is not substantially complete, the City shall not make an inspection. The City may make a general list of major work components remaining. If it appears that the work is substantially complete, the City shall, within fifteen (15) days after receiving notice, make an inspection and either accept the work or notify Contractor of work yet to be performed. If accepted, City shall prepare a Certificate of Substantial Completion, **Exhibit F**. Upon acceptance of the Certificate of Substantial Completion by both parties, the City shall be responsible for operation and maintenance of that part of the work described in the Certificate of Substantial Completion, subject to the warranty requirements and protection of the work and all other applicable terms of the contract documents. The date of substantial completion of all the work shall stop the accrual of liquidated damages, if applicable.
- b. **FINAL COMPLETION.** Contractor shall notify the City in writing when work is 100% complete. If it appears to the City that the work is not 100% complete, the City shall not make a final inspection. The City may make a general list of major work components remaining. If it appears that the work is 100% complete, the City shall, within fifteen (15) days after receiving notice, make a final inspection and either accept the work or notify Contractor of work yet to be performed on the Contract. A Certificate of Final Completion shall not be prepared until all provisions of the Contract have been met, including but not limited to, the submission by the Contractor of a signed Certificate of Compliance, **Exhibit G** and executed "Release of Liens and Claims" (**Exhibit H**).

When the work is 100% complete, the City shall prepare a final pay estimate and Certificate of Final Completion accepting the work as of a certain date. The Contractor shall execute and return the final pay estimate and Certificate of Final Completion within five (5) working days of receipt. Unless otherwise provided as a Special Provision, when City accepts the Certificate of Final Completion, the date the Contractor signs the Certificate of Final Completion shall be the date the City accepts Ownership of the work and the start date of the warranty period. The contractor may substitute a Warranty Bond in replacement of the Performance and Payment Bonds in accordance with Section 29. The City shall include in the final pay estimate an addition to the contract amount for any contract deduction from the contract amount for any liquidated damages and a deduction from the contract price in a fair and equitable amount for any damages to the City or for any costs incurred or likely to be incurred by the City due to Contractor's failure to meet any contract provision or specification other than timely completion.

If the Contractor believes the quantities and amounts specified in the final pay estimate prepared by the City to be incorrect, Contractor shall submit to the City within five (5) working days of receipt of the City's final pay estimate, an itemized statement of any and all claims for additional compensation under the Contract which are based on differences in measurements or errors of computation. Any such claim not so submitted and supported by an itemized statement within said period is expressly waived and the City shall not be obligated to pay the same.

The Contractor shall commence any suit or action to collect or enforce the claim or claims for any additional compensation arising from errors of computation in the final estimate within a period of one (1) year following the original mailing of the City's final estimate and Certificate of Final Completion to the Contractor's last known address as shown in the records of City. The City's issuance of a revised final estimate pursuant to this subsection does not alter the original final estimate date. If said suit, action or proceeding is not commenced in said one (1) year period, the final estimate and Certificate of Final Completion or revised final estimate and Certificate of Final Completion, if revisions are made, shall be conclusive with respect to the amount earned by the Contractor, and the Contractor expressly waives any and all claims for compensation and any and all causes of suit or action for the enforcement thereof that Contractor might have had.

Upon return of the fully executed Certificate of Final Completion from the Contractor, the City will submit the Certificate of Final Completion and final estimate to the City for approval. Upon approval and acceptance by the City, Contractor will be paid a total payment equal to the amount due under the Contract including retainage within thirty (30) days in accordance with ORS 279C.570. Failure to pay within 30 days shall implicate the interest on final payment/ retainage requirements of ORS 279C.570(8).

Monies earned by the Contractor are not due and payable until the procedures set forth in the contract documents for inspection, approval and acceptance of the work; for determination of the work done and the amount due therefore; for the preparation of the final estimate and Certificate of Final Completion and processing the same for payment; for consideration of the Contractor's claim, or claims, if any; and for the preparing of a revised final estimate and Certificate of Final Completion and processing same for payment all have been carried out.

As a prerequisite to final payment, if Contractor is not domiciled in or registered to do business in the State of Oregon, the Contractor will provide City with evidence that the requirement of ORS 279A.120(3) has been satisfied.

If City declares a default of the Contract, and Surety completes said Contract, all payments made after declaration of default and all retainage held by City shall be paid to Surety and not to Contractor in accordance with the terms of the Contract.

Acceptance by Contractor of final payment shall release City from any and all claims by Contractor whether known or unknown, arising out of and relating to the work. No payment, however, final or otherwise, shall operate to release Contractor or its Sureties from warranties or other obligations required in the performance of the Contract.

Disputes as to compensation resolved in favor of the contractor implicate the interest provisions of ORS 279.570(9).

### **23. Change Orders / Extra Work**

The Contractor agrees to complete this Contract in accordance with the attached specifications and requirements, including any change orders. A change order submitted by the City must be agreed upon by the Contractor, the City, and FAA and in the event of failure to so agree, the City may then proceed with any additional work in any manner the City may choose. A decision by the City to proceed to have work done by another party shall in no way relieve either the Contractor or City of this Contract and neither will such action be cause for collection of damages by either party to the contract, one from the other. Only the City designated Contracting Officer or individual with delegated contracting authority can authorize extra (and/or changed) work and compensation. Such authorization must be in writing. The parties expressly recognize that, except when such order is in writing by an individual with delegated authority, City personnel are not authorized to order extra (and/or) changed work or to waive contract requirements or authorize additional compensation. Failure of the Contractor to secure City authorization for extra work shall constitute a waiver of any and all claims or rights to adjustment in the contract price or contract time due to such unauthorized extra work and thereafter Contractor shall be entitled to no compensation whatsoever for the performance of such work. Contractor further expressly waives any and all right or remedy by way of restitution and *quantum meruit* for any and all extra work performed by Contractor without express and prior authorization of the City.

### **24. Contractor/Subcontractor Payment Obligations**

- a. The Contractor is required to include in each subcontract for property or services entered into by the Contractor and a first-tier subcontractor, including a material supplier, for the purpose of performing this contract:
  - i. A payment clause that obligates the Contractor to pay the first-tier subcontractor for satisfactory performance under its subcontract within 10 days out of such amounts as are paid to the Contractor by the City under such contract; [279C.580(3)(a)] and
  - ii. An interest penalty clause that obligates the Contractor, if payment is not made within 30 days after receipt of payment from the City, to pay to the first-tier subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to paragraph (a)(i) above. A contractor or first-tier subcontractor shall not be obligated to pay an interest penalty if the only reason that the contractor or first-tier subcontractor did not make payment when payment was due is that the contractor or first-tier subcontractor did not receive payment from the City or contractor when payment was due. The interest penalty shall be:
    - A. For the period beginning on the day after the required payment date and ending on the date on which payment of the amount is due made; and

B. Computed at the rate specified in ORS 279C.515(2). [279C.580(3)(b)]

- b. The Contractor is further required to include in each of its subcontracts, for the purpose of performance of such contract condition, a provision requiring the first-tier subcontractor to include a payment clause and an interest penalty clause conforming to the standards of section a. above in each of its subcontracts and to require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier. [279C.580(4)]
- c. The Contractor shall not request payment of any amount withheld or retained in accordance with ORS 279C.580(5) until such time as the Contractor has determined and certified to the City that the subcontractor is entitled to the payment of such amount. [279C.570(1)].
- d. A dispute between the Contractor and a subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to subsections (3) and (4) of ORS 279C.580 does not constitute a dispute to which the City is a party. The City shall not be included as a party in any administrative or judicial proceeding involving such a dispute. [279C.580(2)]
- e. The Contractor shall make payment promptly, as due, to all persons supplying to the Contractor labor or material for the performance of the work provided for in the contract. [ORS 279C.505(1)(a)] The Contractor shall pay all contributions or amounts due the Industrial Accident Fund and the State Unemployment Compensation Fund from the Contractor or Subcontractor incurred in the performance of the contract. [ORS 279C.505(1)(b)] The Contractor shall not permit any claim or lien to be filed or prosecuted against the City and shall be fully responsible for any lien or claim filed against the City on account of any labor or material furnished. [ORS 279C.505(1)(c)] The Contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167. [ORS 279C.505(1)(d)]
- f. Pursuant to ORS 279C.515(1), if Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with the Contract as such claim becomes due, the proper officer(s) representing the City may pay the claim and charge the amount of the payment against funds due or to become due Contractor under this Contract.
- g. Pursuant to ORS 279C.515(2), if the Contractor or a first-tier subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract within 30 days after receipt of payment from the contracting agency or a contractor, the contractor or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580 (4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to the contractor or first-tier subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after the date when payment was received from the contracting agency or from the contractor, but the rate of interest may not exceed 30 percent. The amount of interest may not be waived.
- h. Pursuant to ORS 279C.515(3), if the Contractor or a subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public improvement contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.
- i. Pursuant to ORS 279C.515(4), the payment of a claim in the manner authorized in this section does not relieve the contractor or the contractor's surety from obligation with respect to any unpaid claims.

- j. Living Wage Rates: If the amount of this contract is \$18,703 or more, and Contractor is not paying prevailing wage for the work, Contractor must comply with Chapter 3.12 of the Ashland Municipal Code by paying a living wage, as defined in this chapter, to all employees performing work under this contract and to any subcontractor who performs 50% or more of the work under this contract. Contractor must post the attached Living Wage Notice predominantly in areas where it will be seen by all employees.

**25. Inspection and Acceptance**

Inspection and acceptance of all work required under this contract shall be performed by the City. The Contractor shall be advised of the acceptance or of any deficiencies in the deliverable items.

**26. Liquidated Damages**

City and Contractor recognize that time is of the essence of this Contract and that City will suffer substantial financial loss if the project work is not completed within the timeframe specified in Section (1) of the Public Improvement Contract. City and Contractor also recognize the delays, expense, and difficulties involved in proving in a legal or other dispute resolution preceding the actual loss suffered by City if the project work is not completed on time. Accordingly, instead of requiring any such proof, City and Contractor agree that as liquidated damages for delay (but not as a penalty) the Contractor shall pay the City a dollar amount per day based on calculations set forth in the Oregon Standard Specifications for Construction and the Special Provisions for this project, for each and every day that elapses in excess of the contract time or the final adjusted contract time. This amount is a genuine pre-estimation of the damages expected because of a delay in the completion of this project.

Any sums due as liquidated damages shall be deducted from any money due or which may become due to the Contractor under this Contract. Payment of liquidated damages shall not release the Contractor from obligations in respect to the fulfillment of the entire contract, nor shall the payment of such liquidated damages constitute a waiver of the City's right to collect any additional damages which may be sustained by failure of the Contractor to complete the work on time. Permitting the Contractor to continue and finish the project work or any part thereof after the contract time, or adjusted contract time, has expired shall in no way operate as a waiver on the part of the City or any of its rights under this contract. The City may in its discretion grant the Contractor an extension of time upon a showing made by the Contractor that the work has been unavoidably delayed by conditions beyond the control of the parties.

Notwithstanding the above, the Contractor further agrees to pay liquidated damages according to the following hourly rates for the unscheduled employment of the Engineer necessitated by the Contractor:

- a. Working more than nine (9) hours per day, more than five (5) days per week and Saturdays (time and one-half), and holidays, and Sundays (double time).
- b. Furnishing materials or equipment not in conformance with Contract Documents necessitating redesign by the Engineer.
- c. Working beyond the time of completion established in the Notice to Proceed with Construction.
- d. Engineering budget will be analyzed at the end of the project to determine whether any unscheduled employment of the Engineer, during the scheduled contract time, resulted in a cost savings to the Owner. If, as a result of working more than nine hours per day, five days per week, the Contractor completes the project within the scheduled time, and if the overtime results in a reduced contract time and cost savings to the Owner, no liquidated damages will be assessed for the unscheduled employment of the Engineer during the

scheduled contract time. Liquidated damages will be assessed as stipulated for each day the work remains uncompleted beyond the scheduled contract time

<u>Expense Type</u>	<u>Straight Time</u>	<u>Time and One-Half Mon.-Sat.</u>	<u>Double Time Sundays and Holidays</u>
Engineer	\$175.00/Hr.	\$175.00/Hr.	\$175.00/Hr.
Resident Project Rep.	\$120.00/Hr.	\$180.00/Hr.	\$240.00/Hr.
Out of Pocket Cost material, equipment, supplies, transportation, subsistence	At Cost+10%	At Cost+10%	At Cost+10%

**27. Liability, Indemnity and Hold Harmless**

Contractor warrants that all its work will be performed in accordance with generally accepted practices and standards as well as the requirements of applicable federal, state, and local laws, it being understood that acceptance of Contractor's work by City shall not operate as a waiver or release. The Contractor shall hold harmless, indemnify, and defend City, its officers, agents, and employees from any and all liability, actions, claims, losses, damages or other costs of whatsoever nature, including attorney's fees and witness costs (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity arising from, during or in connection with the performance of the work, actions or failure to perform actions, and other activities of Contractor or its officers, employees, subcontractors or agents, under this contract, including the professional negligent acts, errors, or omissions of Contractor or its officers, employees, subcontractors, or agents except liability arising out of the sole gross negligence of the City and its employees. The Contractor shall assume all responsibility for the work and shall bear all losses and damages directly or indirectly resulting to the Contractor, to the City, and to their officers, agents, and employees on account of (a) the character or performance of the work, (b) unforeseen difficulties, (c) accidents, or (d) any other cause whatsoever. The Contractor shall assume this responsibility even if (a) fault is the basis of the claim, and (b) any act, omission or conduct of the City connected with the Contract is a condition or contributory cause of the claim, loss, damage or injury. Contractor waives any and all statutory or common law rights of defense and indemnification by the City. Such indemnification shall also cover claims brought against City under state or federal workers compensation laws. Contractor shall also defend and indemnify City from all loss or damage that may result from Contractor's wrongful or unauthorized use of any patented article or process. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification. Any specific duty or liability imposed or assumed by the Contractor as may be otherwise set forth in the Contract documents shall not be construed as a limitation or restriction of the general liability or duty imposed upon the Contractor by this section. In the event any such action or claim is brought against the City, the Contractor shall, if the City so elects and upon tender by the City, defend the same at the Contractor's sole cost and expense, promptly satisfy any judgment adverse to the City or to the City and the Contractor jointly, and reimburse the City for any loss, cost, damage, or expense, including attorney fees, suffered or incurred by the City.



**28. Insurance**

The Contractor shall provide and maintain during the life of this Contract the insurance coverage as described in **Exhibit C**. All costs for such insurance shall be borne by the Contractor and shall be included in the contract price. In case of the breach of any provision of this section, the City may elect to take out and maintain at the expense of the Contractor such insurance as the City may deem proper. The City may deduct the cost of such insurance from any monies that may be due or become due the Contractor under this Contract. Failure to maintain insurance as provided is also cause for immediate termination of the Contract. Contractor shall furnish City certificates of insurance acceptable to City prior to execution by the City and before Contractor or any subcontractor commences work under this Contract. The certificate shall show the name of the insurance carrier, coverage, type, amount (or limits), policy numbers, effective and expiration dates and a description of operations covered. The certificate will include the deductible or retention level and required endorsements. Insuring companies or entities are subject to City's acceptance. If requested, copies of insurance policies shall be provided to the City. Contractor shall be responsible for all deductibles, self-insured retention's, and/or self-insurance. Approval of the insurance shall not relieve or decrease the liability of the Contractor hereunder.

**29. Performance, Payment and Warranty Bonds / Notice of Bond Claims**

At the time of execution of the Contract, the Contractor shall furnish: (1) Performance Bond and (2) Payment Bond written by a corporate surety or other financial assurance in an amount equal to the amount of the Contract based upon the estimate of quantities or lump sum as set forth in the Contract and in accordance with ORS 279.380. The bonds shall be continuous in effect and shall remain in full force and effect until compliance with and fulfillment of all terms and provisions of the Contract, including the obligations of Sections 27 and 30, all applicable laws and the prompt payment of all persons supplying labor and/or material for prosecution of the work. The bond(s) or other financial assurance is subject to approval by the City.

Contractor shall furnish a separate warranty bond written by a corporate surety or other financial assurance, in an amount equal to 10% of the final amount of the contract. The City may permit the warranty amount to be included in the initial performance and payment bonds. The warranty bond or other financial assurance shall be in effect for a period of one year from the date of Final Completion. The City may require a separate warranty bond or financial assurance for any repairs done pursuant to the warranty obligation. Such separate warranty bond or financial assurance shall be for a period of one year from the date of completion of such repairs.

The notice of claim on a bond required by ORS 279C.600 must be sent by registered or certified mail or hand delivered no later than 120 days after the day the person last provided labor or furnished materials or 120 days after the worker listed in the notice of claim by the Commissioner of the Bureau of Labor and Industries last provided labor. The notice may be sent or delivered to the contractor at any place the contractor maintains an office or conducts business or at the residence of the contractor. Notwithstanding the above, if the claim is for a required contribution to a fund of any employee benefit plan, the notice required by ORS 279C.600 must be sent or delivered within 150 days after the employee last provided labor or materials.

The notice of claim must be in writing substantially as set forth in ORS 279C.605(3)-(5).

### **30. Warranty**

In addition to and not in lieu of any other warranties required under the Contract, Contractor shall make all necessary repairs and replacements to remedy, in a manner satisfactory to the City and at no cost to the City, any and all defects, breaks, or failures of the work occurring within one year following the date of completion due to faulty or inadequate materials or workmanship. A warranty of 4 years shall apply to any new LED lighting installed as part of this project. Repair damage or disturbances to other improvements under, within, or adjacent to the work, whether or not caused by settling, washing, or slipping, when such damage or disturbance is caused, in whole or in part, from activities of the Contractor in performing its duties and obligations under this Contract when such defects or damage occur within the warranty period. The one-year warranty period shall, with relation to such required repair, be extended one year from the date of completion of such repair.

If Contractor, after written notice, fails within ten days to proceed to comply with the terms of this section, City may have the defects corrected, and the Contractor and Contractor's surety shall be liable for all expense incurred. In case of an emergency where, in the opinion of the City, delay would cause serious loss or damage, repairs may be made without notice being given to Contractor and Contractor or Surety shall pay the cost of repairs. Failure of the City to act in case of an emergency shall not relieve Contractor or Surety from liability and payment of all such costs.

### **31. Nondiscrimination in Labor**

No person shall be subject to discrimination in the receipt of the benefits of any services or activities made possible by or resulting from this Agreement on the grounds of sex, race, color, creed, marital status, age, sexual orientation or national origin. Contractor shall comply with provisions of Owner's Equal Opportunity Policy and comply with ORS Chapter 659 and ORS Chapter 659A relating to unlawful employment practices and discrimination by employers against any employee or applicant for employment because of race, religion, color, sex, national origin, marital status or age if the individual is 18 years of age or older. Particular reference is made to ORS 659A.030, which states that it is unlawful employment practice for any employer, because of the race, religion, color, sex, national origin, marital status or age if the individual is 18 years or older or because of the race, religion, color, sex, national origin or age of any other person with whom the individual associates, or because of a juvenile record that has been expunged pursuant to ORS 419A.260 and ORS 419A.262 of any individual, or to refuse to hire or employ or to bar or discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment. Any violation of this provision shall be considered a material violation of the Agreement and shall be grounds for cancellation, termination, or suspension in whole or in part (q).

**32. Construction Debris and Yard Waste**

Contractor shall salvage or recycle construction and demolition debris, if feasible and cost effective. If the contract includes lawn and landscaping maintenance, Contractor shall compost or mulch yard waste material at an approved site, if feasible and cost effective. [ORS 279C.510(1) & (2)]

**33. Environmental Regulations**

Pursuant to ORS 279C.525(1), the following is a list of federal, state and local agencies which have enacted ordinances or regulations dealing with the prevention of environmental pollution and the preservation of natural resources that may affect the performance of the contract.

**Federal Agencies:**

- Agriculture, Department of
  - Forest Service
  - Soil Conservation Service
- Commerce Department of
  - National Oceanic and Atmospheric Administration (NOAA)
  - National Marine Fisheries Service (NMFS)
- Defense, Department of
  - Army Corps of Engineers
- Energy, Department of
  - Federal Energy Regulatory Commission
- Environmental Protection Agency
- Health and Human Services Department of
  - Housing and Urban Development,
  - Solar Energy and Energy Conservation Bank
- Interior, Department of
  - Bureau of Land Management
  - Bureau of Indian Affairs
  - Bureau of Mines
  - Bureau of Reclamation
  - Geological Survey
  - Minerals Management Service
  - U.S. Fish and Wildlife Service
- Labor, Department of
  - Mine Safety and Health Administration
- Occupational Safety and Health Administration
- Transportation, Department of
  - Coast Guard
  - Federal Highway Administration
  - Federal Aviation Administration
- Water Resources Council

**State Agencies:**

- Administrative Services, Department of
- Agriculture, Department of
- Consumer & Business Services, Department of
- Oregon Occupational Safety & Health Division
- Energy, Department of

Environmental Quality, Department of  
Fish and Wildlife, Department of  
Forestry, Department of  
Geology and Mineral Industries, Department of  
Human Resources, Department of  
Land Conservation and Development Commission  
Parks and Recreation, Department of  
Soil and Water Conservation Commission  
State Engineer  
State Land Board (Lands, Division of State)  
Water Resources Department

**Local Agencies:**

CITY of ASHLAND  
City Council (Ashland Municipal Code)  
County Courts  
County Commissioners of Jackson County,  
County Service Districts  
Sanitary Districts  
Water Districts  
Fire Protection Districts  
Historical Preservation Commissions  
Planning Commission

If the Contractor awarded the project is delayed or must undertake additional work by reason of existing ordinances, rules or regulations of agencies not cited above or due to the enactment of new or the amendment of existing statutes, ordinances, rules or regulations relating to the prevention of environmental pollution and the preservation of natural resources occurring after the submission of the successful bid, the City may:

- (a) Terminate the contract;
- (b) Complete the work itself;
- (c) Use non-City forces already under contract with the City;
- (d) Require that the underlying property owner be responsible for cleanup;
- (e) Solicit bids for a new contractor to provide the necessary services; or
- (f) Issue the contractor a change order setting forth the additional work that must be undertaken.

The solicitation documents make specific reference to known conditions at the construction site that may require the successful bidder to comply with the ordinances, rules or regulations identified above. If Contractor encounters a condition not referred to in the solicitation documents, not caused by the successful bidder and not discoverable by a reasonable pre-bid visual site inspection, and the condition requires compliance with the ordinances, rules or regulations enacted by the governmental entities identified above, the successful bidder shall immediately give notice of the condition to the contracting agency. Except in the case of an emergency and except as may otherwise be required by any environmental or natural resource ordinance, rule or regulation, the Contractor shall not commence work nor incur any additional job site costs in regard to the condition encountered and described in subsection (3) of this section without written direction from the contracting agency. Upon request by the City, the Contractor shall estimate the emergency or regulatory compliance costs as well as the anticipated delay

and costs resulting from the encountered condition. This cost estimate shall be promptly delivered to the contracting agency for resolution. Within a reasonable period of time following delivery of an estimate of this section, the City may:

- (a) Terminate the contract;
- (b) Complete the work itself;
- (c) Use non-City forces already under contract with the City;
- (d) Require that the underlying property owner be responsible for cleanup;
- (e) Solicit bids for a new contractor to provide the necessary services; or
- (f) Issue the contractor a change order setting forth the additional work that must be undertaken.

If the City chooses to terminate the contract under either subsection (a) of this section, the Contractor shall be entitled to all costs and expenses incurred to the date of termination, including overhead and reasonable profits, on the percentage of the work completed. The City shall have access to the contractor's bid documents when making the contracting agency's determination of the additional compensation due to the contractor. If the contracting agency causes work to be done by another contractor under either subsection (c) or (e) above, the initial contractor may not be held liable for actions or omissions of the other contractor. The change order under either subsection (f) of this section shall include the appropriate extension of contract time and compensate the contractor for all additional costs, including overhead and reasonable profits, reasonably incurred as a result of complying with the applicable statutes, ordinances, rules or regulations. The City shall have access to the contractor's bid documents when making the contracting agency's determination of the additional compensation due to the contractor.

Notwithstanding the above, the City has allocated all or a portion of the known environmental and natural resource risks to a Contractor by listing such environmental and natural resource risks in the solicitation documents.

#### **34. Waiver**

The failure of the City to enforce any provision of this contract shall not constitute a waiver by the City of that or any other provision. City shall not be precluded or estopped by any measurement, estimate or certificate made either before or after completion and acceptance of work or payment therefore, from showing the true amount and character of work performed and materials furnished by the Contractor, or from showing that any such measurement, estimate or certificate is untrue or incorrectly made, or that work or materials do not conform in fact to the Contract. City shall not be precluded or estopped, notwithstanding any such measurement, estimate or certificate, or payment in accordance therewith, from recovering from the Contractor and their Sureties such damages as it may sustain by reason of their failure to comply with terms of the Contract, or from enforcing compliance with the Contract. Neither acceptance by City, or by any representative or agent of the City, of the whole or any part of the work, nor any extension of time, nor any possession taken by City, nor any payment for all or any part of the project, shall operate as a waiver of any portion of the Contract or of any power herein reserved, or any right to damages herein provided. A waiver of any breach of the Contract shall not be held to be a waiver of any other breach.

**35. Errors**

The Contractor shall perform such additional work as may be necessary to correct errors in the work required under this Contract without undue delays and without additional cost.

**36. Severability**

If any term or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held invalid.

**37. Attorney's Fees**

If a suit or action is filed to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party, in addition to costs and disbursements provided by statute, any sum which a court, including any appellate court, may adjudge reasonable as attorney's fees.

**38. Business License**

The Contractor shall obtain a City of Ashland business license as required by City ordinance prior to beginning work under this Contract. The Contractor shall provide a business license number in the space provided in this contract.

**39. Notices/Bills/Payments**

All notices, bills, and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills, and payments sent by mail should be addressed as follows:

City of Ashland  
Chance Metcalf, Engineering Project Manager  
Public Works/Engineering Department  
20 E. Main Street  
Ashland, OR 97520

and when so addressed, shall be deemed given upon deposit in the United States Mail, postage prepaid. In all other instances, notices, bills, and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills, and payments are to be given by giving notice pursuant to this paragraph.

**40. Conflict of Interest**

Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services. The Contractor further covenants that in the performance of this contract no person having any such interest shall be employed.

**41. Merger Clause**

THIS CONTRACT AND ATTACHED EXHIBITS CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS CONTRACT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS CONTRACT. BY ITS SIGNATURE, CONTRACTOR ACKNOWLEDGES IT HAS READ AND UNDERSTANDS THIS CONTRACT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

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**ATTACHMENTS: EXHIBITS B-T**

<b>EXHIBIT B</b>	<b>COMPLIANCE WITH APPLICABLE PUBLIC CONTRACT LAW</b>
<b>EXHIBIT C</b>	<b>INSURANCE REQUIREMENTS</b>
<b>EXHIBIT D</b>	<b>INDEPENDENT CONTRACTOR CERTIFICATION</b>
<b>EXHIBIT E</b>	<b>BONDS (BID, PAYMENT AND PERFORMANCE)</b>
<b>EXHIBIT F</b>	<b>CERTIFICATE OF SUBSTANTIAL COMPLETION</b>
<b>EXHIBIT G</b>	<b>CERTIFICATE OF COMPLIANCE</b>
<b>EXHIBIT H</b>	<b>RELEASE OF LIENS AND CLAIMS</b>
<b>EXHIBIT I</b>	<b>CERTIFICATE OF FINAL COMPLETION</b>
<b>EXHIBIT J</b>	<b>INSTRUCTIONS TO BIDDERS</b>
<b>EXHIBIT K</b>	<b>CERTIFICATION OF NON-SEGREGATED FACILITIES</b>
<b>EXHIBIT L</b>	<b>BIDDER'S STATEMENT ON PREVIOUS CONTRACTORS SUBJECT TO EEO CLAUSE</b>
<b>EXHIBIT M</b>	<b>LETTER OF INTENT</b>
<b>EXHIBIT N</b>	<b>RESTRICTION ON FEDERAL PUBLIC WORKS PROJECTS</b>
<b>EXHIBIT O</b>	<b>BUY AMERICAN PREFERENCE</b>
<b>EXHIBIT P</b>	<b>BUY AMERICA CONFORMANCE LISTING</b>
<b>EXHIBIT Q</b>	<b>INSTRUCTION FOR PERMISSIBLE WAIVERS</b>
<b>EXHIBIT R</b>	<b>COMPONENT COST CALCULATION TABLE</b>
<b>EXHIBIT S</b>	<b>CERTIFICATION OF OFFERER/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS</b>
<b>EXHIBIT T</b>	<b>BIDDERS LIST</b>



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**EXHIBIT B**  
**COMPLIANCE WITH APPLICABLE LAW**  
**PUBLIC IMPROVEMENT CONTRACT**

Refer to the OregonLaws website for public contracting as set forth in ORS 279C.360 through and including ORS 279C.800. This information is also available through the city Engineering Office at 51 Winburn Way, Ashland, Oregon or online at [www.leg.state.or.us/ors](http://www.leg.state.or.us/ors)

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**EXHIBIT C**  
**PUBLIC IMPROVEMENT CONTRACT INSURANCE REQUIREMENTS**

**To:** Insurance Agent. Please provide Certificates of Insurance to the Project Manager. During the term of the contract, please provide Certificates of Insurance prior to each renewal. Insurance shall be without prejudice to coverage otherwise existing. During the term of this contract, Contractor shall maintain in force at its own expense all insurance noted below:

**Workers Compensation** insurance in compliance with ORS 656.017. All employers, including Contractor and any subcontractors, that employ subject workers who work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors complies with these requirements.

**Commercial General Liability** insurance on an occurrence basis, with a combined single limit of not less than  \$1,000,000 or  \$2,000,000 for each occurrence of bodily injury, personal injury and property damage. It shall include coverage for broad form contractual liability; broad form property damage; personal and advertising injury; owners and contractor protective; premises/operations; and products/completed operations. Coverage shall not exclude excavation, collapse, underground, or explosion hazards. Aggregate limits shall apply on a per-project basis.

Required by City     Not required by City

**Commercial Automobile Liability** insurance with a combined single limit, or the equivalent of not less than  \$1,000,000 or  \$2,000,000 for each accident for Bodily Injury and Property Damage, including coverage for owned, hired and non-owned vehicles. "Symbol One" coverage shall be designated.

Required by City     Not required by City

Builders Risk (*Check here if required*) insurance during construction to the extent of 100 percent of the value of the work for the benefit of the parties to the Contract as their interest may appear. Coverage shall also include: (1) formwork in place; (2) form lumber on site; (3) temporary structures; (4) equipment; and (5) supplies related to the work while at the site.

**Notice of Cancellation or Change.** There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30 days written notice from the Contractor or its insurer(s) to the City. This notice provision shall be by endorsement physically attached to the certificate of insurance.

**Additional Insured.** For general liability insurance and automobile liability insurance the City, and its agents, officers, and employees will be Additional Insureds, but only with respect to Contractor's services to be provided under this contract. This coverage shall be by endorsement physically attached to the certificate of insurance.

The Contractor shall defend, indemnify, and hold harmless, the City and the City's officers, agents, and employees against any liability that may be imposed upon them by reason of the Contractor's or subcontractor's failure to provide workers' compensation and employers liability coverage.

**Certificates of Insurance.** Contractor shall furnish insurance certificates acceptable to City prior to commencing work. The certificate will include the deductible or retention level and required endorsements. Insuring companies or entities are subject to City approval. If requested, copies of insurance policies shall be provided to the City. Contractor shall be responsible for all deductibles, self-insured retention's, and/or self-insurance.

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**EXHIBIT D  
CERTIFICATION STATEMENT FOR CORPORATION  
OR INDEPENDENT CONTRACTOR**

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**A. CONTRACTOR IS A CORPORATION**

**CORPORATION CERTIFICATION:** I am authorized to act on behalf of the entity named below and certify under penalty of perjury that it is a corporation.

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Entity	Signature	Date
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**B. CONTRACTOR IS INDEPENDENT.**

**Independent Contractor Standards.** As used in various provisions of ORS Chapters including but not limited to 316, 656, 657, and 701, an individual or business entity that performs labor or services for remuneration shall be considered to perform the labor or services as an “independent contractor” if the standards of ORS 670.600 are met.

**Contractor and Project Manager certifies that the Contractor meets the following standards:**

1. Contractor is free from direction and control over the means and manner of providing the labor or services, subject only to the specifications of the desired results.
2. Contractor is responsible for obtaining all assumed business registrations or professional occupation licenses required by state law or local ordinances.
3. Contractor furnishes the tools or equipment necessary for the contracted labor or services.
4. Contractor has the authority to hire and fire employees to perform the labor or services.
5. Payment to the Contractor is made upon completion of the performance or is made on the basis of a periodic retainer.
6. Contractor is registered under ORS chapter 701, if the Contractor provides labor or services for which such registration is required.
7. Contractor has filed federal and state income tax returns in the name of the business or a business Schedule C as part of the personal income tax return, for the previous year, for labor or services performed as an independent contractor in the previous year.
8. Contractor represent to the public that the labor or services are to be provided by an independently established business as four or more of the following circumstances exist.
  9. The bidder hereby certifies that neither the bidder nor the bidder’s principals are presently debarred, suspended or proposed for debarment by any federal agency. Bidder further agrees to include this clause in all subcontracts. Where the bidder or any subcontractors is unable to certify to this statement on explanation shall be attached to this proposal.

(Check four or more of the following:)

- A. The labor or services are primarily carried out at a location that is separate from Contractors residence or is primarily carried out in a specific portion of Contractors residence, which is set aside as the location of the business.
- B. Commercial advertising or business cards are purchased for the business, or Contractor has a trade association membership.
- C. Telephone listing is used for the business that is separate from the personal residence listing.
- D. Labor or services are performed only pursuant to written contracts.
- E. Labor or services are performed for two or more different persons within a period of one year.
- F. Contractor assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be provided.

**If any action is taken by a person or enforcement agency relating to Contractor's independent contractor status in connection with this contract, Contractor shall defend, hold harmless and indemnify the CITY of ASHLAND, its elected and appointed officials, employees, volunteers and agents from any such action, claim, judgment, fine, penalty, or order to pay. Contractor shall pay any additional costs incurred by the City in defending such action or incurred as a result of such action. This indemnification is in addition to any indemnification otherwise in this agreement.**

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Contractor Signature

Date

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Project Manager Signature

Date

**EXHIBIT E  
BONDS  
CITY OF ASHLAND  
STANDARD PUBLIC IMPROVEMENT CONTRACT**

**BID BOND**

We, \_\_\_\_\_, a corporation or partnership duly organized under the laws of the State of \_\_\_\_\_, and authorized to transact business in the State of Oregon, as “**PRINCIPAL,**” and,

We, \_\_\_\_\_, a corporation or partnership duly organized under the laws of the State of \_\_\_\_\_, and authorized to transact business in the State of Oregon, as “**SURETY,**”

hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns firmly by these presents to pay unto the City of Ashland, Oregon, (**OBLIGEE**) the sum of (\$\_\_\_\_\_)

\_\_\_\_\_ Dollars.

The condition of the obligation of this bond, is that the PRINCIPAL herein has in response to City’s *Notice to Contractors and Invitation to Bid*, submitted its Offer for the ASHLAND MUNICIPAL AIRPORT/SUMNER PARKER FIELD TAXIWAY RECONSTRUCTION AND REHABILITATION PROJECT, No. 2020-18, AIP# 3-41-0002-016-2022, which Offer is incorporated herein and made a part hereof by this reference, and Principal is required to furnish bid security in an amount equal to ten (10%) percent of the total amount of the bid pursuant to ORS 279C.365 and the City’s public contracting rules and contract documents.

NOW THEREFORE, if the Offer, submitted by PRINCIPAL, is accepted, and if the Contract pursuant to the Offer is awarded to the PRINCIPAL, and if the PRINCIPAL executes such contract and furnishes such good and sufficient Performance and Payment Bonds as required by the Bidding and Contract documents within the time specified and fixed by the Documents, then this obligation shall be void; otherwise it shall remain in full force and effect. If the PRINCIPAL shall fail to execute the proposed Contract and to furnish the Performance and Payment Bonds, the SURETY hereby agrees to pay the OBLIGEE the surety bond sum as liquidated damages within ten (10) days of such failure.

IN WITNESS WHEREOF, we have caused this instrument to be executed and sealed by our duly authorized legal representatives this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

_____ Surety	_____ Principal
_____ Address	_____ Address
By: _____	By: _____

Attorney -in-Fact  
[A certified copy of the Agent’s Power of Attorney must be attached hereto.]



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**IMPORTANT** – Surety companies executing BONDS must appear on the Treasury Department’s most current list (Circular 570 as amended) and be authorized to transact business in the State of Oregon.

**PERFORMANCE BOND**

The undersigned \_\_\_\_\_, as principal, further referred to in this bond as Contractor, and \_\_\_\_\_, as surety, further referred to in this bond as Surety, are jointly and severally bound unto City of Ashland, as obligee, further referred to in this bond as City, in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

Contractor and City have entered into a written contract dated \_\_\_\_\_, for the following project: **ASHLAND MUNICIPAL AIRPORT/SUMNER PARKER FIELD TAXIWAY RECONSTRUCTION AND REHABILITATION PROJECT, No. 2020-18, AIP# 3-41-0002-016-2022.** This contract is further referred to in this bond as the Contract and is incorporated into this bond by this reference.

The conditions of this bond are:

1. If Contractor faithfully performs the Contract in accordance with the plans, specifications and conditions of the contract within the time prescribed by the Contract, as required by ORS 279C. 380 through 279C.385, then this obligation is null and void; otherwise it shall remain in full force and effect.
2. If Contractor is declared by City to be in default under the Contract, the Surety shall promptly remedy the default, perform all of Contractor’s obligations under the contract in accordance with its terms and conditions and pay to City all damages that are due under the Contract.
3. This bond is subject to claims under ORS 279C.380 through 279C.390.
4. This obligation jointly and severally binds Contractor and Surety and their respective heirs, executors, administrators, successors.
5. Surety waives notice of modification of the Contract or extension of the Contract time.
6. Nonpayment of the bond premium shall not invalidate this bond.
7. The bond number and the name, address, and telephone number of the agent authorized to receive notices concerning this bond are as follows.

Bond Number: \_\_\_\_\_

Bond Agent: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

WITNESS:

(Corporate Seal)

CONTRACTOR:

By: \_\_\_\_\_

Title: \_\_\_\_\_

Legal Address: \_\_\_\_\_  
\_\_\_\_\_

Attest: \_\_\_\_\_

Corporate Secretary

WITNESS:

(Corporate Seal)

SURETY: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Legal Address: \_\_\_\_\_  
\_\_\_\_\_

Attest: \_\_\_\_\_

Corporate Secretary

**PAYMENT BOND**

The undersigned \_\_\_\_\_, as principal, further referred to in this bond as Contractor, and \_\_\_\_\_, as surety, further referred to in this bond as Surety, are jointly and severally bound unto City of Ashland, as obligee, further referred to in this bond as City, in the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

Contractor and City have entered into a written contract dated \_\_\_\_\_, for the following project: **ASHLAND MUNICIPAL AIRPORT/SUMNER PARKER FIELD TAXIWAY RECONSTRUCTION AND REHABILITATION PROJECT, No. 2020-18, AIP# 3-41-0002-016-2022.** This contract is further referred to in this bond as the Contract and is incorporated into this bond by this reference.

The conditions of this bond are:

1. If Contractor faithfully performs the Contract within the time prescribed by the Contract, and promptly makes payment to all claimants, as defined in ORS 279C.600 through 279C.620, then this obligation is null and void; otherwise it shall remain in full force and effect.
2. If Contractor is declared by City to be in default under the Contract, the Surety shall promptly remedy the default, perform all of Contractor's obligations under the contract in accordance with its terms and conditions and pay to City all damages that are due under the Contract.
3. This bond is subject to claims under ORS 279C.600 through 279C.620.
4. This obligation jointly and severally binds Contractor and Surety and their respective heirs, executors, administrators, successors.
5. Surety waives notice of modification of the Contract or extension of the Contract time.
6. Nonpayment of the bond premium shall not invalidate this bond.
7. The bond number and the name, address, and telephone number of the agent authorized to receive notices concerning this bond are as follows:

Bond Number: \_\_\_\_\_

Bond Agent: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

WITNESS:

(Corporate Seal)

CONTRACTOR:

By:

Title:

Legal Address:

Attest:

Corporate Secretary

WITNESS:

(Corporate Seal)

SURETY:

By:

Title:

Legal Address:

Attest:

Corporate Secretary

**EXHIBIT F**

**CERTIFICATE OF SUBSTANTIAL COMPLETION**

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CITY'S Project No. \_\_\_\_\_ Project No. \_\_\_\_\_ N/A

Project: \_\_\_\_\_

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CONTRACTOR \_\_\_\_\_

Contract For \_\_\_\_\_ Contract Date \_\_\_\_\_

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This Certificate of Substantial Completion applies to:

- All Work under the Contract Documents, or
- To the following specified parts thereof:

The Work to which this Certificate applies has been inspected by authorized representatives of CITY, CONTRACTOR and CITY, and that Work is hereby declared to be substantially complete in accordance with the Contract Documents on

\_\_\_\_\_  
DATE OF SUBSTANTIAL COMPLETION

A tentative list of items to be completed or corrected is attached hereto. This list may not be all inclusive, and the failure to include an item in it does not alter the responsibility of CONTRACTOR to complete all the Work in accordance with the Contract Documents. The items in the tentative list shall be completed or corrected by CONTRACTOR within \_\_\_\_\_ Days of the above date of Substantial Completion.

The following documents are attached to and made a part of this Certificate:

\_\_\_\_\_  
\_\_\_\_\_

Effective as of the last date set forth below, the responsibilities between CITY and CONTRACTOR shall be as follows:

- |             |                               |                                     |
|-------------|-------------------------------|-------------------------------------|
| Security    | <input type="checkbox"/> City | <input type="checkbox"/> Contractor |
| Operation   | <input type="checkbox"/> City | <input type="checkbox"/> Contractor |
| Safety      | <input type="checkbox"/> City | <input type="checkbox"/> Contractor |
| Maintenance | <input type="checkbox"/> City | <input type="checkbox"/> Contractor |
| Heat        | <input type="checkbox"/> City | <input type="checkbox"/> Contractor |
| Utilities   | <input type="checkbox"/> City | <input type="checkbox"/> Contractor |
| Insurance   | <input type="checkbox"/> City | <input type="checkbox"/> Contractor |
| Warranties  | <input type="checkbox"/> City | <input type="checkbox"/> Contractor |

Other Responsibilities:

City		Contractor

This Certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of CONTRACTOR'S obligation to complete the Work in accordance with the Contract Documents.

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CONTRACTOR accepts this Certificate of Substantial Completion on: \_\_\_\_\_, \_\_\_\_\_.

By: \_\_\_\_\_

CITY accepts this Certificate of Substantial Completion on: \_\_\_\_\_, \_\_\_\_\_.

By: \_\_\_\_\_  
CITY of ASHLAND

File:

**EXHIBIT G**

**CERTIFICATE OF COMPLIANCE**

\_\_\_\_\_

CIP Number: \_\_\_\_\_

Contractor: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I, (We) hereby certify that all work has been performed and materials supplied in accordance with the plans, specifications and contract documents for the above work, and that:

1. If required by law, not less than the prevailing rates of wages have been paid to laborers, workmen and mechanics employed on this work.
2. There have been no unauthorized substitutions of materials; substitutions or assignment of subcontractors; nor have any subcontracts been entered into without the names of the subcontractors having been submitted to the City prior to the start of such subcontracted work.
3. All claims and indebtedness for material and labor and other service performed in connection with these specifications have been paid.
4. All moneys due the State Industrial Accident Fund, the State Unemployment Compensation Trust Fund, the State Department of Revenue (ORS 316.162 to 316.212) hospital associations and/or others (ORS 279C.530) have been paid.
5. All private property and easement areas have been satisfactorily restored in accordance with the contract.
6. If Contractor is not domiciled in or registered to business in the State of Oregon, Contractor has reported to the Oregon Department of Revenue such information and in the manner as required by ORS 279A.120(3).

**Contractor:** \_\_\_\_\_

**By:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Title:** \_\_\_\_\_



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## **EXHIBIT J**

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### **INSTRUCTIONS TO BIDDERS**

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The provisions of Oregon Administrative Rules Chapter 137, Divisions 46 and 49, apply to all bids and contracts concerning Public Improvements and Public Works in the City of Ashland. The OAR provisions control over any conflicting language in the City Standard Terms and Conditions, Special Provisions, including Technical Provisions and the OAR provisions are incorporated herein by this reference.

#### ***1. SCOPE OF WORK***

The work contemplated under this contract includes all permits, labor, tools, machinery, materials, transportation, equipment and services of all kinds required for, necessary for, or reasonable incidental to, the completion of all the work in connection with the project described in the contract documents, including the general conditions, all applicable special conditions, plans, specifications, or any supplemental documents.

#### ***2. EEO AFFIRMATIVE ACTION***

Bidders must comply with the City of Ashland Equal Opportunity Policy for Contractors. The policy is included in and made a part of these Contract Documents and is attached hereto and made a part hereof as Attachment A. Contractor shall not discriminate against minorities, women or emerging small business enterprises in the awarding of subcontracts.

DBE Contract Goal: No DBE contract goal requirement has been established for this project.

Bidders List (Exhibit T): The Bidder shall submit the name, address, DBE status, age, and gross receipts of all firms bidding or quoting subcontracts on DOT-assisted projects. The attached Letter of Intent form shall be used to report this information. The Bidders List shall be submitted with the Bidder's sealed proposal.

By signing and submitting this Proposal to the Owner, the Bidder certifies that, per OAR 137-046-0210, it has not discriminated against any minority, women, or emerging small business enterprises in obtaining any subcontracts.

#### ***3. BID PROVISIONS***

- a. Each bid must contain a completed Bid including the following:
  - A. A Bid and Schedule of Prices.
  - B. Acknowledgement that the bidder has received and reviewed all Addenda for the bid.
  - C. A statement that all applicable provisions of ORS Chapters 279A-C, including ORS 279C.800 to 279C.870 (Contracting and Prevailing Wages) shall be complied with.
  - D. A statement by the bidder, as part of their bid, that the bidder agrees to be bound by and will comply with the provisions of ORS 279C.838, 279C.840 or 40 U.S.C. 3141 to 3148.
  - E. A statement as to whether the bidder is a resident bidder as defined in ORS 279A.120.
  - F. A statement as to whether or not the bidder is licensed under ORS 468A.720 for asbestos removal.

- G. A statement that the bidder has a current and valid registration with the Construction Contractor’s Board and/or the State Landscape Contractors Board as required by ORS 671.530.
  - H. A statement confirming that the bidder has a Qualified Drug-testing Program for employees in place. [OAR 137-049-0200(1)(c)(B)].
  - I. First Tier Subcontractor form for the project on the City form (physically received in accordance with ORS 279C.370 within 2 working hours of the bid opening).
  - J. A Surety Bond, Cashier’s check or Certified check in the amount of 10 percent of the submitted bid.
  - K. Certification: Non-discrimination (in bid)
  - L. Certification: No Conflict of Interest (in bid)
  - M. Certification: Not ineligible for Public Works Contracts [OAR 137-049-0230] (in bid)
- b. The City will publish notice of any addenda on Oregon’s web-based eProcurement system (OregonBuys) at oregonbuys.gov. The addenda may be downloaded or picked up at the City Engineering Office located at 51 Winburn Way, Ashland Oregon, 97520. Check the website frequently until closing.
  - c. No bid will be received or considered by the City of Ashland unless the bid contains a statement by the bidder as a part of its bid that the Contractor shall be bound by and will comply with the provisions of ORS 279C.838, 279C.840 or 40 U.S.C. 3141 to 3148. The statement shall be included in the Bid form. The existing prevailing rate of wage is available at:  
  
[https://www.oregon.gov/boli/WHD/PWR/Pages/pwr\\_state.aspx](https://www.oregon.gov/boli/WHD/PWR/Pages/pwr_state.aspx)
  - d. Each Bidder must identify in the Bid whether the Bidder is a “resident bidder” as defined in ORS 279A.120.
  - e. Unless specified in the ITB, and Contract Special Provisions, the bidder or subcontractor need not be licensed under ORS 468A.720 relating to asbestos abatement.
  - f. No bid for a construction contract shall be received or considered by the City of Ashland unless the bidder is licensed with the Construction Contractors Board or licensed by the State Landscape Contractors Board as required by ORS 671.530.
  - g. Each Bidder must demonstrate that its firm has a Qualified Drug Testing Program for employees in place and demonstrate compliance prior to award.
  - h. Instructions for First-Tier Subcontractors Disclosure. Bidders are required to disclose information about certain first-tier subcontractors when the contract value for a Public Improvement is greater than \$100,000 (see ORS 279C.370; OAR 137-049-0360).

Specifically, when the contact amount of a first-tier subcontractor furnishing labor or labor and materials would be greater than or equal to (i) 5% of the project bid, but at least \$15,000, or (ii) \$350,000 regardless of the percentage, the bidder must disclose the following information about that subcontract in its bid submission or within two (2) working hours after bid closing:

- (1) The subcontractor’s name,
- (2) The dollar value of the subcontract, and
- (3) The category of work that the subcontractor would be performing.

If the bidder will not be using any subcontractors that are subject to the above disclosure requirements, the bidder is required to indicate "NONE" on the accompanying form. Disclosure forms will be available for public inspection after the opening of the bids.

THE CITY OF ASHLAND MUST REJECT A BID AS NON-RESPONSIVE IF THE BIDDER FAILS TO SUBMIT THE DISCLOSURE FORM WITH THE REQUIRED INFORMATION BY THE STATED DEADLINE (see OAR 137-049-0360).

i. Bid Security. [OAR 137-049-0290]

No bid will be received or considered unless the Bid is accompanied by a certified check, cashier's check, (payable to the City of Ashland), surety bond (in approved form)(f/k/a/ bid bond), or irrevocable letter of credit issued by an insured institution [ORS 706.008] (in an approved form) in an amount equal to ten percent (10%) of the total amount bid. The successful bidder will be required to furnish a faithful performance bond and a labor and material payment bond each in the amount of one hundred percent (100%) of the amount of the contract. Said security shall be irrevocable for 60 days, unless specified otherwise. The bid security shall be forfeited, at the City's option, as fixed and liquidated damages, if the bidder fails or neglects to furnish the required performance bond, the insurance, or to execute the contract within 10 working days after receiving the contract from the City for execution. When a bond is used for bid security, the bond shall be executed by a surety company authorized to transact business in the State of Oregon. **THE BIDDER SHALL HAVE THE SURETY USE THE BID BOND FORM PROVIDED HEREIN. IF THIS FORM IS NOT USED, THE BID WILL BE DEEMED NON-RESPONSIVE AND SHALL BE REJECTED.**

All such certified checks or surety bonds will be returned to the respective bidders within 10 working days after the bids are opened, except those of the two low bidders. The bid security of the two low bidders will be held by the City until the selected bidder has accomplished the following:

- A. Executed a formal contract;
- B. Executed and delivered to the City a Performance Bond and Payment Bond, both in the amount equal to 100% of the Contract Price;
- C. Furnish proof of public works bond filed with BOLI; and
- D. Furnish the required Certificates of Insurance.

Upon the execution and delivery to the City of Ashland of the Contract and Performance Bond and Payment Bond and furnishing proof of a Public Works Bond filed with BOLI by the successful bidder, the bid security shall be returned to the bidder. The bidder who has been awarded a contract and who fails or neglects to promptly and properly execute the contract or bonds shall forfeit the bid security that accompanied the bid. It is hereby specifically provided that a forfeiture of said bid security be declared by the Council if the contract and performance bond and payment bond are not executed and delivered to the City within ten (10) working days of the day of the receipt by the successful bidder of the prepared contract. The Council, at its option, may determine that the bidder has abandoned the submitted accepted bid, in which case the bid security shall become the sole property of the City and shall be considered as liquidated damages and not as a penalty for failure of the bidder to execute the contract and bond. The security of unsuccessful bidders shall be returned to them after the contract has been awarded and duly signed.

j. A Bidder submitting a bid thereby certifies that no officer, agent, or employee of the City who has a pecuniary interest in this bid has participated in the contract negotiations on the part of the City, that the Bid is made in good faith without fraud, collusion, or connection of any kind with any other



Bidder for the same call for bids, and that the Bidder is competing solely on its own behalf without connection with, or obligation to, any undisclosed person or firm.

- k. The Bidder, in submitting the bid, certifies that the Bidder has not been disqualified and is eligible to receive a contract for a public work pursuant to ORS 279C.860 as well as the disqualification provisions of ORS 279C.440 and OAR 137-049-0370. Bidder agrees, if awarded a contract, that every subcontractor will not be ineligible to receive a contract for a public work pursuant to ORS 279C.860 and will otherwise not be disqualified under ORS 279C.440 and OAR 137-049-0370.

#### **4. PRE-BID CONFERENCE AND PREQUALIFICATION OF BIDDERS**

If a pre-bid conference is scheduled, notice will be provided in accordance with OAR 137-049-0200(1)(a)(B). If prequalification will be required it will be specifically stated in the Notice to Contractors and Invitation to Bid, including the date prequalification applications must be filed under ORS 279C.430 and the class or classes of work for which bidders must be pre-qualified. [OAR 137-049-0200(1)(a)(C).] [ORS 279C.365(1)(c)] For example, the requirement for ODOT Prequalification reads as follows:

Bidders must be pre-qualified with the Oregon Department of Transportation or General Service per ORS 279C.435 to perform the type and size of work contemplated herein and shall submit, to the City upon request. The City will investigate and determine the qualifications for the apparent low bidder prior to awarding the contract. [OAR 137-049-0220].

Applications submitted without being designated for a project advertised for bid by the City will be considered as a general prequalification application and processed pursuant to ORS 279C.430 to 279C.450 and notice of prequalification status will be given within thirty (30) days of the receipt of the application. A notice of disqualification can be given orally. An oral disqualification notice will be followed by written notice and bear the date of the oral notice. (NOTE: No person may engage in any business within the City without first obtaining a City Business License and paying the fee prescribed pursuant to City of Ashland Ordinance and accompanying Fee Resolution)

#### **5. FORM OF BID**

- A. Bids shall be submitted in sealed envelopes to:

**For In-Person Bid Delivery:**

**Street Address:**

Chance Metcalf  
Engineering Project Manager  
City of Ashland  
51 Winburn Way  
Ashland, Oregon 97520

**To Mail Bid:**

**Mailing Address:**

Chance Metcalf  
Engineering Project Manager  
City of Ashland  
20 E. Main Street  
Ashland, Oregon 97520

The outside of the transmittal envelope shall bear the following information:

Name of Bidder  
Address and telephone number of Bidder  
Title of Project  
Date of opening  
The words "Sealed Bid"

If the sealed bid is forwarded by mail or messenger service, the sealed envelope containing the bid, and marked as above, must be enclosed in another envelope addressed as noted above. Facsimile and Electronic Data Interchange bids shall not be accepted unless otherwise specified in the Special Provisions. No bid will be received or considered by the City unless the bid contains all the Required Bid Documents and Certifications.

- B. All bids must be clearly and distinctly typed or written with ink or indelible pencil and be on the Bid form furnished by Owner. The bid must be signed by the Contractor or a duly authorized agent. If erasures or other changes appear on the form, they shall be initialed in ink by the person who signs the bid. The bidder shall not alter, modify or change the Bid forms except as directed by addendum. All applicable blanks giving general information must be completed, in addition to necessary unit price items and total prices in the column of totals to make a complete bid. The Bid is the bidder's offer to enter into a contract which, if the Bid is accepted for award, binds the bidder to a contract and the terms and conditions contained in the Bid, as well as the Solicitation Documents. A bidder shall not make the Bid contingent upon the City's acceptance of specifications or contract terms which conflict with or are in addition to those advertised in the Notice to Contractors and Invitation to Bid. Any statement accompanying and tending to qualify a bid may cause rejection of such bid, unless such statement is required in a bid embracing alternative bids
- C. Unless otherwise specified, Bidders shall bid on all bid items included in the bid and the low Bidder shall be determined. Except as provided herein, bids which are incomplete, or fail to reply to all items required in the bid may be rejected.
- D. Bidders shall state whether business is being done as an individual, a co-partnership, a corporation, or a combination thereof, and if incorporated, in what state, and if a co-partnership, state names of all partners. The person signing on behalf of a corporation, a co-partnership or combination thereof shall state their position with the firm or corporation, and state whether the corporation is licensed to do business in the State of Oregon.

## **6. LATE BIDS**

Bids received after the scheduled closing time for submission of bids as set forth in the invitation for bids will be rejected. Bids will be time and date stamped by Community Development Department / Public Works Counter personnel upon receipt. Such time and date stamps will govern the determination of on-time submission of bids. Bids received after the time so fixed are late bids. Late bids will be time and date stamped at the time of receipt by City personnel, marked as "Rejected as Late Bid" and will be returned, unopened, to the submitted.

## **7. INTERPRETATION OF CONTRACT AND ADDENDA**

If a bidder finds error, discrepancies in, or omissions from the plans, specifications or contract documents, or has doubt as to their interpretation or meaning, the bidder shall at once notify the City Contact Person/ Project Manager. The City will investigate and determine if an addendum will be issued.

If it should appear to a Bidder that the work to be done or matters relative thereto are not sufficiently described or explained in the Contract Documents or that Contract Documents are not definite and

clear, or the Bidder needs additional information or an interpretation of the contract, the Bidder may make written inquiry regarding same to the Project Manager at least ten (10) days, unless otherwise specified, before the scheduled closing time for submission of bids.

If, in the opinion of the Project Manager, additional information or interpretation is required, an addendum will be issued to all known specification holders.

Any addendum or addenda issued by the City which may include changes, corrections, additions, interpretations or information, and issued seventy-two (72) hours or more before the scheduled closing time for submission of bids, Saturday, Sunday and legal holidays not included, shall be binding upon the Bidder. City shall supply copies of such Addenda will not be mailed but will be posted on the website and available at Community Development Department Counter; failure of the Contractor to receive or obtain such addenda shall not excuse them from compliance therewith if they are awarded the contract.

ORAL INSTRUCTIONS OR INFORMATION CONCERNING THE CONTRACT, OR THE PROJECT GIVEN OUT BY OFFICERS, EMPLOYEES OR AGENTS OF THE CITY TO PROSPECTIVE BIDDERS SHALL NOT BIND THE CITY.

#### **8. *EXAMINATION OF CONTRACT, SITE OF WORK AND SUBSURFACE DATA***

A. Prior to submitting a bid, it is the responsibility of each Bidder to:

- (1) Examine the plans, specifications and contract documents thoroughly.
- (2) Become fully informed as to the quality and quantity of materials and the character of the work required.
- (3) Visit the site to become familiar with local conditions that may affect cost, progress, or performance of the work and sources and supply of materials.
- (4) Consider all federal, state and local laws, ordinances, rules and regulations that may affect cost, progress, or performance of the work, including environmental and natural resource ordinance and regulations
- (5) Consider identified site conditions and conduct pre-bid inspection to address environmental and natural resource laws implicated by the project.
- (6) Study and correlate the Bidder's observations, especially as regards site conditions with the Contract Documents.
- (7) Notify the Contact Person of all conflicts, errors, ambiguities or discrepancies discovered in the Contract Documents.

B. Bidders shall determine for themselves all the conditions and circumstances affecting the project or the cost of the proposed work, including without limitation utility interferences, by personal examination of the site, careful review of the Contract and by such other means as the Bidder feels may be necessary. It is understood and agreed that information regarding subsurface or other conditions, or obstructions indicated in the Contract Documents, is provided by Owner only for the convenience of Bidders and may not be complete or accurate and such information is not expressly or tacitly warranted to accurately represent actual conditions. Bidder's use of such information shall be at Bidder's sole risk, and Bidder is responsible to confirm any information provided from such independent sources as Bidder feels may be necessary.

C. Logs of test holes, test pits, soils reports, ground-water levels and other supplementary subsurface information are offered as information of underlying materials and conditions at the

locations actually tested. Owner will not be liable for any loss sustained by the Bidder as a result of any variance between conditions contained in or interpretations of test reports and the actual conditions encountered during progress of the work.

- D. The submission of a Bid shall be conclusive evidence that the Bidder has investigated and is satisfied as to the site subsurface conditions to be encountered, as to the character, quality and quantities of work to be performed and materials to be furnished, and as to the requirements of the Contract.
- E. The City will not pay any costs incurred by any Bidder in the submission of a Bid, or in making necessary studies or designs for the preparation thereof, or for procuring or contracting for the items to be furnished under the Invitation to Bid. When submitting a bid, the Bidder agrees that consideration has been given to the requirements and conditions contained throughout these Bid Documents.
- F. Notice: It is further understood that a Bid awarded hereunder is subject to the City being able to comply with all zoning and land development ordinances or obtain rezoning of the property where necessary, and comply with local building code restrictions and conditions for structures contemplated in the project, any or all of which conditions may be contained in the Contract or Contract Special Provisions and if such conditions are not satisfied may result in termination of the Contract.

#### **9. FAMILIARITY WITH LAWS AND ORDINANCES**

- A. The Bidder is presumed to be familiar with all Federal, State, and Local laws, ordinances, and regulations which in any manner affect those engaged or employed in the work or the materials or equipment used in the proposed construction, or which in any way affect the conduct of the work. If the Bidder, or Contractor, shall discover any provision in the Contract which is contrary to or inconsistent with any law, ordinance or regulation, it shall immediately be reported to the Owner in writing.
- B. No person may engage in any business within the City without first obtaining a City Business License and paying the fee prescribed pursuant to City of Ashland Ordinance. The Contractor and their subcontractors shall obtain a City of Ashland Business License prior to beginning any work within the City of Ashland.

#### **10. UNIT BIDS**

- A. The estimate of quantities of work to be done under unit price bids is approximate and is given only as a basis of calculation for comparison of bids and award of the Contract. The City does not warrant that the actual amount of work will correspond to the amount as shown or estimated. Payment will be made at unit prices under a contract, only for work actually performed or materials actually furnished according to actual measurement that were necessary to complete the work.
- B. Bidders must include in their bid prices the entire cost of each item of work set forth in the Bid, and when, in the opinion of the City, the prices in any bid are obviously unbalanced, such bid may be rejected.

- C. The unit contract prices for the various bid items of the contract shall be full compensation for all labor, materials, supplies, equipment, tools and all things of whatsoever nature are required for the complete incorporation of the item into the work the same as though the item were to read "In Place."

## **11. WITHDRAWAL, MODIFICATION OR ALTERATION OF BID**

- A. Bids may be withdrawn on written request received from the bidders prior to the time fixed for opening. The request shall be executed by the bidder or a duly authorized representative. The withdrawal of a bid does not prejudice the right of the bidder to file a new Bid. Negligence on the part of the Bidder in preparing the Bid confers no right for the withdrawal of the bid after it has been opened. The Bid will be irrevocable until such time as the City:
- Specifically rejects the Bid, and
  - Awards the contract to another bidder and said contract is properly executed.

All bids shall remain subject to acceptance by the City for sixty (60) days after the date of the bid opening.

- B. Prior to Bid Opening, changes may be made provided the change is initialed by the Bidder or the Bidder's agent. If the intent of the Bidder is not clearly identifiable, the interpretation most advantageous to Owner will prevail.
- C. No Bidder may withdraw a bid after bid opening unless sixty (60) days have elapsed and the City has not awarded a contract.

## **12. MISTAKES IN BIDS**

- A. To protect the integrity of the competitive solicitation process and to assure fair treatment of Bidders, City will carefully consider whether to permit waiver, correction or withdrawal for certain mistakes.
- B. Treatment of Mistakes. City shall not allow a Bidder to correct or withdraw a Bid for an error in judgment. If the City discovers certain mistakes in a Bid after Opening, but before Award of the Contract, the City may take the following action:
- (a) City may waive, or permit a Bidder to correct, a minor informality. A minor informality is a matter of form rather than substance that is evident on the face of the Bid, or an insignificant mistake that can be waived or corrected without prejudice to other Bidders. Examples of minor informalities include a Bidder's failure to:
    - (i) Return the correct number of Signed Bids or the correct number of other documents required by the Solicitation Document;
    - (ii) Sign the Bid in the designated block, provided a Signature appears elsewhere in the Bid, evidencing an intent to be bound; and
    - (iii) Acknowledge receipt of an Addendum to the Solicitation Document, provided: it is clear on the face of the Bid that the Bidder received the Addendum and intended to

be bound by its terms; and the Addendum involved did not affect price, quantity or delivery.

- (b) City may correct a clerical error if the error is evident on the face of the Bid, or other documents submitted with the Bid, and the Bidder confirms the City's correction in writing. A clerical error is a Bidder's error in transcribing its Bid. Examples include typographical mistakes, errors in extending unit prices, transposition errors, arithmetical errors, instances in which the intended correct unit or amount is evident by simple arithmetic calculations (for example a missing unit price may be established by dividing the total price for the units by the quantity of units for that item or a missing, or incorrect total price for an item may be established by multiplying the unit price by the quantity when those figures are available in the Bid). In the event of a discrepancy, unit prices shall prevail over extended prices.
- (c) City may permit a Bidder to withdraw a Bid based on one or more clerical errors in the Bid only if the Bidder shows with objective proof and by clear and convincing evidence:
  - (i) The nature of the error;
  - (ii) That the error is not a minor informality under this subsection or an error in judgment;
  - (iii) That the error cannot be corrected or waived under subparagraph (b) of this subsection;
  - (iv) That the Bidder acted in good faith in submitting a Bid that contained the claimed error and in claiming that the alleged error in the Bid exists;
  - (v) That the Bidder acted without gross negligence in submitting a Bid that contained a claimed error;
  - (vi) That the Bidder will suffer substantial detriment if the City does not grant it permission to withdraw the Bid;
  - (vii) That the City's or the public's status has not changed so significantly that relief from the forfeiture will work a substantial hardship on the City or the public it represents; and
  - (viii) That the Bidder promptly gave notice of the claimed error to the City.
- (d) The criteria in subsection I above shall determine whether a City will permit a Bidder to withdraw its Bid after Closing. These criteria also shall apply to the question whether an City will permit a Bidder to withdraw its Bid without forfeiture of its bid bond (or other bid security), or without liability to the City based on the difference between the amount of the Bider's Bid and the amount of the Contract actually awarded by the City, whether by award to the next lowest Responsive and Responsible Bidder or the best Responsive and Responsible Proposer, or by resort to a new solicitation.

C. Rejection for Mistakes. The City shall reject any Bid in which a mistake is evident on the face of the Bid and the intended correct Bid is not evident or cannot be substantiated from documents accompanying the Bid (i.e., documents submitted with the Bid).

### **13. REJECTION OF BIDS**

- a. The City may reject any Bid upon a finding that the Bid meets the criteria specified in OAR 137-049-0440(1)(a) or (b) or has not provided the certification required under OAR 137-049-0440(3)

or has not included Contractor's qualification statement, in accordance with Section 20-02, including "Evidence of Competency" and "Evidence of Financial Responsibility." The City shall reject a Bid from a Bidder who meets the criteria specified in OAR 137-049-0440(1)(c). The City may, for good cause, reject any or all bids upon a finding it is in the public interest to do so. In any case where competitive bids are required and all bids are rejected, and the proposed contract is not abandoned, new bids may be called for as in the first instance. The City may, at its own discretion, waive minor informalities.

- b. This Invitation to Bid does not commit the City to pay any costs incurred by any Bidder in the submission of a Bid, or in making necessary studies, subsurface investigations or designs for the preparation of a Bid, or for procuring or contracting for the items to be furnished pursuant to the Contract Documents.

The City reserves the right to reject any or all bids when such rejection is in the best interest of the City of Ashland. Bids may be rejected if they show any alteration of form, additions not called for, conditional Bids, incomplete Bids, erasures, or irregularities of any kind.

When Bids are signed by an agent, other than the officer or officers of a corporation authorized to sign contracts on its behalf, or a member of a partnership, a "Power of Attorney" must be submitted with the Bid or on file with the City Administrator prior to opening of bids; otherwise, the Bid will be rejected as irregular.

More than one Bid from an individual, firm, partnership, corporation, or combination thereof with an interest in more than one bid, for the items bid, will be cause for the rejection of all Bids in which such individual, firm, partnership, corporation, or combination thereof, is interested.

If there is reason to believe that collusion exists among bidders, none of the bids of the participants in such collusion will be considered, and all involved bids shall be rejected. Bids in which prices are obviously unbalanced may be rejected.

#### **14. BID PROTEST. [OAR 137-049-0260].**

Bidders may, in writing protest or request changes of any specifications or contract terms in accordance with adopted City contracting rules. The written protest or request for changes must be received by the City no later than ten (10) calendar days prior to the Bid Closing Date. The written protest or request shall include the reasons for the protest or request, and any proposed changes to the bid specifications or contract terms and a description of the prejudice to the bidder. Envelopes containing bid protests shall be marked "Contract Provision Protects or Request" with the Bid Number and Closing Date. No protest against award, owing to the content of the bid specifications or contract terms shall be considered after the deadline established for submitting protests of bid specifications or contract terms.

#### **15. ORS 654.150 SANITARY FACILITIES AT CONSTRUCTION PROJECTS STANDARDS, EXEMPTIONS**

If the contract price is estimated (itemized bid) or bid (lump sum) by Contractor at \$1,000,000 or more, Contractor shall be responsible for all costs (which costs shall be included in the bid whether or not a specific bid item is provided therefore) that may be incurred in complying with or securing exemption or partial exemption from the requirements of ORS 654.150 (Sanitary facilities at construction projects; standards, exemptions) and the rules adopted pursuant thereto. Determination of applicability of ORS 654.150 to the project is the sole responsibility of the Contractor.

**16. PREVAILING WAGE RATE**

The Contractor shall be required to follow standard billing format as set forth from State or Federal Funding sources. The Ashland Municipal Airport Taxiway Reconstruction and Rehabilitation project shall follow the current State of Oregon BOLI Wage Rates or Federal Davis Bacon wage rate, whichever is higher. The rates utilized will be noted at the date of the bid shown at the following location: [http://www.oregon.gov/boli/WHD/PWR/Pages/pwr\\_state.aspx](http://www.oregon.gov/boli/WHD/PWR/Pages/pwr_state.aspx).



## **Attachment A**

### ***CITY OF ASHLAND***

#### *Nondiscrimination and Equal Opportunity Policy for Contractors*

##### **1. GENERAL POLICY OF NON-DISCRIMINATION**

It is the policy of the City of Ashland to promote equal opportunity to all persons regardless of race, religion, color, national origin, sex, age, marital status, handicap, or political affiliation, in respect to employment, public services, facilities and accommodations. This policy is reinforced by obligations assumed by the City as a condition of receipt of federal and state funds. This policy thus becomes an obligation which must be assumed by the Contractor as well. Because in some cases religion, sex, age, or disability may properly be the basis for denial or restriction of privileges with respect to employment, public services, facilities or accommodations, the following more specific obligations, terms, or conditions shall apply.

The proposed contract is under and subject to Executive Order 112456 of September 24, 1986, and to the Equal Employment Opportunity (EEO) and Federal Labor Provisions. The EEO requirements, labor provisions, and wage rates are included in the specifications and bid documents.

A Contractor having 50 or more employees and their subcontractors having 50 or more employees and who may be awarded a subcontract of \$50,000 or more will be required to maintain an affirmative action program, the standards for which are contained in the specifications.

To be eligible for award, each Bidder must comply with the affirmative action requirements which are contained in the specifications.

Disadvantaged Business Enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award of any contract entered into pursuant to this advertisement.

In accordance with federal requirements, the City of Ashland has determined that this contract has subcontracting possibilities and encourages the participation of Disadvantaged Business Enterprises as prime contractors and subcontractors. A non-mandatory DBE goal of 3.9% has been established for the project.

Based on the 9<sup>th</sup> Circuit Court Decision in *Western States Paving Company v. Washington State Department of Transportation*, the City of Ashland has determined that it is appropriate to use a race/gender neutral goal. The City encourages all bidders to take active race/gender neutral steps to include DBE's in this contract. Race/gender neutral steps include: unbundling large contracts, subcontracting work the prime contractor may self-perform, providing bonding or financing assistance, providing technical assistance, etc. This contract can be awarded without the lowest responsive bidder meeting the goal or demonstrating good faith effort to meet the goal.

##### **2. DISCRIMINATION BECAUSE OF RELIGIOUS BELIEF**

With respect to terms and conditions of employment and hiring only, the Contractor shall be deemed to have complied with the general obligation of according equal opportunity without regard to religion if every reasonable effort has been made to accommodate the particular religious beliefs or

practices of an employee or applicant for employment, but such accommodation cannot be made without undue hardship to the employer.

### 3. *DISCRIMINATION BECAUSE OF SEX*

With respect to terms and conditions of employment and hiring only, the Contractor shall be deemed to have complied with the general obligation of according equal opportunity notwithstanding any rule, standard, practice, or decision which accords an employee or applicant different treatment because of sex, if such rule, standard, practice, or decision is based upon a bona fide occupational qualification which the employer cannot, without undue hardship, modify or waive to accommodate the employee or applicant.

With respect to public services, facilities, and accommodations the Contractor shall be deemed to have complied with the general obligation of according equal opportunity notwithstanding any rule, standard, practice, or decision which restricts or limits access to such on a basis of sex where:

- A. Physical facilities such as restrooms, bathing facilities, dressing rooms, etc. must be segregated on the basis of sex to accord personal privacy or comply with local, state, or federal law, or ordinance, or administrative regulation; or
- B. The content or subject matter of a program or service is clearly of benefit to persons of a particular sex only because it deals with medical, psychological, or sociological factors inherently linked to the characteristics of one sex only, or its effectiveness in providing benefit to persons of one sex would be unreasonably and adversely affected by the participation of persons of the opposite sex.

### 4. *DISCRIMINATION BECAUSE OF DISABILITY*

With respect to terms and conditions of employment and hiring only, the Contractor shall be deemed to have complied with the general obligation of according equal opportunity to persons who are physically or mentally disabled if every reasonable effort has been made to accommodate any physical or mental disabilities of an employee or applicant, but such accommodations cannot be made without undue hardship to the employer; or where, because of such disability, the employee or applicant cannot meet a bona fide occupational qualification that cannot be waived or modified without undue hardship to the employer.

With respect to public services, facilities and accommodations only, the Contractor shall be deemed to have complied with the general obligation of according equal opportunity to persons who are physically or mentally disabled where:

- A. Architectural barriers limiting access to facilities owned or occupied by the Contractor cannot be eliminated without structural alterations, and are permitted to remain under the provisions of the Oregon State Structural Specialty Code; or
- B. A program or activity, viewed in its entirety, is readily accessible to and usable by persons who are physically or mentally disabled.
- C. The purpose of the program, service, or facility is to provide a special benefit to persons characterized by a particular handicap in some respect specially related to the educational, medical, psychological, mobility, social or economic needs of persons so disabled.

## 5. *DISCRIMINATION BECAUSE OF AGE*

With respect to terms and conditions of employment and hiring only, the Contractor shall be deemed to have complied with the general obligation of according equal opportunity regardless of age where:

- A. Certain positions include duties which must, by law or ordinance, be performed by persons over a certain age, and the employer cannot accommodate the employment of a person under that minimum age without undue hardship;
- B. The employee or applicant has passed any applicable age established by the Congress of the United States beyond which an employer may reject an employment application or mandate an employee's retirement.

With respect to public services, facilities, and accommodations only, the Contractor shall be deemed to have complied with the general obligation of according equal opportunity without regard to age where:

- A. The purpose of the service, facility, or accommodation is to benefit or serve persons under 18 years of age or their adult custodians in some respect specially related to the needs of such persons; or
- B. The purpose of the service, facility, or accommodation is to benefit or serve persons 65 years of age or older in some respect specially related to the educational, medical, psychological, mobility, social, or economic needs common to persons of that age group.

## 6. *DEFINITIONS*

As used in this Policy, there are several terms specifically defined in various federal, state, and local laws, ordinances, and administrative regulations applicable either because of the City's receipt of federal or state funds, or because they are general laws and ordinances prohibiting discrimination. In addition, judicial and administrative decisions have created an additional body of law further defining these terms in their application. Because of the magnitude and complexity of these various legal definitions and interpretations, it is not possible to provide exhaustive definitions herein. The Contractor should be guided by the following general rules:

- A. Where two separate legal definitions or interpretations may apply in a given situation, the one according the greatest degree of protection to the person entitled to their protection shall govern.
- B. "Disability" and "handicap" are intended to be synonymous.
- C. The Contractor is not entitled to advisory opinions or advice from City representatives as regards the specific application of this policy. It is up to the Contractor, and their own legal counsel to ascertain compliance with this policy, federal, state and local law. The City expressly disclaims any responsibility for the Contractor's reliance on advice or opinions given by City representatives.

- D. The Contractor is cautioned that restrictions in deeds, leases, collective bargaining agreements, and other contracts may not in every case justify an otherwise discriminatory act, policy, or practice. The Contractor must, at his own risk and expense, comply with this Policy regardless of contractual restrictions which do not justify Contractor's acts, policies, or practices.

7. *ADVERTISING AND PROMOTIONAL MATERIAL*

- A. In all advertising, postings, and promotional material relating to hiring, the Contractor shall include the following statement:

" \_\_\_\_\_ (name of contractor) \_\_\_\_\_ is an equal opportunity employer and does not discriminate in hiring, promotion, layoff, discipline, transfer, compensation, or other terms of employment because of a person's race, religion, color, national origin, sex, age, marital status, handicap, or political affiliation."

EXCEPTION: In "classified" advertising the Contractor need only include the statement "An Equal Opportunity Employer".

- B. In all advertising, postings, and promotional material relating to programs and services funded in whole or in part under a contract with the City of Ashland, the Contractor shall include the following statement:

"This \_\_\_\_\_ (program or service as applicable) \_\_\_\_\_ is open to all persons without regard to race, religion, color, national origin, sex, age, marital status, handicap or political affiliation. For further information about this equal opportunity policy, contact \_\_\_\_\_ (name of contractor's representative) \_\_\_\_\_ at \_\_\_\_\_ (phone number) \_\_\_\_\_.

8. *RETALIATION*

The Contractor shall not, in any manner, accord different or unequal treatment to or in any way discriminate against any person because of such person's filing of or participation in any grievance or complaint of discrimination contrary to its policy, whether such grievance or complaint is logged with the City of Ashland, or any state or federal court or agency.

9. *GRIEVANCE PROCEDURE*

During the term of this Contract, and for at least six months thereafter, the Contractor shall conspicuously display the attached "Notice: Your Rights to Have Discrimination Complaints Heard" in locations accessible to the public at its principal office and all other premises within the City of Ashland where it conducts any operations. Likewise, the Contractor shall fully cooperate with the designated representative of the City of Ashland and state and federal civil rights compliance agencies in investigating, mediating, and otherwise handling complaints or grievances concerning this Policy.

10. *VIOLATIONS*

Violation by the Contractor of any provision of this Policy may, in addition to any remedy accorded an aggrieved person, be cause for termination of the Contract, debarment from participation in future City of Ashland contracts, or both.

## *11. CONTRACTS DIRECTLY FUNDED BY FEDERAL OR STATE AGENCIES*

If this Contract is funded in whole or in part by federal or state grants, there may be imposed on the Contractor the additional obligation of "affirmative action" to ensure equal opportunity, and specific standards and reporting requirements to be met. "Affirmative action", in general, means taking positive and affirmative steps to involve historically disadvantaged classes of persons in the performance of the work or participation in the benefits of this Contract. These steps may include special recruitment efforts, specific goals as to percentages of such persons employed in certain jobs, specific goals as to percentages of such persons employed in certain jobs, specific standards for the amount of work to be subcontracted to minority-owned businesses, etc.

If there are such additional requirements beyond this policy, the Invitation for Bids will state:

"This project is funded in whole or in part through     (name of agency)    . Special equal opportunity requirements imposed by that agency are contained in the bid documents, and bidders are cautioned to examine them carefully in preparing their bids."



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**EXHIBIT L**

**BIDDER'S STATEMENT ON PREVIOUS CONTRACTORS SUBJECT TO EEO  
CLAUSE**

The Bidder (proposer) has \_\_\_\_\_ has not \_\_\_\_\_ participated in a previous contract subject to the nondiscrimination clause prescribed by Section 202 of Executive Order No. 11246 dated September 24, 1965.

The Bidder (proposer) has \_\_\_\_\_ had not \_\_\_\_\_ submitted compliance reports in connection with any such contract as required by applicable instructions.

If the Bidder (proposer) has participated in a previous contract subject to the nondiscrimination clause and has not submitted compliance reports as required by applicable instructions, the Bidder (proposer) shall submit Standard Form 100 (for federal construction contracts) with the bid or proposal indicating current compliance.

---

Name and Title of Signer (Please type)

---

Signature

Date



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**EXHIBIT M**  
**LETTER OF INTENT**

Name of Bidder's Firm: \_\_\_\_\_

Bidder's Address: \_\_\_\_\_

City: \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Name of DBE Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Telephone: \_\_\_\_\_ Area Code: \_\_\_\_\_

State DBE Certification Number: \_\_\_\_\_

Description of work to be performed by DBE firm:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bidder intends to utilize the above-named minority firm for the work described above. The estimated amount of work is valued at \$ \_\_\_\_\_. If the above-named bidder is not determined to be the successful bidder, the Letter of Intent shall be null and void.

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

(Copy this page for each DBE subcontractor)  
(Letter of intent is not required if no DBE firms participate in the project)

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**EXHIBIT N**

**RESTRICTION ON FEDERAL PUBLIC WORKS PROJECTS**

- (a) General: This clause implements provisions contained in the Airport and airway Safety and Capacity Expansion Act of 1987, Public Law No. 100223.
- (b) Restrictions on Contract Award: No contract will be awarded to a bidder (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 United States Trade Representative (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 project any production of a foreign country on such USTR List; unless a waiver to these restrictions is granted by the President of the United States or the Secretary of Transportation. (Notice of the granting of a waiver will be published in the Federal Register.)
- (c) Certification: By this page the bidder certifies that with respect to this solution, and any resultant contract the bidder:
  - 1. Is \_\_\_\_\_ Is not \_\_\_\_\_ a contractor of a foreign country included on the USTR list;
  - 2. Has \_\_\_\_\_ Has not \_\_\_\_\_ entered into any contract with a subcontractor of a foreign country included on the USTR list;
  - 3. Has \_\_\_\_\_ Has not \_\_\_\_\_ entered into any contract for any product to be used on this project that is produced in a foreign country included on the USTR list.
- (d) The bidder may rely upon the certification of a prospective subcontractor for the above conditions unless the bidder has knowledge that the certification is erroneous.
- (e) Erroneous Certification: This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the bidder knowingly rendered an erroneous certification, the sponsor may cancel this contract for default at no cost to the sponsor.
- (f) Subcontracts: The bidder shall incorporate this clause, without modification, including this paragraph (f) in all solicitations and subcontracts under this contract.
- (g) Applicability of 18 U.S.C. 1001: This certification concerns a matter within the jurisdiction of the federal Aviation Administration and the making of a false or fraudulent certification may render the maker subject to prosecution under Title 18, Unites States Code, Section 1001.

Firm Name \_\_\_\_\_

Authorized Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

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## EXHIBIT O

### BUY AMERICAN PREFERENCE

The Contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP 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.

A bidder or offeror must complete and submit the Buy America certification included herein with their bid or offer. The Owner will reject as nonresponsive any bid or offer that does not include a completed Certificate of Buy American Compliance.

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 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 by:
- a) Only installing steel and manufactured products produced in the United States; or
  - b) 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
  - c) 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:

- To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
- To faithfully comply with providing U.S. domestic products.
- 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 either 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 Owner within 15 calendar days of the bid opening, 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.

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**Required Documentation**

**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”. The required documentation for a Type 3 waiver is:

- a) 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).
- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- c) 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** – Total cost of project using U.S. domestic source product exceeds the total project cost using non-domestic product by 25 percent. The required documentation for a Type 4 of waiver is:

- a) Detailed cost information for total project using U.S. domestic product
- b) Detailed cost information for total project using non-domestic product

**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



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## EXHIBIT Q

### Buy America Waiver Request

Title 49 U.S.C Section 50101 (b)

For Airfield Development Projects funded under the Airport Improvement Program

#### Instructions for Permissible Waivers

**Nationwide Waivers:** The FAA Office of Airports publishes national waivers for equipment and products that meet Buy American requirements under 49 USC 50101. Nationwide waivers are published at: [http://www.faa.gov/airports/aip/procurement/federal\\_contract\\_provisions/media/buy\\_american\\_waiver.xls](http://www.faa.gov/airports/aip/procurement/federal_contract_provisions/media/buy_american_waiver.xls)

#### Section 50101(b)(1) & (b)(2) Waivers:

The bidder may request a waiver based upon the best interests of the public, Section 50101 (b)(1) or request a waiver based upon insufficient supply of U.S. manufactured products, Section 50101 (b)(2), however approval is rare and waivers may only be approved by the FAA Office of Airports in Washington DC.

Section	50101(b)(3)	Waiver:
---------	-------------	---------

The bidder may request a waiver if 60% or more of the components are produced in the United States and final assembly occurs in the U.S. Bidder is hereby advised that the Owner's approval with the bidder's waiver request	is	contingent upon FAA approval.
--	----	-------------------------------

1. "Equipment" in Section 50101 shall mean the following:
  - a) Individual type "L" items (Airfield Lighting Equipment) as listed in FAA Advisory Circular 150/5345-53.
  - b) Individual bid items as established within FAA Advisory Circular 150/5370-10.
  - c) A waiver request may only address one specific equipment item. Submit separate requests for each equipment item for which a waiver.
  - d) Items listed under the Nationwide Waiver referenced above do not require further review.
2. The bidder must base the U.S. percentage upon the value that results from completing a component cost calculation table similar to the attached format. The Bidder must submit the component cost calculation table as an attachment to the waiver request.
3. Components/subcomponents are the material and products composing the "equipment".
4. The final assembly of the AIP-funded "equipment" must be within the USA (*Section 50101(b)(3)(B)*). Final assembly is the substantial transformation of the components and subcomponents into the end product.
5. All steel used in the "Equipment" must be produced in the United States.
6. The Buy American requirements apply to all tier contractors and subcontractors. All contractors/subcontractors are required to provide appropriate documentation that indicates origin of manufacturer and percentage of domestic made product.
7. The bidder is hereby advised there is no implied or expressed guarantee that a requested waiver will be issued by the Federal Aviation Administration (FAA). Less than 60% USA component/subcomponent proposed for this facility CANNOT be waived. Products made with foreign steel are not eligible for a waiver.
8. North America Free Trade Act (NAFTA): Free Trade Agreements such as NAFTA do not apply to the AIP. Products and material made in Canada or Mexico must be considered as foreign made products.
9. Preparation of a Component Cost Calculation Table is not necessary for equipment listed on the FAA national listing:  
[http://www.faa.gov/airports/aip/procurement/federal\\_contract\\_provisions/media/buy\\_american\\_waiv](http://www.faa.gov/airports/aip/procurement/federal_contract_provisions/media/buy_american_waiv)

er.xls.

Bidder however shall submit a listing of any equipment it proposes to install on the project that is included on the National Buy American conformance list.

Instructions for Section 50101(b)(4) Waiver:

1. The bidder may request a waiver if application of Buy America preferences results in a 25% cost increase in the overall project. This waiver is rarely applicable. Consult the Owner before making this request.

**EXHIBIT R**

**Buy America Waiver Request**

Title 49 U.S.C Section 50101 (b)(3)

**For Airfield Development Projects funded under the Airport Improvement Program  
COMPONENT COST CALCULATION TABLE (Type 3 Waiver)**

- *In lieu of completing this table, bidder may prepare a spreadsheet that addresses the same information and calculations as presented herein.*
- *Preparation of a Component Cost Calculation Table is not necessary for equipment listed on the FAA national listing:  
[http://www.faa.gov/airports/aip/procurement/federal\\_contract\\_provisions/media/buy\\_american\\_waiver.xls](http://www.faa.gov/airports/aip/procurement/federal_contract_provisions/media/buy_american_waiver.xls).*
- *The component breakout shall be along major components of the equipment. Submit separate calculation for each different equipment types. Do not combine the component cost calculations of different types of equipment.*
- *For Airfield development projects, equipment is defined as the “L” items (Airfield Lighting Equipment) as listed in FAA Advisory Circular 150/5345-53 and the b) individual bid items as established within FAA Advisory Circular 150/5370-10. The individual bid item method may not be applied to the “L” type items.*
- *An authorized person shall attest under signature and date that the submitted information is accurate and complete.*

**Equipment Type:** \_\_\_\_\_

<b>Component/Subcomponents</b>	<b>Name of Manufacturer</b>	<b>Country of Origin</b>	<b>Cost of Foreign Manufactured Components/Subcomponents</b>	<b>Cost of USA Manufactured Components/Subcomponents</b>

**Sum of US Manufactured Component/Subcomponent Costs:** \_\_\_\_\_

**Sum of all Equipment Components and Subcomponents:** \_\_\_\_\_

**Percentage of Equipment Components Manufactured in the United States:** \_\_\_\_\_

**Place of Final Assembly:** \_\_\_\_\_

**Certification Signature**

**Bidder hereby requests a waiver to Buy America preferences based upon Section 50101(b)(3) for the equipment identified above. The bidder certifies that \_\_\_\_\_ % of the cost of components and subcomponents comprising the equipment are produced in the United States and that final assembly occurs within the United States.**

**I hereby certify the above information is accurate and complete.**

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

\_\_\_\_\_

Company Name

\_\_\_\_\_

Title

**EXHIBIT S**

**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 ( ✓ ) 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 U.S.C. § 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.

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

\_\_\_\_\_

Company Name

\_\_\_\_\_

Title



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**EXHIBIT T**

**BIDDERS LIST**

All firms bidding or quoting on subcontracts for this  
DOT-assisted project are listed below:

<u>Firm Name</u>	<u>Address</u>	<u>CERTIFIED DBE (Y or N)</u>	<u>Age of Firm</u>	<u>GRS*</u>

\*GRS – Annual Gross Receipts  
Enter 1 for less than \$1 million  
Enter 2 for more than \$1 million, less than \$5 million  
Enter 3 for more than \$5 million, less than \$10 million  
Enter 4 for more than \$10 million, less than \$15 million  
Enter 5 for more than \$15 million

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## **APPENDIX**

1. FAA CONTRACT PROVISION GUIDELINES FOR OBLIGATED SPONSORS AND AIRPORT IMPROVEMENT PROGRAM PROJECTS
2. BOLI PREVAILING WAGE
3. DAVIS BACON ACT PREVAILING WAGE
4. GEOTECHNICAL ENGINEERING REPORT
5. OREGON DEQ 1200-C PERMIT (WORK IN PROGRESS)
6. CONSTRUCTION SAFETY AND PHASING PLAN

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**PROFESSIONAL OF RECORD CERTIFICATION:**

Seal w/signature	<p>I certify the Contract Conditions, General Provisions, and Technical Specifications listed below are applicable to the design for the subject project for <u>Civil and Electrical</u>. These specifications were prepared by me or under my supervision.</p> <p>Section(s)</p> <ul style="list-style-type: none"><li>• Part I – Bid &amp; Contract Documents</li><li>• Part II – Contract Conditions and General Provisions</li><li>• Part III – Technical Specifications</li></ul>
------------------	--

FINAL ELECTRONIC DOCUMENT AVAILABLE UPON REQUEST

**CENTURY WEST ENGINEERING CORPORATION**

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## **PART II – CONTRACT CONDITIONS AND GENERAL PROVISIONS**

### **ASLAND MUNICIPAL AIRPORT/SUMNER PARKER FIELD TAXIWAY RECONSTRUCTION AND REHABILITATION PROJECT**

**2020-18**

**AIP # 3-41-0002-016-2022**

**Airport Road Construction**

#### **WORK TO BE DONE**

The Work to be done under this Contract consists of the following:

1. Shift and reconstruct Taxiway A centerline approximately 12' west to create a consistent, full-length, 150' width between Runway and Taxiway A centerlines. Reconstruction of Taxiway A extending from Taxiway A3 to Taxiway A6 (approximately 2,750 ft by 25 ft), including reconstruction of Northwest Apron Taxiway 1 and 2, partial reconstruction of Taxiway A5 and A6, and the run-up apron;
  - a. Demolish, overexcavate, and replace approximately 10,000 SY of pavement section.
2. Taxiway rehabilitation extending from Taxiway A3 southeast along Taxiway A to taxiway end (approximately 1,850 ft by 35 ft) including Taxiways A1, A2, and A3;
  - a. Crack seal and/or surface seal approximately 4,800 SY of existing pavement.
3. New taxiway edge lighting, including new conduit/wire and electrical building improvements;
4. New underdrains;
5. Associated drainage improvements;
6. New airfield signage and pavement marking associated with the taxiway and its connectors;
7. Replace the Constant Current Regulator (CCR);
8. Replace the Radio Control Equipment;
9. Constructed electrical room modifications as needed for the CCR and radio control equipment replacement and associate NEC code updates;
10. Upgrade/modify existing power and control, as required; and
11. Associated shoulder grading, topsoil, seeding and restoration.

#### **AUTHORITY OF CONSULTANT**

The consultant will be directly in charge of the Project. However, his authority on this Project is as designated in the official "Consultant Agreement" for this Project, and as designated by the Engineer. This does not include authority to approve Contract changes or semifinal and Final Inspection of the Project.

#### **APPLICABLE SPECIFICATIONS**

The Specifications that are applicable to the Work on this Project are the Federal Aviation Administration's Advisory Circulars (latest editions and changes) and the 2021 edition of the "Oregon Standard Specifications for Construction", as modified by these Special Provisions. All Sections in Part 00100 apply, whether or not modified or referenced in the Special Provisions.

All number references in these Special Provisions shall be understood to refer to the Sections and subsections of the Standard Specifications bearing like numbers and to Sections and subsections contained in these Special Provisions in their entirety.



**CLASS OF PROJECT**

This is a Locally and Federally Funded Project.

**SECTION 10 DEFINITION OF TERMS**

**SECTION 20 PROPOSAL REQUIREMENTS AND CONDITIONS**

**SECTION 30 AWARD AND EXECUTION OF CONTRACT**

**SECTION 40 SCOPE OF WORK**

**SECTION 50 CONTROL OF WORK**

**SECTION 60 CONTROL OF MATERIALS**

**SECTION 70 LEGAL REGULATIONS AND RESPONSIBILITY TO PUBLIC**

**SECTION 80 EXECUTION AND PROGRESS**

**SECTION 90 MEASUREMENT AND PAYMENT**

**C-100 CONTRACTOR QUALITY CONTROL PROGRAM**

**C-102 TEMPORARY AIR AND WATER POLLUTION, SOIL EROSION, AND SILTATION CONTROL**

**C-105 MOBILIZATION**

**SUPPLEMENTARY CONDITIONS**

**SECTION 01160 GENERAL REQUIREMENTS**

**SECTION 01300 AIRPORT SAFETY**

**SECTION 01406 CONSTRUCTION STAKING**

**SECTION 01700 PROJECT CLOSEOUT**

**ITEM P-100 FOD PREVENTION CONTROLS**

**ITEM P-101 REMOVAL OF EXISTING PAVEMENTS**

**ITEM P-151 CLEARING AND GRUBBING**

**ITEM P-152 EXCAVATION, SUBGRADE, AND EMBANKMENT**

**ITEM P-153 CLSM**

**ITEM P-156 CEMENT TREATED SUBGRADE**

**ITEM P-208 AGGREGATE BASE COURSE**

**ITEM P-403 ASPHALT MIX PAVEMENT**

**ITEM P-602 EMULSIFIED ASPHALT PRIME COAT**

**ITEM P-603 EMULSIFIED ASPHALT TACK COAT**

**ITEM P-605 JOINT SEALANTS FOR PAVEMENTS**

**ITEM P-608 EMULSIFIED ASPHALT SEAL COAT**

**ITEM P-626 EMULSIFIED ASPHALT SLURRY SEAL SURFACE TREATMENT**

**ITEM P-620 RUNWAY AND TAXIWAY MARKING**

**ITEM D-701 PIPE FOR STORM DRAINS AND CULVERTS**

**ITEM D-705 PIPE UNDERDRAINS FOR AIRPORTS**

**ITEM D-751 MANHOLES, CATCH BASINS, INLETS, AND INSPECTION HOLES**

**ITEM T-901 SEEDING**

**ITEM L-108 UNDERGROUND POWER CABLES FOR AIRPORTS**

**ITEM L-110 AIRPORT UNDERGROUND ELECTRICAL DUCT BANKS AND CONDUITS**

**ITEM L-115 ELECTRICAL MANHOLES AND JUNCTION STRUCTURES**

**ITEM L-125 INSTALLATION OF AIRPORT LIGHTING SYSTEMS**



**FAA  
Airports**

## **Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects**

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# APPENDIX A – CONTRACT PROVISIONS

## A1 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

### 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:	<b>3.9% RN</b>
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 **Oregon, Jackson County, City of Ashland.**

### **A3 BREACH OF CONTRACT TERMS**

#### **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**

### **BUY AMERICAN PREFERENCE**

The Contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP 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.

A bidder or offeror must complete and submit the Buy America certification included herein with their bid or offer. The Owner will reject as nonresponsive any bid or offer that does not include a completed Certificate of Buy American Compliance.

#### **Certificate of Buy American Compliance for Manufactured Products**

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 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 by:
- a) Only installing steel and manufactured products produced in the United States;
  - b) 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
  - c) 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:

1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
  2. To faithfully comply with providing U.S. domestic product.
  3. To furnish U.S. domestic product for any waiver request that the FAA rejects
  4. 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 either 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:
1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that supports the type of waiver being requested.
  2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.



3. To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

**Required Documentation**

**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) 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).
- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- c) 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** – Total cost of project using U.S. domestic source product exceeds the total project cost using non-domestic product by 25 percent. The required documentation for a Type 4 of waiver is:

- a) Detailed cost information for total project using U.S. domestic product
- b) Detailed cost information for total project using non-domestic product

**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**

### **GENERAL CIVIL RIGHTS PROVISIONS**

The Contractor agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

## **A6 CIVIL RIGHTS – TITLE VI ASSURANCE**

### **A6.1 SOURCE**

49 USC § 47123

FAA Order 1400.11

### **A6.2 APPLICABILITY**

Title VI of the Civil Rights Act of 1964, as amended, (Title VI) prohibits discrimination on the grounds of race, color, or national origin under any program or activity receiving Federal financial assistance. Sponsors must include appropriate clauses from the Standard DOT Title VI Assurances in all contracts and solicitations.

The text of each individual clause comes from the U.S. Department of Transportation [Order DOT 1050.2](#), Standard Title VI Assurances and Nondiscrimination Provisions, effective April 24, 2013. These assurances require that the Recipient (the sponsor) insert the appropriate clauses in the form provided by the DOT. Where the clause refers to the applicable activity, project, or program, it means the AIP project.

The clauses are as follows:

### A6.2.1 Applicability of Title VI Solicitation Notice

Contract Clause	The Sponsor must include the contract clause in:	Clause Text is Included in Paragraph
<p>Title VI Solicitation Notice –</p> <ul style="list-style-type: none"> <li>• Assurance 2 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses</li> <li>• Assurance 30d of the Airport Sponsor Assurances</li> </ul>	<p>1) All AIP funded solicitations for bids, requests for proposals, or any work subject to Title VI regulations; and</p> <p>2) All sponsor proposals for negotiated agreements <b>regardless of funding source.</b></p>	A6.3.1
<p>Title VI Clauses for Compliance with Nondiscrimination Requirements</p> <ul style="list-style-type: none"> <li>• Assurance 3 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses</li> <li>• Assurance 30e.1 of the Airport Sponsor Assurances</li> </ul>	<p>Every contract or agreement (unless the sponsor has determined, and the FAA concurs, that the contract or agreement is not subject to the Nondiscrimination Acts and Authorities)</p> <p>It has been determined that service contracts with utility companies that are not already subject to nondiscrimination requirements must include this clause.</p>	A6.4.1
<p>Title VI Required Clause for Property Interests Transferred from the United States</p> <ul style="list-style-type: none"> <li>• Assurance 4 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses</li> <li>• Assurance 30e.3 of the Airport Sponsor Assurances</li> </ul>	<p>As a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.</p> <p>This is a rare occurrence and it will be the responsibility of the United States government to include the clause in the contract.</p>	A6.4.2
<p>Title VI Required Clause for Transfer of Real Property Acquired or Improved Under the Activity, Facility or Program –</p> <ul style="list-style-type: none"> <li>• Assurance 5 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses</li> <li>• Assurance 30e.4a of the Airport Sponsor Assurances</li> </ul>	<p>As a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the sponsor with other parties for all transfers of real property acquired or improved under Airport Improvement Program</p> <p>This applies to agreements such as leases where a physical portion of the airport is transferred for use, for example a fuel farm, apron space, or a parking facility.</p>	A6.4.3

Contract Clause	The Sponsor must include the contract clause in:	Clause Text is Included in Paragraph
<p>Clause for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program</p> <ul style="list-style-type: none"> <li>Assurance 6 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses</li> <li>Assurance 30e.4b of the Airport Sponsor Assurances</li> </ul>	<p>In any future (deeds, leases, licenses, permits, or similar instruments) entered into by the sponsor with other parties for the construction or use of, or access to, space on, over, or under real property acquired or improved under Airport Improvement Program</p> <p>This applies to agreements such as leases of concession space in a terminal.</p>	A6.4.4
<p>Title VI List of Pertinent Nondiscrimination Acts and Authorities</p> <ul style="list-style-type: none"> <li>Assurance 3 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses</li> <li>Assurance 30e.2 of the Airport Sponsor Assurances</li> </ul>	<p>Insert this list in every contract or agreement, unless the sponsor has determined, and the FAA concurs, that the contract or agreement is not subject to the Nondiscrimination Acts and Authorities.</p> <p><b>This list can be omitted if the FAA has determined that the contractor or company is already subject to nondiscrimination requirements.</b></p>	A6.4.5

**A6.3 SOLICITATION CLAUSE**

**The sponsor must include this clause in:**

- 1) All AIP funded solicitations for bids, requests for proposals, or any work subject to Title VI regulations; and
- 2) All sponsor proposals for negotiated agreements **regardless of funding source.**

**A6.3.1 Title VI Solicitation Notice**

**Title VI Solicitation Notice:**

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

## A6.4 CONTRACT CLAUSES

### A6.4.1 Title VI Clauses for Compliance with Nondiscrimination Requirements

The sponsor must include this contract clause in:

- 1) Every contract or agreement (unless the sponsor has determined, and the FAA concurs, that the contract or agreement is not subject to the Nondiscrimination Acts and Authorities); and
- 2) Service contracts with utility companies that are not already subject to nondiscrimination requirements.

#### **Compliance with Nondiscrimination Requirements:**

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

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination 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, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the 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;
- 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 § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) 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, which ensures nondiscrimination against minority

populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

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

## **A7 CLEAN AIR AND WATER POLLUTION CONTROL**

### **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 § 740-7671q) 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 exceeds \$150,000.

## **A8 CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

### **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 \$10 for each calendar day on which such individual was required or permitted to work in excess

of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) 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**

### **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**

### **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 Part 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, Employment Standards Administration, 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 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 that 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 [www.dol.gov/whd/forms/wh347instr.htm](http://www.dol.gov/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) 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) 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) 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 Part 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 Part 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**

### **CERTIFICATION OF OFFERER/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 verify each lower tier participant of a "covered transaction" under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>.
2. Collecting a certification statement similar to the Certification of Offerer /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**

### **DISADVANTAGED BUSINESS ENTERPRISES**

#### **Contract Assurance (§ 26.13) –**

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation-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 Owner 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 (§26.29) –** The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 60 days from the receipt of each payment the prime contractor receives from City of Ashland, OR. The prime contractor agrees further to return retainage payments to each subcontractor within 60 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 City of Ashland, OR. This clause applies to both DBE and non-DBE subcontractors.

## **A13 DISTRACTED DRIVING**

### **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 \$3,500 that involve driving a motor vehicle in performance of work activities associated with the project.

## **A14 ENERGY CONSERVATION REQUIREMENTS**

### **ENERGY CONSERVATION REQUIREMENTS**

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

## **A15 DRUG FREE WORKPLACE REQUIREMENTS**

The Drug-Free Workplace Act of 1988 requires some Federal contractors and *all* Federal grantees to agree that they will provide drug-free workplaces as a condition of receiving a contract or grant from a Federal agency. The Act does *not* apply to contractors, subcontractors, or subgrantees, although the Federal grantees workplace may be where the contractors, subcontractors, or subgrantees are working.

**Contract Types** – This provision applies to all AIP funded projects, but not to the contracts between the grantee (the sponsor) and a contractor, subcontractors, suppliers, or subgrantees.

**Use of Provision** – No mandatory or recommended text provided because the requirements do not extend beyond the sponsor level.

No contract clause.



## **A16 EQUAL EMPLOYEMENT OPPORTUNITY (EEO)**

### **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, 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 identify, 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 considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) 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 advising the said labor union or workers' representatives of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) 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.
- (5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said 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 or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for

noncompliance: *Provided, however*, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

### **A16.1.1 EEO Specification**

#### **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 shall 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 area 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 non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the Contractor during the training period and the Contractor shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall 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 therefore 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 female 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 workforce.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.

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

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

n. Ensure that all facilities and company activities are non-segregated 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 groups 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, if the 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, 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 number, 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).

#### **A17 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, 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 / Consultant*] has full responsibility to monitor compliance to the referenced statute or regulation. The [*Contractor / Consultant*] must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

## **A18 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES**

### **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.

## **A19 PROHIBITION of SEGREGATED FACILITIES**

### **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, 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.

## **A20 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 (20 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.



## **A21 PROCUREMENT OF RECOVERED MATERIALS**

### **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](http://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.

## **A22 RIGHT TO INVENTIONS**

### **RIGHTS TO INVENTIONS**

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

## **A23 SEISMIC SAFETY**

### **SEISMIC SAFETY**

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

#### **A23.1.1 Construction Contracts**

### **SEISMIC SAFETY**

The Contractor agrees to ensure that all work performed under this contract, including work performed by subcontractors, conforms to a building code standard that provides a level of seismic safety substantially equivalent to standards established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety.

## A24 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 (  ) 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 twentyfour (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 U.S.C. § 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.

## **A25 TERMINATION OF CONTRACT**

### **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 conditions, rights, and remedies associated with Owner termination of this contract due to default of the Contractor.

### **TERMINATION FOR DEFAULT (EQUIPMENT)**

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

1. Fails to commence 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.

## **A26 TRADE RESTRICTION CERTIFICATION**

### **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 Section 1001.

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

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

- 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.

## **A27 VETERAN'S PREFERENCE**

### **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.



**BID AND BID SCHEDULE**

TO FURNISH ALL PERMITS, LABOR, TOOLS, MACHINERY, MATERIALS, TRANSPORTATION, EQUIPMENT AND SERVICES OF ALL KINDS REQUIRED FOR THE CONSTRUCTION OF THIS PROJECT FOR THE CITY OF ASHLAND, JACKSON COUNTY, OREGON, AS STATED IN THE COMPLETED BID SCHEDULE, ALL IN ACCORDANCE WITH THE CONTRACT DOCUMENTS, PLANS, SPECIFICATIONS, AND DRAWINGS WHICH MAY BE EXAMINED AT THE CITY OF ASHLAND, CITY HALL, 20 EAST MAIN STREET, ASHLAND, OREGON 97520 DURING NORMAL BUSINESS HOURS. BIDDING DOCUMENTS CAN BE DOWNLOADED AT [WWW.OREGONBUYS.GOV](http://WWW.OREGONBUYS.GOV). CONTACT SUPPORT.OREGONBUYS@OREGON.GOV AT 1-855-800-5046 FOR ASSISTANCE IN MEMBERSHIP REGISTRATION AND DOWNLOADING THIS DIGITAL PROJECT INFORMATION. TECHNICAL QUESTIONS SHALL BE DIRECTED TO CHANCE METCALF, ENGINEERING PROJECT MANAGER, CITY OF ASHLAND, (541) 552-2448.

**NAME OF BIDDER** LTM, Inc dba Knife River Materials  
**CONTACT** Philip Graff  
**ADDRESS** 3959 Hamrick Rd  
**CITY** Central Point **STATE** OR **ZIP** 97501  
**TELEPHONE NO.** 541-770-2960  
**FAX NO.** 541-664-4567  
**EMAIL ADDRESS** Philip.Graff@kniferiver.com

To the Honorable Mayor and City Council  
City Hall  
City of Ashland  
20 East Main Street  
Ashland, Oregon 97520

In response to the City of Ashland's Invitation to Bid, this Bid is submitted as an offer by the undersigned to enter into a contract with the City of Ashland for furnishing all permits, labor, tools, machinery, materials, transportation, equipment and services of all kinds required for, necessary for, or reasonable incidental to, the construction of the Ashland Municipal Airport/Sumner Parker Field Taxiway Reconstruction and Rehabilitation Project, No 2020-18, AIP # 3-41-0002-013-2021 (hereinafter "Project") for the City of Ashland, Oregon, as shown in the contract documents on file at City Community Development Building, which are a condition of this Bid as though they were attached. This offer is subject to the following declarations as to the acts, intentions and understandings of the undersigned and the agreement of the City of Ashland to the terms and prices herein submitted.



1. The undersigned has familiarized itself with the nature and extent of the Contract Documents, the project work, the site, the locality, the general nature of work to be performed by the City or others at the site that relates to the project work required by the Contract Documents, local conditions, and federal, state, and local Laws and Regulations that in any manner may affect cost, progress, performance, or furnishing of the project work.
2. Refer to Part II – Federal Section 20 Proposal Requirements and Conditions paragraph 20-06 for additional information. The more stringent requirement shall apply. The undersigned has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) examinations, investigation, exploration, tests, and studies which pertain to the conditions (subsurface or physical) at or contiguous to the site or otherwise and which may affect the cost, progress, performance, or furnishing of the project work as Contractor deems necessary for the performance and furnishing of the project work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents; and no additional or supplementary examinations, investigations, explorations, tests, reports, or similar information or data are or will be required by Contractor for such purposes.
3. It is understood that the City shall investigate and determine the qualifications of the apparent low responsive and responsible bidder prior to awarding the contract. The City shall reject any bid by a nonqualified or disqualified bidder. The City of Ashland reserves the right to reject for any good cause any or all bids, waive formalities, or to accept any bid which appears to serve the best interests of the City. The City reserves the right to reject any bid not in compliance with all prescribed public bidding procedures and requirements and may reject all bids for good cause upon a finding that it is in the public interest to do so. Evaluation of bids will be based on minimum requirements established by the specifications and compliance with conditions of the Notice to Contractors and Invitation to Bid, and compliance with City public contracting rules. Additional evaluation criteria are as follows:

This contract will be funded, in part, by a grant from the Federal Aviation Administration. As such it will be subject to federal requirements. These include, but are not limited to:

- Buy American Preferences;
- Foreign Trade Restrictions;
- Prevailing Wage Rates. All labor shall be paid no less than the minimum wage rates established by the US Secretary of Labor (Davis Bacon) or the State of Oregon (BOLI) whichever is greater;
- Affirmative Action Requirements;
- Government wide debarment and suspension provisions; and
- Government wide requirements for drug-free workplace.

Refer to Part II – Federal Section 10 through Section 90 and Supplementary Conditions. The more stringent Federal or City specifications shall apply.

Refer to the Appendix for Federal Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects.

4. The deadline to file a written protest or request, pursuant to the Instructions to Bidders to change contract terms, conditions or specifications, shall be received no later than ten (10) calendar days prior to bid closing. Bid closing may be extended by the City to consider a protest or request.
5. All of the contract documents, including all plans, specifications, and drawings have been examined and an examination of the site of the proposed work, together with such investigations as are necessary to determine the conditions to be encountered have been made by the undersigned and the terms and conditions of the contract and solicitation documents are hereby accepted, and that if this Offer is

accepted, the undersigned will contract with the City of Ashland, Oregon, in a form substantially similar to that attached Agreement and agree to be bound to the terms and conditions of said contract and solicitation documents.

6. It is understood that the contract drawings may be supplemented by additional drawings and specifications in explanation and elaboration thereof and, if they are not in conflict with those referred to in paragraph 1 above, they shall have the same force and effect as though they were attached, and they shall be accepted as part of the contract when issued.
7. The undersigned agrees that upon written acceptance of this bid s/he will, within ten working days, of receipt of such notice, execute a formal contract agreement with the City. Refer to Part II – Federal Section 30 Award and Execution of Contract for additional information. The more stringent requirement shall apply. The undersigned further agrees that s/he will provide the following in order to execute the contract:

Performance Bond and Corporate Surety Payment Bond, both in the amount equal to 100% of the awarded contract;

Certificates of Insurance for Liability and property damage coverage;

Certificates of Coverage for Workman Compensation and unemployment insurance;

All other bonds, permits, licenses, etc. as required in the contract documents.

8. It is understood that all the work will be performed under a lump sum or unit price basis and that for the lump sum or unit price all services, materials, labor, equipment, and all work necessary to complete the project in accordance with the plans and specifications shall be furnished for the said lump sum or unit price named. It is understood that the quantities stated in connection with the price schedule for the contract are approximate only and payment shall be made at the unit prices named for the actual quantities incorporated in the completed work. If there shall be an increase in the amount of work covered by the lump sum price, it shall be computed on a basis of "extra work" for which an increase in payment will have been earned and if there be a decrease in the lump sum payment, it shall be made only as a result of negotiation between the undersigned and the Owner. Furthermore, it is understood that any estimate with respect to time, materials, equipment, or service which may appear on the plans or in the specifications is for the sole purpose of assisting the undersigned in checking the undersigned's own independent calculations and that at no time shall the undersigned attempt to hold the Owner, the Engineer, or any other person, firm or corporation responsible for any errors or omissions that may appear in any estimate.
9. The undersigned submits the unit prices as those at which he will perform the work involved. The extensions of the column headed "ITEM TOTAL" are made for the sole purpose of facilitating bid comparisons and if there are any discrepancies between the unit prices and the total amount shown, the unit prices shall govern.
10. The undersigned agrees to furnish labor, tools, machinery, materials, transportations, equipment and services of all kinds required for, necessary for, or reasonably incidental to, construction of this Project with all appurtenant work as required by the plans and specifications of this Offer for the unit or lump sum prices in the "BID SCHEDULE".
11. In stating prices, it is understood that the prices include all materials and work required to complete the project in accordance with the Contract Documents, the plans and the specifications. If any material, item, or service required by the plans and specifications has not been mentioned specifically in the "BID SCHEDULE," the same shall be furnished and placed with the understanding that the full cost to the City has been merged with the several prices stated in the "BID SCHEDULE."

12. The City reserves the right to cancel this solicitation or to reject any and all bids in whole or in part when the cancellation or rejection is in the best interests of the City as determined by the City in accordance with ORS 279B.100
13. The foregoing prices shall include all labor, materials, equipment, overhead, profit, insurance, and all other incidental expenses to cover the finished work of the several kinds called for. Unit prices are to be shown in both words and figures. In case of any discrepancy, the amounts shown in words shall govern.
14. Upon receipt of written notice of the acceptance of its bid, Bidder shall execute a formal contract with the City within ten (10) days, deliver surety bond or bonds as required, and deliver required proof of insurance. The bid security attached in the sum of five percent (5%) of the total price for the bid or combination of bids is to become the property of the Owner in the event the contract and bond are not executed within the time above set forth as liquidated damages for the delay and additional expense to the Owner caused thereby.
15. If the proposed bid price will exceed \$50,000.00 the undersigned, as bidder, acknowledges that provisions of ORS 279C.800 to 279C.870 relating to workers on public works to be paid not less than prevailing rate of wage shall be included in the contract, or in the alternative, if the project is to be funded with federal funds and is subject to the Davis-Bacon Act (40 U.S.C. §276a) bidder agrees to comply with the Davis- Bacon Act requirements. "Prevailing Wage Rates for Public Works Contracts in Oregon," which are incorporated herein by reference, and can be accessed at: [https://www.oregon.gov/boli/WHD/PWR/Pages/pwr\\_state.aspx](https://www.oregon.gov/boli/WHD/PWR/Pages/pwr_state.aspx). In accordance with ORS 279C.838, each worker in each trade or occupation employed in the performance of the Contract either by Contractor, subcontractor or other person doing or contracting to do or contracting for the whole or any part of the work on the Contract shall be paid not less than the applicable state or federal prevailing rate of wage, whichever is higher. Davis Bacon wage rates can be accessed at <https://beta.sam.gov/content/home>.
16. The undersigned shall furnish bonds required by the specifications and comply with the laws of the Federal Government, State of Oregon and the City of Ashland which are pertinent to construction contracts of this nature even though such laws may not have been quoted or referred to in the specifications.
17. Accompanying this Offer is a certified check, cashier's check or a bid bond, for the sum of 10% of Bid, payable to the City of Ashland, Oregon, this being an amount for ten percent (10%) of the total bid based upon the estimate of quantities at the above price according to the conditions of the advertisement. If this Offer is accepted by the City and the undersigned fails to execute a satisfactory contract and bonds as stated in the Advertisement within ten (10) working days from the date of notification, then the City may, at its option, determine that the undersigned has abandoned the contract and there upon this Offer shall be considered null and void, and the bid security accompanying this Offer shall be forfeited to and become the property of the City of Ashland. If the bid is not accepted, the bid security accompanying this Offer shall be returned to the undersigned.
18. The undersigned agrees to comply with the provisions of ORS 279C.800 to 279C.870, the Oregon Prevailing Wage law. The undersigned, as bidder, acknowledges that provisions of ORS 279C.800 to 279C.870 relating to workers on public works to be paid not less than prevailing rate of wage shall be included in the contract, or in the alternative, if the project is to be funded with federal funds and is subject to the Davis-Bacon Act (40 U.S.C. §276a), bidder agrees to comply with the Davis-Bacon Act requirements. The undersigned Contractor agrees to be bound by and will comply with the provisions of ORS 279C.838, 279C.840 or 40 U.S.C. 3141 to 3148. [OAR 137-049-0200(1)(a)(J)].

19. The undersigned certifies that the undersigned Contractor is not ineligible to receive a contract for a public work pursuant to ORS 279C.860. Bidder further agrees, if awarded a contract, that every subcontractor will be eligible to receive a contract for a public work pursuant to ORS 279C.860.
20. The undersigned certifies that the undersigned Contractor has not discriminated against minority, women or emerging small businesses enterprises in obtaining any required subcontracts. The bidder understands and acknowledges that it may be disqualified from bidding on this public improvement project as set forth in OAR 137-049-0370, including but not limited to City discovery a misrepresentation or sham regarding a subcontract or that the Bidder has violated any requirement of ORS 279A.110 or the administrative rules implementing the Statute.
21. The undersigned agrees that the time of completion shall be defined in the specifications, and further, the undersigned agrees to initiate and complete this Project in the timeframe stated below.
  - For each Notice to Proceed, the work shall be commenced within ten (10) business days after receipt of the written Notice to Proceed And to substantially complete the work within the time allowed.
  - The work shall be completed in all respects within 90 calendar days from Notice to Proceed.
    - One Runway closure of 20 consecutive calendar days is allowed. This closure shall occur within the 90 consecutive calendar day period.
    - Work in Work Area #1 (WA #1) shall be completed in 90 consecutive calendar days. If work is not complete within the 90 consecutive calendar day period, liquidated damages as set forth in the specifications will be assessed. Work exempt from the 90 calendar day requirement during Phase I includes the second application of pavement markings. All phases of construction shall be complete at the conclusion of Phase I and the Airport shall be fully operational.
    - Work in WA #2 and WA #3 shall occur within the 90 consecutive calendar day window of WA #1, will require a Runway closure, and shall be completed in 20 consecutive calendar days. If work is not complete within the 20 consecutive calendar day period, liquidated damages as set forth in the specifications will be assessed. Work exempt from the 20 consecutive calendar day requirement for WA #2 and WA #3 includes the second application of pavement markings.
    - The time allowed for the final application of painted pavement markings is 1 calendar day. The airport shall be open to air traffic at the conclusion of the time allowed. If work is not complete within the 1 calendar day period, liquidated damages as set forth in this proposal will be assessed
  - The undersigned agrees that the "Time of Completion" shall be as defined in the specifications and that the bidder will complete the work within the number of consecutive calendar days stated for each schedule after "Notice to Proceed" has been issued by the Owner. Bidder furthermore agrees to pay as liquidated damages, for each calendar day thereafter, the amounts shown in Standard Conditions, for each day the project remains incomplete.
  - In the event that certain items not required for substantial completion, as defined in the Supplementary Conditions herein, but required for final completion of the work as put forth in this Contract Document fail to arrive at the work site in time to be properly installed during normal working hours within the time allowed for substantial completion of the work, then an allowance of not more than thirty (30) calendar days following the receipt of the last item required will be given to the Contractor to effect the final completion of said work.
22. The undersigned bidder is registered with the Oregon Construction Contractors Board (CCB), the registration is current and valid, and the bidder's registration number is stated below. [OAR 137-049-0230(1)] Bidder understands that failure to have a current CCB license shall result in rejection of this bid.

23. The undersigned bidder is licensed by the State Landscape Contractors Board, *if applicable*, the license is current and valid, and the bidder's registration number is stated below. [OAR 137-049-0200(1)(a)(K)] Bidder understands that failure to have a current LCB license shall result in rejection of this bid.
24. In determining the lowest responsible bidder, City shall, for the purpose of awarding the contract, add a percent increase on the bid of a non-resident bidder equal to the percent, if any, of the preference given to that bidder in the state in which the bidder resides. "Resident bidder" of Oregon means a bidder that has paid unemployment taxes or income taxes in this state during the 12 calendar months immediately preceding submission of the bid, has a business address in this state and has stated in the bid that the bidder is a "resident bidder" of the State of Oregon. The undersigned represents him/her self in this bid to be either a Resident or a Nonresident bidder by completing the appropriate blank below.
- The Bidder is   X   or is not            a Resident Bidder as defined in ORS 279A.120.
25. The undersigned hereby represents that no Councilor, Commissioner, officer, agency or employee of the City of Ashland is personally interested directly or indirectly in this Contract or the compensation to be paid hereunder and that no representation, statement or statements, oral or in writing, of the City, its Councilors, Commissioners, officers, agents or employees had induced him/her to enter into this Contract, and the papers made a part of its terms.
26. The undersigned has not directly or indirectly induced or solicited any person to submit a false or sham bid or refrain from bidding. The undersigned certifies that this bid has been arrived at independently and submitted without connection with any person, firm or corporation making a bid for the same material and is, in all respects, fair and without collusion or fraud.
27. The undersigned confirms that this firm has a Qualified Drug Testing Program for employees in place and will demonstrate this prior to award of contract. [OAR 137-049-0200(1)(c)(B)]
28. The undersigned confirms that if this contract involves asbestos abatement or removal, the bidder is licensed under ORS 468A.710 for asbestos removal. Asbestos abatement is not implicated in this contract.
29. The City of Ashland may waive minor informalities, reject any bid not in compliance with all prescribed public bidding procedures and requirements, and may reject for good cause any or all bids upon a finding that it is in the public interest to do so.
30. The undersigned confirms that this offer is not contingent upon City's acceptance of any terms and conditions other than those contained in this Solicitation and the Contract Documents.

31. The bidder understands that the City reserves the right to make changes to the Notice to Contractors / Invitation to Bid and the resulting contract by written addenda, prior to the closing time and date. The City will transmit addenda to registered plan holders but shall publish notice of any addenda on City's website ([www.ashland.or.us](http://www.ashland.or.us)) at the Public Works page. The addenda may be downloaded or picked up at the Department of Public Works, 51 Winburn Way, Ashland, Oregon. The bidder must check the website and Public Works bulletin board frequently until closing.

The bidder acknowledges that the Addendum(s) listed below have been reviewed online or a copy obtained and considered as part of the submittal of this Offer and Bid Schedule.

ADDENDUM NUMBER **1** THROUGH **3** HAVE BEEN REVIEWED

32. The bidder understands that the City will be awarding the contract to the Responsible Bidder with the lowest Responsive and Responsible Bid for Schedule A and Schedule B. OAR 137-049-0200(1)(b)(C). Whether a bidder is responsible will be determined by the City using the Bidder Responsibility Determination Form available in ORS 279C.375 and meets the requirements of Section 20-02.. The bidder understands they must bid all portions of the work. The owner reserves the right to withdraw any item(s) or Alternates from award consideration. Contract is subject to receipt of FAA grant funding and City of Ashland Zoning/Land Use Permits for work within a FEMA Floodway.

33. Instructions for First-Tier Subcontractors Disclosure.

Bidders are required to disclose information about certain first-tier subcontractors (those subcontractors contracting directly with the bidder) when the contract price exceeds \$100,000 (see ORS 279C.370). Specifically, when the contract amount of a first-tier subcontractor is greater than or equal to: (i) 5% of the project bid, but at least \$15,000, or (ii) \$350,000 regardless of the percentage, you must disclose the following information about that subcontract within two working hours of bid closing:

- The subcontractor's name and address;
- The subcontractor's Construction Contractor Board registration number, if one is required, and;
- The subcontract dollar value.

If you will not be using any subcontractors that are subject to the above disclosure requirements, you are required to indicate "NONE" on the form. Failure to submit this form by the disclosure deadline will result in a non-responsive bid. A non-responsive bid will not be considered for award.

**THE CITY MAY REJECT A BID IF THE BIDDER FAILS TO SUBMIT THE DISCLOSURE FORM WITH THIS INFORMATION WITHIN TWO HOURS OF BID CLOSING.**

**THIS DOCUMENT SHALL NOT BE FAXED. IT IS THE RESPONSIBILITY OF BIDDERS TO SUBMIT THIS DISCLOSURE FORM AND ANY ADDITIONAL SHEETS BY THE DEADLINE. SEE INSTRUCTIONS TO BIDDERS.**

**The disclosure should be submitted on the First-Tier Subcontractor Disclosure Form attached to this Invitation to Bid.**

**34. Bidder Information and Signature**

LTM, Inc dba Knife River Materials  
Firm Name of Bidder

  
\_\_\_\_\_  
Signature of Bidder

Joe Soares  
Printed Name of Bidder

General Manager  
Official Title

Oregon  
State of Incorporation

56603  
CCB Number

Dated this 29th day of March 2022.

Name of Bidder LTM, Inc dba Knife River Materials

Address 3959 Hamrick Rd, Central Point, OR 97502

Telephone No. 541-770-2960

**ADDENDUM NO. 1  
TO THE CONTRACT DOCUMENTS**

**THE CITY OF ASHLAND  
ASHLAND MUNICIPAL AIRPORT  
TAXIWAY RECONSTRUCTION AND REHABILITATION  
A.I.P. #3-41-0002-013-2021  
Ashland, Oregon**

**TO:** All Plan Holders  
**DATE:** March 21, 2022  
**PROJECT NO:** FAA A.I.P. #3-41-0002-013-2021  
CWEC #12403.005.01

The following changes, additions, and/or deletions are hereby made a part of the Contract Documents for the above-mentioned project, bids due March 29, 2022, as fully and completely as if the same were fully set forth therein.

**CONTRACT MANUAL**

1. Refer to Invitation to Bid page 2.

DELETE paragraph 6:

~~Bidders shall pre-qualify as provided by ORS Chapter 279C.430 and in accordance with the Standard Specifications for Public Works Construction, Oregon Chapter of APWA, for all classes of construction. Pre-qualification applications must be received by the City of Ashland at least five (5) calendar days prior to the date set for opening of the bids.~~

REPLACE with:

**Bidders shall pre-qualify in the work they will be performing as provided by ORS Chapter 279C.430 and in accordance with the Standard Specifications for Public Works Construction, Oregon Chapter of APWA. Pre-qualification applications must be received by the City of Ashland at least five (5) calendar days prior to the date set for opening of the bids.**

2. Refer to Invitation to Bid Appendix "Davis Bacon Act Prevailing Wage".

DELETE entire "Davis Bacon Act Prevailing Wage" report dated January 28, 2022 and REPLACE with "Davis Bacon Act Prevailing Wage" report dated February 25, 2022.

**CONTRACT DRAWINGS**

1. Refer to drawing G-02, add the following as Note 4:

**"PROTECT NATIONAL GEODETIC SURVEY (NGS) MONUMENT. CONTRACTOR TO SURVEY THE MONUMENT AND SUBMIT SURVEY DATA TO THE ENGINEER BEFORE AND AFTER CONSTRUCTION. CONTRACTOR TO REPLACE MONUMENT IF DAMAGED, OR IF MONUMENT LOCATION CHANGED, AT NO ADDITIONAL COST TO THE OWNER. WORK IS INCIDENTAL TO CONSTRUCTION STAKING BID ITEM."**



2. Refer to drawing EC-01 and EC -02, DELETE “ANTICIPATED PROJECT SCHEDULE”, and add “NARRATIVE” paragraphs.
3. Refer to drawing C-01, add the following as Note 5:  
  
“PROTECT NATIONAL GEODETIC SURVEY (NGS) MONUMENT. CONTRACTOR TO SURVEY THE MONUMENT AND SUBMIT SURVEY DATA TO THE ENGINEER BEFORE AND AFTER CONSTRUCTION. CONTRACTOR TO REPLACE MONUMENT IF DAMAGED, OR IF MONUMENT LOCATION CHANGED, AT NO ADDITIONAL COST TO THE OWNER. WORK IS INCIDENTAL TO CONSTRUCTION STAKING BID ITEM.”
4. Refer to drawing C-02, add the following as Note 8:  
  
“PROTECT NATIONAL GEODETIC SURVEY (NGS) MONUMENT. CONTRACTOR TO SURVEY THE MONUMENT AND SUBMIT SURVEY DATA TO THE ENGINEER BEFORE AND AFTER CONSTRUCTION. CONTRACTOR TO REPLACE MONUMENT IF DAMAGED, OR IF MONUMENT LOCATION CHANGED, AT NO ADDITIONAL COST TO THE OWNER. WORK IS INCIDENTAL TO CONSTRUCTION STAKING BID ITEM.”
5. Refer to drawing C-14. Spot elevations changed on the south side of Northwest Apron Taxiway 1 and Taxiway A.
6. Refer to drawing C-16. STA 32+77.63, 14.25 RT Cleanout moved north to STA 32+62.00, 14.25 RT to avoid conflict with NGS Monument #300.

### **INFORMATIONAL ITEMS**

1. A copy of the sign-in sheet from the voluntary Pre-Bid Conference is attached as an informational item.
2. Pre-Bid Meeting agenda is attached as an informational item.

### **QUESTIONS AND ANSWERS**

- Question 1:           The quantity of edge reflectors in the bid schedule Item No. 49 calls for (70) but another area says the quantity is (127). Which is correct?
- Answer:           The bid schedule quantity for Item No. 49 is correct at 70 elevated edge reflectors. The bid schedule quantity for Item No. 76 is correct at 130 taxiway edge lights.
- Question 2:           Runway loop lighting diagram identifies 131 taxiway edge lights, but taxiway light schedule shows 130. Which is correct?
- Answer:           The bid schedule quantity for Item No. 76 is correct at 130 taxiway edge lights.
- Question 3:           Where will new radio unit and antenna be located?
- Answer:           Located at the existing electrical building near the FBO.

Question 4: Will the interface between Taxiway Reconstruction and Rehabilitation be sawcut?

Answer: Yes, refer to Drawing C-02.

Question 5: What kind of protection is required of utilities beneath Contractor's Access Road?

Answer: Protection against damage. Per Contract Documents, Contractor to repair any damage to utilities at no cost to the owner.

***BIDDERS SHALL ACKNOWLEDGE RECEIPT OF THIS ADDENDUM IN THE SPACE PROVIDED IN THE PROPOSAL. BIDS SUBMITTED WITHOUT ACKNOWLEDGEMENT OF THIS ADDENDUM IN THE PROPOSAL WILL BE CONSIDERED IRREGULAR.***



Greg Reince, P.E.  
Project Manager  
Century West Engineering  
541.322.8962

**ADDENDUM NO. 2  
TO THE CONTRACT DOCUMENTS**

**THE CITY OF ASHLAND  
ASHLAND MUNICIPAL AIRPORT  
TAXIWAY RECONSTRUCTION AND REHABILITATION  
A.I.P. #3-41-0002-013-2021  
Ashland, Oregon**

**TO:** All Plan Holders  
**DATE:** March 23, 2022  
**PROJECT NO:** FAA A.I.P. #3-41-0002-013-2021  
CWEC #12403.005.01

The following changes, additions, and/or deletions are hereby made a part of the Contract Documents for the above-mentioned project, bids due March 29, 2022, as fully and completely as if the same were fully set forth therein.

**CONTRACT MANUAL**

1. Refer to Item P-403 of the Technical Specifications

DELETE the following paragraph under 401-3.3:

~~The JMF shall be prepared by an accredited laboratory that meets the requirements of paragraph 403-3.2. The asphalt mixture shall be designed using procedures contained in Asphalt Institute MS-2 Mix Design Manual, 7th Edition. Samples shall be prepared and compacted using a Marshall compactor in accordance with ASTM D6926.~~

REPLACE with:

The JMF shall be prepared by an accredited laboratory that meets the requirements of paragraph 403-3.2. The asphalt mixture shall be designed using procedures contained in Asphalt Institute MS-2 Mix Design Manual, 7th Edition. Samples shall be prepared and compacted using a Marshall compactor in accordance with ASTM D6926 or using the gyratory compactor in accordance with ASTM D6925.

2. Refer to Item P-403 of the Technical Specifications

**TABLE 1. ASPHALT DESIGN CRITERIA**

DELETE  
~~number of blows~~

ADD  
Number of blows/gyrations

**BIDDERS SHALL ACKNOWLEDGE RECEIPT OF THIS ADDENDUM IN THE SPACE PROVIDED IN THE PROPOSAL. BIDS SUBMITTED WITHOUT ACKNOWLEDGEMENT OF THIS ADDENDUM IN THE PROPOSAL WILL BE CONSIDERED IRREGULAR.**



Greg Reince, P.E.  
Project Manager  
Century West Engineering  
541.322.8962

**ADDENDUM NO. 3  
TO THE CONTRACT DOCUMENTS**

**THE CITY OF ASHLAND  
ASHLAND MUNICIPAL AIRPORT  
TAXIWAY RECONSTRUCTION AND REHABILITATION  
A.I.P. #3-41-0002-013-2021  
Ashland, Oregon**

**TO:** All Plan Holders  
**DATE:** March 24, 2022  
**PROJECT NO:** FAA A.I.P. #3-41-0002-013-2021  
CWEC #12403.005.01

The following changes, additions, and/or deletions are hereby made a part of the Contract Documents for the above-mentioned project, bids due March 29, 2022, as fully and completely as if the same were fully set forth therein.

**CONTRACT MANUAL**

1. Refer to Item P-152 of the Technical Specifications

DELETE paragraph 152-3.6:

~~The quantity of subgrade stabilization shall be the number of cubic yards excavated, measured in its original position as directed and approved by the Engineer.~~

REPLACE paragraph 152-3.6 with:

The quantity of subgrade stabilization shall be the number of cubic yards placed, measured in its final position as directed and approved by the Engineer.

***BIDDERS SHALL ACKNOWLEDGE RECEIPT OF THIS ADDENDUM IN THE SPACE PROVIDED IN THE PROPOSAL. BIDS SUBMITTED WITHOUT ACKNOWLEDGEMENT OF THIS ADDENDUM IN THE PROPOSAL WILL BE CONSIDERED IRREGULAR.***



Greg Reince, P.E.  
Project Manager  
Century West Engineering  
541.322.8962

LTM, Inc dba Knife River Materials

**BID SCHEDULE**

**Ashland Municipal Airport / Sumner Parker Field  
Taxiway Reconstruction and Rehabilitation Project  
Project No. 2020-18  
AIP No. 3-41-0002-013-2021**

**SCHEDULE A - WORK AREA #1 AND #2 STA 5+00 TO STA 32+89**

Spec. No	Item No.	Item	Bid Unit	Quantity	Unit Price	Total Price
C-100	1	Contractor Quality Control Program (CQCP)	LS	1	\$ 90,000	\$ 90,000
C-102	2	Temporary Erosion and Pollution Control	LS	1	\$ 8,000	\$ 8,000
C-102	3	Governmental Agency Permitting Inspection	LS	1	\$ 1,500	\$ 1,500
C-105	4	Mobilization (Limited to 10% of the Bid Schedule Cost)	LS	1	\$ 167,000	\$ 167,000
01160	5	Contractor's Staging Area, Temporary Access Road, and Restoration	LS	1	\$ 40,000	\$ 40,000
01300	6	Safety Plan Compliance Document	LS	1	\$ 1,500	\$ 1,500
01300	7	Temporary Flagging, Marking, and Signing	LS	1	\$ 70,000	\$ 70,000
01300	8	Low Level Barricades	LS	1	\$ 22,500	\$ 22,500
01406	9	Construction Staking	LS	1	\$ 18,500	\$ 18,500
P-100	10	FOD Prevention Controls	LS	1	\$ 6,000	\$ 6,000
P-101	11	Asphalt Concrete Pavement Removal	SY	11,000	\$ 3.50	\$ 38,500
P-101	12	Removal of Pipe/Culvert and other Buried	LF	192	\$ 22	\$ 4,224
P-101	13	Pavement Marking Removal	SF	875	\$ 4.50	\$ 3,937.50
P-151	14	Clearing and Grubbing	ACRE	2.0	\$ 3,000	\$ 6,000
P-152	15	Stripping	CY	1,050	\$ 10	\$ 10,500
P-152	16	Unclassified Excavation	CY	2,075	\$ 16	\$ 33,200
P-152	17	Embankment in Place	CY	1,300	\$ 4.50	\$ 5,850
P-152	18	Pothole Utility Crossings	LS	1	\$ 10,000	\$ 10,000
P-152	19	Unsuitable Excavation	CY	500	\$ 31	\$ 15,500
P-152	20	Subgrade Stabilization	CY	500	\$ 111	\$ 55,500
P-152	21	Geogrid	SY	350	\$ 5	\$ 1,750
P-152	22	Geotextile Fabric	SY	700	\$ 4	\$ 2,800
P-156	23	Cement Treated Subgrade	SY	10,325	\$ 4.50	\$ 47,415
P-156	24	Cement	TON	280	\$ 215	\$ 60,200
P-208	25	Aggregate Base Course	CY	2,835	\$ 85	\$ 240,975
P-208	26	Aggregate Base Course for Shoulder Rock	CY	785	\$ 100	\$ 78,500
P-403	27	Asphalt Mixture Surface Course	TON	1,995	\$ 165	\$ 329,175
P-602	28	Emulsified Asphalt Prime Coat	TON	14	\$ 700	\$ 9,800
P-620	29	Pavement Marking (First Application)	SF	2,490	\$ 2.75	\$ 6,847.50
P-620	30	Pavement Marking (Second Application)	SF	2,490	\$ 2.75	\$ 6,847.50
D-701	31	8-inch HDPE (Culvert) Paved Areas	LF	30	\$ 60	\$ 1,800
D-701	32	8-inch HDPE (Culvert) Non-paved Areas	LF	65	\$ 40	\$ 2,600
D-701	33	15-inch HDPE (Culvert) Paved Areas	LF	70	\$ 90	\$ 6,300
D-701	34	15-inch HDPE (Culvert) Non-paved Areas	LF	120	\$ 64	\$ 7,680
D-705	35	Pipe Underdrains Non-paved Areas, Complete	LF	5,800	\$ 19.50	\$ 113,100
D-705	36	Pipe Underdrains Paved Areas, Complete	LF	90	\$ 20	\$ 1,800
D-705	37	Cleanout	EA	20	\$ 1,300	\$ 26,000
D-705	38	Underdrain Outfall	EA	3	\$ 1,725	\$ 5,175
D-751	39	Underdrain Connection to a New or Existing Pipe	EA	6	\$ 750	\$ 4,500
D-751	40	Sanitary Sewer Frame and Lid	LS	1	\$ 4,750	\$ 4,750
DETAIL 4/ C-31	41	Waterline Relocation	LF	100	\$ 140	\$ 14,000
T-901	42	Seeding	ACRE	1.0	\$ 4,300	\$ 4,300
L-108	43	No. 6 AWG, 600V Cable, Installed in Trench, Above the Duct Bank or Conduit, Including Connection/Terminations	LF	1,380	\$ 7.25	\$ 10,005
L-108	44	No. 6 AWG, Bare Copper Counterpoise Wire, Installed above the Duct Bank or Conduit, Including Connection/Terminations	LF	460	\$ 10.50	\$ 4,830
L-110	45	(1)-2" PVC Schedule 80 Conduit Trench (Paved)	LF	25	\$ 102	\$ 2,550
L-110	46	(1)-2" PVC Schedule 40 Conduit Trench (Non-paved)	LF	435	\$ 27	\$ 11,745
L-110	47	(4)-4" Schedule 80 PVC Duct Bank	LF	330	\$ 165	\$ 54,450
L-115	48	L-867 Junction Base Can	EA	3	\$ 2,950	\$ 8,850
L-125	49	Elevated Taxiway Edge Reflectoi	EA	70	\$ 110	\$ 7,700
L-125	50	Electrical Demolition	LS	1	\$ 9,000	\$ 9,000

TOTAL SCHEDULE A \$ 1,694,336.50

LTM, Inc dba Knife River Materials

**SCHEDULE B - WORK AREA #3 STA 32+89 TO STA 44+11**

Spec. No.	Item No.	Item	Bid Unit	Quantity	Unit Price	Total Price
C-105	51	Mobilization (Limited to 10% of the Bid Schedule Cost)	LS	1	\$ 17,000	\$ 17,000
01300	52	Temporary Flagging, Marking, and Signing	LS	1	\$ 3,500	\$ 3,500
01300	53	Low Level Barricades	LS	1	\$ 4,700	\$ 4,700
01406	54	Construction Staking	LS	1	\$ 2,400	\$ 2,400
P-100	55	FOD Prevention Controls	LS	1	\$ 5,200	\$ 5,200
P-101	56	Asphalt Concrete Pavement Removal	SY	1,300	\$ 8.50	\$ 11,050
P-152	57	Unclassified Excavation	CY	150	\$ 38	\$ 5,700
P-208	58	Aggregate Base Course for Shoulder Rock	CY	150	\$ 95	\$ 14,250
P-101	59	Removal of Foreign Substances/Contaminates	LS	1	\$ 5,500	\$ 5,500
P-101	60	Crack Repair (Route and Seal Previously Unsealed Cracks)	LF	2,500	\$ 4.40	\$ 11,000
P-101	61	Crack Repair (Heat and Seal Previously Sealed Cracks)	LF	5,100	\$ 3.25	\$ 16,575
P-101	62	Asphalt Repair	SF	1,000	\$ 23	\$ 23,000
P-101	63	Pavement Marking Removal	SF	3,575	\$ 2.75	\$ 9,831.25
P-620	64	Pavement Marking (First Application)	SF	2,070	\$ 2.73	\$ 5,692.50
P-626	65	Pavement Marking (Second Application)	SF	2,070	\$ 2.25	\$ 4,692.50
P-626	66	Type I Slurry Seal	SY	5,125	\$ 7.20	\$ 36,900.00
					<b>TOTAL SCHEDULE B</b>	<b>\$ 191,053.75</b>

**SCHEDULE C (ADDITIVE ALTERNATE) - ELECTRICAL IMPROVEMENTS**

Spec. No.	Item No.	Item	Bid Unit	Quantity	Unit Price	Total Price
C-105	67	Mobilization (Limited to 10% of the Bid Schedule Cost)	LS	1	\$ 51,750	\$ 51,750
01406	68	Construction Staking	LS	1	\$ 7,400	\$ 7,400
L-108	69	No. 6 AWG, Bare Copper Counterpoise Wire, Installed In Trench, above the Duct Bank or Conduit, including Connection/Terminations	LF	7,050	\$ 2.95	\$ 20,797.50
L-108	70	No. 8 AWG, 5kV, L-824, Type C Cable, Installed in Duct Bank or Conduit	LF	10,900	\$ 1.90	\$ 20,710
L-109	71	10kW Constant Current Regulator	LS	1	\$ 20,000	\$ 20,000
L-109	72	Electrical Room Modifications	LS	1	\$ 8,700	\$ 8,700
L-109	73	L-854 Type 1 Radio Control Unit	LS	1	\$ 11,500	\$ 11,500
L-110	74	(1)-2" PVC Schedule 40 Conduit Trench (Non-paved)	LF	7,050	\$ 23.30	\$ 163,560
L-125	75	Lighted Guidance Sign	EA	6	\$ 9,000	\$ 54,000
L-125	76	Taxiway Edge Light	EA	130	\$ 2,445	\$ 317,850
L-125	77	Electrical Demolition	LS	1	\$ 6,700	\$ 6,700
					<b>TOTAL SCHEDULE C</b>	<b>\$ 680,367.50</b>

LTM, Inc dba Knife River Materials


**SCHEDULE D (ADDITIVE ALTERNATE) - GUIDANCE SIGNS**

Spec. No	Item No.	Item	Bid Unit	Quantity	Unit Price	Total Price
C-105	78	Mobilization (Limited to 10% of the Bid Schedule Cost)	LS	1	\$ 3,000 <sup>-</sup>	\$ 3,000 <sup>-</sup>
01406	79	Construction Staking	LS	1	\$ 1,100 <sup>-</sup>	\$ 1,100 <sup>-</sup>
L-108	80	No. 6 AWG, Bare Copper Counterpoise Wire, Installed above the Duct Bank or Conduit, Including Connection/Terminations	LF	100	\$ 9 <sup>-</sup>	\$ 900 <sup>-</sup>
L-108	81	No. 8 AWG, 5kV, L-824, Type C Cable, Installed in Duct Bank or Conduit	LF	200	\$ 10 <sup>-</sup>	\$ 2,000 <sup>-</sup>
L-110	82	(1)-2" PVC Schedule 40 Conduit Trench (Unpaved)	LF	100	\$ 29 <sup>-</sup>	\$ 2,900 <sup>-</sup>
L-125	83	Electrical Demolition	LS	1	\$ 1,650 <sup>-</sup>	\$ 1,650 <sup>-</sup>
L-125	84	Lighted Guidance Sign	EA	5	\$ 7,500 <sup>-</sup>	\$ 37,500 <sup>-</sup>
<b>TOTAL SCHEDULE D</b>						<b>\$ 49,050<sup>-</sup></b>

**TOTAL PROJECT COST SCHEDULE A+B (BASIS OF AWARD) \$ 1,875,390<sup>25</sup>**

**ADDITIVE ALTERNATE SCHEDULE C \$ 680,367<sup>50</sup>**

**ADDITIVE ALTERNATE SCHEDULE D \$ 49,050<sup>-</sup>**

Joe Soares - General Manager  
 Name of Authorized Representative  
  
 Authorized Representative Signature

one million eight hundred seventy five thousand three hundred ninety  
 Total Written in Dollars (Basis of Award) Dollars & twenty five cents  
 03/29/2022  
 Date





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## FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM

### INSTRUCTIONS

#### Instructions for Submitting Form

Submit the First-Tier Subcontractor Disclosure form in any of the following manners:

- Not later than two working hours after the time set for opening Bids. (For example, before 11:00 a.m. after a 9:00 a.m. Bid Opening.) Submit according to one of the following methods:
- Print the form from the Bid Booklet, fill it in, and either:
  - Deliver to the following address where it can be time and date stamped

City of Ashland  
Community Development and Engineering Services Building  
51 Winburn Way  
Ashland, OR 97520, or

#### Instructions for First-Tier Subcontractor Disclosure

Without regard to the amount of a Bidder's Bid, if the Agency's cost range for a public improvement project in the "Notice to Contractors", or in other advertisement or solicitation documents is greater than \$100,000, bidders are required to disclose information about first-tier subcontractors that will furnish labor or labor and materials (See ORS 279C.370). Specifically, when the contract amount of a first-tier subcontractor is greater than or equal to: (1) 5% of the total project Bid, but at least \$15,000, or (2) \$350,000 regardless of the percentage of the total project Bid, you must disclose the following information about that subcontractor not later than two working hours after the time set for opening Bids:

- The name of the subcontractor
- The category of work that the subcontractor will be performing
- The dollar amount of the subcontract

If the Agency's cost range is greater than \$100,000 and you will not be using any first-tier subcontractors, you are still required to submit the form, with the appropriate box checked or enter "NONE" on the first line.

If the Agency's cost range is greater than \$100,000 and you are not subject to the above disclosure requirements, you are still required to submit the form, with the appropriate box checked or enter "NONE" on the first line.

**THE AGENCY MUST REJECT BIDS if the Bidder fails to submit the disclosure form with this information by the stated deadline.**

To determine disclosure requirements, the Agency recommends that you disclose subcontract information for any subcontractor as follows:

- 1) Determine the lowest possible prime contract price. That will be the base Bid amount less all alternate deductive Bid amounts (exclusive of any options that can only be exercised after Bid award).
- 2) Provide the required disclosure information for any first-tier subcontractor whose potential contract services are greater than or equal to: (1) 5% of the lowest contract price, but at least \$15,000, or (2) \$350,000 regardless of the percentage. Total all possible work for each subcontractor in making this determination, (for example, if a subcontractor will provide \$15,000 worth of services on the base Bid and \$40,000 on an additive alternate, then the potential amount of the subcontractor's services is \$55,000. Assuming that \$55,000 exceeds 5% of the lowest contract price, provide the disclosure for both the \$15,000 services and the \$40,000 services).



# FIRST-TIER SUBCONTRACTOR DISCLOSURE

PROJECT NAME: Asland Municipal Airport - Taxiway Reconstruction & Rehabilitation

BID #: 2020-18

BID CLOSING: Date: 3/29/2022 Time: 11:00 AM

This form must be submitted at the location specified in the Invitation to Bid on the advertised bid closing date and within two working hours after the advertised bid closing time.

List below the name of each subcontractor that will be furnishing labor and materials and that is required to be disclosed, the category of work that the subcontractor will be performing and the dollar value of the subcontract. Enter "NONE" if there are no subcontractors that need to be disclosed. **(ATTACH ADDITIONAL SHEETS IF NEEDED.)**

NAME	DOLLAR VALUE	CATEGORY OF WORK
(1) <u>TS Electrical</u>	\$ <u>676,334</u>	<u>Electrical</u>
(2)	\$	
(3)	\$	
(4)	\$	
(5)	\$	
(6)	\$	
(7)	\$	
(8)	\$	
(9)	\$	

Failure to submit this form by the disclosure deadline will result in a non-responsive bid. A non-responsive bid will not be considered for award.

Form submitted by (bidder name): LTM, Inc dba Knife River Materials

Contact name: Philip Graff Phone no.: ( 541 ) 770-2960

- ORS 279C.370 First-tier subcontractor disclosure.** (1)(a) Within two working hours after the date and time of the deadline when bids are due to a contracting agency for a public improvement contract, a bidder shall submit to the contracting agency a disclosure of the first-tier subcontractors that:
- (A) Will be furnishing labor or will be furnishing labor and materials in connection with the public improvement contract; and
  - (B) Will have a contract value that is equal to or greater than five percent of the total project bid or \$15,000, whichever is greater, or \$350,000 regardless of the percentage of the total project bid.
- (b) For each contract to which this subsection applies, the contracting agency shall designate a deadline for submission of bids that has a date on a Tuesday, Wednesday or Thursday and a time between 2 p.m. and 5 p.m., except that this paragraph does not apply to public contracts for maintenance or construction of highways, bridges or other transportation facilities.
- (c) This subsection applies only to public improvement contracts ("projects") with a value, estimated by the contracting agency, of more than \$100,000.
- (d) This subsection does not apply to public improvement contracts that have been exempted from competitive bidding requirements under ORS 279C.335 (2).
- (2) The disclosure of first-tier subcontractors under subsection (1) of this section must include the name of each subcontractor, the category of work that each subcontractor will perform and the dollar value of each subcontract. The information shall be disclosed in substantially the following [above] form:
- (3) A contracting agency shall accept the subcontractor disclosure. The contracting agency shall consider the bid of any contractor that does not submit a subcontractor disclosure to the contracting agency to be a non-responsive bid and may not award the contract to the contractor. A contracting agency is not required to determine the accuracy or the completeness of the subcontractor disclosure.
- (4) After the bids are opened, the subcontractor disclosures must be made available for public inspection.
- (5) A contractor may substitute a first-tier subcontractor under the provisions of ORS 279C.585.
- (6) A subcontractor may file a complaint under ORS 279C.590 based on the disclosure requirements of subsection (1) of this section.

**EXHIBIT E  
BONDS  
CITY OF ASHLAND  
STANDARD PUBLIC IMPROVEMENT CONTRACT**

**BID BOND**

We, LTM Incorporated dba Knife River Materials, a corporation or partnership duly organized under the laws of the State of OR, and authorized to transact business in the State of Oregon, as "PRINCIPAL," and,

We, Liberty Mutual Insurance Company, a corporation or partnership duly organized under the laws of the State of MA, and authorized to transact business in the State of Oregon, as "SURETY,"

hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns firmly by these presents to pay unto the City of Ashland, Oregon, (OBLIGEE) the sum of (\$ 10% ) Ten Percent of Amount Bid Dollars.

The condition of the obligation of this bond, is that the PRINCIPAL herein has in response to City's *Notice to Contractors and Invitation to Bid*, submitted its Offer for the ASHLAND MUNICIPAL AIRPORT/SUMNER PARKER FIELD TAXIWAY RECONSTRUCTION AND REHABILITATION PROJECT, No. 2020-18, AIP# 3-41-0002-013-2021, which Offer is incorporated herein and made a part hereof by this reference, and Principal is required to furnish bid security in an amount equal to ten (10%) percent of the total amount of the bid pursuant to ORS 279C.365 and the City's public contracting rules and contract documents.

NOW THEREFORE, if the Offer, submitted by PRINCIPAL, is accepted, and if the Contract pursuant to the Offer is awarded to the PRINCIPAL, and if the PRINCIPAL executes such contract and furnishes such good and sufficient Performance and Payment Bonds as required by the Bidding and Contract documents within the time specified and fixed by the Documents, then this obligation shall be void; otherwise it shall remain in full force and effect. If the PRINCIPAL shall fail to execute the proposed Contract and to furnish the Performance and Payment Bonds, the SURETY hereby agrees to pay the OBLIGEE the surety bond sum as liquidated damages within ten (10) days of such failure.

IN WITNESS WHEREOF, we have caused this instrument to be executed and sealed by our duly authorized legal representatives this 29th day of March, 2022.

Liberty Mutual Insurance Company	<u>LTM Incorporated dba Knife River Materials</u>
Surety <u>175 Berkeley St. Boston, MA 02116</u>	Principal <u>3959 Hamrick Road, Central Point, OR 67502</u>
Address	Address

By: Heather R. Goedel By: Joe Souza  
Heather R. Goedel

Attorney -in-Fact

[A certified copy of the Agent's Power of Attorney must be attached hereto.]

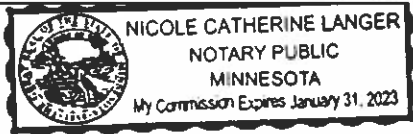


# Surety Acknowledgment

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State of MINNESOTA }  
County of Hennepin } ss.

On this 29<sup>th</sup> day of March 2022, before me personally came Heather R. Goedel, to me known, who being by me duly sworn, did depose and say that she/he is the Attorney-in-Fact of Liberty Mutual Insurance Company described in and which executed the above instrument; that she knows the seal of said corporation; that the seal affixed to said instruments is such corporate seal, that it was so affixed by order of the Board of Directors of said corporation, and that she signed her name to it by like order.



  
Notary Public



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8207281-190003

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Blake S. Bohlig, Brian D. Carpenter, Craig Olmstead, Erik T. Gunkel, Heather R. Goedtel, Irene Nichols, Jessica Hoff, Kelly Nicole Enghausser, Laurie Pflug, Megan Scott, Michelle Halter, Nicole Langer

all of the city of Bloomington state of MN each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 4th day of February, 2022.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

State of PENNSYLVANIA
County of MONTGOMERY ss

On this 4th day of February, 2022 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By: Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 29th day of March, 2022.



By: Renee C. Llewellyn, Assistant Secretary

For bond and/or Power of Attorney (POA) verification inquires, please call 610-832-8240 or email HOSUR@libertymutual.com.

**EXHIBIT K**

**CERTIFICATION OF NONSEGREGATED FACILITIES**

The federally assisted construction contractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The federally assisted construction contractor certifies further that he will not maintain or provide for his employees segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The federally assisted construction contractor agrees that a breach of this certification is a violation of the equal opportunity clause in this contract.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, 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 which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin, because of habit, local custom, or any other reason. The federally assisted construction contractor agrees that (except where obtained identical certification from proposed subcontractors for specific time periods) he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the equal opportunity clause, and that he will retain such certifications in his files.

Certification: The information above is true and complete to the best of my knowledge and belief.

Joe Soares General Manager  
Name and Title of Signer (Please type)

Joe Soares                      3-29-2022  
Signature                                      Date

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.



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EXHIBIT N

**RESTRICTION ON FEDERAL PUBLIC WORKS PROJECTS**

(a) General: This clause implements provisions contained in the Airport and airway Safety and Capacity Expansion Act of 1987, Public Law No. 100223.

(b) Restrictions on Contract Award: No contract will be awarded to a bidder (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 United States Trade Representative (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 project any production of a foreign country on such USTR List; unless a waiver to these restrictions is granted by the President of the United States or the Secretary of Transportation. (Notice of the granting of a waiver will be published in the Federal Register.)

(c) Certification: By this page the bidder certifies that with respect to this solution, and any resultant contract the bidder:

1. Is \_\_\_\_\_ Is not X a contractor of a foreign country included on the USTR list;
2. Has \_\_\_\_\_ Has not X entered into any contract with a subcontractor of a foreign country included on the USTR list;
3. Has \_\_\_\_\_ Has not X entered into any contract for any product to be used on this project that is produced in a foreign country included on the USTR list.

(d) The bidder may rely upon the certification of a prospective subcontractor for the above conditions unless the bidder has knowledge that the certification is erroneous.

(e) Erroneous Certification: This certification is a material representation of fact upon which reliance was placed when making the award. If it is later determined that the bidder knowingly rendered an erroneous certification, the sponsor may cancel this contract for default at no cost to the sponsor.

(f) Subcontracts: The bidder shall incorporate this clause, without modification, including this paragraph (f) in all solicitations and subcontracts under this contract.

(g) Applicability of 18 U.S.C. 1001: This certification concerns a matter within the jurisdiction of the federal Aviation Administration and the making of a false or fraudulent certification may render the maker subject to prosecution under Title 18, Unites States Code, Section 1001.

Firm Name LTM Incorporated dba Knife River materials  
Authorized Signature [Signature]  
Title General Manager  
Date 3-29-2022

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## EXHIBIT O

### BUY AMERICAN PREFERENCE

The Contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP 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.

A bidder or offeror must complete and submit the Buy America certification included herein with their bid or offer. The Owner will reject as nonresponsive any bid or offer that does not include a completed Certificate of Buy American Compliance.

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 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 by:
- a) Only installing steel and manufactured products produced in the United States; or
  - b) 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
  - c) 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:

- To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
- To faithfully comply with providing U.S. domestic products.
- 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 either 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 Owner within 15 calendar days of the bid opening, 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.

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**Required Documentation**

**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”. The required documentation for a Type 3 waiver is:

- a) 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).
- b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- c) 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** – Total cost of project using U.S. domestic source product exceeds the total project cost using non-domestic product by 25 percent. The required documentation for a Type 4 of waiver is:

- a) Detailed cost information for total project using U.S. domestic product
- b) Detailed cost information for total project using non-domestic product

**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.

3-29-2022  
Date

Joe Somers  
Signature

LTM Incorporated dba  
Company Name

General Manager  
Title

Knife River Materials



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**EXHIBIT S**

**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 ( ✓ ) 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 U.S.C. § 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.

3-29-2022  
Date

Joe Soarez  
Signature

LTM Incorporated  
Company Name  
Kuba River Materials

General Manager  
Title

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**EXHIBIT T**

**BIDDERS LIST**

All firms bidding or quoting on subcontracts for this DOT-assisted project are listed below:

<u>Firm Name</u>	<u>Address</u>	<u>CERTIFIED DBE</u> (Y or N)	<u>Age of Firm</u>	<u>GRS*</u>
T3 Electrical	Central Point, OR	N	3	2
CR Contracting	Beav, OR	N	17	2
Jarvis Surveying	Shady Cove, OR	N	10+	2
Porter W Yett	Port Had, OR	N	15+	4
West Coast Soil Solutions	Portland, OR	N	15+	4
SPM	Tualatin, OR	N	15+	5
Hicks Shipping	Brooks, OR	N	15+	4
ProLuma	Medford, OR	N	15+	2
Anderson Excavation				
Central	Junction City	Y	15+	3

\*GRS – Annual Gross Receipts  
 Enter 1 for less than \$1 million  
 Enter 2 for more than \$1 million, less than \$5 million  
 Enter 3 for more than \$5 million, less than \$10 million  
 Enter 4 for more than \$10 million, less than \$15 million  
 Enter 5 for more than \$15 million

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Oregon

Kate Brown, Governor

Department of Transportation  
ODOT Procurement Office - Construction  
3930 Fairview Industrial Drive SE, MS#2-2  
Salem OR, 97302-1122  
Phone: (503) 986-2710

January 21, 2021

LTM INC DBA KNIFE RIVER MATERIALS  
ERICA CORLISS  
PO BOX 1145  
MEDFORD, OR 97501

Your prequalification application has been approved. This prequalification pertains only to the submission of bid proposals and does not cover your financial ability.

Your bids will be considered responsive on ODOT projects on or after: February 01, 2021

Your prequalification application is valid through: January 31, 2023

Your vendor number is: CV20012835

Work Classifications:

(AB)-AGGREGATE BASE	(AC)-ROCK PRODUCTION
(ACP)-ASPHALT CONCRETE PAVING AND OILING	(BLD1)-BUILDINGS
(EART)-EARTHWORK AND DRAINAGE	(ELEC)-ELECTRICAL
(LS)-LANDSCAPING	(MHA)-MISC. HIGHWAY APPURTENANCES
(PAVE)-PAVEMENT MARKINGS	(PCP)-PORTLAND CEMENT CONCRETE PAVING
(REIN)-BRIDGES AND STRUCTURES	(SIGN)-SIGNING (PERMANENT)
(TTC)-TEMPORARY TRAFFIC CONTROL	

Applicants must update their prequalification application with ODOT when information changes. An addendum change form and instructions are available on our Bid and Award Information website at:

[https://www.oregon.gov/ODOT/Business/Procurement/Pages/Bid\\_Award.aspx](https://www.oregon.gov/ODOT/Business/Procurement/Pages/Bid_Award.aspx)

This prequalification application covers Oregon Department of Transportation projects that are advertised on the ODOT Procurement Office - Construction Contract Unit website:

<https://www.oregon.gov/ODOT/Business/Procurement/Pages/NTC.aspx>

This prequalification application does not cover Oregon Department of Transportation projects advertised in ORPIN (Oregon Procurement Information Network) which may be posted on our website.

ODOT eBIDS provides free downloading of plans and specifications and related bid documents. You will need to self register as a holder of bidding plans in order for your bid to be responsive for each project for which you submit a bid.

<https://ecm.odot.state.or.us/cf/EBIDS/>

If you wish to appeal any of the conditions of this prequalification you must notify this office in writing in accordance with ORS 279C.445 and ORS 279C.450 within three business days after receipt of this notice.

*Betty Fears*

Oregon Department of Transportation  
Procurement Office - Construction Contracts Unit, MS# 2-2  
3930 Fairview Industrial Drive SE  
Phone: 503-986-2710 Fax: 503-986-6910  
[ODOTProcurementOfficeConstruction@odot.state.or.us](mailto:ODOTProcurementOfficeConstruction@odot.state.or.us)